

Recovery and Development Agency Quick Contracting Invitation to Tender



BOOKLET 2

CONDITIONS OF CONTRACT

FOR

THE CONSTRUCTION OF A CAR PARK FACILITY AND AUXILIARY WORKS AT THE JEFFREY A. CAINES ARENA

VIRGIN GORDA

Short Contract

A contract between
.....
.....
and
.....
.....
for
.....
.....

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Notes about this contract are printed in boxes like this one. They are not part of the contract.

Contract Data

The *Employer* is

Name
 Address
 Telephone Fax
 E-mail address

The *works* are

The *site* is

The *starting date* is

The *completion date* is

The *period for reply* is weeks.

The *defects date* is weeks after Completion.

The *defect correction period* is weeks.

The *delay damages* are per day.

The *assessment day* is the of each month.

The *retention* is %.

Does the United Kingdom Housing Grants, Construction and
 Regeneration Act (1996) apply?

Yes / No (delete as appropriate)

The *Adjudicator* is

Name
 Address

 Telephone Fax
 E-mail address

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.

The Contractor is not liable to the Employer for loss of or damage to the Employer's
property in excess of for any one event.

The Employer provides this insurance

Only enter details here if the Employer is to provide insurance.

.....

.....

The minimum amount of cover for the third insurance stated in the
Insurance Table is

The minimum amount of cover for the fourth insurance stated in the
Insurance Table is

The Adjudicator nominating
body is

The tribunal is

If the tribunal is arbitration,
the arbitration procedure is

The conditions of contract are the NEC3 Engineering and Construction Short Contract April 2013 and the following additional conditions

Only enter details here if additional conditions are required.

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Contract Data

The Contractor's Offer

The Contractor is

Name

Address

.....

Telephone Fax

E-mail address

The percentage for overheads and profit added to the Defined Cost for people is %.

The percentage for overheads and profit added to other Defined Cost is %.

The Contractor offers to Provide the Works in accordance with the *conditions of contract* for an amount to be determined in accordance with the *conditions of contract*.

The offered total of the Prices is

Enter the total of the Prices from the Price List.

Signed on behalf of the Contractor

Name

Position

Signature Date

In the presence of Name

Witness

The Employer's Acceptance

The Employer accepts the Contractor's Offer to Provide the Works

Signed on behalf of the Employer

Name

Position

Signature Date

In the presence of Name

Witness

Contract Data

Price List

Entries in the first four columns in this Price List are made either by the *Employer* 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
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.....
The total of the Prices					<div></div>

Contract Data

Works Information

The Works Information should be a complete and precise statement of the *Employer's* requirements. If it is incomplete or imprecise there is a risk that the *Contractor* will interpret it differently from the *Employer's* intention. Information provided by the *Contractor* should be listed in the Works Information only if the *Employer* is satisfied that it is required, is part of a complete statement of the *Employer's* requirements and is consistent with the other parts of the Works Information.

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.

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2 Drawings

List the drawings that apply to this contract.

Drawing number	Revision	Title
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Contract Data

Works Information

3 Specifications

List the specifications which apply to this contract.

Title	Date or revision	Tick if publicly available
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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 Employer.

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Contract Data

Works Information

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).

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6 Services and other things provided by the Employer

Describe what the *Employer* 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
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Contract Data

Site Information

Give information about the *site* such as the ground conditions and any other information which is likely to affect the *Contractor's* work such as limitations on access and the position of adjacent structures.

This image shows a full page of white paper with horizontal dotted lines. The lines are evenly spaced and run across the width of the page, providing a guide for handwriting practice. There are no margins, text, or other markings on the page.

Contract Forms

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after contract award.

- **Form of Tender-Securing Declaration**
- **Letter of Acceptance**
- **Advance Payment Security**
- **Performance Security (Bank Guarantee)**

Form of Tender-Securing Declaration

Date: *[insert date (as day, month and year)]*
Tender No.: *[insert number of tender process]*

To: *[insert complete name of Purchaser]*

We, the undersigned, declare that:

We understand that, according to your conditions, tenders must be supported by a Tender-Securing Declaration.

We accept that we will automatically be suspended from being eligible for tendering in any contract with the Recipient for the period of time of 12 months starting on *[insert date]*, if we are in breach of our obligation(s) under the tender conditions, because we:

- (a) have withdrawn our Tender during the period of tender validity specified in the Instructions to Tender document; or
- (b) having been notified of the acceptance of our tender by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITT.

We understand this Tender-Securing Declaration shall expire if we are not the successful Tenderer, upon the earlier of (i) our receipt of your notification to us of the name of the successful Tenderer; or (ii) twenty-eight days after the expiration of our Tender.

Signed: *[insert signature of person whose name and capacity are shown]* In the capacity of *[insert legal capacity of person signing the Tender-Securing Declaration]*

Name: *[insert complete name of person signing the tender-Securing Declaration]*

Duly authorised to sign the tender for and on behalf of: *[insert complete name of Tenderer]*

Dated on _____ day of _____, _____ *[insert date of signing]*

Corporate Seal (*where appropriate*)

[Note: In case of a Joint Venture, the Tender-Securing Declaration must be in the name of all partners to the Joint Venture that submits the tender.]

Letter of Acceptance

[On letterhead of the Employer]

..... *[Date]*

To: *[Name and Address of the Contractor]*

Subject: *[Notification of Award Contract No]*

Thank you for taking part in the above-mentioned tender process. This Letter of Acceptance is to notify you that your Tender dated *[insert date]* for execution of the *[insert name of the contract]* for a price not exceeding *[insert amount in numbers and words and name of currency]*, is hereby accepted by our Agency.

This letter constitutes the formation of a Contract until the formal Contract Agreement is signed by both parties. A draft Contract Agreement will be forwarded for your review in a separate email, subject to the Board's formal approval. The Adjudicator for this Contract is the British Virgin Islands International Arbitration Center (BVIAC).

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose the Performance Security Form included below in this Invitation to Tender Document.

Authorised Signature:

Name and Title of Signatory:

Advance Payment Security

[Bank's Name, and Address of Issuing Branch or Office]

Beneficiary: **[Name and Address of Employer]**

Date:

Advance Payment Guarantee No.:

We have been informed that **[name of the Contractor]**. (hereinafter called "the Contractor") has entered into Contract No. **[reference number of the Contract]**. dated with you, for the execution of **[name of contract and brief description of Works]**. (hereinafter called "the Contract").

Furthermore, we understand that, according to the Conditions of the Contract, an advance payment in the sum **[name of the currency and amount in figures]** ¹. (. **[amount in words]**.) is to be made against an advance payment guarantee.

At the request of the Contractor, we **[name of the Bank]**. hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of **[name of the currency and amount in figures]***. (. **[amount in words]**.) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on its account number **[Contractor's account number]**. at **[name and address of the Bank]**.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that eighty (80) percent of the Contract Price has been certified for payment, or on the . . . day of , ², whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

..... **[Seal of Bank and Signature(s)]**

All italicised text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

¹ The Guarantor shall insert an amount representing the amount of the advance payment denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.

² Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

Performance Security (Bank Guarantee)

[Bank's Name, and Address of Issuing Branch or Office]

Beneficiary: *[Name and Address of Employer]*

Date:

Performance Guarantee No.:

We have been informed that *[name of the Contractor]*. (hereinafter called "the Contractor") has entered into Contract No. *[reference number of the Contract]*. dated with you, for the execution of *[name of contract and brief description of Works]*. (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Contractor, we *[name of the Bank]*. hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[name of the currency and amount in figures]*¹. (*[amount in words]*.) such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the Day of ,², and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

.....
[Seal of Bank and Signature(s)]

All italicised text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

¹ *The Guarantor shall insert an amount representing the percentage of the Contract Price specified in the Contract and denominated either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Employer.*

² *Insert the date 28 days after the expected completion date. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*