

NEC4 Engineering and Construction

Short Contract

FCRM Operational Framework – Northern Hub

A contract between

The Environment Agency
Horizon House
Deanery Road
Bristol
BS1 5AH

And

For

Provision of routine maintenance activities as secondary supplier and to provide additional labour resource in Area 2, Cumbria and Lancashire

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 | Environment Agency | |
| Address for communications | Lutra House, Dodd Way, Off Seedlee Road, Walton Summit, Bamber Bridge, Preston, Lancs, PR5 8BX | |
| Address for electronic communications | | |
| The <i>works</i> are | The routine maintenance activities in Cumbria and Lancashire, as stated in Appendix 1 | |
| The <i>site</i> is | Various across Cumbria and Lancashire – individual site locations are contained in the programme schedule as FCRM System locations | |
| The <i>starting date</i> is | | |
| The <i>completion date</i> is | 31 st March 2021 | |
| The <i>delay damages</i> are | | 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 | 0 | % |
| The United Kingdom Housing Grants, Construction and Regeneration Act (1996) does apply? | | |
| The <i>Adjudicator</i> is : The Institution of Civil Engineers | | |
| 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 | | % 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 | | |
| 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 <i>works</i> , 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 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 | in respect of every claim without limit to the number of claims | 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. 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 • 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 |

Contract Data

The *Contractor's* Contract Data

| | | |
|---|--------------------------|------|
| | | |
| | The <i>Contractor</i> is | |
| Name | | |
| | | |
| Address for communications | | |
| | | |
| Address for electronic communications | | |
| | | |
| The <i>fee</i> percentage is | | % |
| | | |
| The <i>people rates</i> are | | |
| | | |
| category of person | unit | rate |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| The <i>published list of Equipment</i> is | | |
| | | |
| The <i>percentage for adjustment for Equipment</i> 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

[REDACTED]

Enter the total of the Prices from the Price List.

Signed on behalf of the *Contractor*

Name

[REDACTED]

Position

[REDACTED]

Signature

[REDACTED]

Date 05/06/2020

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

Signed on behalf of the *Client*

Name

[REDACTED]

Position

[REDACTED]

Signature

[REDACTED]

Date 07/06/19

Price List

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 | Price for identified Channel and Embankment grass, weed and blockage works <i>The detail is contained in Appendix 1</i> | | | | |
| 2 | Detailed activity Price list for ad-hoc Tree works carried out under the contract. <i>The detail is contained in Appendix 1</i> | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| The total of the Prices | | | | | |

The method and rules used to compile the Price List are

The Framework Price Workbook and the Framework Deed of Agreement.

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.

1) *Works* relating to delivery to the programme identified in Appendix 1 are as follows:

The *Contractor* is to undertake routine maintenance activities as described in Appendix 1 and in accordance with the Specification and the FCRM Asset Maintenance Standards.

Site specific scopes of works will be provided in Maintenance Schedules and the *Client* will provide site contacts for these of works if the *Contractor* requires clarification on any aspects of the *works* to be completed.

Any man-made debris found during mowing, weed removal or blockage clearance operations will be removed from site and disposed of. Any substantial woody debris will either be chipped and spread on-site, or removed off-site.

The *Client* will provide the Incident Hotline number [REDACTED] to the *Contractor* to be used in the event any pollution or environmental incidents are identified on the *site*. Such incidents are not to be rectified by the *Contractor*.

The *Contractor* will provide the *Client* with an initial programme of works, which will be updated on a 2 weekly basis reflecting work to be carried out that week.

If there are any discrepancies between the Site Information provided and what is encountered by the work team on *site*, this will be reporting back to the *Client* for clarification of how to proceed. The same reporting mechanism can be used if there is evidence of defects on the *Client's* assets (eg. channel slips, vermin damage and evidence of vermin activity).

Photographic evidence shall be provided to the *Client*, pre-works and post works, demonstrating the work has been completed. Post works checks should include for checking for evidence of asset defects or for the presence of Vermin. These should then be reported to the *Client*.

The *Client* may also call-off additional emergency tree-works throughout the year in Lancashire. Specifications will be provided by the *Client* and costs agreed via a compensation event, using rates agreed in the contract.

2) *Works* related to wrack removal off maintained flood defence embankments

Tidal surge events can cause large quantities of wrack debris to build up on the seaward face of EA flood embankments. The amount of wrack can be significant enough to cause concern - grass which stabilises earth embankments dies back unless wrack is removed, exposing embankments to scour and potential collapse during subsequent high tides.

This is a routine maintenance activity carried out each year after spring and winter tides. The level of activity will vary with the amount of wrack present. A range of methods can be used to remove this wrack,

including the use of chainsaws for organic debris, removal of inorganic waste to appropriate facilities, using tracked excavators to push the waste off the embankment.

A walk through of the sites identified must be completed before a decision is made relating to appropriate removal methods. Plastics and other inorganic waste must be removed off site, large pieces of woody debris must also be removed, cut down to management sizes or moved and left at the base of the embankment. This is primarily a hand work activity.

Where there are heavy coverages of debris and wrack a tracked machine can be used on the embankment where appropriate (subject to a safety assessment of the site) to push the waste off the embankment, however the inorganic waste must have been collected prior to this. Burning waste is no longer a sustainable option unless specified by the Environment Agency in the Maintenance Schedules provided.

What is expected?

Man-made polluting materials:

All non-biodegradable material will be separated from the wrack/debris and collected for removal and disposed of at appropriate waste facilities (waste transfer notices will need to be produced).

All remaining wrack/debris will be dealt with in line with the EA's waste management best practice guidelines hierarchy (see below).

Best practice for waste management:

The best practice for waste management involves making sure that waste is treated at the highest possible level.

These levels are set out in the hierarchy below - for example, reducing the amount of waste you produce is better than concentrating on recycling it later. The appropriate option should take local circumstances into account.

1. Reduction
2. Reuse and repair
3. Recovery: Recycling, Composting, Incineration, or landfill with energy recovery
4. Rubbish Incinerate, Landfill – contained, Landfill - dilute and disperse

Large woody debris:

A competent chainsaw operator should cut these into manageable pieces and it is removed from the embankment or left at base of embankment.

2. Drawings

List the drawings that apply to the contract.

| Drawing Number | Revision | Title |
|----------------|----------|-------|
| n/a | | |
| | | |
| | | |

3. Specifications

List the specifications which apply to the contract.

| Title | Date or Revision | Tick if publicly available |
|--|-----------------------------|----------------------------|
| Appendix A2 to the Framework Deed of Agreement Section 6 – Lot 2 Specification | V1 20th February 2019 | No |

| | | |
|--|------|-----|
| FCRM Asset Maintenance Standards | 2013 | Yes |
| Work Specifications for each grass, weed and blockage management site listed in Appendix 1 will be provided in a site specific Work Schedule | 2020 | No |
| | | |
| | | |

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

For the Maintenance Programme

The *Contractor* will receive works instructions or "Maintenance Schedules". These instructions will contain any specific constraints relating to the individual *site*.

The *Contractor* will be permitted to work between 7.00am and 5.00pm on weekdays (Monday to Friday)

The *Contractor* is responsible for ensuring adequate Health and Safety arrangements are in place for the works and that identified environmental constraints are managed. The *employer* reserves the right to assess the suitability and adequacy of risk management plans prior to works starting on *site*.

The *Contractor* is responsible for ensuring that all working areas are clearly identified and adequate measures are taken to protect members of the public whilst the *works* are in progress, but the *Employer* reserves the right to review risk management plans

The *site* must be left in a clean and tidy condition upon completion of the *works*

The *Works* must be completed within the working windows identified in Appendix 1.

The *Contractor* submits his programme with the *Contractor's* offer for acceptance. The Programme will then be updated and provided to the *Client* every 2 weeks, on a Friday.

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 Pre-works walkovers, planning and mobilisation
- (b) *starting date*
- (c) Each of the activities listed within Appendix 1 and the Price List
- (d) Any key third party interfaces: lead in periods for materials and sub-contractors; time required to obtain consents/ permits; stated constraints; *Contractors* risks.
- (e) *Completion date*

6. Services and other things provided by the *Client*

| | |
|----------------------|-----------------------------------|
| Associated Documents | Date by which it will be provided |
|----------------------|-----------------------------------|

| | |
|---|--------------------------------------|
| Key contacts | |
| <p>All sites will have site specific Maintenance Schedules , including:</p> <ul style="list-style-type: none"> • maps • reaches to be covered • key risk information • emergency meeting points <p>Other information that will may be provided if required includes:</p> <ul style="list-style-type: none"> • BT service searches – may be older than 3 months from start date – contractor to verify where necessary • United Utilities searches - may be older than 3 months from start date – contractor to verify where necessary • Linesearch searches - may be older than 3 months from start date – contractor to verify where necessary • Electricity North West search - may be older than 3 months from start date – contractor to verify where necessary • Where relevant, site specific details on hostile sites have been provided as well as maps showing the areas covered by the hostile site. | Prior to programmed works commencing |
| <p>Contractors will be briefed on hostile sites procedures and if any hostile situation is experienced it is expected that:-</p> <ul style="list-style-type: none"> • The Contractor withdraws from the <i>site</i> • Contractors must contact the Project Manager, or Flood Incident Duty Officer (FIDO Lancashire [REDACTED]) if carrying out reactive maintenance • The Project Manager or FIDO will make an evidence based assessment on the impact of not undertaking the works • If a potential impact could result in flooding, police will be contacted for on-site support. | Prior to programmed works commencing |
| <ul style="list-style-type: none"> • The <i>Contractor</i> will receive <i>works</i> instructions or “contracts” through the <i>Client’s</i> asset planning portal (AIMS:Planning). | Prior to programmed works commencing |
| PPE will be provided by the <i>Contractor</i> as detailed in the Framework Price Workbook. | As Required |

7. Site Information

The Site Information for each "contract" will be provided in a Maintenance Schedule, via the EA's Sharefile System prior to the *Contractor* arriving on *site*.

Proposed sub-contractors

| | Name and address of proposed subcontractor | Nature and extent of work |
|----|--|------------------------------------|
| 1. | <div> <div></div> <div></div> </div> | General vegetation Clearance Works |
| 2. | Form of Contract: | |
| 3. | Form of Contract: | |
| 4. | Form of Contract: | |



