

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

Amalgamated Construction Ltd

For

**Rye Harbour East Pier Head Marker Refurbishment Works
(Design & Build)**

Contract Forms

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

Contract Data

The *Client's* Contract Data

	The <i>Client</i> is	
Name	Environment Agency	
Address for communications		
Address for electronic communications		
The <i>works</i> are	Design and construct the best solution to replace/fix the East Pier Head Marker.	
The <i>site</i> is		
The structure is located at the end of the east Pier in Rye Harbour (Grid Reference TQ 95049 18065), adjacent to Camber Sands		
The <i>starting date</i> is		
8 th February 2021		
The <i>completion date</i> is		
13 th April 2021 Note: Construction phase items may be added into the contract as compensation events therefore extending the completion date to 21 st September 2021, subject to <i>Contractor</i> performance and funding approval.		
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		
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 <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 *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 <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	
The <i>Client</i> provides this insurance	None	
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 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 £500,000 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	
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	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	Delete the text of Clause 60.1(11) and replace by: The <i>works</i> are affected by any one of the following events <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 • Natural disaster • Fire and explosion

	<ul style="list-style-type: none"> 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	<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 working in accordance with Public Health England guidance, as may vary from time to time, until 31 March 2021.</p>

Contract Data

The Contractor's Contract Data

	The Contractor is	
Name	Amalgamated Construction Ltd	
Address for communications	[REDACTED]	
Address for electronic communications	[REDACTED]	
The fee percentage is	[REDACTED]	%
The people rates are		
category of person	unit	rate
General Foreman	hr	[REDACTED]
Project Manager	hr	[REDACTED]
Quantity Surveyor	hr	[REDACTED]
Planner	hr	As per Pricing Workbook
The published list of Equipment is		As per Pricing Workbook
The percentage for adjustment for Equipment is		As submitted on the Lot 1 Pricing Workbook

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

Managing Director

Signature

[REDACTED]

Date

21.12.2020

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

Signed on behalf of the *Client*

Name

Derek Matthews

Position

Commercial Manager

Signature

[REDACTED]

Date

8/2/21

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	All licences, permits and approvals necessary to complete the scope of works (Contractor to detail)	Sum			
2	Undertake any surveys to support the design process	Sum			
3	Options appraisal & Outline Design	Sum			
4	Completion of the Environment Agency's Carbon Calculator	Sum			
5	Detailed Design	Sum			
SUB-TOTAL DESIGN-RELATED WORK, ITEMS 1-5					
	All, some or none of the FY2021-22 work (i.e. those tasks relating to the construction phase: item numbers 6-17) may be added into the contract as Compensation Events (as per the quoted price) subject to <i>Contractor</i> performance and funding approval.				
6	Preparation of a detailed Construction Phase Plan (CPP) in accordance with the Environment Agency's Safety, Health, Environment and Wellbeing Code of Practice (SHEW CoP) and any other information critical to be produced and accepted by the Client before commencement on site. This include the production of a Waste management Plan and maintenance and adherence to the Environmental Action Plan (EAP).	Sum			
7	Site mobilisation and establishment of works	Sum			
8	Temporary works	Sum			
9	Disconnection of relevant services and elements	Sum			
10	Removal of external frame	Sum			
11	Safe & sustainable disposal of the external frame	Sum			
12	Install & construct new structure	Sum			
13	Remedial works for the other elements of the structure such as:	Sum			

	<ul style="list-style-type: none">Repaint the Head Marker monopile with Signal Green paint (surface preparation will be needed).Replace the tower ladder for a suitable one.				
14	Reconnect/reinstate relevant services and elements to the structure	Sum			
15	Commissioning and site demobilisation	Sum			
16	Preparation of as-built drawings and provision of information to the Principal Designer to compile the Health & Safety file including the operation manual	Sum			
17	Completion of the Environment Agency's Carbon Calculator (for the as-built project within a month of project completion)	Sum			
	SUB TOTAL CONSTRUCTION-RELATED WORK, ITEMS 6-17				
The total of the Prices					

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

Give a detailed description of what the *Contractor* is required to do and of any work the *Contractor* is to design.

The *works* are to be compliant with the version of the Minimum Technical Requirements for Painting and Protection Systems (369_13_SD02).

Background:

The *Client* is the owner of the East Pier Head Marker, a steel structure located at the end of the East Pier in Rye Harbour (Grid Reference TQ 95049 18065), adjacent to Camber Sands. The purpose of the East Pier Head Marker is to guide ships and vessels towards the Rye Harbour channel.

The East Pier Head Marker is supported on four external vertical columns and a central monopile column. The external steel frame of the tower structure is connected to the monopile column through steel beams. At the top rests a steel grid landing that houses electrical equipment which includes the following elements:

- White light (flashing)
- Batteries in battery boxes
- Solar panels
- Traffic lights
- Fog signal
- Navigation signage board

The landing can be accessed by a vertical steel ladder connected to the monopile. A navigation signage board is supported to the structure in a direction that faces the sea.

Significant corrosion is visible throughout the whole structure.

Project Aim:

The aim is to provide a structure at East Pier Head that complies with international regulations for navigation usage.

Project objectives:

- The structure should remain Signal Green (code RAL 6032) for the duration of its life.
- Maintain a safe access/egress to/from the top of the head marker
- Improve site safety for the *Client's* operatives and reduce the asset's operation and maintenance, ensuring no further major refurbishment/maintenance works nor repainting to be required in the following 25 years.
- Align the project with the Environment Agency's ambition to be a net zero carbon organisation by 2030.

Outcome specification:

- The *Contractor* shall carry out all investigations required to undertake the design and construction.
- The *Contractor* shall design and build a structure that complies with the International Port Traffic signals.
- The *Contractor* shall design and build a structure to incorporate the existing equipment installed in the East Pier Head Marker structure.
- The *Contractor* shall undertake all the remedial works such as - repaint the head marker monopile with Signal Green paint (code RAL 6032) [surface preparation will be needed] and the replacement of the tower ladder for a suitable one.
- A technical note for the *Client's* acceptance shall be submitted for the remedial works to describe the type of works to be undertaken.
- The *Contractor* shall be responsible for ensuring that the design meets the *Client's* requirements and for providing all construction & material specifications.
- The *Contractor* shall ensure that the structure is designed and built to a standard that accounts for a very high atmospheric marine environment. Any proposed coating shall be submitted with data sheets for the *Client's* acceptance. The structure must be painted in Signal Green paint (code RAL 6032), to be accepted in advance by the *Client*.
- The *Contractor* shall make all necessary arrangements to ensure that there is no impact to the navigation operations in the Rye Harbour channel during the construction phase.
- The *Contractor* shall be responsible for any associated approvals required to enable works to commence.
- The *Contractor* shall be responsible for decommissioning and responsibly disposing of elements/parts of the existing structure that are not required for the new structure.
- The *Contractor* must plan the works to mitigate environmental impacts.
- The *Contractor* must provide a Maintenance Manual for the structure which contains as a minimum a list of regular maintenance requirements with time scales.
- All documentation shall comply with CDM 2015 regulations, and the *Client's* SHEW COP.
- The *Contractor* is required to provide a Health & Safety file at the end of the works.
- The *Contractor* is required to liaise with the *Client's* CDM Principal Designer.

2. Drawings

List the drawings that apply to the contract.

Drawing Number	Revision	Title
N/A	N/A	N/A

3. Specifications

List the specifications which apply to the contract.

Title	Date or Revision	Tick if publicly available
Environment Agency Minimum Technical Requirements for Painting and Protection Systems (369_13_SD02) (369_13_SD02).	03/2017	No
Safety, Health, Environment and Wellbeing Code of Practice (SHEW CoP)	30/05/2018	Yes

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*.

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.

The *Contractor* is to prepare, for the *Client's* acceptance, the Construction Phase Plan (CPP) and the Environmental Action Plan (EAP) prior to starting the *works*.

Note: East Pier is within the Dungeness, Romney Marsh and Rye Bay SSSI, SPA and Ramsar site.

It lies opposite the Dungeness SAC (Special Areas of Conservation) located on the west side of the River Rother. The Rother is a lamprey migratory route.

Invasive Non-Native Species: Chinese mitten crab are present along the Camber shore, so biosecurity measures (check/clean/dry) must be in place. Non-toxic paint materials must be used to avoid effects on wildlife e.g. shellfish.

European eel migratory route, River Lamprey migratory route and Atlantic Salmon migratory route.

Golf Course adjacent to site and Camber Sands beach nearby - amenity could be affected during construction period.

Access is limited to the structure during high tides as the breakwater is usually flooded. The pier is at ~2.6m OD.

The *Contractor* shall make all necessary arrangements to ensure that there is no impact to the navigation operations in the Rye Harbour channel during the construction phase.

The white light needs to be operational at all times. It must be roughly in the same position during the works so that its visibility from the harbour isn't compromised.

All temporary works arrangements will be sole responsibility of the *Contractor* and must be priced in the tender submission.

Working hours

The *Contractor* will be permitted to work between 07:30 and 18:00 on weekdays (Monday to Friday). No work will be permitted outside of these hours or on Public Holidays without the prior written acceptance of the *Client*.

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 programme is to be updated monthly and provided to the *Client*. 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 such as: 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

Site Information

The structure is located at the end of the East Pier in Rye Harbour (Grid Reference TQ 95049 18065), in the mouth of the River Rother. The East Pier is a straight pier of approximately 270m long and 4.5m wide; it is made of concrete and sheet piles. It separates Camber Sands from the River Rother mouth.

The East Pier is connected to the Rye Harbour Master Office (Grid Reference TQ 94408 19069) by a ~975m long track located between the River Rother and the Rye Golf Course. The Rye Harbour Master Office is linked to Camber Rd through a ~675m private road.

The East Pier Head Marker is at the end of the East Pier. The East Pier Head Marker Structure provides signalling to the boats approaching the mouth of the River Rother.

The East Pier Head Marker is subjected to a marine environment and strong winds. It is surrounded by water except for the access through the East Pier.

The preliminary Pre Construction Information is enclosed in the invitation to tender pack. This document shall be updated throughout the project and will require the *Contractor's* input.

Further information is provided in the Rye Harbour Structural Inspection Report (produced by Atkins in November 2011).

Proposed sub-contractors

	Name and address of proposed subcontractor	Nature and extent of work
1.	<p>BdR Civil and Structural Engineering Ltd</p> <p>The Old Engine House, Goblands Farm Business Park Court Lane Hadlow Kent TN11 0DP</p> <p>Form of Contract: TBC</p>	Design
2.	<p>G&P Mechanical & Structural Engineering Ltd</p> <p>1 Argent Road, Queenborough Kent ME11 5HZ</p> <p>Form of Contract: TBC</p>	Replacement of Navigation Structure.