



# 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)

# NEC4 Engineering and Construction Short Contract

## FCRM Operational Framework- South East Hub

<b>A contract between</b>	<b>The Environment Agency</b> <b>Horizon House</b> <b>Deanery Road</b> <b>Bristol</b> <b>BS1 5AH</b>
<b>And</b>	<b>Land and Water Services Limited</b>
<b>For</b>	<b>Hardham Flood Embankment, South East Recovery Programme</b>
	<b>Contract Forms</b> <ul style="list-style-type: none"><li>- <b>Contract Data</b></li><li>- <b>The <i>Contractor's</i> Offer and <i>Client's</i> Acceptance</b></li><li>- <b>Price List</b></li><li>- <b>Scope</b></li><li>- <b>Site Information</b></li></ul>

# Contract Data

## The *Client's* Contract Data

	The <i>Client</i> is	
Name	Environment Agency	
Address for communications	Environment Agency, Guildbourne House, Chatsworth Road, Worthing, West Sussex, BN11 1LD	
Address for electronic communications	[REDACTED]	
The works are	To deliver repair works to Hardham flood embankment, Pulborough (as per ENVRECOV014R-JBA-00-30-DR-Z-1000-A5-C04-B1300-EA4-LOD4-LocationPlan)	
The site is	As shown on ENVRECOV014R-JBA-00-30-DR-Z-1000-A5-C04-B1300-EA4-LOD4-LocationPlan	
The starting date is	16/08/2024	
The completion date is	20/11/2024	
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) <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.
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	£100,00	
The <i>Client</i> provides this insurance	None	
Insurance Table		
Event	Cover	Cover provided until
Loss of or damage to the <i>works</i>	Replacement Cost	The <i>Client's</i> certificate of Completion has been issued
Loss of or damage to Equipment, Plant and Materials	Replacement Cost	The defects Certificate has been issued
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 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 <i>Adjudicator nominating body</i> is	The Institution of Civil Engineers	
The <i>tribunal</i> is	litigation in the courts	

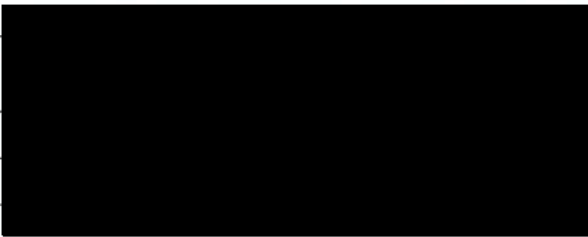
The <i>conditions of contract</i> are the NEC4 Engineering and Construction Short Contract June 2017 (including 2023 amendments) and the following additional conditions	
<b>Z1.0</b>	<b>Sub-contracting</b>
Z1.1	The <i>Contractor</i> submits the name of each proposed subcontractor to the <i>Client</i> 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 correct invoice.
<b>Z2.0</b>	<b>Environment Agency as a regulatory authority</b>
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.
<b>Z3.0</b>	<b>Confidentiality &amp; Publicity</b>
Z3.1	The <i>Contractor</i> may publicise the works only with the <i>Client's</i> written agreement.
<b>Z4.0</b>	<b>Correctness of Site Information</b>
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.
<b>Z5.0</b>	<b>The Contracts (Rights of Third Parties) Act 1999</b>
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.
<b>Z6.0</b>	<b>Design</b>
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.
<b>Z7.0</b>	<b>Change to Compensation Events</b>
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>



<b>Z8.0</b>	<b>Framework Agreement</b>
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> .
<b>Z9.0</b>	<b>Termination</b>
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>
<b>Z10.0</b>	<b>Data Protection</b>
Z10.1	The requirements of the Data Protection Schedule shall be incorporated into this contract
<b>Z11.0</b>	<b>Liabilities and Insurance</b>
Z11.1	Civil data protection claims and regulatory fines for breaches of Data Protection Legislation are excluded from any limit of liability stated.
<b>Z12.0</b>	<b>Packaging – N/A</b>
<del>Z12.1</del>	<del>For contracts containing packages of projects the <i>Client's Contract Data, Scope and Site Information</i> particular to an individual project is contained within its Site Specific Pack</del>
<b>Z110</b>	<p><b>Inflation</b></p> <p>At the Contract Date the total of the Prices does not include a sum to cover inflation.</p> <p>The total of the Prices [at the Contract Date] shall be adjusted by a fixed number of Price Adjustments.</p> <p>The number of Price Adjustments shall be equal to:</p> <p style="padding-left: 40px;">The number of months between the Completion Date included at the <i>starting date</i> and the Contract Date.</p> <p>The proportion of Price Adjustment shall be equal to:</p> <p style="padding-left: 40px;">The total of the Prices at the Contract Date / The number of Price Adjustments</p> <p>Each time the amount due is assessed, the Price Adjustment shall be:</p> <p style="padding-left: 40px;">The proportion of Price Adjustment x [80% x Construction Output Price Indices (OPIs) New work output prices: Infrastructure Index 1–month rate]</p> <p>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,</p> <p style="padding-left: 40px;">Provided always that the fixed number of Price Adjustments has NOT been exceeded.</p> <p>The Price Adjustment adjusts the total of the Prices.</p> <p>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.</p>

# Contract Data

## The Contractor's Contract Data

	The Contractor is	
Name	Land and Water Services Limited	
Address for communications	Land and Water Services Limited Weston Yard Albury Surrey GU5 9AF	
Address for electronic communications		
The fee percentage is		
The people rates are	As per framework	
category of person	unit	rate
As per framework	-	-
The published list of Equipment is		-
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 £106,637.72

**Enter the total of the Prices from the Price List.**

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

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.

Item Number	Description	Unit	Quantity	Rate	Price
1	Pre-condition survey	Sum			
2	FRAP application	Sum			
3	Mobilisation (inc. site security)	Sum			
4	Vegetation clearance	Sum			
5	Location 3 Works	Sum			
6	Location 4 Works	Sum			
7	Reinstatement	Sum			
8	Demobilisation	Sum			
9	Health and Safety File	Sum			
10	Pre-condition survey	Sum			
The total of the Prices					£106,637.72

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

This requirement forms part of the Environment Agency's Asset Recovery Programme, in response to the damage caused to assets following a period of prolonged wet weather during the winter, resulting in eroding of the flood embankment at several locations. The South East (SE) Asset Recovery Programme has been created to recover assets to their target condition and have identified mechanical and physical defects to be resolved, by the end of 2025.

This Scope requires the *Contractor* to undertake the recovery works for the Hardham flood embankment, Pulborough.

The *Contractor* shall:

## Vegetation Clearance

Undertake vegetation clearance necessary to undertake the works.

## Construction

Deliver the works to reinstate repairs in accordance with the drawings, specification and supporting documents.

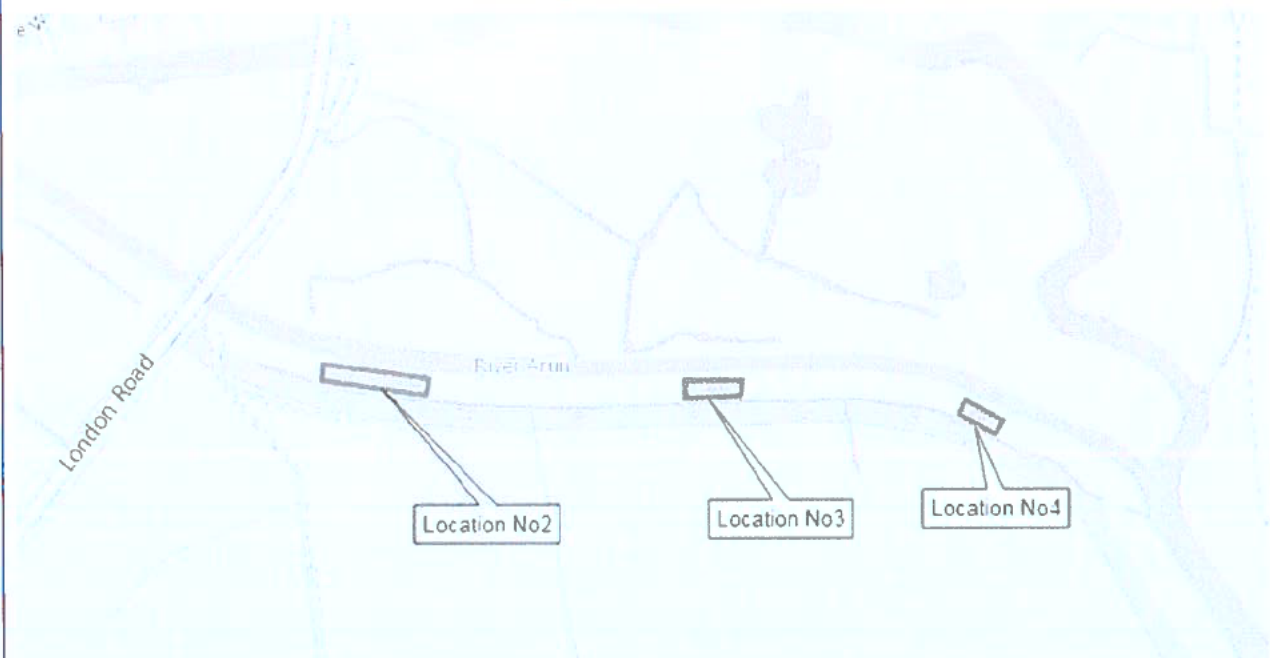
Install a temporary sandbag wall (300mm high) along the crest of the embankment adjacent to the repaired areas and running 10 linear metres either side of the areas repaired within these works.

**Pre-condition Surveys:** Prior to any mobilisation and demobilisation the *Contractor* will undertake a full site pre-condition survey prior to the works. A full copy of this shall be provided to the *Client*.

**Consents:** Prior to commencing the works the *Contractor* shall obtain all necessary consents including a Flood Risk Activity Permit (FRAP).

**Initial Works Location No 3 and 4 (shown below and on ENVRECOV014R-JBA-00-30-DR-Z-1102-A5-C01-B1300-EA4-LOD4-GeneralArrangement.)**

The *Contractor* shall undertake recovery of the repairs in accordance with the *Scope*.



## Completion

The *Contractor* shall reinstate all areas of the site impacted by the works in accordance with the condition within the pre-condition survey following the works.

# 1. Description of the works

The works are to reinstate 2 sections of the embankment as per Section 2 drawings after overtopping along the sections caused during Winter 23/24.

In delivering the works, the Contractor shall:

- Undertake on-site mobilisation, including provision of compound and welfare facilities as needed.
- Undertake supply and delivery to site of all materials required in the delivery of the project, including any temporary works.
- ~~Put appropriate measures in place to ensure safety of public, including any footpath, Public Right of Way (PROW) or permissive path closures needed to undertake the works~~
- Implement biosecurity protocols, including Check-Clean-Dry
- Comply with the Environment Agency's Pollution Prevention Guidelines
- Comply with Environmental Permit
- Apply appropriate security measures to keep the site safe and secure (including plant and equipment)
- Fulfil the duties of the Principal Contractor in terms of the CDM 2015 regulations.
- Develop a Construction Phase Plan (CPP) in accordance with the Environmental Action Plan.

The Contractor shall be responsible for any necessary:

- ~~Footpath closures~~
- ~~Highway traffic management / closures~~
- Site traffic management

If the Contractor suspects water voles are present, work must stop immediately, and the Client informed. Works must not continue until mitigation measures are in place, which will be the subject of a compensation event.

The works are not expected to require the removal of any trees. If this changes, the trees will require assessing for their potential to support roosting bats. The Contractor shall notify the Client if any tree removal is required, with assessment, mitigation and removal to be managed as a compensation event.

The Contractor may assume:

- There is no requirement for new H&S file; Contractor required to update to existing file with redline drawing (where repairs have been made)
- 2-stage cut is not currently required. The Client will arrange for a third party (JBA) to undertake walkover and advice
- A RAMS review period of 5 days is acceptable to the Client
- With reference to JBA-00-30-SP-C-0001-S4-C02-B0200-EA4-LOD4-SP30, 2C1 material to be imported to meet tables 6/1 and 6/2 and compacted in accordance with table 6/4 from series 600; due to the small scale of the works, no further site testing is required
- With reference to location 3 showing 70m<sup>3</sup> of import and location 4 showing 82m<sup>3</sup>. The Contractor may instead allow for 2 loads per location (4 loads total) and any additional material treated as a compensation event, to reduce costs, as long as there is no additional risk of being unable to procure extra material in time if needed.
- With reference to discontinued Salix matting, an equivalent (such as BIONET-C125BN and Salic Biopeg 150mm) may be used.
- Regarding the 300mm height of sand bags, a 3-2-1 pyramid would be acceptable.
- For the embankment reinstatement level, the requirement is to match ends at tie-in levels adding 50mm for settlement.
- Seed spec is to be Bumble Bee grass seed mix.
- With reference to vegetation not establishing prior to the winter months, the Client accepts the risk of overtopping and further wash out of topsoil/clay at these repair areas on the basis that the Contractor shall undertake reasonable measures to minimise this risk.

## 2. Drawings

List the drawings that apply to the contract.

Drawing Number	Revision	Title
ENVRECOV014R-JBA-00-30-DR-Z-1000-A5-C04-B1300-EA4-LOD4-LocationPlan	C04	Location Plan
ENVRECOV014R-JBA-00-30-DR-Z-1102-A5-C01-B1300-EA4-LOD4-GeneralArrangement	C01	General Arrangement
ENVRECOV014R-JBA-00-30-DR-C-1302-A5-C01-B1300-EA4-LOD4-SectionSheet1	C01	Sections Sheet 1
ENVRECOV014R-JBA-00-30-DR-C-1303-A5-C01-B1300-EA4-LOD4-SectionsSheet2	C01	Sections Sheet 2

## 3. Specifications

List the specifications which apply to the contract.

Title	Date or Revision	Tick if publicly available
Asset OMR Framework Deed of Agreement and Schedules	04/03/2024	
Control of Substances Hazardous to Health (COSHH) Regulations		
Lot 1 – Spec Supplementary clauses – General		
Lot 1 & Lot 3 – Asset Operation and Response - Scope		
Lot 1 & Lot 3 – Supply Chain Passport Template		
Safety, Health, Environment and Wellbeing (SHEW) Code of Practice (CoP)	V 6	
Exchange Information Requirements (EIR)	V3	
ENVRECOV014R-JBA-00-30-SP-C-0001-S4-C02-B0200-EA4-LOD4-SPEC_30	16/09/2020	No

## 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*.

1. Landowners haul / access route off the A29 through the site shall not be blocked nor plant, materials stored at any time so to restrict site access.
2. No plant or material, nor turning of plant shall be either stored or operated, turned upon the landowners newly constructed flood embankment.
3. All access gates shall remain closed, during the working day (unless accepting deliveries) and at the end of the working day.

The Notice of Intended Entry served by the Environment Agency (NOIE) upon the landowner for the duration of the works DO NOT restrict the landowner / tenant or any contractors employed by them.

### 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

The *Contractor* submits his 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
Flood Risk Activity Permit	19 August 2024
Notice of Intended Entry	19 August 2024



# Site Information

Service Searches – February 2022

ENVRECOV014R-JBA-00-30-MS-Z-0001-A3-C01-B0700-EA4-LOD4-Buildability\_Statement

ENVRECOV014R-JBA-00-30-MS-Z-0001-S2-P01-B1300-EA4-LOD4-PAS128\_Service\_Search\_Risk\_Assessment

ENVRECOV014R-JBA-00-30-PL-EN-0001-S3-P03----River\_Arun\_Environmental\_Action\_Plan

ENVRECOV014R-JBA-00-30-RA-Z-0001-S4-C03-K1000-EA4-LOD4-RAG\_List

ENVRECOV014R-JBA-00-30-RP-Z-0001-S3-P04-K0200-EA4-LOD4-30\_River\_Arun\_Hardham\_Pre\_Construction\_Information

ENVRECOV014R-JBA-00-30-RR-Z-0001-S4-C03-K0500-EA4-LOD4-DRR

# 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:	

