

**From:** [REDACTED]  
**To:** [Colin Naish](#); [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Olympic Stadium - revised Second Supplementary Agreement & Appendix 1 Without Prejudice & Subject to Contract  
**Date:** 09 May 2016 21:21:55  
**Attachments:** [Second Supplementary Agreement to Tier 1 Contract \(PHM 090516\) V3.docx](#)  
[OST Appendix 1 Supplementary Agreement 2 2.docx](#)  
**Importance:** High

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Colin [REDACTED]

Please see the attached revised drafts for final review and agreement on tomorrow's call at 11.15 am.

Regards,

[REDACTED]

[REDACTED]

[REDACTED] | Balfour Beatty | Major Projects

T: [REDACTED] | M: [REDACTED] | E: [REDACTED]@balfourbeatty.com

EA: [REDACTED] | T: [REDACTED] | M: [REDACTED] | E:  
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## SECOND SUPPLEMENTARY AGREEMENT

THIS SECOND SUPPLEMENTARY AGREEMENT is made on ~~May~~ April 2016

### BETWEEN:

- (1) **E20 STADIUM LLP** of Level 10, 1 Stratford Place, Montfichet Road, London E20 1EJ (the "Employer");
- (2) **BALFOUR BEATTY GROUP LIMITED** (company number 00101073) whose registered office is at 5 Churchill Place, Canary Wharf, London E14 5HU (the "Contractor"); and
- (3) **BALFOUR BEATTY PLC** (company number 00395826) whose registered office is at 5 Churchill Place, Canary Wharf, London E14 5HU (the "Contractor's Guarantor");

each of whom is referred to in this Second Supplementary Agreement as a "Party", and together as the "Parties".

### WHEREAS:

- (A) On 24 December 2013, the Employer and the Contractor entered into the Tier 1 Contract.
- (B) On 23 February 2015, the Employer and the Contractor amended the Tier 1 Contract by entering into the First Supplementary Agreement.
- (C) A number of issues and potential claims have arisen between the Employer and the Contractor in relation to the works under the Tier 1 Contract. The Employer and the Contractor have agreed terms for the resolution of all such issues and potential claims and wish to record all of those terms in this Second Supplementary Agreement.
- (D) The Contractor's Guarantor has agreed to be a party to this Second Supplementary Agreement for the purpose of confirming that the Contractor's Parent Company Guarantee shall continue to guarantee the obligations of the Contractor under the Tier 1 Contract as varied by this Second Supplementary Agreement.

IT IS AGREED as follows:

### 1. DEFINITIONS

1.1 In this Second Supplementary Agreement, unless the context otherwise requires:

- 1.1.1 "Claims" means any and all past or present compensation events, entitlements (including (but not limited to) extensions of time, any change to the Prices or any change to the Completion Date or Key Dates), claims, actions, causes of action, rights, demands, set-offs, liabilities or obligations, of every kind, nature or description, whether in contract, tort or otherwise, which either the Employer or the Contractor has or may have against the other arising out of or in connection with any event or circumstance affecting the Tier 1 Contract (or any other document or agreement in relation to the Tier 1 Contract) or the works arising on or before ~~7 May 10 April~~ 2016, including (but not limited to) claims for interest or costs, whether in the jurisdiction of England and Wales or any other, and whether or not presently known to the Parties or to the law, including (but not limited to):
  - (a) all matters that are the subject of notices of compensation events, Project Manager's instructions and early warning notices;
  - (b) the programme mitigation and acceleration measures necessary to meet the obligations set out herein;
  - (c) the Employer's rights and any liability of the Contractor under Option X7 of the Tier 1 Contract; and

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- (d) any claim by the Employer that the Contractor is obliged under the Tier 1 Contract to carry out and complete the Excepted Works as part of its works.
- 1.1.2 "Concert" means the AC/DC concert at the Stadium scheduled to take place on 4 June 2016;
- 1.1.3 "Contractor's Parent Company Guarantee" means the parent company guarantee given by the Contractor's Guarantor dated 24 December 2013;
- 1.1.4 "Excepted Works" means those items of work specified in Appendix 1 of this Second Supplementary Agreement which the Parties agree that the Contractor is not obliged to carry out and complete under the Tier 1 Contract and which will be carried out (if at all) by the Employer or by Others on its behalf.
- 1.1.5 "Excluded Matters" means:
- (a) subject to clause 2 any Defect or other non-compliance with any of the requirements for the works under the Tier 1 Contract;
  - (b) subject to clause 2 any liability of the Contractor under clauses 29, 76, 77 and 83 of the Tier 1 Contract;
  - (c) any failure by the Contractor to comply with clause 28, 70, 74, 84, 85, 88 or 94 of the Tier 1 Contract;
  - (d) any liability of the Contractor for any negligent act, error or omission in the performance of the Contractor's professional obligations under the Tier 1 Contract;
  - (e) any liability of the Contractor for death or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with the Tier 1 Contract;
  - (f) any failure by the Contractor to obtain any approvals or Licences or to comply with Licences;
  - (g) any failure by the Contractor to comply with applicable law;
  - (h) save as expressly provided in this Second Supplementary Agreement any failure by the Contractor or the Employer to meet its obligations set out herein where such failure causes loss to the other; ~~and~~
  - (i) ~~subject to clause 9.2 below, any compensation event occurring on or after 7 May 19 April 2016; and~~
  - (j) any part of the total of the Prices as amended by this Second Supplementary Agreement and any part of the Incentivisation amounts for achieving key performance indicators stated within Schedule 2 (Incentivisation Schedule (X20) to the Tier 1 Contract which as at the date of this Second Supplementary Agreement has not been paid by the Employer to the Contractor.
- 1.1.6 "First Supplementary Agreement" means the supplementary agreement to the Tier 1 Contract entered into by the Parties on 23 February 2015 amending the total of the Prices to [REDACTED];
- 1.1.7 "Settlement Sum" means the total amount of [REDACTED] plus VAT in full and final settlement of Claims;
- 1.1.8 "Stadium" means the Olympic Stadium in the Queen Elizabeth Olympic Park;
- 1.1.9 "Tier 1 Contract" means the contract for the design and construction of the transformation works to the Stadium entered into by the Employer and the Contractor on 24 December 2013;
- ~~1.1.10 "Variation Sum" means the sum of [REDACTED] to be paid in addition to the~~

Commented [RN1]: Check if incentive to date is in the £223 7m

~~Settlement Sum by the Employer to the Contractor pursuant to clause 7 of this Second Supplementary Agreement in respect of the notices of compensation events and the Project Manager's instructions listed in Appendix 2 of this Second Supplementary Agreement]~~

4.1.11 ~~["Second Changes Sum " means the sum of [REDACTED] to be paid in addition to the First Supplementary Agreement by the Employer to the Contractor for Compensation Events, Acceleration and Project Manager's Instructions previously agreed prior to the Settlement Sum and the Variation Sum.]; and~~

1.1.102 capitalised terms used herein have the same meanings as given to them under the Tier 1 Contract.

## 2. EXCEPTED WORKS

2.1 The Parties agree that the Contractor is not required to carry out and complete any of the Excepted Works, as listed in Appendix 1 of this Second Supplementary Agreement, which will be carried out (if at all) by the Employer or Others on its behalf. For the avoidance of doubt any failure to complete the Excepted Works will not affect the obligation of the Project Manger to certify Completion as hereinafter defined

## 3. AMENDMENTS TO TIER 1 CONTRACT

3.1. The Employer and the Contractor agree that the Tier 1 Contract is hereby amended as follows:

3.1.1. Part One of the Contract Data is amended so that

(a) "Completion" of the remaining works within the Stadium means the date that the Stadium is sufficiently completed (excluding the Post Completion Works defined in (c) below) to be capable of being licensed and operated for the Newham Great Team Relay and the Great Newham Run by 13 July 2016 (including the ~~completion and provision~~ by the Contractor of all operation and maintenance manuals, ~~an~~ operator training programme and safety certification to the extent necessary to operate the Stadium for such purpose) and the *completion date* is 13 July 2016; and

(b) all works and services of the Contractor ~~completed not in place~~ at the date of the Newham Great Team Relay and the Great Newham Run which are required to be completed so that the Stadium is capable of being licensed and operated for the subsequent [athletics and football events] shall be listed by the Contractor by the date of the Newham Great Team Relay and the Great Newham Run and will be completed by the Contractor as soon as is practical thereafter; so that the Stadium is licensable for the next athletics or football event; and

(c) the Post Completion Works means the works listed [below ] which the Contractor will use all reasonable endeavours to complete as soon as is reasonably practicable after the date of Completion referred to in (a) above save that the Contractor is obliged to carry out and complete such Post Completion Works:-

Permanent Power upgrades  
Commissioning of the speakers/acoustics in football mode  
As built drawings  
Environmental testing  
West Ham branding works  
Defect rectification works

Any other works to be advised prior to or following each event

3.1.2. Part Two of the Contract Data is amended so that the total of the Prices is [REDACTED]. The table below outlines this sum in detail;

| Date     | Description  | Change     | Total of the Prices | KPIs due X20 (not included in Total of the Prices) |
|----------|--|------------|---------------------|--|
| 24.12.13 | Tier 1 Contract                                      |            | [REDACTED]          | [REDACTED]   |
| 23.02.16 | First Supplementary Agreement                        |            |                     |  |
|          | <i>First Changes Sum</i>                             | [REDACTED] |                     |  |
|          | <i>Savings</i>                                       | [REDACTED] |                     |  |
|          | <i>Risk and Acceleration</i>                         | [REDACTED] |                     |  |
|          | Subtotal 1   | [REDACTED] | [REDACTED]          | [REDACTED]   |
| 27.04.16 | Second Supplementary Agreement                       |            |                     |  |
|          | <i>Second Changes Sum (including KPI [REDACTED])</i> | [REDACTED] |                     |  |
|          | <i>Settlement Sum</i>                                | [REDACTED] |                     |  |
|          | <i>Variation Sum</i>                                 | [REDACTED] |                     |  |
|          | Subtotal 2   | [REDACTED] | [REDACTED]          | [REDACTED]   |

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3.1.3. Schedule 2 (*Incentivisation Schedule (X20), Key Performance Indicator Schedule*) to the Contract Data is amended so that the key performance indicator numbered 4 (described as "Building Completion") is 13 July 2016.

3.1.4. For the avoidance of doubt, the Total of the Prices in Item 3.2.1 above does not include the Roof Novation Settlement Agreement value of [REDACTED] previously paid by the Employer to the Contractor under a separate contract.

3.2. The Employer shall procure that from the effective date of this Second Supplementary Agreement the Project Manager (and the Supervisor) shall administer the Tier 1 contract as amended by this Second Supplementary Agreement ~~(both acting fairly and reasonably) (a) include in any assessment and implementation under clauses 63 to 65 of the Tier 1 Contract of any compensation event occurring after [19 April 2016], the effect of such compensation event on the date for completion of Contractor's works and services for the Concert referred to in clause 4.2 below and upon completion of the Power Upgrade Works pursuant to clause 5.1 below and (b) (including certification of)~~ the date of Completion of the works under the Tier 1 Contract in accordance with the revised Completion criteria set out in clause 3.1.1 of this Second Supplementary Agreement).

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3.3. Notwithstanding the "description, criteria and evidence" stated within Schedule 2 (*Incentivisation Schedule (X20)*) to the Tier 1 Contract, the Contractor shall be paid the Incentivisation amount for achieving key performance indicator numbered 4 upon Completion of the works as defined in clause 3.1.1 of this Second Supplementary Agreement.

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3.4. For the avoidance of doubt and subject to clause 3.1.1 (b) above the Parties acknowledge and agree that after the Concert and *completion date* there will, on each occasion, be outstanding works and Defect rectification works to be completed by the Contractor which will not prevent (nor be argued by the Employer as preventing) the events planned for the Stadium from taking place or from Completion being certified.

3.5. For the avoidance of doubt the Contractor is only responsible for completing the Stadium such that it is capable of being licensed for the events in respect its works only. Accordingly the Employer shall procure that the Project Manager ~~shall~~ disregard any failings of the Employer or Others in assessing whether Completion as defined in Clause 3.1.1 has been achieved. In the event that the Employer or Others fail to provide their works the Contractor's rights under Clause 60 to 65 of the Tier 1 Contract will continue to apply.

3.6. Save as varied by this Second Supplementary Agreement, set out in clause 3.1 above, the Tier 1 Contract, as varied by the First Supplementary Agreement, shall continue to have full force and effect.

#### 4. **CONCERT ON 4 JUNE 2016**

4.1. ~~The Parties acknowledge that the Contractor is unable to provide the events' operators and promoters exclusive use of the Stadium in advance of the events. The Contractor and the Employer will work with the operators and promoters to progress completion of the works and services required to stage the events. The Contractor will undertake all works and services comprising part of the works that are necessary to ensure that the Stadium is capable of being licensed for operation by London Borough of Newham for the Concert.~~

4.2. The Contractor will undertake all works and services necessary to ensure that subject to clauses 60 to 65 of the Tier 1 Contract it hands over the field of play (including, for the avoidance of doubt, the track) at the Stadium to the Employer no later than 00:01 on 28 May 2016 for the purposes of preparing for and staging the Concert.

4.3. The Contractor acknowledges and agrees that it is not entitled to carry out any works or services on the field of play (including, for the avoidance of doubt, the track) at the Stadium following such handover until 23:59 on 6 June 2016, ~~save that it will provide 'hard' facilities management services during that period.~~

5. **PROJECT MANAGER'S INSTRUCTION**

- 5.1 The Contractor will undertake and subject to clauses 60 to 65 of the Tier 1 Contract will complete the works set out in Project Manager's instruction numbered 295 (the "Power Upgrade Works") no later than 6 September 2016. For the avoidance of doubt the Power Upgrade Works are to be completed post Completion as defined in clause 3.1.1 above. In the event that the Contractor fails to complete the Power Upgrade Works by 6 September 2016 (or such later date as may be determined under the Tier 1 Contract) then the Contractor will continue to meet the costs of temporary power until the date that the Power Upgrade Works are completed, which shall be the Employer's sole remedy under the Tier 1 Contract for ~~such failure to complete by that date.~~
- 5.2 The Contractor acknowledges and agrees that it is not entitled to carry out any works or services at the Stadium on the days when events are scheduled to take place at the Stadium ~~between 8 July 2016 and 6 September 2016.~~

6. **TOTAL OF THE PRICES**

- 6.1 The Employer and the Contractor acknowledge and agree that the total of the Prices plus VAT as at 19 April 2016 is inclusive of (but not limited to), and takes full account of, all amounts due to the Contractor in relation to:
- 6.1.1 all notifications of compensation events up to and including notification of compensation event numbered 315;
  - 6.1.2 all Project Manager's instructions up to and including Project Manager's instruction numbered 320;
  - 6.1.3 all early warning notices issued up to and including ~~6 May~~ 19 April 2016;
  - 6.1.4 the programme mitigation and acceleration measures by the Contractor necessary to achieve completion of all works and services as set out herein; and
  - 6.1.5 the Settlement Sum.

7. **PAYMENT OF SETTLEMENT SUM & VARIATION SUMS**

- 7.1 The Employer will pay the Settlement Sum ~~and the Variation Sum~~ to the Contractor as follows:
- 7.1.1 the amount of [REDACTED] (ex VAT), will be paid no later than two Business Days following the date of execution by the Parties signature and delivery to the Employer by the Contractor of this Second Supplementary Agreement;
  - 7.1.2 the amount of [REDACTED] (ex VAT) will be paid no later than ~~two Business Days following 26 June 2016;~~ and
  - 7.1.3 the amount of [REDACTED] (ex VAT) will be paid 2 business days following Completion as defined in clause 3.1.1 (a) of this Second Supplementary Agreement on 13 July 2016 ~~the whole of the works (save for the Power Upgrade Works); and~~
  - ~~7.1.4 the amount of [REDACTED] (ex VAT) will be paid no later than two Business Days following completion of the Power Upgrade Works to the reasonable satisfaction of the Project Manager. The Employer shall procure that the Project Manager notifies the Contractor as soon as the Power Upgrade Works have been completed to his reasonable satisfaction.~~
- 7.2. The Employer shall be entitled to withhold the sum of [REDACTED] (the "Incentive Deduction") from the payment of [REDACTED] referred to in clause 7.1.3 above which incentive Deduction shall be released and paid by the Employer to the Contractor within ~~7~~ 5 business days of the date that either (a) the Concert takes place or (b) the date of postponement or cancellation of the Concert through no default or breach of the Tier 1 Contract as amended by this Second Supplementary Agreement by the

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Contractor, whichever is the first to occur.

## 8. FULL AND FINAL SETTLEMENT

8.1. Save as provided in clause 8.2 below, the terms of this Second Supplementary Agreement are in full and final settlement of any and all Claims.

8.2. Save as provided in clause 8.3 below or as expressly provided otherwise in this Second Supplementary Agreement, nothing in this Second Supplementary Agreement shall in any way limit or exclude the Parties rights arising out of or in connection with or in consequence of any Excluded Matters.

8.3. Notwithstanding any other provision in this Second Supplementary Agreement;

8.3.1 the Employer waives all and any entitlement to delay damages (whether liquidated or general damages) whether under Option X7 of the Tier 1 Contract or otherwise at law for any delay to the Completion of the whole or any part of the works including any delay to the works and services referred to in clause 4.2 of this Second Supplementary Agreement and the Power Upgrade Works; and

8.3.2 save for the Employer's right to withhold the Incentive Deduction as defined in clause 7.2 above, the Contractor shall have no liability under this Second Supplementary Agreement (or the Tier 1 Contract) to the Employer whatsoever or howsoever arising (including any delaying effect of any of the Excluded Matters) for any losses, damages, costs or expenses of any nature incurred or that may be incurred by the Employer, whether directly or indirectly (including any costs or losses of any operators of the Stadium or of any other third party) as a consequence for whatever reason of any delay to, or postponement or cancellation of the Concert or any other events scheduled for the summer of 2016 at the Stadium (including the first football match to be played by West Ham United Football Club at the Stadium).

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## 9. BEST FOR WHOLE STADIUM TRANSFORMATION WORKS PROGRAMME

9.1. Without prejudice to their respective obligations under the Tier 1 Contract, the Employer and the Contractor will act in a collaborative manner in the best interests of the whole programme of works to transform the Stadium (having regard to the events scheduled for the summer of 2016 and including the first football match to be played by West Ham United Football Club at the Stadium) and will each use reasonable endeavours to facilitate the Contractor's works and Others' works including seating transition works and mondo works so as to achieve timely completion of the whole Stadium transformation works.

9.2. The Contractor agrees and acknowledges, so that it is aligned with its supply chain, that it will be working in the Stadium in a very accelerated and congested working environment, undertaking works in a piecemeal and un-sequenced manner alongside many other trades not all of which are under its control or direction. The Contractor as part of its cooperation obligations will not be entitled to claim a compensation event under the Tier 1 Contract solely for delay or disruption caused by continuing to work in the above environment unless after the date of this Second Supplementary Agreement there is significant change to the present working environment or there is the occurrence after 6 May/19 April 2016 of a new specific matter/event entitling the Contractor to a compensation event.

## 10. GUARANTEE

9.1 The Contractor's Guarantor hereby agrees that the Contractor's Parent Company Guarantee shall guarantee the Contractor's obligations under the Tier 1 Contract, as varied by the First Supplementary Agreement and this Second Supplementary Agreement, and the Contractor's Parent Company Guarantee shall continue to have full force and effect.



**11. ENTIRE AGREEMENT**

11.1. This Second Supplementary Agreement and its Appendices represent the entire understanding and constitute the whole agreement in relation to its subject matter and supersede any previous agreement between the Parties with respect thereto and, without prejudice to the generality of the foregoing, exclude any warranty, condition or other undertaking implied at law or by custom, usage or course of dealing.

11.2. Each Party confirms that:

11.2.1. in entering into this Second Supplementary Agreement it has not relied on any representation, warranty, assurance, undertaking or commitment which is not expressly set out in this Second Supplementary Agreement; and

11.2.2. in any event, without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, the only rights or remedies in relation to any representation, warranty, assurance, undertaking or commitment given with this Second Supplementary Agreement are pursuant to this Second Supplementary Agreement.

**12. MISCELLANEOUS**

12.1. This Second Supplementary Agreement is supplemental to the Tier 1 Contract, as varied by the First Supplementary Agreement, and the Tier 1 Contract, the First Supplementary Agreement and the Second Supplementary Agreement shall be read and construed as a single document (save that in case of conflict, the provisions of this Second Supplementary Agreement shall take priority).

12.2. If any provision or part of this Second Supplementary Agreement is found to be void or unenforceable, it shall be deemed to be deleted and the remaining provisions of this Second Supplementary Agreement shall continue in full force and effect.

12.3. This Second Supplementary Agreement may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

12.4. No variation of this Second Supplementary Agreement shall be effective unless it is in writing (which for this purpose does not include email) signed by or on behalf of each of the Parties.

12.5. Each Party agrees to treat in confidence and not to disclose to third parties the existence of, any terms of, the negotiation of, or any matter in connection with, this Second Supplementary Agreement without the other Parties' prior written consent, provided that a Party shall not be in breach of this clause 12.5 where it makes any such disclosure:

12.5.1. to its insurers, legal or financial advisers, shareholders or affiliates (however, any such foregoing person to whom any such disclosure is made must be informed by the disclosing Party of the confidential nature of the information being disclosed and directed to treat it in confidence);

12.5.2. to comply with an order of a tribunal or regulatory authority of competent jurisdiction; or

12.5.3. to comply with laws or to facilitate the enforcement of the provisions of this Second Supplementary Agreement,

and provided further that any press statement as may be agreed by the Employer and the Contractor shall not be in breach of this clause 12.5.

12.6. The Contractor and the Contractor's Guarantor agree that the Employer shall be entitled to

assign the benefit of this Second Supplementary Agreement to any entity to whom the benefit of the Tier 1 Contract or the Contractor's Parent Company Guarantee (as the case may be) is assigned in accordance with their respective terms.

12.7. This Second Supplementary Agreement shall be governed by English law and the Parties hereby submit to the exclusive jurisdiction of the Courts of England and Wales.

**IN WITNESS** whereof this Second Supplementary Agreement has been entered into on the date first above written.

**EXECUTED** as a deed by **BALFOUR BEATTY GROUP LIMITED** by:

Duly appointed Attorney by  
Balfour Beatty Group Limited: .....

Name: .....

Witness: .....

Name: .....

Address: .....

**EXECUTED** as a deed by **BALFOUR BEATTY PLC** by:

Director: .....

Name: .....

Witness: .....

Name: .....

Address: .....

**EXECUTED** as a deed by **E20 STADIUM**  
**LLP** acting by its Members **NEWHAM** )  
**LEGACY INVESTMENTS LIMITED** and )  
**LONDON LEGACY DEVELOPMENT** )  
**CORPORATION**

.....  
Director of **NEWHAM LEGACY  
INVESTMENTS LIMITED**

.....  
Director/Company Secretary of **NEWHAM  
LEGACY INVESTMENTS LIMITED**

.....  
Authorised signatory of **LONDON LEGACY  
DEVELOPMENT CORPORATION**

Appendix 1 to the Second Supplementary Agreement 2  
List of Excepted Works

- (i) Treatment to level 0 floors
- (ii) Any works required to Tarmac/Surfacing in the areas trafficked under the retractable seating
- (iii) Fit out of level 2 kitchens
- (iv) Resin flood covering to inbound pods
- (v) Resurfacing of existing bridges
- (vi) ~~CCTV Camera upgrades and commissioning to meet requirements for Football~~
- (vii) Reinstatement of gold top surfacing on areas of existing and retained tarmac
- (viii) ~~The AC/DC concert stage and overlay install "bump in and bump out". The Contractor will give non-exclusive access for the Operator to the Stadium Field of Play only from 28 May until 6 June 2016, and access to the whole Stadium from 2 June until 6 June 2016.~~
- (ix) Works to transition the east stand into football mode during the period post 4 June concert and pre 14 July Newham corporate run. The Contractor will be the Principal Contractor for the area under its control only, all seating transition works are excluded and will be carried out by E20. ~~There is currently a clash between this and the mondo works hence considerable coordination needed.~~
- (x) Dilapidation rectification works. Current and future Dilapidations caused during all events and/or by Others are agreed to be carried out by E20.
- (xi) Pre-existing defects/defects in works undertaken by from other Contractors prior to possession of the site by the Contractor ~~(including such as~~ back of bowl panels and podium expansion joints) other than mechanical electrical and life safety installations.
- (xii) All damage and defects caused to the works by the Employer's Contractors, including damage caused to Mondo, Surfacing and Stadium structure by the Employer's seating Contractor.
- (xiii) All works by the Employer and its ~~Third parties~~ (including e.g. By Sapa and Portview) etc

Commented [MP1]: BB to confirm whether can be deleted

Commented [RN2]: Now covered in Clause 4

076.05.16

**From:** [REDACTED]  
**To:** [Colin Naish](#); [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** OST Revised Heads of Terms Without Prejudice and Subject to Contract  
**Date:** 09 May 2016 19:38:07  
**Attachments:** [OST heads of terms \(070516\) draft - LLDC required amendments \(2\).docx](#)

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Colin [REDACTED] – revised HoT’s as just discussed. Revised 2nd SA to follow. Regards, [REDACTED]

[REDACTED]

[REDACTED] | Balfour Beatty | Major Projects

T: [REDACTED] | M: [REDACTED] | E: [REDACTED]@balfourbeatty.com

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## 1. Damages

- 1.1 There will be no liquidated or general damages for delay to any of the events or for delay to completion of the works (as defined in 2 below) or any part of the works. E20 shall not be able to levy against, or pass on to the Contractor any damages or additional operator or other third party costs incurred by reason of any additional operator services the operator or other third parties are required to provide for the events, or for cancellation of the events or by reason of delay to completion of the works or any part. For the avoidance of doubt, this does not affect any rights E20 may have to claim damages other than claims for all and any losses, damages, costs or expenses incurred by E20, whether directly or indirectly (and including any operator or third party losses) by reason of (a) any delay to, or postponement or cancellation of any of the events or (b) delay to completion of the works or any part.
- 1.2 There will be an incentive deduction of [REDACTED] made by E20 from the [REDACTED] settlement sum to be paid to the Contractor which will be released and paid to the Contractor on the AC/DC concert taking place or not taking place through no breach or default of the Contractor
- 1.3 The above incentive deduction is agreed subject to agreement of the preservation of the compensation event regime under the contract as referred to in 3.1 below

## 2. Completion Definition

- 2.1 The Stadium is to be licensable and operable for handover to the operator on 13 July 2016 for the Newham Great Team Relay and the Great Newham Run
- 2.2 All O&M manuals, training and safety certification necessary for operation of the Newham Great Team Relay and the Great Newham Run are to be in place and provided by the Contractor to the operator prior to the Newham Great Team Relay and the Great Newham Run.
- 2.3 Works and services not in place to achieve a licensable Stadium for the athletics and football events are to be agreed and listed by E20 and the Contractor by the date of the Newham Great Team Relay and the Great Newham Run and will be completed by the Contractor as soon as is practical and if required for the Stadium to be licensable for the next athletics or football event will be completed by the Contractor so that the Stadium is licensable for the next athletics or football event.
- 2.4 E20 and the Contractor will agree a list of known exclusions to be included in the Second Supplemental Agreement as works to be completed by the Contractor.
- 2.5 Subject to Clause 4 below, the Contractor will use all reasonable endeavours to complete the remaining post completion works on a date as soon as is reasonably practicable to be agreed by E20 and the Contractor provided always that the Contractor will complete such post completion works.
- 2.6 Subject to Clause 4 below, E20 is to procure that the Project Manager and Supervisor will certify completion (in accordance with the contract) against the above agreed revised completion criteria.

## 3. Scope of the Full & Final Settlement

- 3.1 The existing contractual mechanism for compensation events under the contract will be preserved and will continue to operate in relation to any event or circumstance arising on or after 19 April 2016.
- 3.2 The Contractor agrees and acknowledges, so that it is aligned with its supply chain, that it will be working in the Stadium in a very accelerated and congested working environment, undertaking works in a piecemeal and unsequenced manner alongside many other trades not all of which are under its control or direction. The Contractor as part of its cooperation obligations will not be entitled to claim a compensation event under the contract for delay or disruption caused by working in the above environment unless there is significant change to the working environment or other specific new matter event after 6 May 19 April 2016 entitling the Contractor to a compensation event

#### **4. Power Upgrade Works**

- 4.1 The Contractor will use all reasonable endeavours to complete the Power Upgrade Works by 7 August 2016 and in any event will complete the Power Upgrade Works by 6 September 2016 and if this is not achieved the Contractor will agree to pay the continuing costs of temporary power until such time as the Power Upgrade Works are completed.

#### **5. Exclusive Use For Events**

- 5.1 The parties acknowledge that the Contractor is unable to provide the events operators and promoters exclusive use of the Stadium in advance of the events. The Contractor and E20 will work with the operators and promoters to progress completion of the works and services required to stage the events.

**097.05.16**

**From:** [REDACTED]  
**To:** [Colin Naish](#)  
**Cc:** [REDACTED] [REDACTED]  
**Subject:** Olympic Stadium - revised Second Supplementary Agreement (09.05.16) Without Prejudice and Subject to Contract  
**Date:** 09 May 2016 12:17:03  
**Attachments:** [Second Supplementary Agreement to Tier 1 Contract \(PHM 090516\) V2.docx](#)  
**Importance:** High

---

Colin,

I attach a further revision of the Supplementary Agreement to reflect discussion to date for the call at 12.30.

Regards,

[REDACTED]

[REDACTED]

[REDACTED] | Balfour Beatty | Major Projects

T: [REDACTED] | M: [REDACTED] | E: [REDACTED]@balfourbeatty.com

EA: [REDACTED] | T: [REDACTED] | M: [REDACTED] | E: [REDACTED]@balfourbeatty.com

**Balfour Beatty**

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**From:** [REDACTED]  
**To:** [Colin Naish](mailto:Colin.Naish)  
**Subject:** RE: Second Supplementary Agreement to Tier 1 Contract (PHM 250416) (4) - Comments - without prejudice and subject to contract  
**Date:** 05 May 2016 12:29:11  
**Attachments:** [image003.png](#)

---

Colin,

Yes let's do that.

[REDACTED]

[REDACTED]

[REDACTED] | Balfour Beatty | Major Projects

M: [REDACTED] | E: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)

EA: [REDACTED] | T: [REDACTED] | M: [REDACTED] | E: [REDACTED] [@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)

5 Churchill Place, Canary Wharf, London E14 5HU

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---

**From:** Colin Naish [mailto:[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)]  
**Sent:** 05 May 2016 10:46  
**To:** [REDACTED]  
**Subject:** RE: Second Supplementary Agreement to Tier 1 Contract (PHM 250416) (4) - Comments - without prejudice and subject to contract

[REDACTED]

Is it possible to have a room where we can have the agreement up on the screen and make amendments as we go, so we leave with an agreed form?

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)



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---

**From:** [REDACTED] [mailto:[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** 04 May 2016 12:11  
**To:** Colin Naish  
**Cc:** [REDACTED]  
**Subject:** Re: Second Supplementary Agreement to Tier 1 Contract (PHM 250416) (4) - Comments - without prejudice and subject to contract

Thanks Colin,

I am trying to free up [REDACTED] who is very practical.

Regards,

[REDACTED]

[REDACTED]

[REDACTED] | Major Projects  
m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
[5 Churchill Place, Canary Wharf, London, E14 5HU](#)

On 4 May 2016, at 11:55, Colin Naish <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)> wrote:

[REDACTED]

Names as follows:

Colin Naish

[REDACTED]

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)  
<image001.png>

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---

**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** 04 May 2016 10:22  
**To:** Colin Naish  
**Cc:** [REDACTED]  
**Subject:** Re: Second Supplementary Agreement to Tier 1 Contract (PHM 250416) (4) - Comments - without prejudice and subject to contract

Colin,

That's fine, Canary Wharf at 1pm tomorrow, can I have the names for security please.

[REDACTED]

[REDACTED] | Major Projects  
m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)

On 4 May 2016, at 09:41, Colin Naish <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)> wrote:

[REDACTED]

Thursday afternoon please, we could come to canary wharf if that helps.

Colin Naish  
Executive Director of Stadium  
Queen Elizabeth Olympic Park

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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----- Reply message -----

From: "Colin Naish" <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)>  
To: [REDACTED] <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>  
Cc: "David Goldstone" <[DavidGoldstone@londonlegacy.co.uk](mailto:DavidGoldstone@londonlegacy.co.uk)>, [REDACTED] <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>, [REDACTED] <[\[REDACTED\]@macegroup.com](mailto:[REDACTED]@macegroup.com)>  
Subject: Second Supplementary Agreement to Tier 1 Contract (PHM 250416) (4) - Comments - without prejudice and subject to contract  
Date: Tue, May 3, 2016 18:48

[REDACTED]

Yes, let's meet to address the drafting as you suggest, but to do this I need a legal colleague to join us and he cannot make tomorrow, so can we make arrangements for Thursday please.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)  
<image001.png>

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---

**From:** [REDACTED] <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>  
**Sent:** 03 May 2016 14:56  
**To:** Colin Naish  
**Cc:** David Goldstone; [REDACTED]; [REDACTED]  
**Subject:** Re: Second Supplementary Agreement to Tier 1 Contract (PHM 250416) (4) - Comments - without prejudice and subject to contract

Colin,

I tend to agree that we are both potentially reading more into the words and seeing more risk than is really there.

The reality is that the project is in considerable delay, and we need a significant coordinated joint effort to get it across the line for the various events.

Using your numbering,

1. On the subject of liquidated damages, these were agreed at zero at the settlement meeting by you and David, so Balfour Beatty's exposure to damages for delay was removed. This was a pre-requisite to our discussions, as we have entitlement to EoT, and is the whole essence of having an acceleration agreement in the first place.
2. At the time of the Newham run we will have had a licensable venue for 80,000 people at an event. We have no problem with aligning some payments in time to provision of final documentation and football licensing but need a test for Completion when we hand over to the Operator.
3. We are looking at programmes with our supply chain and will work with you to see what can be achieved for the power upgrades earlier.
4. We can clearly only settle things to a point in time, no one can predict the future, but as there are only a couple of months left on site, and if there are no Compensation Events there will be no further claims.

We need to pay our supply chain to keep them working. We have had no on account payments from yourselves despite accelerating for over 2 weeks now since verbal agreement. Can I have an update on that please for our Group Board.

In order to move this on, I would suggest that the only way to resolve is to meet and go through the drafting and agree as we go, as we did last time. Can [REDACTED] and yourself meet with me tomorrow please, I will clear my diary?

[REDACTED]

Major Projects  
m: [REDACTED] e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
[5 Churchill Place, Canary Wharf, London, E14 5HU](http://5.Churchill.Place.Canary.Wharf.London.E14.5HU)

On 30 Apr 2016, at 15:16, Colin Naish <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)> wrote:

[REDACTED]

I think part of the challenge here is that we are both, rather naturally, reviewing the draft of the Supplemental Agreement from our own viewpoint and, in the process, unintentionally creating risks for the other party. I am sure your amendments don't seek to achieve this, but what they seem to do from E20's point of view is to create the following risks for E20 which are clearly unacceptable and contrary to our WPSTC agreement:

1. No absolute obligation on Balfour Beatty to deliver a licencable venue for the concert and no exposure to damages if Balfour Beatty do not
2. Contract completion being achieved based on the stadium being able to host the Newham Run, an event which has the lowest threshold of licensing requirements of all the events to be held (eg lowest attendance, most compliant crowd, lowest utilisation of hospitality etc) irrespective of whether Balfour Beatty have produced all the paperwork required for completion (O&M manuals, training, as built drawings, etc) and no damages if Balfour Beatty don't. Payment of the completion incentive to Balfour Beatty would be made irrespective of what level of completion had actually been achieved.
3. Completion of the power upgrades when E20 are a number of games into the football season and no damages if Balfour Beatty do not achieve this.
4. Balfour Beatty retain the ability to raise further claims between now and completion when the agreement was to represent a full and final settlement of the whole contract.

So in order to get to an acceptable form of Supplemental Agreement that is in line with the principles of the WPSTC settlement we reached, any amendments you propose to the draft must be made in a way that does not transfer these risks to E20.

Can I ask that you please revisit your amendments so they achieve what you need them to, but without inadvertently resulting in the risk transfer to E20 as we see it above.

Colin Naish  
Executive Director of Stadium  
Queen Elizabeth Olympic Park

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ  
DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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----- Reply message -----

From: "David Goldstone" <[DavidGoldstone@londonlegacy.co.uk](mailto:DavidGoldstone@londonlegacy.co.uk)>  
To: [REDACTED] <[REDACTED]@balfourbeatty.com>  
Cc: "Colin Naish" <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)>, [REDACTED] <[REDACTED]@balfourbeatty.com>  
Subject: Second Supplementary Agreement to Tier 1 Contract (PHM 250416) (4) - Comments - without prejudice and subject to contract  
Date: Sat, Apr 30, 2016 12:04

[REDACTED]

We have an agreement with you, subject to contract, which we are just trying to get

documented , so that it reflects what we have agreed.

You have identified some issues to resolve , which we are both trying to resolve in the spirit of that agreement. As you know, I only became aware of them yesterday afternoon .

As you also know I have been through seeking and securing the approval of our Board, and the mayor of London , for this agreement , I would be astonished if you had stopped your teams working in these circumstances.

Colin and I have been working through the points overnight , and, as I said yesterday, will come back to you as soon as we can

David  
Sent from my HTC

----- Reply message -----

From: '[REDACTED]' <[REDACTED]@balfourbeatty.com>  
To: "David Goldstone" <DavidGoldstone@londonlegacy.co.uk>  
Cc: "Colin Naish" <ColinNaish@londonlegacy.co.uk>, [REDACTED] <[REDACTED]@balfourbeatty.com>  
Subject: Second Supplementary Agreement to Tier 1 Contract (PHM 250416) (4) - Comments - without prejudice and subject to contract  
Date: Sat, Apr 30, 2016 11:09

David,

I still haven't had a response?

We are keeping the site working today, again in good faith.

[REDACTED]

[REDACTED]  
[REDACTED] | Major Projects  
m: [REDACTED] | e: [REDACTED]@balfourbeatty.com  
[5 Churchill Place, Canary Wharf, London, E14 5HU](http://5.Churchill.Place.Canary.Wharf.London.E14.5HU)

On 29 Apr 2016, at 18:39, David Goldstone <DavidGoldstone@londonlegacy.co.uk> wrote:

Thanks [REDACTED]

As we have said, we can't get into your arrangements with your sub contractors , but I genuinely believe that we reached an agreement that was acceptable to both of us - and that I have now taken through Board and mayoral approvals - and so I remain absolutely confident that we can settle this on the terms we agreed.

Colin and I do just need to consider your earlier response to my email to you , and will come back to you as soon as we can

David  
Sent from my iPad

On 29 Apr 2016, at 17:42, [REDACTED] <[REDACTED]@balfourbeatty.com> wrote:

David,

I have just spoken to [REDACTED] who is currently travelling, but will take a call if necessary.

He has completely endorsed our stance as expressed in my email response to you 20 minutes ago.

I need your agreement ASAP, clearly It is not fair too the supply chain and their people to be left without a firm commitment to working or not for the bank holiday weekend. They will only work with a guarantee that the dispute is settled.

We hope that you appreciate that we and our supply chain have accelerated at risk for 2 weeks already, in good faith.

We await your urgent response.

[REDACTED]

[REDACTED]  
Major Projects  
m: [REDACTED] e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
[5 Churchill Place, Canary Wharf, London, E14 5HU](https://www.balfourbeatty.com/5-Churchill-Place-Canary-Wharf-London-E14-5HU)

On 29 Apr 2016, at 17:13, [REDACTED]  
[REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)> wrote:

David,

Thank you for your note, there are some matters on which we can compromise and some that we can't.

The time does not allow for all matters that will be needed for Completion as defined under the Contract to be finished, we were very clear in all our responses on this matter. It was said in our meeting for instance that you would pay the full amount for those matters that were entirely complete, and that there would be works after Completion that would be finally paid once those activities are achieved. We have no issue with that in principle, therefore there needs to be a different test for completion, and as with previous agreements the real test is that there is licensable venue for athletics and the actual taking place of the Newham run has to signify Completion and the payment of the incentive.

On the new dates that have become known to you since our agreement, we are prepared to work with you on these new dates, and be flexible where possible. This will need a cooperative approach from both, and an agreement as to how this will work together by the end of Tuesday next week. Clearly we cannot be penalised for not meeting these new dates, and the agreement must reflect the ones we agreed, but we can add these dates into the agreement also, and state the efforts and compromises that we will all make to try to achieve.

On Liquidated damages for delay the correct way is to value them at £0, and we can agree to that. As to other rights, clearly delay must be excluded, but as to your example of damages for future breach of Contract by either party, this and other similar rights can be specifically written into the agreement, one for the lawyers. Clearly any rights can only be in respect of future matters, as all in the past would be settled between us if we have this agreement.

Thank you for your clarification on claims and delays to date and their effects from now to Completion, and we agree that we would settle these as part of this agreement. However on any new Compensation Events, (which we do not want as we have significant accelerative work to do), the drafting removed that right and obligation to compensation. We are pleased that this can be reinstated.

There are clearly other drafting changes that we made to the agreement other than these specific major issues that Mr Naish raised, and we therefore assume that these are agreed in principle, subject to final agreement in drafting.

Please can you consider the above and respond as soon as possible.

I am speaking to [REDACTED] on this now, and will hold off discussing this coming weekend with our team and the Supply chain until I have had your response.

Regards,

[REDACTED]

[REDACTED]  
Major Projects  
m: [REDACTED]  
e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
[5 Churchill Place, Canary Wharf, London, E14 5HU](https://www.balfourbeatty.com/5-Churchill-Place-Canary-Wharf-London-E14-5HU)

On 29 Apr 2016, at 16:06, David Goldstone  
<[DavidGoldstone@londonlegacy.co.uk](mailto:DavidGoldstone@londonlegacy.co.uk)> wrote:

■

Colin and I have discussed. We think there may be some misunderstanding between us

Let me deal with completion first. It was absolutely clear in the agreement we reached at our without prejudice meeting that completion was to be defined as it is in the contract, by the project manager's certification. We discussed the fact, and agreed explicitly that it cannot be defined by the ability to hold an athletics event. ■ I hope you will confirm that that was the nature of our agreement. We did however, as you say, agree that there will be some specific works – eg power upgrade and acoustic testing – that will be completed later [ the words we used were that they would be treated akin to known defects]. We are happy for that to be reflected in the agreement (provided of course that the timescales for completion of those works is suitable).

In relation to the dates, Colin's proposal to you reflected the operator's agreement with the concert promoter for exclusive use, the dates of which were unknown to us when we met. If this presents difficulties to you, we will seek to get agreement from the operator and promoter to secure a non-exclusive use period, within those dates, and where possible secure access to areas necessary for you to continue commissioning works. So I hope this is capable of acceptable compromise, recognising the necessary constraints in relation to the field of play for the event (and that any change to the agreement with the concert promoter will require their agreement).

On damages, we agreed to drop LADs, as part of the overall settlement. There was no mention, and therefore cannot have been any agreement, to drop the contractual rights to other damages, for example, damages from a breach of contract.

In relation to payment for additional works, the intention that I believe we agreed was that we were reaching a full and final settlement in relation to the whole of the works, disruption, delays etc up to completion of all works [ as defined above], without us being subject to further claims or compensation events in that regard. However, whilst we do not anticipate instructing any new works, we do accept, that if we were to do so for unforeseen reasons, we would have to compensate you in accordance with the contract. If you feel that the current drafting does not achieve that, please let us know. The 'partnership' clause in the draft supplementary agreement is intended to provide assurance in this respect.

I hope that, on the basis of the above clarifications, you will continue the works planned for this weekend, in the spirit of our agreement, whilst we finalise the contractual drafting to put it into effect


**David Goldstone CBE**  
**Chief Executive**

London Legacy Development Corporation  
Level 10

1 Stratford Place, Montfichet Road  
London  
E20 1EJ  
Direct: 020 3288 [REDACTED]

Email: [davidgoldstone@londonlegacy.co.uk](mailto:davidgoldstone@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)  
<image001.gif>

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**From:** [REDACTED]  
[mailto:[REDACTED]@balfourbeatty.com]  
**Sent:** 29 April 2016 12:29  
**To:** Colin Naish  
**Cc:** David Goldstone; [REDACTED]; [REDACTED]  
**Subject:** Re: Second Supplementary Agreement to Tier 1 Contract (PHM 250416) (4) - Comments

Colin,

I have copied in David and [REDACTED] into this, as this needs elevating immediately.

I cannot believe that you are cutting across the fundamental agreements that we made by your note yesterday afternoon.

Essentially, you are attempting to,

1. Bring in new earlier dates, some of which are not achievable.
2. Bring in a full Completion test in early July, when all the discussion has been that there will be numerous outstanding works after then, and that the test of Completion will be the first athletics event occurring in a licensed venue.
3. Keeping the opportunity to raise damages for not achieving the above.
4. Leave you the opportunity to raise unlimited additional works with no payment.

If you read these three together, this appears to be a serious attempt to put Balfour Beatty at huge additional risk, and looks like a clear attempt to achieve the events and to then retrospectively take money from us.

This is totally against the content and spirit of the agreement that we made last week.

We have arranged for the following Contractors to carry out significant acceleration works over the bank holiday weekend at significant additional cost,

Imtech  
Protech  
Mondo  
Hewitt's  
Euroflow  
M&H  
Honeywell

If you do not withdraw these demands and return to our draft and the spirit of the agreement, we will be forced to cancel this weekend works and return to the dispute.

The call at 4pm is too late for a discussion on this and I request that you revert by return.

[REDACTED]



[REDACTED] Major Projects  
m: [REDACTED]  
e: [REDACTED] [balfourbeatty.com](mailto:balfourbeatty.com)  
[5 Churchill Place, Canary Wharf, London, E14 5HU](mailto:Colin.Naish@londonlegacy.co.uk)

On 28 Apr 2016, at 15:59, Colin Naish  
<[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)> wrote:

Without prejudice and subject to contract

[REDACTED]  
Thanks for your email.

Your proposed amendments to the drafting of the Second Supplementary Agreement have cut across three of the settlement principles we all agreed when we were together with David, [REDACTED] and [REDACTED] on Monday 18 April 2016:

1. Full and final settlement – this agreement is to settle all matters through to contract completion, your amendments make claims settlement limited to events/circumstances occurring on or before 19 April 2016 and the CE regime expressly preserved, e.g. in relation to the Concert and Power Upgrade Works;
2. Completion – the contract position of the Project Manager certifying completion when completion in accordance with the Contract terms is actually achieved was to remain, your amendments revert to defining completion more narrowly as being achieved when the stadium is sufficiently complete to be capable of being licensed for the Newham Run and also defer “outstanding works” beyond completion;
3. LADs – E20 agreed to drop LADs, your amendments go further than this resulting in a waiver of all damages for delay, liquidated or not

In terms of dates, there are two areas that are unacceptable:

1. Power Upgrades - the completion date for the Power Upgrades work must be ahead of WHUFC's first game on 7 August 2016 at the latest and not extend out to 6 September 2016 as you are proposing
2. Concert – the handover period must be consistent with the concert exclusive use period in the ACDC venue hire agreement, which is 28 May 2016 through to 8 June 2016 and apply to the whole venue, your amendments hand over just the field of play on 28 May 2016 through to 6 June 2016 and precludes works only on the actual event day

Before we engage on exchanging further mark-ups and addressing further points of detail/drafting, I

suggest we need to address these matters of principle first which will then enable us to get to an agreed form of Second Supplementary Agreement as quickly as possible.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development  
Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website:  
[www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)  
<image001.png>

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---

**From:** [REDACTED] [\[mailto:\[REDACTED\]@balfourbeatty.com\]](mailto:[REDACTED]@balfourbeatty.com)

**Sent:** 27 April 2016 15:59  
**To:** Colin Naish  
**Cc:** [REDACTED]  
**Subject:** Second Supplementary Agreement to Tier 1 Contract (PHM 250416) (4) - Comments

Colin,

Please find attached our amendments to the Supplementary Agreement.

Apologies, due to the document being copied between Windows devices and apple devices some of the tracked changes are not entirely clear.

There are two appendices as part of the SA which I will send to you immediately after this.

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**From:** [REDACTED]  
**To:** [David Goldstone](#)  
**Cc:** [Colin Naish](#); [REDACTED]  
**Subject:** Terms  
**Date:** 29 April 2016 15:27:39  
**Attachments:** [Hot\\_OST\\_14-4-16\\_rev1.docx](#)  
[ATT00001.htm](#)

---

David,

These are the returned terms sent to you by [REDACTED] on Friday 15th April at 3.30pm, and are exactly what we based our negotiation on the following Monday morning.

I would note for example, that we required some later dates to those in your draft, but some of your dates this week are now even earlier than you stated in your own first submission!

We have been consistent on dates and terms.

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**From:** [REDACTED]  
**To:** [David Goldstone](#)  
**Cc:** [Colin Naish](#); [REDACTED]  
**Subject:** Re: Second Supplementary Agreement to Tier 1 Contract (PHM 250416) (4) - Comments  
**Date:** 29 April 2016 15:15:09

---

Thank you David, that is all that we want.

I will send a copy of our response to the proposed heads of terms which was the last correspondence before, and the basis of, our discussions last Monday, which clarifies exactly what we were agreeing to.

[REDACTED]

[REDACTED]

[REDACTED] | Major Projects  
| m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
[5 Churchill Place, Canary Wharf, London, E14 5HU](#)

On 29 Apr 2016, at 14:54, David Goldstone <[DavidGoldstone@londonlegacy.co.uk](mailto:DavidGoldstone@londonlegacy.co.uk)> wrote:

We are not in any sense trying to cut across the agreement that we reached, or indeed achieve any of the other assertions you make. We are trying to capture what was agreed in an agreement.

Colin and I will discuss the points at issue very soon, and one of us will come back to you.

We will be sticking faithfully to what we agreed at our meeting

**David Goldstone CBE**  
**Chief Executive**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ  
Direct: 020 3288 [REDACTED]

Email: [davidgoldstone@londonlegacy.co.uk](mailto:davidgoldstone@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)  
<image001.gif>

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**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** 29 April 2016 12:29  
**To:** Colin Naish  
**Cc:** David Goldstone; [REDACTED]  
**Subject:** Re: Second Supplementary Agreement to Tier 1 Contract (PHM 250416) (4) -

Comments

Colin,

I have copied in David and [REDACTED] into this, as this needs elevating immediately.

I cannot believe that you are cutting across the fundamental agreements that we made by your note yesterday afternoon.

Essentially, you are attempting to,

1. Bring in new earlier dates, some of which are not achievable.
2. Bring in a full Completion test in early July, when all the discussion has been that there will be numerous outstanding works after then, and that the test of Completion will be the first athletics event occurring in a licensed venue.
3. Keeping the opportunity to raise damages for not achieving the above.
4. Leave you the opportunity to raise unlimited additional works with no payment.

If you read these three together, this appears to be a serious attempt to put Balfour Beatty at huge additional risk, and looks like a clear attempt to achieve the events and to then retrospectively take money from us.

This is totally against the content and spirit of the agreement that we made last week.

We have arranged for the following Contractors to carry out significant acceleration works over the bank holiday weekend at significant additional cost,

Imtech  
Protech  
Mondo  
Hewitt's  
Euroflow  
M&H  
Honeywell

If you do not withdraw these demands and return to our draft and the spirit of the agreement, we will be forced to cancel this weekend works and return to the dispute.

The call at 4pm is too late for a discussion on this and I request that you revert by return.

[REDACTED]

[REDACTED]

[REDACTED] | Major Projects  
| m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
[5 Churchill Place, Canary Wharf, London, E14 5HU](https://www.balfourbeatty.com)

On 28 Apr 2016, at 15:59, Colin Naish <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)> wrote:

Without prejudice and subject to contract

[REDACTED]

Thanks for your email.

Your proposed amendments to the drafting of the Second Supplementary Agreement have cut across three of the settlement principles we all agreed when we were together with David, [REDACTED] and [REDACTED] on Monday 18 April 2016:

1. Full and final settlement – this agreement is to settle all matters through to contract completion, your amendments make claims settlement limited to events/circumstances occurring on or before 19 April 2016 and the CE regime expressly preserved, e.g. in relation to the Concert and Power Upgrade Works;
2. Completion – the contract position of the Project Manager certifying completion when completion in accordance with the Contract terms is actually achieved was to remain, your amendments revert to defining completion more narrowly as being achieved when the stadium is sufficiently complete to be capable of being licensed for the Newham Run and also defer “outstanding works” beyond completion;
3. LADs – E20 agreed to drop LADs, your amendments go further than this resulting in a waiver of all damages for delay, liquidated or not

In terms of dates, there are two areas that are unacceptable:

1. Power Upgrades - the completion date for the Power Upgrades work must be ahead of WHUFC’s first game on 7 August 2016 at the latest and not extend out to 6 September 2016 as you are proposing
2. Concert – the handover period must be consistent with the concert exclusive use period in the ACDC venue hire agreement, which is 28 May 2016 through to 8 June 2016 and apply to the whole venue, your amendments hand over just the field of play on 28 May 2016 through to 6 June 2016 and precludes works only on the actual event day

Before we engage on exchanging further mark-ups and addressing further points of detail/drafting, I suggest we need to address these matters of principle first which will then enable us to get to an agreed form of Second Supplementary Agreement as quickly as possible.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)  
<image001.png>

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---

**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** 27 April 2016 15:59  
**To:** Colin Naish  
**Cc:** [REDACTED]  
**Subject:** Second Supplementary Agreement to Tier 1 Contract (PHM 250416) (4)

- Comments

Colin,

Please find attached our amendments to the Supplementary Agreement.

Apologies, due to the document being copied between Windows devices and apple devices some of the tracked changes are not entirely clear.

There are two appendices as part of the SA which I will send to you immediately after this.

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**From:** [Colin Naish](#)  
**To:** [REDACTED] [balfourbeatty.com](#)  
**Cc:** [REDACTED]  
**Subject:** OST - Draft Second Supplemental Agreement  
**Date:** 22 April 2016 18:36:19  
**Attachments:** [image001.png](#)  
[Second Supplementary Agreement to Tier 1 Contract.docx](#)

---

Without Prejudice and Subject to Contract

[REDACTED]

Please find attached a draft of the Second Supplemental Agreement, drafted to reflect discussions and the agreement reached at our meeting together with [REDACTED] [REDACTED] and David on Monday.

The total of the Prices is now [REDACTED], comprising:

[REDACTED] Contract Sum

[REDACTED] instructions agreed to date

[REDACTED] settlement sum

[REDACTED] agreed PMIs and NCEs (in line with discussions with [REDACTED] now including a [REDACTED] sum for the concert Hard FM services)

Please let me have your review comments asap so we can move to execution, subject to obtaining remaining LLDC/E20 approvals.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]

Mobile: [REDACTED]

Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)

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**From:** [REDACTED] on behalf of [David Goldstone](#)  
**To:** [REDACTED]  
**Subject:** RE: Stadium  
**Date:** 15 April 2016 15:40:23  
**Attachments:** [image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image008.png](#)

---

[REDACTED]

Further to your mail below and our subsequent telephone discussions, I set out our response to your price and terms.

Your financial offer of [REDACTED] is unacceptable; it appears simply to remove the [REDACTED] incentives (for which there was no entitlement) and [REDACTED] of risk (which I see as having been transferred back to E20 through your amendments to our T&Cs) from your original [REDACTED] claim. There are still significant unsubstantiated costs in the [REDACTED] which do not fall to E20 under the terms of the contract between us.

Your amendments to the T&Cs are unacceptable; they bring forward contract completion ahead of actual completion of works, bring forward payment ahead of contract completion, transfer risk back to E20 for which we paid a premium under the base contract to transfer to BB in the first place, do not deliver a full and final settlement and threaten WH's first game (when you have previously stated it to be achievable). In short, they do not maintain the principles of the contract we have between us, which is what E20's T&Cs aimed to do.

The [REDACTED] offered by E20 under our T&Cs gives Balfour Beatty certainty of a fixed sum, payable on completion, rather than the alternative which is an uncertain sum to be determined by an adjudicator at some date in the future. It also prevents the reputational damage that late delivery would bring.

The highest number discussed with Board Members that can be justified (based on our assessment of contract entitlement and concert cancellation costs) is [REDACTED], but on our T&Cs. We must return to a much lower number if the concert is cancelled.

We agreed to meet on Monday to agree the T&Cs and risk apportionment, on which a settlement figure could be agreed on a full and final basis that gives E20 delivery certainty. It remains in both of our interests to achieve this, but if we can't, we are left with little choice but to cancel the concert, award an extension of time under the contract, instruct acceleration under the contract, and resolve the costs through the protracted dispute resolution process the contract gives us.

I hope we can reach a mutually acceptable position on Monday.

Yours sincerely,

David

**David Goldstone CBE**  
**Chief Executive**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ  
Direct: 020 3288 [REDACTED]

Email: [davidgoldstone@londonlegacy.co.uk](mailto:davidgoldstone@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)



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**From:** [REDACTED] [mailto:[REDACTED]@balfourbeatty.com]  
**Sent:** 14 April 2016 17:47  
**To:** David Goldstone

**Subject:** RE: Stadium  
**Importance:** High

David,

Further to your email, in order to expedite this process, I have Board approval for the attached offer both in terms and quantum. You will appreciate the further concession on the price in light of the attached terms. I think we need to draw a line under this at this point and receive your approval if we are to have any chance of delivering on the ACDC concert, subsequent athletic events or West Ham inaugural game – all of which are at risk at this time. I think we have done everything we can and we need to get our teams back on delivery with a sense of urgency.

I look forward to your favourable response.

Best regards – [REDACTED]

[REDACTED]

[REDACTED] | Balfour Beatty

T: [REDACTED] | M: [REDACTED] | E: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)

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PA: [REDACTED] | T: [REDACTED] | M: [REDACTED] | E: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)

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David,

We will not be able to get you something in response to your letter until about 5.00pm. As you can imagine, this is quite complicated and the whole team have been working on it all morning.

I am now tied up in a meeting with BIS until 5.00pm, so I will look to phone you at 5.30 when I get back to the office.

Regards – [REDACTED]

[REDACTED]

[REDACTED] | Balfour Beatty

T: [REDACTED] | M: [REDACTED] | E: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)

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**From:** David Goldstone [<mailto:DavidGoldstone@londonlegacy.co.uk>]

Sent: 13 April 2016 18:32

To: [REDACTED]  
Subject: Re: Stadium

Thanks [REDACTED]

Ok, we will wait until tomorrow to hear from you.

I am progressing our discussions with full understanding of my chairman, so whilst we note the need for a formal approval, if we get to the point where you and I agree, I will not say to you that a position is agreed unless I know I can deliver board support. If you remain at a level that the board won't support, I will make that clear to you too. I recall, by the way, that you said something similar about needing board authority this morning?

I had assumed that once we agreed principles, we would both act accordingly in good faith, but that nonetheless it would be captured into a supplemental agreement to the main contract, as other significant changes have been. If that isn't your understanding please let me know. If your understanding is the same, we are happy to get a draft agreement prepared, but wanted to share the headlines quickly, as we discussed this morning, in the interests of time

I will ask Colin to check the total values you refer to. I don't have that detail to hand. He will reply to you and [REDACTED]

Is your 4th paragraph saying that you are not making any further movement? If so that is extremely disappointing and not what we agreed this morning, when you agreed to come back to me with a counter proposal "within a couple of hours". Considering the extent to which we heard last Friday from [REDACTED] and [REDACTED] that the [REDACTED] included costs unverified, subcontractors claims just passed on etc, to only remove the incentive would be very disappointing. I would be grateful if you could confirm if your response will include a lower proposed settlement figure, as we discussed and in the spirit of all of the sentiments we discussed.

As you know however, with the contract that the company entered into, an out turn loss was a risk that you (corporately) took. It is a risk inherent to the contract you signed and not my responsibility

I look forward to hearing back from you

Thanks again  
David

Sent from my iPad

On 13 Apr 2016, at 17:59, [REDACTED] <[REDACTED]@balfourbeatty.com> wrote:

David,

I note that an email has been sent with proposed terms at 4.23pm this afternoon. I have asked my team to go away and make a full response. In the circumstances that will now be tomorrow lunchtime.

One point that immediately springs to my mind from the drafting is that no agreement can be subject to various Boards approval, or can wait for a drawn out legal agreement, we do not have the time for these niceties if we want to make the events happen, you and I need to be empowered to reach an agreement.

On the subject of the value, to be clear our starting point is [REDACTED] as the amount currently agreed. I believe that this includes circa [REDACTED] that you achieve from another budget.

I believe that when we spoke earlier I said that I could compromise on the [REDACTED], (excluding the [REDACTED] variations), and that this could include the incentives and potentially the risk pot. That would therefore bring down my offer to circa [REDACTED] (plus variations), less any savings to the [REDACTED] risk pot provided by your terms, which could be up to £1m if the terms substantially reduce the risk to us.

This would put me into a significant loss on the project.

Therefore I need a material improvement in the offer so I can consider it with my teams view of the terms tomorrow.

Apologies for my confusion in getting back to you to confirm the numbers discussed this morning.

[REDACTED]

[REDACTED]

[REDACTED] | Balfour Beatty

T: [REDACTED] | M: [REDACTED] | E: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)

The Curve, Axis Business Park, Hurricane Way, Langley SL3 8AG

---

**From:** David Goldstone [<mailto:DavidGoldstone@londonlegacy.co.uk>]  
**Sent:** 13 April 2016 15:56  
**To:** [REDACTED]  
**Subject:** Re: Stadium

They are doing it as quickly as they can. It will be with you soon

I haven't heard back from you on a potential settlement value ?

David

Sent from my HTC

----- Reply message -----

**From:** [REDACTED] <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>  
**To:** "David Goldstone" <[DavidGoldstone@londonlegacy.co.uk](mailto:DavidGoldstone@londonlegacy.co.uk)>  
**Subject:** Stadium  
**Date:** Wed, Apr 13, 2016 15:44

David, neither [REDACTED] or I have still not received anything from Colin et al

[REDACTED]

[REDACTED] | Balfour Beatty

T: [REDACTED] | M: [REDACTED] | E: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)

The Curve, Axis Business Park, Hurricane Way, Langley SL3 8AG

---

**From:** David Goldstone [<mailto:DavidGoldstone@londonlegacy.co.uk>]  
**Sent:** 13 April 2016 13:13  
**To:** [REDACTED]  
**Subject:** Re: Stadium

[REDACTED]

Just to avoid any confusion - Colin will send over a summary headline heads of terms for a potential agreement .

It will reflect the number we discussed

You will come back to me in a couple of hours or so with your response

All best

David

Sent from my iPad

On 13 Apr 2016, at 12:29, [REDACTED] <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)> wrote:

Best No for call [REDACTED] (office)

[REDACTED]

[REDACTED] | Balfour Beatty

T: [REDACTED] | M: [REDACTED] | E: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)

The Curve, Axis Business Park, Hurricane Way, Langley SL3 8AG

---

**From:** David Goldstone [<mailto:DavidGoldstone@londonlegacy.co.uk>]  
**Sent:** 13 April 2016 10:04  
**To:** [REDACTED]  
**Subject:** Re: Stadium

OK there was a bit of genuine confusion then - I thought your suggestion of us speaking yesterday overtook the need for letters! Apologies if that was my misunderstanding

Nonetheless we can discuss both numbers and conditions etc at 12.30. - and we have given some thought to conditions, so if we can get to the same place in our call today I am sure we can get terms of agreement settled v quickly

Speak to you later

David

Sent from my HTC

----- Reply message -----

From: '██████████' <██████████@balfourbeatty.com>  
To: "David Goldstone" <DavidGoldstone@londonlegacy.co.uk>  
Subject: Stadium  
Date: Wed, Apr 13, 2016 09:46

David following on from our meeting last Friday and ██████████ discussion with ██████████ yesterday we were lead to believe that we would receive a draft letter in response to our without prejudice offer in advance of our call today.

Clearly the letter would update and inform today's conversation and at a minimum include the items agreed on Friday and the further advances made by the teams since then.

██████████ and ██████████ did not make much progress yesterday as ██████████ was not authorised to update the numbers in light of the above therefore it would be good to understand where you are on the financials and any conditionality when we talk at 12:30.

██████████

██████████ | Balfour Beatty

T: ██████████ | M: ██████████ | E: ██████████@balfourbeatty.com

The Curve, Axis Business Park, Hurricane Way, Langley SL3 8AG

---

**From:** David Goldstone [<mailto:DavidGoldstone@londonlegacy.co.uk>]  
**Sent:** 13 April 2016 08:18  
**To:** ██████████  
**Subject:** Stadium

██████████

There appears to be some confusion between our teams after our call yesterday.

I think we were clear - we needed to know outcome from the discussions teams had had yesterday, and whether it had moved shared understanding of the numbers forward. We would then discuss potential parameters for settlement at 12.30.

██████████ apparently thinks we asked him and ██████████ to try to negotiate settlement terms, which obviously would be very different. ██████████ isn't empowered to do that

I understand that in fact they had met and discussed and moved things forward a bit yesterday. but that this had happened by the time we spoke.

I understand the position as far as ██████████ is concerned and am ready to speak at 12.30

You might just want to get the same understanding From ██████████ then let's speak at 12.30 as planned

David

Sent from my HTC

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**From:** [REDACTED]  
**To:** [David Goldstone](mailto:David.Goldstone@londonlegacy.co.uk)  
**Subject:** RE: Stadium  
**Date:** 15 April 2016 15:29:54  
**Attachments:** [image001.png](#)  
[image004.png](#)  
[image006.png](#)

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David,

After our discussion earlier I just wanted to clarify our position on the various events.

Both of our teams have been working together to try to evaluate the costs of past events, variations and future acceleration to procure a settlement. The agreed route to the acceleration costs closely follows the Contract, and is a tried and tested method for establishing entitlement.

Essentially we put into the programme the various change events etc and examine the effect on the end date and any other milestones. Typically after a short period of discussion and negotiation an end date without acceleration is agreed. The Contractor then completes the works to that date, unless the Employer wishes to bring the Completion date forward, where he would request a quotation for acceleration to a particular date. A quick negotiation would then allow this to be agreed.

On this Contract we were all faithfully following that process until this was disrupted by the sudden allegations over the blacktop. However moving on, *without* the seating issues your team assess that date for Completion to be around 15th July 2016. Our team (with or without the seating issue) assess the delay to 27th September (17 weeks or 4 months late), and that has been formalised with the submission of a programme for acceptance under the Contract to the Project Manager on Wednesday 13th April this week.

Therefore your team believes that we have until 15th July to complete the works and handover to you for any events, my team believes that the first handover to you is at the end of September and no events would take place. An adjudicator would probably find somewhere in the middle, it could be late August early September?

Therefore we believe that we are Contractually bound to Complete the works by September before handing over to you for presumably a handover to West Ham.

Therefore if we cannot agree to a settlement and acceleration, all of the events including the first few games of the Premier League season would need to be cancelled, as none of our supply chain will be obligated to accelerate.

I apologise if this was not clear to you in earlier discussions.

In terms of timing now, we can just make the first event if we give instructions to our supply chain now, otherwise this will need to be cancelled. The rest of the events will need to be cancelled closely behind that.

This is not what we want, but it is what the Contract requires, unless we can all agree to settle all of our differences and focus all of our efforts into making all of the events a success.

I apologise if this is a little wordy, but I want to be absolutely clear about where we currently are contractually, and where we can be practically, if we can find a way to come to an agreement.

Regards,

[REDACTED]

[REDACTED]

[REDACTED] | Balfour Beatty

T: [REDACTED] | M: [REDACTED] | E: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)

The Curve, Axis Business Park, Hurricane Way, Langley SL3 8AG

---

**From:** David Goldstone [mailto:DavidGoldstone@londonlegacy.co.uk]  
**Sent:** 15 April 2016 10:14  
**To:** [REDACTED]  
**Subject:** Re: Stadium

Thanks [REDACTED]

We will respond in writing to your offer very soon , but please let me know when we can speak on the phone this morning so that I can fully explain our response to you

Thanks

David  
Sent from my HTC

----- Reply message -----

From: [REDACTED] <[REDACTED]@balfourbeatty.com>  
To: "David Goldstone" <DavidGoldstone@londonlegacy.co.uk>  
Subject: Stadium  
Date: Thu, Apr 14, 2016 17:47

David,

Further to your email, in order to expedite this process, I have Board approval for the attached offer both in terms and quantum. You will appreciate the further concession on the price in light of the attached terms. I think we need to draw a line under this at this point and receive your approval if we are to have any chance of delivering on the ACDC concert, subsequent athletic events or West Ham inaugural game – all of which are at risk at this time. I think we have done everything we can and we need to get our teams back on delivery with a sense of urgency.

I look forward to your favourable response.

Best regards – [REDACTED]

[REDACTED]

[REDACTED] | Balfour Beatty

T: [REDACTED] | M: [REDACTED] | E: [REDACTED]@balfourbeatty.com

The Curve, Axis Business Park, Hurricane Way, Langley SL3 8AG

PA: [REDACTED] | T: [REDACTED] | M: [REDACTED] | E: [REDACTED]@balfourbeatty.com

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---

David,

We will not be able to get you something in response to your letter until about 5.00pm. As you can imagine, this is quite complicated and the whole team have been working on it all morning.

I am now tied up in a meeting with BIS until 5.00pm, so I will look to phone you at 5.30 when I get back to the office.

Regards – [REDACTED]

[REDACTED]

[REDACTED] | Balfour Beatty

T: [REDACTED] | M: [REDACTED] | E: [REDACTED]@balfourbeatty.com

The Curve, Axis Business Park, Hurricane Way, Langley SL3 8AG

PA: [REDACTED] | T: [REDACTED] | M: [REDACTED] | E: [REDACTED]@balfourbeatty.com

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---

**From:** David Goldstone [<mailto:DavidGoldstone@londonlegacy.co.uk>]  
**Sent:** 13 April 2016 18:32  
**To:** [REDACTED]  
**Subject:** Re: Stadium

Thanks [REDACTED]

Ok, we will wait until tomorrow to hear from you.

I am progressing our discussions with full understanding of my chairman, so whilst we note the need for a formal approval, if we get to the point where you and I agree, I will not say to you that a position is agreed unless I know I can deliver board support. If you remain at a level that the board won't support, I will make that clear to you too. I recall, by the way, that you said something similar about needing board authority this morning?

I had assumed that once we agreed principles, we would both act accordingly in good faith, but that nonetheless it would be captured into a supplemental agreement to the main contract, as other significant changes have been. If that isn't your understanding please let me know. If your understanding is the same, we are happy to get a draft agreement prepared, but wanted to share the headlines quickly, as we discussed this morning, in the interests of time

I will ask Colin to check the total values you refer to. I don't have that detail to hand. He will reply to you and Nigel

Is your 4th paragraph saying that you are not making any further movement? If so that is extremely disappointing and not what we agreed this morning, when you agreed to come back to me with a counter proposal "within a couple of hours". Considering the extent to which we heard last Friday from [REDACTED] and [REDACTED] that the [REDACTED] included costs unverified, subcontractors claims just passed on etc, to only remove the incentive would be very disappointing. I would be grateful if you could confirm if your response will include a lower proposed settlement figure, as we discussed and in the spirit of all of the sentiments we discussed.

As you know however, with the contract that the company entered into, an out turn loss was a risk that you (corporately) took. It is a risk inherent to the contract you signed and not my responsibility

I look forward to hearing back from you

Thanks again  
David

Sent from my iPad

On 13 Apr 2016, at 17:59, [REDACTED] <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)> wrote:

David,

I note that an email has been sent with proposed terms at 4.23pm this afternoon. I have asked my team to go away and make a full response. In the circumstances that will now be tomorrow lunchtime.

One point that immediately springs to my mind from the drafting is that no agreement can be subject to various Boards approval, or can wait for a drawn out legal agreement, we do not have the time for these niceties if we want to make the events happen, you and I need to be empowered to reach an agreement.

On the subject of the value, to be clear our starting point is [REDACTED] as the amount currently agreed. I believe that this includes circa [REDACTED] that you achieve from another budget.

I believe that when we spoke earlier I said that I could compromise on the [REDACTED], (excluding the [REDACTED] variations), and that this could include the incentives and potentially the risk pot. That would therefore bring down my offer to circa [REDACTED] (plus variations), less any savings to the [REDACTED] risk pot provided by your terms, which could be up to [REDACTED] if the terms substantially reduce the risk to us.



This would put me into a significant loss on the project.

Therefore I need a material improvement in the offer so I can consider it with my teams view of the terms tomorrow.

Apologies for my confusion in getting back to you to confirm the numbers discussed this morning.

■

■

■ | Balfour Beatty

T: ■ | M: ■ | E: ■ [@balfourbeatty.com](mailto:■@balfourbeatty.com)

The Curve, Axis Business Park, Hurricane Way, Langley SL3 8AG

---

**From:** David Goldstone [<mailto:DavidGoldstone@londonlegacy.co.uk>]

**Sent:** 13 April 2016 15:56

**To:** ■

**Subject:** Re: Stadium

They are doing it as quickly as they can. It will be with you soon

I haven't heard back from you on a potential settlement value ?

David

Sent from my HTC

----- Reply message -----

From: ■ <■@balfourbeatty.com>

To: "David Goldstone" <[DavidGoldstone@londonlegacy.co.uk](mailto:DavidGoldstone@londonlegacy.co.uk)>

Subject: Stadium

Date: Wed, Apr 13, 2016 15:44

David, neither ■ or I have still not received anything from Colin et al

■

■ | Balfour Beatty

T: ■ | M: ■ | E: ■ [@balfourbeatty.com](mailto:■@balfourbeatty.com)

The Curve, Axis Business Park, Hurricane Way, Langley SL3 8AG

---

**From:** David Goldstone [<mailto:DavidGoldstone@londonlegacy.co.uk>]

**Sent:** 13 April 2016 13:13

**To:** ■

**Subject:** Re: Stadium

■

Just to avoid any confusion - Colin will send over a summary headline heads of terms for a potential agreement .

It will reflect the number we discussed

You will come back to me in a couple of hours or so with your response

All best

David

Sent from my iPad

On 13 Apr 2016, at 12:29, ■ <■@balfourbeatty.com> wrote:

Best No for call [REDACTED] (office)

[REDACTED]

[REDACTED] | Balfour Beatty

T: [REDACTED] | M: [REDACTED] | E: [REDACTED]@balfourbeatty.com

The Curve, Axis Business Park, Hurricane Way, Langley SL3 8AG

---

**From:** David Goldstone [<mailto:DavidGoldstone@londonlegacy.co.uk>]

**Sent:** 13 April 2016 10:04

**To:** [REDACTED]

**Subject:** Re: Stadium

OK there was a bit of genuine confusion then - I thought your suggestion of us speaking yesterday overtook the need for letters! Apologies if that was my misunderstanding

Nonetheless we can discuss both numbers and conditions etc at 12.30. - and we have given some thought to conditions, so if we can get to the same place in our call today I am sure we can get terms of agreement settled v quickly

Speak to you later

David

Sent from my HTC

----- Reply message -----

**From:** [REDACTED] <[REDACTED]@balfourbeatty.com>

**To:** "David Goldstone" <[DavidGoldstone@londonlegacy.co.uk](mailto:DavidGoldstone@londonlegacy.co.uk)>

**Subject:** Stadium

**Date:** Wed, Apr 13, 2016 09:46

David following on from our meeting last Friday and [REDACTED] discussion with [REDACTED] yesterday we were lead to believe that we would receive a draft letter in response to our without prejudice offer in advance of our call today.

Clearly the letter would update and inform today's conversation and at a minimum include the items agreed on Friday and the further advances made by the teams since then.

[REDACTED] and [REDACTED] did not make much progress yesterday as [REDACTED] was not authorised to update the numbers in light of the above therefore it would be good to understand where you are on the financials and any conditionality when we talk at 12:30.

[REDACTED]

[REDACTED] | Balfour Beatty

T: [REDACTED] | M: [REDACTED] | E: [REDACTED]@balfourbeatty.com

The Curve, Axis Business Park, Hurricane Way, Langley SL3 8AG

---

**From:** David Goldstone [<mailto:DavidGoldstone@londonlegacy.co.uk>]

**Sent:** 13 April 2016 08:18

**To:** [REDACTED]

**Subject:** Stadium

[REDACTED]

There appears to be some confusion between our teams after our call yesterday.

I think we were clear - we needed to know outcome from the discussions teams had had yesterday, and whether it had moved shared understanding of the numbers forward. We would then discuss potential parameters for settlement at 12.30.

[REDACTED] apparently thinks we asked him and [REDACTED] to try to negotiate settlement terms, which obviously would be very different. [REDACTED] isn't empowered to do that

I understand that in fact they had met and discussed and moved things forward a bit yesterday. but that this had happened by the time we spoke.

I understand the position as far as [REDACTED] is concerned and am ready to speak at 12.30

You might just want to get the same understanding From [REDACTED], then let's speak at 12.30 as planned

David

Sent from my HTC

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**From:** [REDACTED]  
**To:** [David Goldstone](#)  
**Cc:** [REDACTED]  
**Subject:** Re: Stadium at Olympic Park (confidential)  
**Date:** 06 April 2016 19:43:45  
**Attachments:** [image002.png](#)  
[image003.png](#)

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David,

Thanks for your prompt attention and agreement in principle to my proposal.

I will ask [REDACTED] to contact [REDACTED] this evening to arrange to meet, assuming that [REDACTED] is aware. It is essential that they make significant progress to close the gap to make our meeting worthwhile on Friday.

I acknowledge that you wish to bring Colin Naish, whom I am told is very close to the project. I will consider if I need to bring [REDACTED] or [REDACTED] to square up the numbers.

In terms of location, would it be possible for you to come to our office in Langley, it is a short taxi ride from Heathrow, and therefore circa 30mins from Paddington? I will send the address if you can do that.

I look forward to seeing you [at 9am on Friday](#), provided always that positive progress has been made by Messrs [REDACTED] and [REDACTED] [tomorrow](#).

Best regards

[REDACTED]

[REDACTED]

Tel No [REDACTED]  
Skype [REDACTED]

On 6 Apr 2016, at 17:20, David Goldstone <[DavidGoldstone@londonlegacy.co.uk](mailto:DavidGoldstone@londonlegacy.co.uk)> wrote:

Thanks [REDACTED]

We will instruct [REDACTED] to proceed as you suggest in 1 – very happy for him to make as much progress, with [REDACTED] as possible.

As Colin Naish is the client, rather than [REDACTED] who works to Colin's instruction, I would like Colin to also be present on Friday when we go through their presentation

I will ask [REDACTED] here to liaise with your PA find us a location, that is convenient for you for Langley for 9am Friday .

**David Goldstone CBE**  
**Chief Executive**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

Direct: 020 3288 [REDACTED]

Email: [davidgoldstone@londonlegacy.co.uk](mailto:davidgoldstone@londonlegacy.co.uk)

Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

<image001.gif>

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**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]

**Sent:** 06 April 2016 14:09

**To:** David Goldstone

**Subject:** RE: Stadium at Olympic Park (confidential)

Thanks for your note David.

I acknowledge that we have a mutual desire to resolve this fairly, and to ensure that the new events are a success, and equally the handover to West Ham happens smoothly and without undue delay.

The main problem here has come from an inexplicable change to the agreed process by mace last week, where they stated to my team that extensions of time would not now be given, as the seating delays were now being allocated to Balfour Beatty. Apart from anything else this is morally indefensible.

I understand that we, and not you, have to deal with our troublesome Sub-Contractor Imtech, and their equally difficult Sub-contractor Honeywell. The fact is that these two are pivotal to us achieving the licensable venue for each event and we cannot achieve it without them. We believe that the delays and some of the additional cost incurred, is as a direct consequence of matters instructed by mace and others. I appreciate that information has not been adequately provided to you on this, and I have despatched a team to site to deal with this today.

I also believe that you are not necessarily hearing the whole story on this, and might I suggest that I ask [REDACTED] (with whom I know you share mutual respect) to meet you offline before that meeting to give a hands on account of the issues?

I appreciate your suggestion of a meeting between the two of us on Friday, and I am happy to agree to that at say 9am if possible? I unfortunately have meetings before and after at our Group HQ in Langley, hence could this please be somewhere near Heathrow, or in West London if possible?

In order to make this meeting effective I propose the following;

1. I am advised by [REDACTED] that on previous arrangements at the Stadium, it has taken [REDACTED] of mace and [REDACTED] to do the hard yards and get our respective positions closer together prior to a CEO meeting. I would propose that they are both called to drop everything and spend tomorrow doing just that, away from other influences, and with a proactive attitude from both.

2. I then suggest the two of them jointly present to you and I (only) on Friday to see if there is the possibility of common ground. We can then discuss privately.

The cost and risk of accelerating the remaining works to achieve the events is not inconsiderable, and I am happy to make that commitment to invest, if we can come to a fair position on all of this.

Regards – [REDACTED]

[REDACTED]

[REDACTED] | Balfour Beatty

T: [REDACTED] | M: [REDACTED] | E: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)

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<image004.jpg>

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**From:** David Goldstone [<mailto:DavidGoldstone@londonlegacy.co.uk>]  
**Sent:** 06 April 2016 10:12  
**To:** [REDACTED]  
**Subject:** RE: Stadium at Olympic Park (confidential)

Thanks [REDACTED]

We agree and have made clear that where there have been extensions of time, and costs arising, we accept that these need to be paid for – the issue is about the amount of costs that you are seeking.

Your note below clearly illustrates the type of costs for which there should be no responsibility falling back on LLDC.

Imtech are your subcontractor, we have no direct contractual relationship with them. Whilst we are aware and understand the issue you refer to, the cost consequences are not ones that can be passed through to us under our contract

The outstanding works on the seating structure, by contrast, are our issue, with our direct contractor, not you – so again there is no reason for that to lead to additional costs to be paid to you

In relation to the Mace discussions, obviously any incentives would be paid by LLDC as the client, not Mace, our project manager. Last year – when we instructed acceleration of works and agreed an incentive – is different to this year. We are, as I have said, happy to pay the agreed fixed price plus the value of instructed variations, related extensions of time

and any acceleration genuinely needed – it is that that we have estimated at c£3m. Most of the works you are delivering are unaffected by the issues you identify – the community track, car parking, broadcast compounds, northern landscaping etc aren't affected. We have agreed reduced scope to make the track achievable. The issues you have with Imtech, are as I have said above, yours for you to manage as your subcontractor.

Can I suggest that, rather than protracted email exchange, we might try to sit down together and sort this out – I could clear my diary to make any time on Friday that you could do to have a meeting to try to reach agreement on this

**David Goldstone CBE**  
**Chief Executive**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
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E20 1EJ  
Direct: 020 3288 [REDACTED]

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**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** 05 April 2016 18:09  
**To:** David Goldstone  
**Subject:** Re: Stadium at Olympic Park (confidential)

Thank you for your note. I was made aware of the unfolding situation Friday evening. I'd describe the whole affair as very disappointing especially given the heights we have scaled together to be where we are and the fact that we met before Christmas to discuss how BB could help solve this exact issue.

The moving of the seats is **5 months late**. This has delayed the whole Project. The supplier Alto went into administration. The Rugby World Cup and Diamond League Athletics took place with large amounts of temporary scaffolding. BB and its supply chain made enormous efforts to ensure that these events went ahead.

There are still over **7,000 components** for the seats still missing. Significant changes are being made to the seating structure to try to make it complete and movable.

Mace have instructed significant works to the Hospitality areas which has delayed our supplier Imtech and other suppliers.

The International Imtech Group went into Bankruptcy last year, and the small British Imtech business has been sold to a Venture Capitalist who is charging them interest on loans to keep them afloat, but they are hanging by a thread. They hold the key to the Commissioning and licencing of the venue.

We agreed with mace 8 weeks ago that we settle the Variation account with them, which we have done. We also agreed that we would submit a programme, they would award significant Extension of time. They would then request a quotation for acceleration from us.

On Thursday last week mace, on behalf of LLDC, decided to abandon the agreed process. They decided to not instruct acceleration, instead trying to find an obscure way of not giving us an EoT, blaming us for the seating delays due to an alleged small area surfacing compaction. This is a nonsense and leaves mace with no credibility.

We have been accelerating at risk, as we were all collaborating to make the events happen. Mace's recent actions last week have revealed that they are disingenuous. This has then caused us to cancel any further acceleration, particularly weekend working to save cost and complete when we can, probably September/October this year.

As an attempt to keep things moving, We met with them on Friday and offered to provide a draft overall final account to try to find another route, and to give them financial certainty.

In the meeting today when they offered a derisory [REDACTED]. They have only looked at the claims element, and have not had time to look at variations.

We suggested that they put up [REDACTED] of incentives, as with previous deals with them. This was merely an attempt to try to give some additional incentive, in a time of great acceleration and required superhuman efforts from our team and supply chain working nights and weekends.

The figures are,

|                |            |
|----------------|------------|
| Original Price | [REDACTED] |
| Agreed Change  | [REDACTED] |
| <b>Total</b>   | [REDACTED] |

|                              |            |
|------------------------------|------------|
| <b>Proposed Settlement</b>   |            |
| Variations                   | [REDACTED] |
| Acceleration/Disruption Risk | [REDACTED] |
| Incentives (Proposed)        | [REDACTED] |

**Proposed Final Account** [REDACTED]

**This would be about Break Even!**

**David, I'm want the stadium, like you to be a global success but to do this the whole team needs to be aligned and pulling together. Now is the time for a clear decision and strong leadership. Please be assured you have my continuing full support and goodwill.**

**I'm happy to speak to you in the morning if it helps but my team have limited flexibility.**

**Regards**

[REDACTED]

**Ps apologies for the rush response.**

Sent from my iPad

On 5 Apr 2016, at 11:49, "David Goldstone" <[DavidGoldstone@londonlegacy.co.uk](mailto:DavidGoldstone@londonlegacy.co.uk)> wrote:



■

I have just come out of a meeting with ■ and others from Balfours in relation to the works necessary to complete the stadium

It is really very disappointing to hear that they are tabling a proposed settlement amounting to over ■ - ■ relating to claimed costs and another ■, in effect, of bonuses for completing the contracted works. We have been very clear that we recognise that there has been some delay that has impacted the works, but do not believe it amounts to anything near the claimed amount – its around ■ not ■. And can see no reason why we should pay non contractual “incentives” to complete works on a fixed price tier 1 contract.

With the great success of the events last summer, and the really good progress of works, it is really disappointing that the team stopped Sunday working this weekend, appearing to decelerate works that were well on track to be ready for this summer’s events.

I don’t know if you were aware of what is being proposed by your team, or endorse it, but it does not seem to be at all in the spirit of the way our teams have worked together over the last 18 months or so when we have jointly made such great progress towards delivering a world class stadium.

You always said that I should contact you if we had real concerns, and it is in that spirit that I am now raising this with you. If you weren’t aware of this development, I’d be really grateful if you could intervene to steer the team back towards the sort of settlement we think is appropriate.

If it would be helpful to speak on the phone, I would of course be happy to do so. We would much rather the stadium continued to be associated with the successes of the Games and the events since, rather than for failure to deliver and inflated costs

**David Goldstone CBE**  
**Chief Executive**

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Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

<image001.gif>

**Queen Elizabeth Olympic Park is now open. For more information please visit [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)**

**From:** [REDACTED]  
**To:** [Colin Naish](#)  
**Cc:** [REDACTED] [REDACTED] [REDACTED]  
**Subject:** OST - Consideration of risks to 2016 events programme  
**Date:** 04 November 2015 08:26:32  
**Attachments:** [2015\\_11\\_04\\_2016\\_event\\_risk\\_mtqtn\\_adv\\_rev.docx](#)

---

“WITHOUT PREJUDICE

Colin,

Following our meeting on October 12<sup>th</sup> I prepared a paper on the above topic for our Board to consider and the intention was for this to be sent by [REDACTED] to David Goldstone in the first instance last Friday. I know that [REDACTED] has now had to go to the Far East so, as I mentioned yesterday and, given our perception of urgency, I am attaching the paper as a draft for your consideration, pending this being sent to David. Please be aware that this must be considered “Without Prejudice” and subject to amendment by [REDACTED] although I believe the general thrust of the paper and the key recommendations are endorsed by him and [REDACTED]

I interpreted the outcome of our meeting on the 12<sup>th</sup> as being that the Employer was seeking to explore with us how there might be some greater certainty brought to bear relating to 2016 events and the eventual occupation by the Concessionaire. So we have been considering all the remaining work, of which we are aware, and what can be done to reduce the likelihood of the venue not being made ready in good time.

In short, we believe that there needs to be a radical review of how the remaining works are managed and, in addition and more specifically, there needs to be a “root and branch” review of how the design of the lower bowl seating can be changed and then “re-built” to ensure that it can be re-located within the prescribed 7 day period.

Without being advised by either yourselves or the Project Manager of what is currently proposed with Sapa, we must consider this review critical to the successful outcome of the project since there will be inevitable modifications to be made to the as-built system that will have to be put in place from the New Year.

In advance of the meeting arranged with [REDACTED] and David for November 20<sup>th</sup> I would therefore recommend that you review our draft paper and then instruct Mace to issue the appropriate formal Instructions to get the lower bowl seating review underway at the earliest opportunity.

Regards.

[REDACTED]

[REDACTED] | Major Projects | Olympic Stadium Transformation  
Queen Elizabeth Olympic Park | London E20 2ST

T: [REDACTED] | M: [REDACTED] | e: [REDACTED] [balfourbeatty.com](http://balfourbeatty.com)

## Olympic Stadium Transformation

**DRAFT - FOR ADVANCED SUBMISSION TO LLDC ON NOVEMBER 4<sup>TH</sup> 2015.**

**WITHOUT PREJUDICE**

### **A proposal to reduce delay and disruption to the 2016 Events Programme**

#### **Introduction**

As a result of the measures adopted by the Employer and Contractor during the first half of 2015, the venue was made ready for the programme of events, including the Newham Run, the Anniversary Games and the series of 2015 Rugby World Cup matches, that took place between July 19<sup>th</sup> and October 30<sup>th</sup> 2015.

Apart from the accelerative measures adopted during the early part of 2015, the success of the summer and autumn events was also very much enhanced by the co-operation between the contractor and the operator and the integration of the events' organisers. The Stadium has been noted as now being one of the four "super stadiums" in the UK and the Employer and the Operator are justifiably anxious to ensure that the venue is shown in its best light and its use is maximised in the period from late May 2016, when all construction works are due to be complete, up until the first match of West Ham in early August that year.

The experience over the summer and autumn of 2015 has demonstrated the capability of the venue to handle crowds approaching 55,000 and the various operational aspects of the stadium have been robustly tested in relation to crowd movement, security, catering, welfare facilities, broadcast and public safety.

But there is much to complete in readiness for the programme of events planned for early summer 2016 and these remaining construction works pose significant risks to the success of the venue. In many respects the prevailing risks are now greater than they were at the onset of 2015, when it was thought by many that the staging of the Anniversary Games in July was doubtful.

The remaining works are fragmented and diverse; there is much uncertainty surrounding the programme and scope of work by Others; there is mixed accountability and, as has been witnessed over the summer, the lower bowl seating cannot be re-located between modes in anything approaching the required period of time.

The scope of works to complete is described elsewhere in this report together with the accountable parties. The majority of the scope is defined and understood but the biggest challenge by far is to develop a lower bowl seating system that is capable of being re-located from athletics mode to pitch sports and back in just seven days. This was the brief upon award of the contract by the Employer to Alto/Sapa but experience has shown that it is unlikely that the move programme can be attained without a radical re-design of the structure and/or configuration of that which is presently installed.

So, with the E20 LLP Board having now set the programme of events to take place in the venue from early June 2016 until the first West Ham match, the CEO of the LLDC has raised the matter of event assurance with the Contractor's CEO. Colin Naish, the LLDC Executive Director for Infrastructure, then outlined the issues to [REDACTED] and [REDACTED] of Balfour Beatty on October 12<sup>th</sup> and invited consideration by the Contractor of the risks and the mitigating measures that might be adopted to reduce the very apparent delays that will compromise the programme of 2016 events.

### Summary of **events** and dates

It is understood that the key dates and planned programme of events from the onset of Section 4 Works up until the beginning of the 2016/2017 football season are as follows:

|  |  |
|--|--|
| November 24 <sup>th</sup> 2015                                     | The revised Section 4 Works commencement date (Restricted).  |
| November 24 <sup>th</sup> 2015                                     | The assumed commencement of the relocation of the lower bowl seating from pitch sports to athletics. |
| November 24 <sup>th</sup> 2015                                     | Re-commencement of the fitting out of hospitality areas by the Employer/ Portview.                   |
| January 4 <sup>th</sup> 2016                                       | Assumed commencement of work to venue track and field.   |
| January 18 <sup>th</sup> 2016                                      | Access for West Ham to commence their fitting out (Restricted).                                      |
| April 22 <sup>nd</sup> 2016  | Completion of fitting out to hospitality areas excluding venue commissioning.                        |
| May 27 <sup>th</sup> 2016  | Contract Date for Completion of Section 4 Works.   |
| June 3 <sup>rd</sup> , 4 <sup>th</sup> and 5 <sup>th</sup> 2016    | Concert with full capacity venue; seating in athletics mode.   |
| June 10 <sup>th</sup> , 11 <sup>th</sup> and 12 <sup>th</sup> 2016 | Concert with full capacity venue; seating in athletics mode.   |
| June 14 <sup>th</sup> 2016 - tbc                                   | Seeding of pitch infield.  |
| July 10 <sup>th</sup> 2016   | Great Newham Run.  |
| July 15 <sup>th</sup> to 17 <sup>th</sup> 2016                     | UKA Anniversary Games.   |
| End July – tbc   | West Ham Friendly Match.   |
| August 13 <sup>th</sup> 2016 - tbc                                 | 2016/2017 Football Season commences.   |

### Scope of remaining works and responsibilities

| <b>Activity</b>   | <b>Accountability</b>  | <b>Programme impact/risk</b>   |
|---|------------------------|--|
| Re-location of lower bowl seating from pitch sports to athletics mode | Mace/Employer          | All Mondo surfacing is due to be replaced and this cannot reasonably commence until the seating is re-located. The Mondo works were due to commence on November 23 <sup>rd</sup> 2015 by which time the seating would have been re-located. But the Events added following the RWC and the RoC event being held on November 20 <sup>th</sup> /21 <sup>st</sup> will prevent this. It is believed that a month will be lost and that the removal of existing Mondo will not start until January 2016 at the earliest. |
| Replacement of track, track surround and infield                      | Balfour Beatty         | Revised programme to be sought from Hewitts reflecting shorter period and revised scope (yet to be advised by Employer).   |
| Remaining 20/20 fitting out of hospitality                            | Employer/Mace/Portview | The Portview programme, issued by Mace on October 16 <sup>th</sup> , is being reviewed. Completion of Portview works currently shown as 22 <sup>nd</sup> April 2016.<br>Impact of completion upon venue wide testing and commissioning to be determined but may have an effect on the early events.  |
| Further catering fitting out  | LS185/DNC/Dodd Group   | Scope presently unclear.   |
| Enabling works in Concession Areas 8 and 9                            | Balfour Beatty         | Commencement deferred pending vacant possession of temporary canteen currently being used by events staff on November 24 <sup>th</sup> 2015.   |
| West Ham fitting out of concession spaces                             | WHU                    | Programme not yet been issued. Works due to commence on January 18 <sup>th</sup> 2016. Scope is unclear but it is not expected that these works should impact venue commissioning.   |

|   |                    |   |
|---|--------------------|---|
| Bowl and podium segregation works                     | Balfour Beatty     | Procurement in hand. No programme concerns.   |
| Pitch side advertising                                | Not yet instructed | Quotation received and submitted. No instructions issued. Design/location dependent upon receipt of lower bowl seating model. Approval required from EPL/Broadcast/WHU? |
| Community track                                       | Balfour Beatty     | No programme concerns unless impacted by any storage or other logistics requirements of the seating modification works.   |
| Broadcast Compound and Car Park                       | Balfour Beatty     | Dependant upon Block 'A' removal which is planned for November 30 <sup>th</sup> . No programme concerns.  |
| Additional gas supply                                 | TBA                | No details available.   |
| Upgraded power requirements                           | TBA                | No details available.   |
| Venue façade wrap                                     | TBA                | Planning Approval pending. Employer presently seeking tenders.  |
| Champions Place                                       | Not yet instructed | Is this required in advance of WHU occupation?  |
| Seeding of infield                                    | Balfour Beatty     | Will now commence after the second series of concerts on or around June 14 <sup>th</sup> 2016 following bump out.   |
| West Ham branding and seating mods in stadium bowl.   | WHU                | Will need to be co-ordinated with the relocation of the seating from athletics to pitch sports mode.  |
| Re-locate seating from athletics to pitch sports mode | Employer/Mace/Sapa | This occurs post July 17 <sup>th</sup> 2016 and must be completed and licenced to enable staging of the first WHU Friendly match late July/early August 2016.           |

**Consideration of proposals that address the inevitable delays to 2016 events.**

From the schedule of works to be completed the following is evident:

- the remaining works are fragmented and diverse
- there is uncertainty surrounding the programmes and scope for a number of the work-streams to be undertaken by Others.
- there is mixed accountability and a potential lack of co-ordination with the delivery of the works
- the Contractor has not been kept apprised of progress in resolving many of the outstanding obstacles and risks that threaten completion of the venue
- the Contractor has merely been told to ignore works not yet instructed
- there is obvious uncertainty that all the works can be delivered to accommodate 2016 events

Accordingly, if Balfour Beatty are to assume any accountability for works presently outside their scope, or provide any assurances surrounding the 2016 events programme, it is essential that the management approach and model for the delivery of the works post November 24<sup>th</sup> 2015 must change.

In summary:

- all the works must be integrated and co-ordinated into one overall programme
- key target dates need to be set that are aligned to, and integrated with, the 2016 events programme
- clarity and transparency must prevail regardless of the overall responsibility for delivery
- any design and procurement matters must be speedily addressed and resolved.
- the Project Manager and each accountable contractor must employ experienced and capable management teams as appropriate
- a feasibility study should be immediately put in place to establish how best to re-design and modify the lower bowl seating to assure a 7 day transition
- discussions need to be held between the Contractor and the Employer as to the appropriate commercial model whereby any 2016 event assurance can be provided; these would also seek to resolve and draw a line under any residual issues from Section 2 Works
- a joint management team/steering group should be established comprising senior representatives of the Employer, Contractor, Operator and Concessionaire to oversee the works leading up to the 2016 events

Each and every one of the activities described under the Scope of Remaining Works are important to the success of 2016 events but none more so than the resolution of the lower bowl seating.

An immediate and urgent review needs to be undertaken of the lower bowl seating design.

The Contractor engaged ES Global in July 2013 as its preferred designer and installer of the reference scheme design during the preparation of the Shell and Core tender, although these works were subsequently removed from the Tier 1 scope.

The ES Global approach was always driven by the overriding requirement to re-locate the seating in seven days and their logistics based approach and solution was demonstrated to the Project Manager during their procurement of these works on behalf of the Employer. For reasons unknown to either the Contractor or ES Global, an alternative supplier was selected.

With the Employer now asking if the Contractor can, in some way, underwrite or assure the 2016 programme of events the Contractor immediately approached ES Global and they have made a proposal which the Contractor is submitting hereunder for the Employer's consideration.

In short, the Contractor is prepared to lead a complete review of the lower bowl seating, as presently designed and installed, with ES Global, over a period of 2 months commencing in early November 2015. This would also be validated by Populous as appropriate.

Should it prove, as expected, that the lower bowl seating cannot be re-located into athletics mode in 2 to 3 weeks during December 2015, with surety that it can then be relocated into pitch sports mode within the required 7 day period in July 2016, then an alternative "Plan B" would be implemented from January 2016.

It is the opinion of ES Global, supported by the Contractor, that a seven day turn-round is achievable with the correct design solution being implemented. What is unknown is the scope of works necessary to the existing system to facilitate this. The study will inform this scope of work.

The following is an extract from a proposal received from ES Global on October 23<sup>rd</sup> 2015 and it addresses the outcomes of the feasibility study mentioned above.

*"The outline scope .....*

- *Audit and review of current installation using existing fabrication drawings and studying the system in situ.*
- *Assessment of whether or not the existing system can be adapted to be moved in the 7-day period.*
- *In parallel to the above, the design and development of an alternative system, utilising as much of the original system as possible. For example, the utilisation of the aluminum deck would improve the procurement time of any alternative system. **It should be noted that there may be large parts of the existing system that will be deemed unusable with a compliant solution.***
- *Detailed programme of immediate work leading to the first West Ham game on or around the 31st July 2016 including all of the 2016 summer activities in the stadium. **It will be a priority of this study that the installation of the compliant system will have***



***little or no impact on the planned 2016 events in the stadium. It should be noted that, in our opinion, currently the planned schedule of events are unachievable with the current system.***

*A combination of the new compliant system and overlay may have to be planned for the 2016 season. This is something ES Global have considerable experience of and the detail of this solution will be provided as part of this study.*

- *Cost plan for the re-design, procurement and installation of the compliant solution.*
- *Detailed programme of the permanent 7-day transition process, pitch – track – pitch*
- *Cost plan and programme for the stadium transition on an annual basis*

*This process/study will take 8 weeks. At the end of this period we will have a robust alternative, compliant plan that can be actioned immediately.*

*This will be an intense piece of work that will need to be correctly resourced to complete in time.*

*To complete this work in time for a January 4<sup>th</sup> 2016 start, an instruction to commence work would be needed immediately.”*

Together with ES Global, the resources to be applied and the associated costs of the above study are being assessed but it is expected that an investment in excess of [REDACTED] will be required to properly deliver the outcomes described.

The Contractor will require formal Instructions to carry out this work.

## **Summary**

Conditional upon studying any impact of the modification works upon the Field of Play works and programme, it is the Contractor’s opinion that it will be possible to provide the Employer assurances surrounding the programme of events for 2016, including the occupation and use of the venue by West Ham United.

But, as described above, there needs to be a completely refreshed approach to the management of ALL the works post November in an inclusive and transparent manner that involves ALL the stakeholders. In addition there are significant commercial considerations to be addressed.

Secondly, unless the lower bowl seating design, structure and configuration is completely reviewed, as before described, the venue will not be capable of transforming from athletics to pitch sports mode in anything approaching the seven day transition period. This will have a disastrous impact upon either UKA and the Anniversary Games or West Ham’s occupation and use of the venue in the 2016/2017 season.

That such a situation should develop after all that has gone before on the Stadium transformation is unthinkable and would be seriously damaging to all involved.

The Employer is therefore urged to immediately adopt the proposals set out in this report and authorise the appropriate Instructions.

Balfour Beatty Group Ltd.

October 30<sup>th</sup> 2015

**From:** [REDACTED]  
**To:** [Colin Naish](mailto:Colin.Naish)  
**Subject:** Re: OST mar apr acceleration.xlsx  
**Date:** 11 March 2015 12:12:10  
**Attachments:** [image002.png](#)

---

Colin

Ok thank you

Kind regards

[REDACTED]

Sent from my iPhone

On 11/03/2015, at 07:27, Colin Naish <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)> wrote:

[REDACTED]

Thanks. I will get Mace to process this as an agreed Compensation Event.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)  
<image002.png>

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---

**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** 09 March 2015 11:17  
**To:** Colin Naish  
**Subject:** RE: OST mar apr acceleration.xlsx

Colin

Not sure where this went .... Spread sheet attached.

Kind regards

[REDACTED]  
[REDACTED] | Infrastructure | Major Projects  
t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](http://balfourbeatty.com)  
130 Wilton Road, London, SW1V 1LQ

EA: [REDACTED]  
t: [REDACTED] | [REDACTED] [balfourbeatty.com](http://balfourbeatty.com)

---

**From:** Colin Naish [<mailto:ColinNaish@londonlegacy.co.uk>]  
**Sent:** 05 March 2015 19:48  
**To:** [REDACTED]  
**Subject:** Re: OST mar apr acceleration.xlsx

[REDACTED]

I have still not received the spreadsheet in the sum of [REDACTED].

Colin Naish  
Executive Director of Stadium  
Queen Elizabeth Olympic Park

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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---

**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** Monday, March 02, 2015 05:12 PM  
**To:** Colin Naish  
**Subject:** RE: OST mar apr acceleration.xlsx

Colin  
Thanks, see you tomorrow

Kind regards

[REDACTED]  
[REDACTED] - Infrastructure | Major Projects | Balfour Beatty Construction  
Services UK  
t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
[balfourbeatty.co.uk](http://balfourbeatty.co.uk) | follow us [@bbcsuk](https://twitter.com/bbcsuk)  
130 Wilton Road, London, SW1V 1LQ

<image003.jpg>

---

**From:** Colin Naish [<mailto:ColinNaish@londonlegacy.co.uk>]  
**Sent:** 02 March 2015 17:07  
**To:** [REDACTED]  
**Subject:** Re: OST mar apr acceleration.xlsx

Yes, tomorrow morning 9.00am on site.

Colin Naish  
Executive Director of Stadium  
Queen Elizabeth Olympic Park

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** Monday, March 02, 2015 04:47 PM  
**To:** Colin Naish  
**Subject:** RE: OST mar apr acceleration.xlsx

Colin,

Do we have a meeting tomorrow morning, the replacement of the DL meeting?

Kind regards

[REDACTED]  
[REDACTED] - Infrastructure | Major Projects | Balfour Beatty Construction  
Services UK  
t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
[balfourbeattycsuk.com](http://balfourbeattycsuk.com) | follow us [@bbcsuk](https://twitter.com/bbcsuk)  
130 Wilton Road, London, SW1V 1LQ

<image003.jpg>

---

**From:** Colin Naish [<mailto:ColinNaish@londonlegacy.co.uk>]  
**Sent:** 02 March 2015 15:00  
**To:** [REDACTED]  
**Subject:** RE: OST mar apr acceleration.xlsx

Thanks, but it needs tweaking so it adds up to [REDACTED] for March and April so it can be used as the basis of the CE.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)  
<image002.png>

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**From:** [redacted] [[mailto:\[redacted\]@balfourbeatty.com](mailto:[redacted]@balfourbeatty.com)]  
**Sent:** 02 March 2015 14:51  
**To:** Colin Naish  
**Subject:** RE: OST mar apr acceleration.xlsx

Grrrrr!!!!

Kind regards

[redacted] - Infrastructure | Major Projects | Balfour Beatty Construction  
Services UK

t: [redacted] | m: [redacted] | e: [redacted]@balfourbeatty.com  
[balfourbeattycsuk.com](http://balfourbeattycsuk.com) | follow us @bbcsuk  
130 Wilton Road, London, SW1V 1LQ

<image003.jpg>

---

**From:** Colin Naish [<mailto:ColinNaish@londonlegacy.co.uk>]  
**Sent:** 02 March 2015 14:50  
**To:** [redacted]  
**Subject:** RE: OST mar apr acceleration.xlsx

[redacted]

There was nothing attached to your email.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [redacted]  
Mobile: [redacted]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)  
<image002.png>

**Queen Elizabeth Olympic Park is now open. For more information please visit**  
[www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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**From:** [redacted] [[mailto:\[redacted\]@balfourbeatty.com](mailto:[redacted]@balfourbeatty.com)]  
**Sent:** 02 March 2015 14:43  
**To:** Colin Naish  
**Subject:** RE: OST mar apr acceleration.xlsx

Colin,

Yes looking for replacement parts!! ... you arte right about things coming in threes ....

The spread sheet is attached at last!

Kind regards

[REDACTED]

[REDACTED]

[REDACTED] - Infrastructure | Major Projects | Balfour Beatty Construction Services UK

t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
[balfourbeatty.com](http://balfourbeatty.com) | follow us [@bbcsuk](https://twitter.com/bbcsuk)

130 Wilton Road, London, SW1V 1LQ

<image003.jpg>

---

**From:** Colin Naish [<mailto:ColinNaish@londonlegacy.co.uk>]

**Sent:** 02 March 2015 08:41

**To:** [REDACTED]

**Subject:** Re: OST mar apr acceleration.xlsx

Whatever next - no IT, [REDACTED], hope these things don't come in threes!

Look forward to receiving the spreadsheet today and then we can get the CE processed.

Colin Naish  
Executive Director of Stadium  
Queen Elizabeth Olympic Park

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ



DDI: 020 3288 [REDACTED]

Mobile: [REDACTED]

Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)

Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]

**Sent:** Saturday, February 28, 2015 10:08 AM

**To:** Colin Naish

**Subject:** Re: OST mar apr acceleration.xlsx

Colin

My apologies, I didn't send it through as I [REDACTED]

[REDACTED]!

You will have it for Monday.

Have a pleasant weekend.

Kind regards

[REDACTED]

Sent from my iPhone

On 27/02/2015, at 20:18, Colin Naish <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)> wrote:

[REDACTED]

I did not receive this yesterday or today, did you send it through?

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)  
<image001.png>

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**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** 25 February 2015 19:03  
**To:** Colin Naish  
**Subject:** Re: OST mar apr acceleration.xlsx

Colin,

I hadn't got it!

I will send the details through tomorrow

Kind regards

[REDACTED]  
[REDACTED] - Infrastructure  
Major Projects, Balfour Beatty Construction Services UK  
[130 Wilton Road, London SW1V 1LQ](http://130 Wilton Road, London SW1V 1LQ)  
t: [REDACTED] m: [REDACTED]  
[REDACTED] [balfourbeatty.com](http://balfourbeatty.com)  
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Sent from my iPad

On 25 Feb 2015, at 16:46, Colin Naish <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)> wrote:

[REDACTED]

Can you please confirm receipt of my email below so that I know you



are not suffering another week of IT outage.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)  
<image001.png>

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---

**From:** Colin Naish  
**Sent:** 23 February 2015 08:47  
**To:** [REDACTED]  
**Subject:** RE: OST mar apr acceleration.xlsx

[REDACTED]

Yes, please send through an updated spread sheet in the sum of [REDACTED] and we can conclude matters quickly.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)  
<image001.png>

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**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** 20 February 2015 10:12  
**To:** Colin Naish  
**Subject:** RE: OST mar apr acceleration.xlsx

Colin,

Thanks for the call yesterday which was helpful and hopefully we can quickly reach agreement

Taking the points you raised and building on our discussion, I have this morning reviewed the proposed acceleration costs with the site team and [REDACTED]

Firstly in response to the particular points raised in your e-mail:-

1. All the costs associated with works required as a result of cable adjustments will be recovered through Burro Hapold and/or their insurers
2. The back roof does have separate team, however we need the flexibility to move the work fronts and or bring in additional resources, which are accusatory costs
3. The safety netting is additional to maintain the flexibility and protect works below, this will also now be necessary due to additional works for the Alto seating.
4. The lighting paddle assembly and erection are highly complex, any delays to the erection due to weather or other reasons will give rise to acceleration of the assembly, as we can only have a number laid out on the FoP.

The review has demonstrated that the costs in some areas were slightly overstated. My view is that the reasonable costs, including a provision for other consequences of the roof on other works and progressing to DL is [REDACTED]. If you wish I will arrange for an up-dated spread sheet to be forwarded?

If you would like to suggest a time to talk today or Monday please let me know.

Kind regards

[REDACTED]

---

**From:** Colin Naish [<mailto:ColinNaish@londonlegacy.co.uk>]

**Sent:** 18 February 2015 14:27

**To:** [REDACTED]

**Subject:** RE: OST mar apr acceleration.xlsx

[REDACTED]

We have a DL Protocol meeting next week and the end of the month is fast approaching so we need to reach agreement on March/April DL acceleration costs that are reasonably payable by E20. My points below still stand. Can you give me a call to discuss please; I am free all afternoon.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
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Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)  
<image001.png>

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**From:** Colin Naish  
**Sent:** 06 February 2015 16:32  
**To:** [REDACTED] (BBplc)  
**Subject:** RE: OST mar apr acceleration.xlsx

[REDACTED]

Just left you a message, hope we get to speak later this afternoon. My points for discussion are below, but broadly the spreadsheet appears to be a brain dump of all costs associated with BB meeting DL, not costs of acceleration from RWC to DL:

1. Some WH front roof acceleration costs can be recovered through an insurance claim for the cable adjustments error, as the opportunity for an early start has been removed due to the ongoing cable adjustments
2. The commencement of the front roof covering is not dependent on the completion of the rear roof covering (they will be two separate Lakesmere teams on the front and back) and therefore there is no need for Lakesmere rear roof acceleration costs.
3. The need for netting to the front roof covering works is not linked to the need for DL acceleration.
4. Lighting paddle acceleration works are as a result of BB domestic issues on paddle assembly and not a result of a DL decision.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

<image001.png>

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**From:** [REDACTED] (BBplc)  
[mailto:[REDACTED]@balfourbeatty.com]  
**Sent:** 04 February 2015 11:04  
**To:** Colin Naish  
**Subject:** Fwd: OST mar apr acceleration.xlsx

Colin

Please find attached the details that make up the acceleration estimate, which clearly were higher than you were given to believe.

Have a look and we can have a chat when you are free.

Kind regards

[REDACTED]  
[REDACTED] - Infrastructure  
Major Projects, Balfour Beatty Construction Services UK  
130 Wilton Road, London SW1V 1LQ  
**t:** [REDACTED] **m:** [REDACTED]  
[REDACTED]@balfourbeatty.com  
[balfourbeattycsuk.com](http://balfourbeattycsuk.com) | follow us @bbcsuk



Begin forwarded message:

**From:** [REDACTED] <[REDACTED]@bbact12.co.uk>  
**Date:** 30 January 2015 16:28:15 GMT  
**To:** [REDACTED]  
<[REDACTED]@balfourbeatty.com>  
**Subject:** OST mar apr acceleration.xlsx

[REDACTED]

Sorry had to amend descriptions on programme.

Regards

[REDACTED]

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**From:** [David Goldstone](#)  
**To:** [REDACTED]  
**Subject:** RE: OST without prejudice and subject to contract  
**Date:** 06 January 2015 17:41:53

---

[REDACTED]

I have just been going through with Colin the various options that have been exchanged between our teams recently, and what they mean in practice for the summer events and our obligations (eg around licensing, test events etc) under each scenario

As i think we both hope we can make some real progress tomorrow towards resolving the outstanding points, i plan to bring Colin with me, as i am much more likely to be able to reach an agreement with you, and to commit to it, if i have Colin's knowledge of the detail available to consult - rather than relying on my memory.

Hope that's ok, look forward to seeing you tomorrow

David Goldstone  
Chief Executive

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ  
Direct: 020 3288 [REDACTED]

Email: [davidgoldstone@londonlegacy.co.uk](mailto:davidgoldstone@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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-----Original Message-----

**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** 02 January 2015 11:16  
**To:** David Goldstone  
**Subject:** Re: OST without prejudice and subject to contract

David

First, Happy New Year. Clearly, 2015 is an important year for everyone associated with legacy works at the stadium.

Picking up on your note below just before Christmas, I will speak to [REDACTED] when he returns on Monday and suggest that he follows up directly with [REDACTED] to effectively reprise the terms of the offer we tabled on 19 December 2014 but recognising that the incentive payments are capped at the [REDACTED]. This is broadly Option 3 in my earlier note.

With good intent on both sides, I would hope that we will be able to close matters out in quick time.

See you at the stadium next week when we can also pick up on arrangements for meeting up with [REDACTED]

Thanks  
[REDACTED]

Sent from my iPad

On 24 Dec 2014, at 14:40, "David Goldstone" <DavidGoldstone@londonlegacy.co.uk> wrote:

> Thanks [REDACTED]  
>  
> We recognise that the dates and descriptions from the original contract had become out of date , and therefore , under the heads of terms , new dates and descriptions for the kpi milestones were going to be needed, and the teams had been working together on those. We believed that there was common agreement on this. The dates and descriptions described as for heads of terms in the table that [REDACTED] pulled together are ones that he understood were reaching common consent ( before the issue of the different understandings on LDs surfaced) .  
>  
> We believed that putting the heads of terms into effect retained all  
> of the LDs , but realigned incentive payments ( within the same total  
> [REDACTED] ) to dates along the lines shown in the first column of [REDACTED]  
> table . That remains the base case option for me, as I believe it  
> reflects what we agreed ( though I now accept that we have different  
> understandings about the LDs point)  
>  
> The alternative I can live with is that we go to kpi dates more closely aligned with DL, which benefits us, and drop the LDs , that benefits you. I also recognise the behavioural effect of LDs, and that it may benefit all of us not to be in that position . But it needs to be a realignment of kpi dates within the same total of [REDACTED] total incentive payments . I have no authority to take the total value beyond the total we agreed in October; to do so would require an unwinding of all of the approvals and announcements we made then, with no clear explicable benefit or rationale and I don't believe that there is any real prospect of success that way .  
>  
> So my question is - Can you see a way, if we concede the 2015 LDs in  
> order to encourage better partnership working, to a realignment of  
> dates that meet the objectives you describe below - without pushing  
> the overall total of incentive payments beyond [REDACTED] ? If you can we can  
> go there ( and that is the principle that last week's suggestion from  
> [REDACTED] was trying to achieve) . The problem with your prior response  
> was that it increased the total to [REDACTED]  
>  
> Hope , again, that that is clear and that we can keep this moving  
> forward, Best wishes  
>  
> David  
>  
>  
>  
>  
>  
>  
> Sent from my iPad  
>  
>> On 24 Dec 2014, at 11:03, [REDACTED] <[REDACTED]@balfourbeatty.com> wrote:  
>>  
>> David  
>>  
>> Thanks for your swift response.  
>>  
>> It's unfortunate that misunderstandings have developed but, like you, I am keen to resolve the Agreement so that everyone can be totally focused on meeting the event(s) next year.  
>>  
>> On the specific matter of the incentives, the dates in the signed Heads of Terms differ from those set out in the table attached to your note.

>>  
>> For clarity, the dates relating to the KPI allowances in Schedule 2 to the Contract Data are:  
>>  
>> KPI 1 - 22 May 2015  
>> KPI 2 - 31 May 2015  
>> KPI 3 - 7 September 2015  
>> KPI 4 - 27 May 2016  
>>  
>> I also note that the descriptions of the works covered by the incentives in the Heads of Terms differ from those summarised in the table.  
>>  
>> The Heads of Terms are silent on the treatment of LDs. As I set out in my previous note, our position is that these fell to zero for certain dates during the negotiation that led to the HoTs being signed.  
>>  
>> If the LDs are to be retained, you will appreciate that we will have no option but to seek relief of damages for any future change events that have a programme impact upon the affected dates.  
>>  
>> In summary, we are prepared to sign up to the SA assuming that the KPI dates and descriptions and other terms reflect the Heads of Terms agreement.  
>>  
>>  
>> That said, I am not sure that this is in the best interests of the project knowing what I now know about the programmes related to the "third party contractors".  
>>  
>> The point I was seeking to make in my note yesterday, is that I understand that the slavish adoption of the HoTs dates does not actually help E20/LLDC with delivering the seating installations by Alto and other preparatory activities including catering and hospitality concessions.  
>>  
>> It's for this reason that my team has has been working with [REDACTED] and Colin over the past week to try to accommodate your latest requirements and to try to find a mutually agreeable workaround as to how these arrangements might be captured within an agreement. The quid pro quo was the removal of the early LDs which would serve to limit future contractual arguments.  
>>  
>> It was the sudden move to seek to introduce a host of new key dates and to assign some of the existing incentives to the Diamond League event that seems to have undermined the progress being made towards a sensible and agreeable compromise. I might be worth seeking [REDACTED] views on the appropriateness or otherwise of the forward options.  
>>  
>>  
>> It would seem to me that the more we can do to create the right contractual/commercial environment, the more we can expect our respective teams to display the right behaviours that will deliver the best outcomes for all parties.  
>>  
>>  
>> I hope this helps.  
>>  
>> [REDACTED]  
>>  
>>  
>> Sent from my iPad  
>>  
>> On 23 Dec 2014, at 17:22, "David Goldstone" <DavidGoldstone@londonlegacy.co.uk> wrote:  
>>>  
>>> [REDACTED]  
>>>  
>>> We may as well both accept that we have different interpretations of  
>>> what has happened. Our intention at all times has been to implement  
>>> the heads of terms we agreed, and the recent conversation only arose  
>>> because we understood that you had a different interpretation in  
>>> relation to the position on LADs  
>>>

>>> In relation to your option 1 , i need greater clarity about what it would actually mean in relation to the incentive payments.

>>> The table i sent over to you yesterday , reattached now for convenience, included in the blue column headed "Heads of Terms" what we believe should be the milestone dates and descriptions that trigger the incentive payments. I am not clear whether you are accepting those dates and descriptions, or proposing something different. Can you clarify?

>>>

>>> If you are accepting the dates and descriptions as set out in that column, and accepting your confirmation that LADs still apply in accordance with the contract, then i do agree that option 1 does what we agreed in the heads of terms, and we would move forward to final supplementary agreement on that basis .

>>> We accept that this would mean that there is no incentive payment against the DL dates

>>>

>>> If however you have alternative milestone dates and descriptions in mind, you need to clarify what those are so that we can consider them

>>>

>>> I reiterate, as i have said before, that once we have agreed the supplemental agreement, we will immediately release the funds that fall due

>>>

>>> yours

>>>

>>> David Goldstone

>>> Chief Executive

>>>

>>> London Legacy Development Corporation Level 10

>>> 1 Stratford Place, Montfichet Road

>>> London

>>> E20 1EJ

>>> Direct: 020 3288 [REDACTED]

>>>

>>> Email: davidgoldstone@londonlegacy.co.uk

>>> Website: www.QueenElizabethOlympicPark.co.uk

>>>

>>>

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>>> please visit www.QueenElizabethOlympicPark.co.uk

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>>> ü Please consider the environment before printing this e-mail or its attachments

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>>>

>>> -----Original Message-----

>>> From: [REDACTED] [mailto:[REDACTED]@balfourbeatty.com]

>>> Sent: 23 December 2014 13:19

>>> To: David Goldstone

>>> Subject: Re: OST without prejudice and subject to contract

>>>

>>> David

>>>

>>> Thank you for your responses.

>>>

>>> I'm afraid the picture is not quite as it is painted.

>>>

>>> Believe me, I am keen to sign up to the Agreement but I am not prepared to do so if it serves to import greater risk without the concomitant reward.

>>>

>>> You refer to the meeting between yourself, Neale, [REDACTED] [REDACTED] and myself and yet it became subsequently clear that we were talking at cross-purposes as our telephone conversation on the following day testifies. Our conversation was necessary to get matters back on track.



>>>

>>> It is also worth recalling that the Heads of Terms were struck only after extensive discussion around the issues and the commercial environment that would be necessary to secure the best outcomes. The essence of the deal was as captured by ██████ in his note to ██████ at the time. In fact he drafted this with Colin Naish and ██████ in the room, in discussion, to ensure that the offered terms that the Mayor and our Chairman were negotiating a few days after were clear. This made it clear that LDs would be set to zero for some issues.

>>>

>>> The Supplemental Agreement that your team have drafted and we have been sent to sign departs from the Heads of Terms in a number of important respects:

>>>

>>> 1. The four incentive descriptions have moved dramatically away from those contained within both the Contract and the HoTs.

>>>

>>> 2. Dates that were agreed for Alto seating access have now been wrongly labelled as "Key Dates" with all the contractual significance that that implies.

>>>

>>> 3. A whole new clause 36 has been created without any prior discussion, which brings in incredibly one-sided terms which would never be acceptable to us.

>>>

>>> 4. New clauses related to Project Supervisor and Project Manager periods for reply have been introduced which were seemingly missed from your drafting of the original Contract and your team are attempting to correct using this agreement as a vehicle.

>>>

>>> Moreover, since receiving the SA, a further proposal has been tabled by yourselves, which now seeks to introduce a further six incentive dates (making 10 in total) and to attach them to the Diamond League event. A number of the Alto access dates have also been accelerated. Some of these dates are not currently seen as possible as stated, and it is wholly inequitable to try to suddenly attach 60% of the incentives to the Diamond League. Also, it is proposed that we may have to repay previously achieved milestones through later faults of the operator or others, e.g through no fault of our own. This is the essence of your latest proposal and is wholly unacceptable to us.

>>>

>>> In summary, your team has moved extensively away from the Heads of Terms, far more than could be described as mere interpretation. We are attempting to respond to these developments.

>>>

>>> Let me say straightaway, that we recognise the importance of striving for the DL event. This is why we have the protocol and why we are working to try to achieve the necessary dates. We also recognise the importance of allowing access to Alto and others to preparing the stadium for public events.

>>>

>>> So what is the way forward? There are a number of options:

>>>

>>> 1. The simplest option is to adhere strictly to the Heads of Terms but not to the intent that underpinned the terms as referenced above. This would mean that the LADs would remain as the contract at the revised dates, and all the incentives worded and assigned as the current Contract at the Heads of Terms dates. Your new inclusions would need to be removed and the Heads of Terms Alto seating dates would be included in our programme but would not become key dates. Clearly, there would be no incentives or key dates around the Diamond League event. This option would not appear to give LLDC the dates that are now apparently needed for access to Alto, amongst other things.

>>>

>>> 2. Our offered terms of 19 December (15:18 hrs). This includes giving you the dates that you now need for Alto access, catering concessions, etc delivered in a collaborative, progressive way. This expressly deals with the LAD issue. This gives you Alto seating as key dates, and it brings in the changes to the Contract for periods of reply. We will earn milestones when achieved and these will not be later rescinded. This reflects draft compromises agreed between our teams over the past week.

>>>

>>> However, we acknowledge your point about future compensation events moving the incentive dates. We would wish to preserve such an arrangement but such rights would fall away if the events are not staged.

>>>

>>> 3. Our offered terms as 2 above but with no reassigned or additional incentives attached to the Diamond League event, ie our key date 12 and incentive KPI 5 are removed and sums reassigned.

>>>

>>>

>>> For the record, the table enclosed with your latest note does not accurately reflect the definition of incentives reflected in the Heads of Terms. KPIs 1 and 2 are wrongly described. The notes below the table also tacitly recognise the difficulty of attaching incentives to the Diamond League event.

>>>

>>> Like you, and I am keen to bring matters to a head.

>>>

>>> We have sought to find ways to compromise to meet your new dates and requirements over the past week and we will use all reasonable endeavours to do so. Option 1 would seem not to meet either of our needs. Short of going back to square one, this leaves Options 2 and 3. If the incentives are required to be capped at [REDACTED] as you say in your note, then option 3 becomes the only viable option.

>>>

>>> To this end, [REDACTED] is available to agree final drafting with [REDACTED] as a matter of urgency.

>>>

>>>

>>> Separately, and in the circumstances, we are disappointed that the sums due in respect of implemented acceleration measures continue to be withheld. The [REDACTED] payment that is due was agreed to be paid in accordance with the jointly agreed activity schedule required by the Heads of Terms. We have had to honour commitments given to our supply chain partners who are accelerating with us. We have spent the past three months accelerating at risk and at significant cost to try to deliver the events for LLDC. You have acknowledged that you have funds and the ability to pay and I would request that this payment be released.

>>>

>>> Let me know how you would like to progress.

>>>

>>> Thanks

>>>

>>> [REDACTED]  
>>> [REDACTED]

>>> Balfour Beatty Major Projects

>>>

>>> Sent from my iPad

>>>

>>>> On 22 Dec 2014, at 13:31, "David Goldstone" <DavidGoldstone@londonlegacy.co.uk> wrote:

>>>>

>>>> [REDACTED]

>>>>

>>>> You may find the attached table helpful , as it summarises what we see as the position on both damages and incentives, as per the

>>>>

>>>> - Heads of terms

>>>>

>>>> - Our suggestion to you at the end of last week

>>>>

>>>> - Your response on Friday

>>>>

>>>> In order to move this towards a potential solution, it seems to me that 3 aspects of your proposal would need to change

>>>>

>>>> - Keep the aggregate of incentives at [REDACTED]. this could be achieved by reducing the [REDACTED] on RWC completion to [REDACTED]

>>>>

>>>> - Make the early milestone incentives repayable if , having achieved the earlier dates, the DL date is subsequently missed (but note that we are content for earlier incentives to be recovered, if the early milestone has been missed but DL is achieved)

>>>>

>>>> - We cannot accept that future compensation events move the dates. The dates of the events don't move, so nor can the dates for incentives

>>>>

>>>> These are all consistent with the suggestion we made last week, but

>>>> would use your proposed dates and level of incentives , up to the

>>>> [REDACTED] total

>>>>  
>>>> I remain happy to discuss  
>>>>  
>>>> David  
>>>>  
>>>> David Goldstone  
>>>> Chief Executive  
>>>>  
>>>> London Legacy Development Corporation Level 10  
>>>> 1 Stratford Place, Montfichet Road  
>>>> London  
>>>> E20 1EJ  
>>>> Direct: 020 3288 [REDACTED]  
>>>>  
>>>> Email:  
>>>> davidgoldstone@londonlegacy.co.uk<mailto:davidgoldstone@londonlegac  
>>>> y.c  
>>>> o.uk>  
>>>> Website:  
>>>> www.QueenElizabethOlympic<<http://www.QueenElizabethOlympic>>  
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>>>>  
>>>> From: [REDACTED] [mailto:[REDACTED]@macegroup.com]  
>>>> Sent: 22 December 2014 13:09  
>>>> To: David Goldstone  
>>>> Cc: [REDACTED] Colin Naish  
>>>> Subject:

>>>>  
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---

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**From:** [REDACTED]  
**To:** ["DavidGoldstone@londonlegacy.co.uk"](mailto:DavidGoldstone@londonlegacy.co.uk)  
**Subject:** Fw: OST - Without Prejudice and Subject to Contract  
**Date:** 21 December 2014 20:22:06  
**Attachments:** [Appendix 1 to the draft Supp Agrmt - Replacement Contract Data BB review rev 3 NCR.docx](#)  
[Appendix 2 to draft Supp Agrmt - changes to pages 25-27 BB review NCR.docx](#)  
[Appendix 3 to draft Supp Agrmt - amended clause 36 \(HSF 8-1 BB review NCR.docx](#)  
[Appendix 5 to draft Supplementary Agreement - List of excluded notices o .docx](#)  
[Appendix 4 to draft Supp Agrmt - OST Diamond League Protocol BB review NCR.docx](#)

---

David

I refer to our email exchange of 11 December.

When I wrote seeking an expeditious release of the sum due in respect of acceleration measures already implemented, I had not anticipated that the wording of the Supplemental Agreement would have represented such a departure from the intent of the parties when the Heads of Terms were negotiated. This is both surprising and disappointing. [REDACTED] and [REDACTED] are particularly upset as they had held the substantive discussions with Colin and [REDACTED]

As you know, we spent many months negotiating the basis of the acceleration deal and attempts to recast the deal at this late stage do little to engender the trust that is so necessary to delivering complex ventures such as OST.

That all said, we have sought to respond to LLDC's latest requests in as responsive a manner as we can. [REDACTED] email to [REDACTED] below refers. We are not unwilling to restructure the incentive arrangements but any new regime has to reflect the risks and opportunities involved.

Over the past few months, we have been proceeding with the works in good faith in the expectation that the formalities would reflect the agreements reached.

I am keen that we reach an agreement on the way forward as soon as possible. There is after all the outstanding matter of the sum we are due that I would not wish to see further delayed.

I would appreciate your earliest attention to this matter.

Thank you.

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, December 19, 2014 03:24 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: OST - Without Prejudice and Subject to Contract

[REDACTED]

Please find attached the revised document just sent to [REDACTED]

In order to convert from the brief Heads of Terms this has needed compromises on both sides to produce a document that works.

■ sudden desire yesterday afternoon for the Diamond League event to be linked to incentives has been addressed with an additional reciprocal arrangement, where we put ■ at risk against this event, which is clearly a big move for us. We will need to organise significant additional peer reviews within our business in the coming months to ensure the success of this event.

Regards,

■

■

■ | Major Projects | Balfour Beatty Construction Services UK  
t: ■ | m: ■ | e: ■ [balfourbeatty.com](http://balfourbeatty.com)  
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130, Wilton Road, London SW1V 1LQ

## Balfour Beatty

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**From:** ■  
**Sent:** 19 December 2014 15:19  
**To:** ■  
**Subject:** OST - Without Prejudice and Subject to Contract

■

Further to our discussions, it is clear that in attempting to turn the non contractual heads of terms, emails and intent into a deed that we can all buy into is proving more difficult than we thought.

We are also disappointed that despite us carrying on with the accelerated works for over 3 months now in good faith, we have been left severely cash negative, as the agreed schedule of payments has not been adhered to. This is not in the spirit of the agreements made.

This is also clearly a moving feast, with the latest, entirely new proposal put forward by yourselves at 3pm yesterday suddenly proposing aligning incentives to the Diamond League.

I enclose the marked up documents passed to you yesterday (Without Prejudice) with a few minor drafting amendments as discussed, which give most things that we have both asked for.

In relation to the Diamond League dates, this is a new proposal, which includes some dates that we cannot currently meet without a very fair wind...

After discussing at senior level in our organisation over the past 18 hours, we are prepared to work with the documents attached. We are now also prepared to align part of our incentives to the Diamond League if a reciprocal arrangement can be made by yourselves.

Therefore we have added in Key Date 12 and Incentive 5 for discussion. We are prepared to put

[REDACTED] of our incentives at risk for achievement of the Diamond League Event on 22 July 2015, if the Employer matches this with a further [REDACTED]. The incentive pot therefore would increase to [REDACTED] and we would have [REDACTED] of this at risk on achievement of the Diamond League, which clearly gets our attention focused on this matter.

This is on the basis that all other incentives are paid when achieved, and are not redacted in any way, and that if CE's occur the key dates and incentive dates will be moved.

We hope that you can appreciate the efforts that we are making to try to forge agreement, and look forward to your response.

Regards,

[REDACTED]

[REDACTED]

| Major Projects | Balfour Beatty Construction Services UK

t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](http://balfourbeatty.com)

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**Balfour Beatty**

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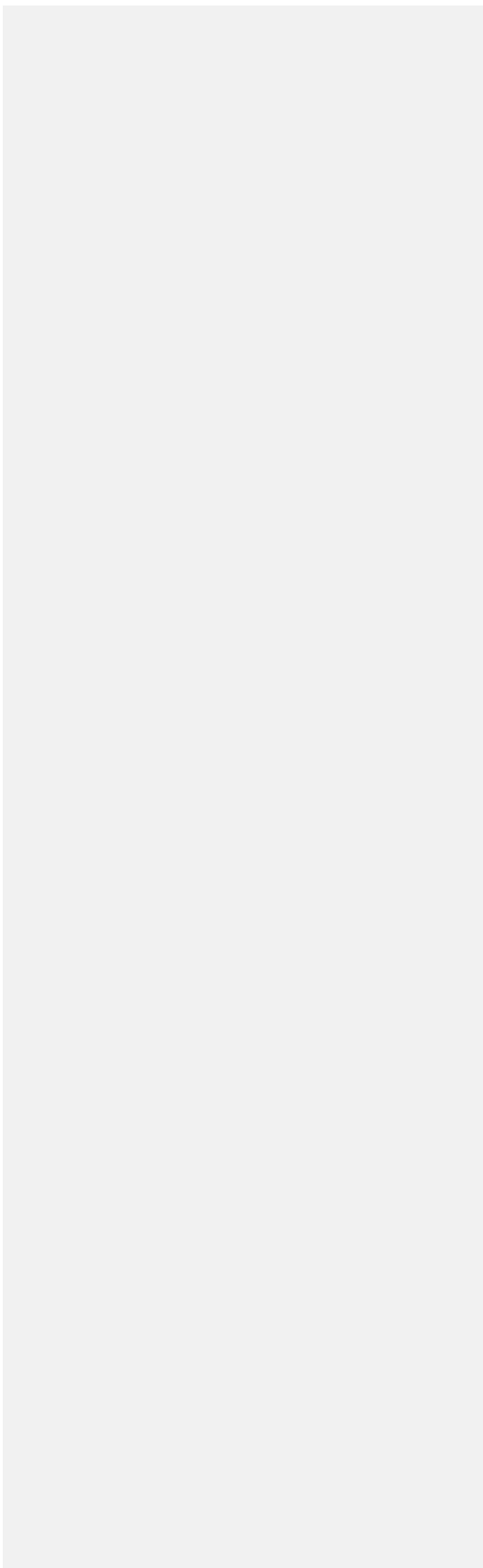
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**Appendix 1 to Supplementary Agreement**  
**Amended Contract Data and Schedules 1, 2 and 3 of the Tier 1 Contract**



## CONTRACT DATA

### Part one – Data to be provided by the *Employer*

#### Statements given in all contracts

- 1 General
- The *conditions of contract* are:
    - the core clauses and the clauses for main Option A as amended;
    - dispute resolution Option W2; and
    - secondary Options X2, X4, X5, X7, X14, X15, X18, X20, Y(UK)2 and Y(UK)3 of the NEC3 Engineering and Construction Contract June 2005 (with amendments June 2006 and September 2011)
  - The *works* are:
    - Design and construction works for the Stadium and the design and construction of the Landscaping and External Works on the Site North of the Greenway as more particularly described and set out in Section A100 of the Project Information
  - The *Employer* is:
    - Name: E20 Stadium LLP
    - Address: Level Ten, 1 Stratford Place, Montfichet Road, Stratford, London E20 1EJ
  - The *Employer's Representative* is:
    - Name: London Legacy Development Corporation
    - Address: Level Ten, 1 Stratford Place, Montfichet Road, Stratford, London E20 1EJ
  - The *Project Manager* is:
    - Name: Mace Limited
    - Address: 155 Moorgate, London, EC2M 6XB
  - The *Supervisor* is:
    - Name: Mott Macdonald
    - Address: Mott Macdonald House, 8-10 Sydenham Road, Croydon, Surrey, CR0 2EE
  - The *Adjudicator* is:

Appointed in accordance with Option W2
  - The *Works Information* is  
The Project Information entitled Transformation Works to the proposed Multi-Purpose Stadium in the Queen Elizabeth Olympic Park Version 6
  - The *Site Information* is in  
The Project Information entitled Transformation Works to the proposed Multi-Purpose Stadium in the Queen Elizabeth Olympic Park Version 6.



- The *boundaries of the site* are: as described in Paragraph S100 of the Project Information entitled Transformation Works to the proposed Multi-Purpose Stadium in the Queen Elizabeth Olympic Park Version 6.
- The *language of this contract* is English
- The *law of the contract* is the law of England and Wales
- The *period for reply* is:
  - For a reply by the *Contractor* three (3) weeks unless otherwise stated in the Contract
  - For a reply by the *Employer* four (4) weeks unless otherwise stated in the Contract
  - For a reply by the *Project Manager* four (43) weeks unless otherwise stated in the Contract
  - For a reply by the *Supervisor* four (43) weeks unless otherwise stated in the Contract
- The *Adjudicator nominating body* is The Institution Of Civil Engineers (ICE)
- The *tribunal* is in the courts of England and Wales
- The following matters will be included in the Risk Register
  - None specified

- 3 Time
- The *starting date* is 24<sup>th</sup> December 2013
  - The *Access Date* to Section 1 is 6<sup>th</sup> January 2014
  - The *Access Date* to Section 2 is 6<sup>th</sup> January 2014
  - The *Access Date* to Section 3 is 8<sup>th</sup> September 2015
  - The *Access Date* to Section 4 is 20<sup>th</sup> November 2015
  - The *Access Date* to Section 5 is 21<sup>st</sup> March 2016
  - The *Contractor* submits revised programmes at intervals no longer than one calendar month.

- 4 Testing and Defects
- The *defects date* is 52 weeks after Completion of the whole of the *works*.
  - The *defect correction period* is four (4) weeks except that
    - The *defect correction period* for any defect which has or could have a detrimental effect on Health And Safety on those using the *works* is one day
    - The *defect correction period* for a Defect that results or may result in a service failure is an immediate callout response

- 5 Payment
- The *currency of this contract* is the pound sterling (£)
  - The *assessment interval* is monthly with the assessment date being in accordance with the Reporting Calendar (included in Appendix 12 of the Project Information).
  - The *interest rate* is 3% per annum above the Official Base Rate of the Bank of England in force from time to time.

- 6 Compensation events
- The place where weather is to be recorded is Heathrow Airport, Middlesex
  - The weather measurements to be recorded for each calendar month are
    - the cumulative rainfall (mm)
    - the number of days with rainfall more than 5mm
    - the number of days with minimum air temperature less than 0 degrees Celsius
    - the number of days with snow lying at 09.00hours GMT
    - and these measurements:
  - number of days where wind speed is more than 80 km/h
  - the *weather measurements* are supplied by Met Office, FitzRoy Road, Exeter, Devon EX1 3PB

*The weather data are the records of past weather measurements for each calendar month which were recorded at Heathrow Airport, Middlesex and which are available from the Met Office. Where no recorded data are available, assumed values for the ten year return weather data for each weather measurement for each calendar month are not applicable.*

- 8 Risks and insurance
- The minimum limit of indemnity for insurance in respect of loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) caused by activity in connection with this Contract for any one event is:
 

as stated in the Insurance Table contained in Clause 84
  - The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with this contract for any one event is:

[REDACTED]

**Optional Statements** If the *tribunal* is arbitration  
Not Applicable

If the *Employer* has decided the *completion date* for the whole of the works

- The *completion date* for the whole of the works is 27 May 2016

If the *Employer* is not willing to take over the works before the *Completion Date*

The *Employer* is willing to take over the works before the *Completion Date*

If no programme is identified in part two of the Contract Data

The *Contractor* is to submit a first programme for acceptance within two (2) weeks of the Contract Date

If the *Employer* has identified work which is to meet a stated *condition* by a *key date*

- The *key dates* and *conditions* to be met are:
- All *conditions* are to be met in accordance with Schedule 1 to the Contract Data.

| Condition to be met   | Key Date   |
|---|--|
| <b>KD – 001 Key Date 1</b> – Ready to Start the works on Site.  | 20 <sup>th</sup> January 2014  |
| <b>KD – 002 Key Date 2</b> – Stage E Design Report.   | 30 <sup>th</sup> March 2014  |
| <b>KD – 003 Key Date 3</b> – Completion of perimeter truss and V columns strengthening and associated pile caps and piling.   | <del>19</del> 26 <sup>th</sup> September 2014  |
| <b>KD – 004 Key Date 4 - Not Used</b>   |  |
| <b>KD – 005 Key Date 5</b> – Completion of Field of Play lighting, lighting controls 1 <sup>st</sup> fix and 2 <sup>nd</sup> fix.   | <del>3<sup>rd</sup></del> 11 <sup>th</sup> June 2015                                 |
| <b>KD – 006 Key Date 6</b> – Employer access commencing progressively to each catering kitchens and catering concession spaces for Concessionaire Fit-Out works. <u>Integrated release schedule to be agreed</u>  | <del>4<sup>th</sup> June - 17<sup>th</sup> July 2015</del> 1 <sup>st</sup> June 2015 |
| <b>KD – 007 Key Date 7</b> – Employer access to remaining areas of the Stadium for Concessionaire Tenant Area Fit-Out works. <u>The access will be on a non-exclusive basis and will need to be integrated with other trades who will be working in the same area as a result of the earlier delays and acceleration.</u>   | 18 <sup>th</sup> January 2016  |
| <b>KD – 008 Key Date 8</b> – Employer access for the West Stand Hospitality Works to be provided by others. <u>The access will be on a non-exclusive basis and will need to be integrated with other trades who will be working in the same area as a result of the earlier delays and acceleration.</u>  | No later than 22 <sup>nd</sup> May 2015  |
| <b>KD – 009 Key Date 9</b> – Employer access for the Alto Seating to the Field North and South Stands and Podium. <u>The access will be on a non-exclusive basis and will need to be integrated with other trades who will be working in the same area as a result of the earlier delays and acceleration.</u>  | 31 <sup>st</sup> March 2015  |
| <b>KD – 010 Key Date 10</b> – Employer access for the Alto Seating East Stand. <u>The seating works will have to cease for a period to allow removal of kentledge and for defensionong etc. The access will be on a non-exclusive basis and will need to be integrated with other trades who will be working in the same area as a result of the earlier delays and acceleration.</u> | 30 <sup>th</sup> April 2015  |
| <b>KD – 011 Key Date 11</b> – Employer access for the Alto Seating West Stand. <u>The access will be on a non-exclusive basis and will need to be integrated with other trades who will be working in the same area as a result of the earlier delays and acceleration.</u>   | 31 <sup>st</sup> May 2015  |
| <b>KD – 012 Key Date 12</b> – All BB activities that are needed within the scope of works for Diamond League Athletics Event substantially complete on 22 July 2015   | 22 July 2015   |

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If the period in which payments are made is not three weeks and Y(UK)2 is not used

- Not applicable

If Y(UK)2 is used and the final date for payment is not 14 days after the date when payment is due

- The period for payment is 18 days

If there are additional *Employer's* risks

- None

If the *Employer* is to provide Plant and Materials

- The insurance against loss of or damage to the *works*, Plant and Materials is to include cover for Plant and Materials provided by the *Employer* as stated in the Insurance Table contained in Clause 84

**If the Employer is to provide any of the insurances stated in the Insurance Table**

- The *Employer* provides these insurances from the Insurance Table as stated in Core Clause 84 of the Contract

**If additional insurances are to be provided**

- The *Employer* provides these additional insurances as stated in Core Clause 84 of the Contract

**If additional insurances are to be provided**

- The *Contractor* provides these additional insurances as stated in Core Clause 84 of the Contract

**If Option W2 is used**

- The *senior executives* of the *Employer* are David Goldstone and Colin Naish or such persons whom hold equivalent status within the *Employer's* organisation

**If Option A is used**

The *Contractor* prepares a forecasted activity schedule of the total expenses at intervals no longer than one calendar month

**If Option X4 is used**

A parent company guarantee is required

**If Option X5 is used**

- The *completion date* for each section of the *works* is:

| <b>Section</b> | <b>Works Description</b>  | <b>Completion Date</b>         |
|----------------|---|--------------------------------|
| 1              | Stadium South East Area<br>As more fully described in A501 of the Project Information   | 25 <sup>th</sup> June 2014     |
| 2              | Stadium<br>The <i>works</i> required to be completed prior to Event 3 Period more fully described in the glossary of terms and section A501 of the Project Information. | 7 <sup>th</sup> September 2015 |
| 3              | Asset Protection & Maintenance – enhanced facilities. As more fully described in A501 of the Project Information.   | 20 <sup>th</sup> November 2015 |

|   |   |                           |
|---|---|---------------------------|
| 4 | Completion of the remaining works within the Stadium, landscaping and external works. As more fully described in A501 of the Project Information. | 27 <sup>th</sup> May 2016 |
| 5 | Community Athletics Track Completion Works. As more fully described in A501 of the Project Information.   | 27 <sup>th</sup> May 2016 |

**If Options X5 and X7 are used together**

- Delay damages for each *section* of the works are as set out below:

| <b>Section</b> | <b>Description</b>   | <b>Amount per day</b>  |
|----------------|--|--|
| 1              | Stadium South East Area<br>As more fully described in A501 of the Project Information.   | ██████████   |
| 2              | Stadium<br>The works required to be completed prior to Event 3 Period more fully described in the glossary of terms and section A501 of the Project Information. | ██████████ during any period of delay occurring between (a) the Completion Date and (b) the day falling 34 days after the Completion Date.<br><br>██████████ during any period of delay occurring on or after the day falling 35 days after the Completion Date. |
| 3              | Asset Protection & Maintenance – enhanced facilities. As more fully described in A501 of the Project Information.  | ██████████   |
| <b>Section</b> | <b>Description</b>   | <b>Amount per day</b>  |

|   |  |   |
|---|--|---|
| 4 | <p>Completion of the remaining <i>works</i> within the Stadium, landscaping and external works.</p> <p>As more fully described in A501 of the Project Information.</p> | <p>██████ during any period of delay occurring between (a) the Completion Date and (b) the day falling 34 days after the Completion Date.</p> <p>██████ during any period of delay occurring on or after the day falling 35 days after the Completion Date.</p> |
| 5 | <p>Community Athletics Track Completion Works. As more fully described in A501 of the Project Information.</p>   | <p>██████ during any period of delay occurring between (a) the Completion Date and (b) the day falling 34 days after the Completion Date.</p> <p>██████ during any period of delay occurring on or after the day falling 35 days after the Completion Date.</p> |

**If Option X13 is used**

- Not applicable

**X14 is used**

**If Option X15 is used**

- The *Contractor* shall in the design of the *works* use the standard of reasonable skill, care and diligence to be expected from a properly qualified professional consultant (in all relevant disciplines) and (provided always that the following shall not be construed as imposing any requirement for fitness for purpose) a contractor experienced in providing design services to projects similar in size, scope and complexity to the *works*

**If Option X18 is used**

- The *Contractor's* liability to the *Employer* for indirect or consequential loss is not separately limited
- For any one event, the *Contractor's* liability to the *Employer* for loss of or damage to the *Employer's* property is limited to 100% of the total of the Prices
- The *Contractor's* liability for Defects due to his design which are not listed on the Defects Certificate is not separately limited
- The *Contractor's* total liability to the *Employer* for all matters arising under or in connection with this contract, other than excluded matters, is not separately limited

- The *Contractor's* liability to pay or allow to the *Employer* delay damages under Clauses X7.1 to 7.3 (inclusive) is limited in aggregate to 10% of the total of the Prices.
- The *end of liability date* is twelve (12) years after the *completion* of the whole of the works

**If Option X20 is used**

- The *incentive schedule* for Key Performance Indicators is in Schedule 2 to the Contract Data
- A report of performance against each Key Performance Indicator is provided at intervals of 3 months

If Option Y(UK)3 is used

- Contract term Person or organisation Clause 28.4

**If Option Z is used**

- The *additional conditions of contract* are:
- Integrated into the main body of the contract. This means that though the contract has been amended by incorporating *additional conditions of contract* Option Z has not been used.

## Part two – Data provided by the Contractor

### Statements given in all contracts

- The Contractor is  
Name Balfour Beatty Group Limited  
Address 130 Wilton Road, London SW1V 1LQ
- The direct fee percentage is [REDACTED]
- The subcontracted fee percentage is [REDACTED]
- The working areas are
  - The Site as stated in the Project Information entitled Transformation Works to the proposed Multi-Purpose Stadium in the Queen Elizabeth Olympic Park Version 6.
- The key people are
  - (1) Name: [REDACTED]  
Job: Project Director
  - (2) Name: [REDACTED]  
Job: Project Manager
  - (3) Name: [REDACTED]  
Job: Logistics Manager
  - (4) Name: [REDACTED]  
Job: Mechanical Electrical & Plumbing Manager
  - (5) Name: [REDACTED]  
Job: BREEAM Specialist
  - (6) Name: [REDACTED]  
Job: Design Manager
  - (7) Name: [REDACTED]  
Job: Commercial Manager
  - (8) Name: [REDACTED]  
Job: Quality Control Manager
  - (9) Name: [REDACTED]  
Job: Senior Site Manager
  - (10) Name: [REDACTED]  
Job: Senior Site Manager
  - (11) Name: [REDACTED]  
Job: Senior Site Manager
  - (12) Name: [REDACTED]  
Job: Senior Project Control Manager
  - (13) Name: [REDACTED]  
Job: Senior Site Safety Manager
  - (14) Name: [REDACTED]  
Job: Senior Planner
- The key suppliers are:
  - (1) Lakesmere, EAG  
Trade: Aluminium Curtain Walling & Cladding



- (2) Pyramid, Galostar  
Trade: Brickworks and blockwork
- (3) BB Civil Engineering  
Trade: Earthworks and drainage
- (4) Kilnbridge, Fastglobe  
Trade: BWIC
- (5) O'Keefe, AJ Morrisroe  
Trade: Concrete works
- (6) Keanes, Scudder  
Trade: Demolition
- (7) Architen Landrell, Vector  
Trade: ETFE Roof
- (8) CRL  
Trade: Field of Play Sports Surfaces
- (9) PAC  
Trade: Gas membrane
- (10) Balfour Beatty Ground Engineering, Keller  
Trade: Piling
- (11) Hare  
Trade: Steelwork

**Optional statements** If the *Contractor* is to provide Works Information for his design

- Not applicable

**If Option A is used**

- *The activity schedule is* included as Schedule 3 to the Contract Data.

**If Option A is used**

- **The total of the Prices is** [REDACTED]

The total of the Prices is inclusive of, and takes full account of:

~~(a) — the KPI allowances in Schedule 2 to the Contract Data;~~

~~(b)~~ all amounts due to the *Contractor* in relation to:

- (i) the design and construction of the roof, including any works necessary to support and/or strengthen the roof, and related Early Warning Notices;
- (ii) all Compensation Events and other circumstances arising up to 15 October 2014, whether the subject of a Notification of a Compensation Event or a related Early Warning Notice, a *Project Manager's* Instruction or a related Early Warning Notice, the table of omissions detailed in the *Employer's* letter dated 4 September 2014 or otherwise, with the exception of:
  - (A) *Project Manager's* Instruction Nos. 111, 122, 124, 128, 129 and 131 (the principle is accepted that these are Compensation Events under the *contract*);
  - (B) *Project Manager's* Instruction No. 137 onwards;
  - (C) Notice of Compensation Event No. 62;
  - (D) Notice of Compensation Event Nos. 64 onwards; and

- (E) All Early Warning Notices other than those referred to in items b(i) and b(ii) above;
- (iii) the programme mitigation and acceleration measures necessary to achieve completion of the works (including Event 3) in accordance with the Accepted Programme ref: ~~insert reference~~ OSTSC 0010 dated 28 November 2014;
- (iv) the design (but not the provision) of the Wayfinding works; and
- (v) the omission of the Western Hospitality fit-out works as described in *Project Manager's* instruction No. 071 (*Project Manager's* instruction No. 127 will be fully aligned with *Project Manager's* instruction No. 071).

**Option W2** The senior executives of the Contractor are [redacted] and [redacted].

**Data for the Shorter Schedule of Cost Components**

- The percentage for people overheads is [redacted]
- The published list of Equipment is the last edition of the list published by BCIS Schedule of Basic Plant Charges 2010 published by RICS
- The percentage for adjustment for Equipment in the published list is [redacted] (plus)
- The rates for other Equipment are

| Equipment                         | Size or capacity | Rates          |
|-----------------------------------|------------------|----------------|
| Saddle Jib Tower Crane            | 3 Tonne          | [redacted] /wk |
| Mammoth Passenger Goods Hoist     | High Speed       | [redacted] /wk |
| Twin Cage Passenger Goods Hoist   | Standard         | [redacted] /wk |
| Single Cage Passenger Goods Hoist | Standard         | [redacted] /wk |
| Telescopic handler                | 12 boom          | [redacted] /wk |

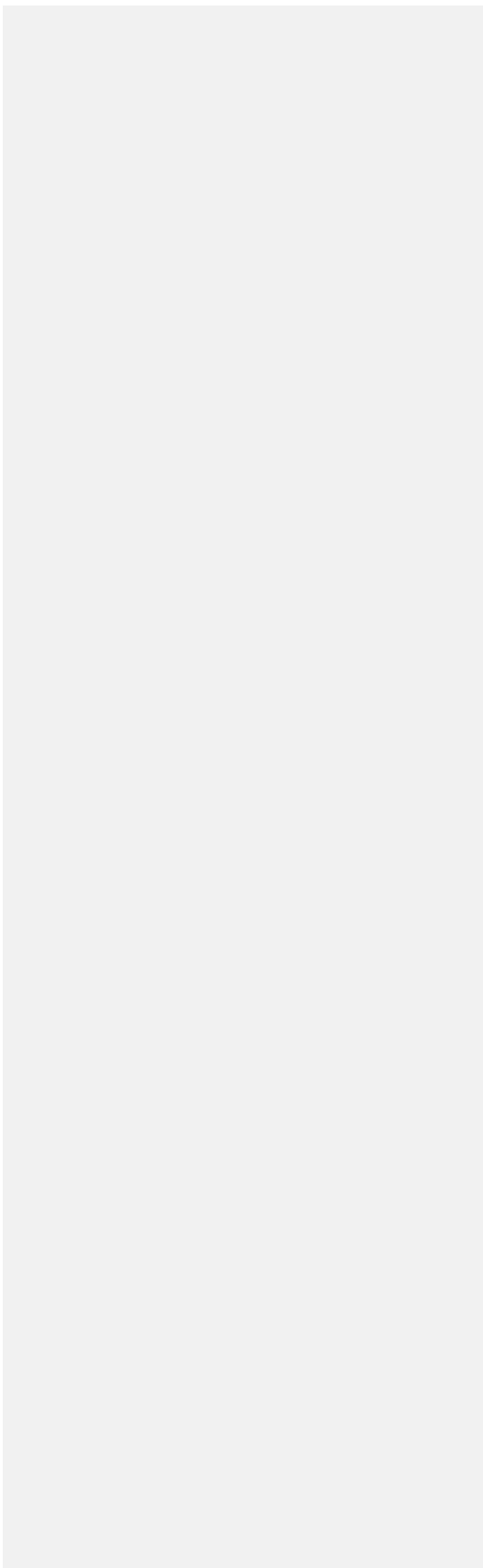
- The hourly rates for Defined Cost of design outside the Working Areas are

| category of employee   | hourly rate |
|------------------------|-------------|
| Director or Consultant | [redacted]  |
| Technical Director     | [redacted]  |
| Associate              | [redacted]  |
| Principal Engineer     | [redacted]  |

The percentage for design overheads is [redacted]

- The categories of design employees whose travelling expenses to and from the Working Areas are included in Defined Cost are

|                        |
|------------------------|
| Director or Consultant |
| Technical Director     |
| Associate              |
| Principal Engineer     |



| Ref | Description   | Criteria  | Condition to be met   | Interim Key Date   |
|-----|---|---|---|--|
| 1   | Ready to start on Site  | 1. Contractor to have in place relevant documentation approved for commencement of works on Site.   | 1. Method statement submitted and approved by the <i>Project Manager</i> for site establishment works.<br>2. Appropriate level of Supervision and operatives inducted.<br>3. Construction Phase Plan submitted and approved by the CDM Co-ordinator.<br>4. Security and AP&M plans submitted and approved by the <i>Project Manager</i> .<br>5. Quality and Environmental Plan submitted and approved by <i>Project Manager</i> .<br>6. Logistics plan submitted and approved by the <i>Project Manager</i> . | 20 <sup>th</sup><br>January<br>2014                                      |
| 2   | Stage E design report   | 1. Completion of the Stage E design report.   | 1. Submission of the Stage E Design Report for acceptance and Stakeholder review.   | 30 <sup>th</sup> March<br>2014   |
| 3   | Completion of perimeter truss, V columns strengthening and associated foundation strengthening                  | 1. The perimeter truss and V columns and sub-structures strengthening works structure installed and certified such that they can withstand the new roof design loads (dead and imposed).  | 1. Contractor inspection and test records and certification.<br>2. Signed off by the Supervisor.<br>3. Visual inspection by the <i>Project Manager</i> .  | 4 <sup>th</sup> 26 <sup>th</sup><br>September<br>2014                    |
| 4   | Not used  | Not used  | Not used  | Not used   |
| 5   | Completion of entire Field of Play Lighting Installation.   | 1. Field of Play lighting installed, tested and commissioned. Includes dead, live testing, <del>aiming and lux measurement</del> such that lighting is operational.<br>2. Excludes final commission <u>aiming and lux measurement</u> requiring field of play in place.   | 1. Contractor inspection and test records.<br>2. Signed off by the Supervisor.<br>3. Visual inspection by the <i>Project Manager</i> .  | 3 <sup>rd</sup> 11 <sup>th</sup><br>June 2015                            |
| 6   | Employer access to catering kitchens and catering concession spaces for Concessionaires Fit Out.                | 1. Concession area shell and core works completed with commissioned MEP services (capped off).<br>2. Access for fit out works by Others are available.<br>2-3. <u>The access will be on a non-exclusive basis and will need to be integrated with other trades who will be working in the same area as a result of the earlier delays and acceleration.</u>   | 1. Contractor inspection and test records and certification.<br>2. Signed off by the Supervisor.<br>3. Access routes agreed and approved by the <i>Project Manager</i> .  | 4 <sup>th</sup> June<br>4 <sup>th</sup><br>July 2015<br>1st<br>June 2015 |
| 7   | Employer access to remaining areas for Concessionaire Tenant Space Fit Out.                                     | 1. Concession area shell and core works completed with commissioned MEP services (capped off).<br>2. Access for fit out works by Others are available.<br>2-3. <u>The access will be on a non-exclusive basis and will need to be integrated with other trades who will be working in the same area as a result of the earlier delays and acceleration.</u>   | 1. Contractor inspection and test records and certification.<br>2. Signed off by the Supervisor.<br>3. Access routes agreed and approved by the <i>Project Manager</i> .  | 18 <sup>th</sup><br>January<br>2016                                      |
| 8   | Employer access for the West Stand Hospitality Works [include definition/description] to be provided by others. | 1. Provision of access and egress to the West Stand together with sufficient <u>agreed</u> working and storage areas to allow the Employer's fit out contractor to carry out their works.<br>2. The Contractor to have <u>substantially</u> completed <u>and commissioned</u> their scope as defined by PMI's 071 & 127 by the Key Date.<br>2-3. <u>The access will be on a non-exclusive basis and will need to be integrated with other trades who will be working in the same area as a result of the earlier delays and acceleration.</u> | 1. Contractor inspection and test records.<br>2. Signed off by the Supervisor.<br>3. Visual inspection by the <i>Project Manager</i> .  | No later<br>than the<br>22 <sup>nd</sup> May<br>2015                     |

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|    |   |  |   |  |
|----|---|--|---|--|
| 9  | Employer access for the Alto Seating North and South Stands and Podium. | <p><del>4. Provision of access and egress via the South-East and North-West Tunnels together with sufficient <u>agreed</u> working and storage areas to allow Alto Seating to carry out their Lower Tier Seating installation activities, <u>unhindered</u>. For the avoidance of doubt all crane mat installations to the above areas will be removed prior to the Key Date</del></p> <p>1. Provision of access and egress to the Podium levels together with sufficient <u>agreed</u> working and storage areas to allow Alto Seating to carry out their Podium level balustrade installation activities, <u>unhindered</u></p> <p>2. <u>The access will be on a non-exclusive basis and will need to be integrated with other trades who will be working in the same area as a result of the earlier delays and acceleration.</u></p> | <p>1. Contractor inspection and test records.</p> <p>2. Signed off by the Supervisor.</p> <p>3. Visual inspection by the Project Manager.</p> | 31 <sup>st</sup> March 2015                  |
| 10 | Employer access for the Alto Seating East Stand.                        | <p>1. <del>1</del></p> <p><del>4. Provision of access and egress via the South-East Tunnel together with sufficient <u>agreed</u> working and storage areas to allow Alto Seating to carry out their Lower Tier Seating installation activities, <u>unhindered</u>. For the avoidance of doubt all roof kentledge and crane mat installations to the above areas will be removed prior to the Key Date</del></p> <p>2. <u>The seating works will have to cease for a period to allow removal of kentledge and for detentionong etc. The access will be on a non-exclusive basis and will need to be integrated with other trades who will be working in the same area as a result of the earlier delays and acceleration.</u></p>  | <p>1. Contractor inspection and test records.</p> <p>2. Signed off by the Supervisor.</p> <p>Visual inspection by the Project Manager.</p>    | <del>30<sup>th</sup> April</del><br>May 2015 |
| 11 | Employer access for the Alto Seating West Stand.                        | <p>1. <del>1</del></p> <p><del>4. Provision of access and egress via the South-East Tunnel together with sufficient <u>agreed</u> working and storage areas to allow Alto Seating to carry out their Lower Tier Seating installation activities, <u>unhindered</u>. For the avoidance of doubt all roof kentledge and crane mat installations to the above areas will be removed prior to the Key Date</del></p> <p>2. <u>The access will be on a non-exclusive basis and will need to be integrated with other trades who will be working in the same area as a result of the earlier delays and acceleration.</u></p>  | <p>1. Contractor inspection and test records.</p> <p>2. Signed off by the Supervisor.</p> <p>Visual inspection by the Project Manager.</p>    | 31 <sup>st</sup> May 2015                    |
| 12 | Diamond League Athletics Event  | All BB activities that are needed within the scope of works for Diamond League Athletics Event substantially complete on 22 July 2015  | 1. Contractor demonstrates the Diamond league could take place on or before 22 July 2015  | 22 July 2015                                 |

Alto Seating, the Hospitality Fit-out contractor and others employed directly by the Employer will not be given unhindered access. Their works will be undertaken in agreed areas and in a co-ordinated sequence to allow other works to be undertaken concurrently. The Contractor will review all method statements and risk assessments, which must be agreed prior to any works being commenced on site.

COMMERCIAL – PROJECT

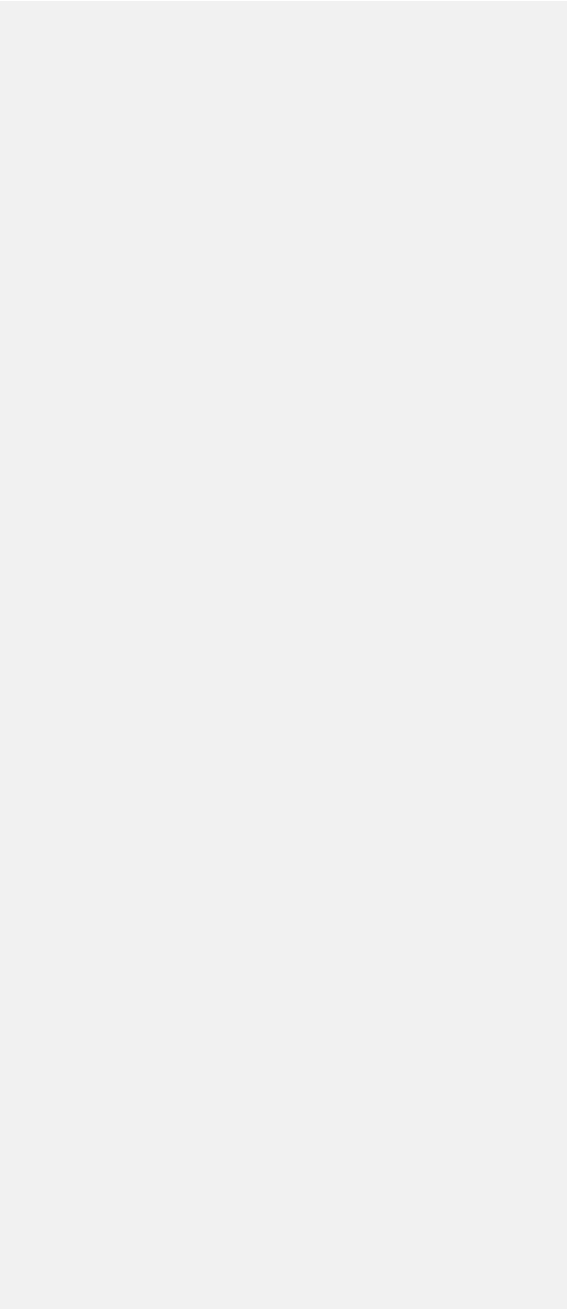
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For avoidance of doubt if any of these the target dates are is not met then no incentivisation payment will be payable to the Contractor. The Target Dates are moved if a Compensation Event is agreed [Note: Option X20 will need to be amended to reflect these changes]

| KPI Ref | Description   | Criteria (conditions to be completed by the target date)   | Evidence to be submitted to the Employer for completion   | Target Date  | KPI allowance (£) |
|---------|---|--|---|--|-------------------|
| 1       | Access for East Side Lower Seating Tier installations.                            | <p>1. All <del>enabling and</del> sub-structure works for the Lower Seating Tier installations is in place.</p> <p><del>4. Access is made available as per Key target date Date 040 to allow the Lower Seating Tiers to be constructed in one continuous operation commenced.</del></p> <p><del>2. The seating works will have to cease for a period to allow removal of kentledge and for detensioning etc.</del></p> <p><del>3. The access will be on a non-exclusive basis and will need to be integrated with other trades who will be working in the same area as a result of the earlier delays and acceleration.</del></p>  | <p>1. Contractor inspection and test records.</p> <p>2. Signed off by the Supervisor.</p> <p>3. Visual inspection by the Project Manager.</p>   | <p><del>30<sup>th</sup> April 18<sup>th</sup> May 2015</del></p> | <p>██████████</p> |
| 2       | Access for West Side Lower Seating Tier installations.                            | <p><del>2-1. All enabling and</del> sub-structure works for the Lower Seating Tier installations is in place.</p> <p><del>3. Access is made available as per Key target date Date 044 to allow the Lower Seating Tiers to be constructed in one continuous operation commenced.</del></p> <p><del>3. The access will be on a non-exclusive basis and will need to be integrated with other trades who will be working in the same area as a result of the earlier delays and acceleration.</del></p> <p><del>2.</del></p>  | <p>1. Contractor inspection and test records.</p> <p>2. Signed off by the Supervisor.</p> <p>3. Visual inspection by the Project Manager.</p>   | <p>31<sup>st</sup> May 2015</p>                                  | <p>██████████</p> |
| 3       | Completion of works within the Bowl and Field of Play in preparation for Event 3. | <p>1. Field of Play infield surface in place, natural and synthetic grass sown.</p> <p>2. Associated Field of Play lighting activities are ready to be tested.</p> <p>3. All activities in relation to the Building Engineering Services is commissioned and completed to specific requirements.</p> <p>4. Access made available to allow <del>100%</del> of the lower bowl retractable and/or relocatable seating to be <del>commenced</del> <del>constructed in one continuous section.</del></p> <p><del>5. Access made available to allow construction of the mid tier demountable seating.</del></p> <p><del>6-6.</del></p> <p>Access for the Employer to host Test Event 2 on the 15<sup>th</sup> August 2015. <u>[Precise details to be agreed]</u></p> <p><del>The purpose of the test event is to demonstrate operational safety arrangements in place at the stadium at the time of the event. When issuing a General Safety Certificate Local Authorities generally require the applicant (Operator) to demonstrate their safety arrangements before allowing a full capacity use of the venue.</del></p> <p><del>It essentially is a test of the Operators venue operation and safety plan</del></p> | <p>1. Contractor inspection and test records of the lighting system.</p> <p>2. Signed off by the Supervisor.</p> <p>3. Visual inspection by the Project Manager.</p> <p>4. <del>A 3 month testing and commissioning programme for the Field of Play lighting accepted by the Project Manager.</del></p> | <p>28<sup>th</sup> August 2015</p>                               | <p>██████████</p> |

|         |                             |  |   |                                  |                   |
|---------|-----------------------------|--|---|----------------------------------|-------------------|
|         |                             | <p><u>The nature and type of event will need to suit ongoing construction activities at the time of the event. For example the event could be the final length of the a Fun Run - an event for West Ham Fans (open day) stage entertainment or others. If the infield is not constructed or suitable to use at the time then the event needs to adapt to that.</u></p> <p><u>Attendance requirements are between 10,000 and 15,000.</u></p> <p><u>Fully integrated and commissioned life safety systems are preferable however if there is doubt about this being in place in time for the test event then alternative stewarding or overlay options need to be considered and put in place by the Venue team.</u></p> <p><u>The event does not require operational catering facilities or hospitality areas. The key operational rooms such as control rooms will need to be in place.</u></p> <p><u>Operational timetables are preferable however if there are issues with the timetable then alternative contingency arrangements can be put in place.</u></p> <p>6. <u>Readiness</u></p> <p>7. <u>Access</u> for RWC Dress Rehearsal event on the 29<sup>th</sup> August 2015.</p> |   |                                  |                   |
| KPI Ref | Description                 | Criteria (conditions to be completed by the target date)   | Evidence to be submitted to the Employer for completion   | Target Date                      | KPI allowance (£) |
| 4       | Building Completion.        | <p>The Stadium is constructed to a standard such that;</p> <ol style="list-style-type: none"> <li>All activities are complete for the works.</li> <li>Building Control Handover <del>certificate</del> approval is attained.</li> <li><del>Project Manager Completion Certificate is issued.</del> Contractor has applied for completion certificate.</li> </ol>   | <ol style="list-style-type: none"> <li>Contractor inspection and test records.</li> <li>Signed off by the Supervisor.</li> <li>Visual inspection by the Project Manager.</li> </ol>   | 27 <sup>th</sup> May 2016        | █                 |
| 5       | <u>Diamond League Event</u> | <u>All BB activities that are needed within the scope of works for Diamond League Athletics Event substantially complete on 22 July 2015</u>   | <u>Contractor and Project Manager acting reasonably agree that the Contractor has completed all necessary works within its scope to allow the Diamond League event to take place.</u> | <u>22<sup>nd</sup> July 2015</u> | █                 |

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***[To be inserted]***

**Appendix 2 to Supplementary Agreement**  
**Amendments to pages 25 to 27 of the Project Information of the Tier 1 Contract**

- **Roof/Steelwork Works**

The *Contractor* adopts the novated Roof/Steelwork Works Package Contractor and as part of the scope of *works* the *Contractor*.

- removes and disposes off Site terrace lighting, sports lighting, PAVA, and makes safe all cabling back to distribution pods to allow *works* to proceed;
- removes and disposes off Site distribution boards and section boards that currently serve the lighting paddles;
- removes and disposes off Site roof overlay services that remain;
- retains existing piles and pile caps beneath the front part of the lower tier and does not position a crane or any plant over existing piles or pile caps unless absolutely necessary;
- designs, supplies and installs suitable protection for protect piles and pile caps if necessary;
- provides access facilities for the Building Engineering Services Work Package Contractor to undertake the Building Engineering Services works;
- provides the following temporary protective works:
  - weather protective works to any areas that could be vulnerable to the ingress of water when the roof covering is removed;
  - temporary rain water drainage system to stop flooding from the upper tier;
  - temporary weatherproof protection to distribution boards within the back of bowl pods;
- deconstructs the existing stadium cable net roof, fabric roof covering, lighting structures, 14 gantries, circumferential gantries, winch platforms, access platforms, existing Games overlay ceremony platforms and ladders, back of bowl steelwork and drainage including their disposal off site for recycling or temporary storage for re-use and careful dismantling of PAVA, speakers and lighting;
- undertakes all necessary strengthening works and defects rectification works to both the members and connections of the existing perimeter compression truss to suit the new roof structure including but not limited to:
  - stiffener plates welded to main gussets;
  - stiffening to the main support booms;
  - replacing splice plates with thicker plates;
  - replacing bolts.
- supplies, fabricates, delivers and erects:
  - replace 4844 existing V columns and strengthen 4 in the hospitality area;
  - V columns base plate works;
  - ~~strengthening works to the existing tubular perimeter truss (white steel) to support the roof structure;~~
  - ~~additional strengthening if required to the perimeter truss and V columns;~~

- supplies, fabricates, delivers and erect and lifts into position:
  - gravity stressed cable net system;
  - cable net nodes, end terminations and connections;
  - cable net tie-down cables and anchors;
  - primary roof system including bracing, stiffening plates, struts and purlins;
  - primary steel connections and steel fittings to the roof;
  - metal coverings;
  - flashings;
  - translucent roof coverings;
  - field of play lighting structures including all necessary access gantries, platforms and ladders;
  - secondary steelwork;
  - new radial and circumferential access gantries;
  - access ladders to the gantry platforms;
  - man-safe systems including walkways and handrails;
  - additional bonding points for lightning conductors;
  - surface treatments;
  - acoustic absorption to the metal roof with no anti drumming requirements;
  - galvanising.
- cleans and paints finishes on site prior to handover;
- paints all white steel to the V columns;
- supplies, fabricates, delivers and installs individual primary roof modular units suitable for ease of transportation including: steelwork, purlins, steel connections, fittings, roof covering, gutter, gantry and any associated containment, brackets for electrical systems, support steelwork and fittings;
- constructs a roof prototype at a location off-Site (for later incorporation into the *works*).

#### **Defined Provisional Allowance**

~~The strengthening to the perimeter truss girders can be defined however the design requires further development from the Employer Pre-contract Design for the Contractor to define the full magnitude of the required strengthening. Strengthening works include:~~

- ~~stiffener plates welded to the main gusset;~~
- ~~stiffening to the main support boom;~~
- ~~replacing splice plates with thicker plates;~~
- ~~replacing the bolts.~~

~~The Contractor provides the supply and delivery of the material for the above strengthening works as part of its fixed price for the works.~~

~~The installation of the strengthening works shall be a £500,000 Provisional~~

~~Allowance for labour and plant.~~

~~The provisional allowance does not include temporary works or the labour required to build the temporary works.~~

In addition, the *Contractor* provides:

- foundations to temporary anchoring cables;
- foundations to the V columns (white steel);
- cable tie-down bolts;
- modifications and extensions to all the existing back of bowl steel enclosures, access stairs and ladders;
- fire protection to the existing raker steel, columns and beam (black steel) in the west stand;
- fire protection and corrosion paint to the existing raker steel, columns and beams (black steel) in the West Stand;
- an increase in the size of the existing back of bowl plant enclosures at the rear of the terraced seating to enable them to be enlarged to suit the requirements of the anti-flicker lighting control equipment;
- modifications to the existing ladders and enclosures to be integrated with the roof hatches;
- all rainwater pipes to the roof;
- barriers to black steel for head protection;
- temporary drainage run-off during the roof construction;
- removal of crash rails to V Columns and replaces with new.

- **West Stand Works**

The *Contractor* modifies the existing structures as required and:

- caps off any services prior to removal works;
- protects existing and retained elements of the West Stand;
- removes, protects and stores on site sanitary ware;
- removes balustrade and disposes off site external stair to construct new bridge connections;
- removes and disposes off site glazing and mesh external walls;
- removes and disposes off site internal walls at Level 01 including existing blast resilient walls;
- removes and disposes off site internal walls at Level 00;
- removes and disposes off site the existing lift and lift shaft between gridline W24 to W25;
- removes and disposes off site existing glass entry screen and doors at level 00;

**Appendix 3 to Supplementary Agreement  
Amended Clause 36 of the Tier 1 Contract**

## ~~"Acceleration 36"~~

- ~~36.1~~—The *Project Manager* may instruct the *Contractor* to submit a quotation for an acceleration to achieve Completion before the Completion Date and/or to meet the Condition stated for a Key Date before the Key Date. The *Project Manager* states changes to the Key Dates and Completion Date to be included in the quotation. A quotation for an acceleration comprises proposed changes to the Prices (unless the acceleration is required to recover delay beyond the Completion Date not resulting from a compensation event, in which event the Prices are not adjusted) and a revised programme showing the earlier Completion Date and the changed Key Dates. The *Contractor* submits details of his assessment with each quotation.
- ~~36.2~~—The *Contractor* submits a quotation within the period for reply.
- ~~36.3~~—When the *Project Manager* accepts a quotation for acceleration, he changes the Prices, the Completion Date and the Key Dates accordingly and accepts the revised programme.
- ~~36.4~~—If the *Project Manager* does not accept the *Contractor's* quotation:
- ~~•~~—the *Project Manager* notifies the *Contractor* that he withdraws the request for acceleration; or
  - ~~•~~—the *Project Manager* notifies the *Contractor* of his grounds for refusing acceptance of the quotation and any other comments on the quotation, and may require the *Contractor* to justify any part of the quotation; and
  - ~~•~~—the *Contractor* resubmits any such quotation within ten (10) days of his receipt of the *Project Manager's* notification.
- ~~36.5~~—If the *Project Manager* does not accept the *Contractor's* resubmitted quotation for any reason including:
- ~~•~~—if the *Contractor* has not submitted the resubmitted quotation and details of his assessment within the time allowed;
  - ~~•~~—if the *Project Manager* decides that the *Contractor* has not assessed the changes to the Prices or revisions to the programme correctly in the resubmitted quotation; or
  - ~~•~~—if, when the *Contractor* submits the resubmitted quotation, the *Project Manager* has not accepted the *Contractor's* latest programme,
- ~~—~~the *Project Manager* notifies the *Contractor* within the period for reply from receipt of the *Contractor's* resubmitted quotation (or the date on which such quotation should have been submitted, where the *Contractor* has not done so) that the quotation is not accepted. The *Project Manager* then assesses the changes to the Prices (unless the acceleration is required to recover delay beyond the Completion Date not resulting from a compensation event, in which event the Prices are not adjusted) and programme (including Key Dates) himself and notifies the *Contractor* of his assessment within three weeks of the date of his notification that the *Contractor's* quotation is not accepted.
- ~~36.6~~—Unless the *Project Manager* instructs otherwise in writing, the *Contractor* accelerates the Provision of the Works upon receipt of a notification of non-acceptance from the *Project Manager* under Clause 36.5 so as to achieve Completion on the date requested. The *Project Manager's* assessment of the changes to the Prices (if any) and programme (including Key Dates) under Clause 36.5 shall have effect unless within twelve weeks of receipt of the *Project Manager's* assessments the *Contractor* refers a dispute for resolution in accordance with this Contract. If the *Contractor* refers such a dispute, the changes to the Prices (unless the acceleration is required to recover delay beyond the Completion Date not resulting from a compensation event, in which event the Prices are not adjusted) and programme (including Key Dates) arising from the requested acceleration shall be as determined

~~pursuant to the dispute resolution provisions of this Contract. The principles in Clause 63 shall be applied to assess the changes to the Prices (if any).~~

- ~~36.7 — If, due to any reason other than a compensation event stated in this contract, the Contractor's actual progress in the Provision of the Works is too slow to achieve Completion by the Completion Date or to meet the Condition for a Key date by the Key Date (as, in either case, assessed by the Project Manager, including by reference to the Accepted Programme), the Project Manager may instruct the Contractor to submit a revised programme and a supporting report describing the revised methods which the Contractor proposes to adopt in order to expedite progress so as to achieve Completion by the Completion Date or meet that Condition by that Key Date. The Contractor submits a quotation or revised programme and supporting report within the period for reply. If the Project Manager does not notify the Contractor otherwise within the period for reply, the Contractor adopts the revised methods at the Contractor's cost.~~
- ~~36.8 — If the Project Manager within the period for reply notifies any comments on the revised methods, the Contractor revises the programme and report to take into account those comments and resubmits them to the Project Manager within the period for reply. If the Project Manager does not notify the Contractor otherwise within the period for reply, the Contractor adopts the revised methods at the Contractor's cost. If the Project Manager does not consider that the revised methods set out in the resubmitted revised programme and report will enable the Contractor to achieve Completion by the Completion Date or to meet the Condition by the Key Date, the Project Manager within the period for reply notifies the Contractor of this.~~
- ~~36.9 — If the Contractor fails to submit or resubmit the revised programme and report within the relevant period for reply or the Project Manager within the period for reply notifies the Contractor that he does not consider that the revised methods set out in the resubmitted revised programme and report will enable the Contractor to achieve Completion by the Completion Date or to meet the Condition by the Key Date, the Project Manager may instruct the Contractor to take, at the Contractor's cost, such measures as the Project Manager considers reasonable to enable the Contractor to achieve Completion by the Completion Date and to meet the Condition by the Key Date."~~



**Appendix 4 to Supplementary Agreement  
Diamond League Protocol**

## **Diamond League Protocol**

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This document is the Diamond League Protocol ('the Protocol') as referred to in the Olympic Stadium Transformation Works Supplementary Agreement to the Tier 1 Contract between E20 Stadium LLP ('the Employer') and Balfour Beatty Group Limited ('the Contractor') (together, 'the Parties').

The Protocol describes working arrangements that will form part of the Parties' joint commitment to work together collaboratively in order to complete the Olympic Stadium to a sufficient state of readiness in order to stage the IAAF Diamond League event which takes place on 24 & 25 July 2015.

### **Target Programme**

Attached to this Protocol is a programme ('the Target Programme') of the key activities required to achieve the Diamond League event. The Target Programme details the key critical activities in sufficient detail for it to be used as a practical monitoring tool by the Parties and will be the basis of the Go / No-Go decision described later. The Target Programme is a subset of the Baseline Programme as identified in the Supplementary Agreement and details the key activities and milestones that must be met and the available float. The Target Programme will be regularly updated to indicate progress to meet the requirements of the Parties' working arrangements and to facilitate efficient and cost effective decision making.

The Contractor agrees to use all reasonable endeavours to achieve the Target Programme.

### **Review Meetings**

Regular review meetings will take place commencing Tuesday ~~4 November~~ 16 December 2015 and then fortnightly with senior representatives of both Parties and the Project Manager present (or if necessary available by phone) to monitor progress against the Target Programme. In the event that progress is not in accordance with expectations the Parties will discuss additional steps and mitigation that can be carried out to recover any time lost.

The initial senior representatives attending the fortnightly meeting will be:-

#### The Employer

- Colin Naish

#### Mace (Project Manager)

- [REDACTED]
- [REDACTED]

#### The Contractor

- [REDACTED]
- [REDACTED]
- [REDACTED]

The Parties may replace their senior representatives with others of similar standing and other individuals may be invited to attend by either Party if deemed appropriate to the discussions.

The review meetings will be minuted and signed as a true record by the senior representatives. Any actions deemed necessary will not, unless formally recorded and agreed, result in a Compensation Event under Clause 6 of the Tier 1 Contract.

### **Go / No-Go**

A Go / No-Go decision in respect of the Diamond League event will be made at a gateway review on **27<sup>th</sup> January 2015** or such other date as may be agreed between the Parties.

The Go / No-Go decision will take into account the progress of the works as compared to the Target Programme as at the date of the gateway review.

The Parties agree that should the progress of the works be in accordance with the Target Programme at the date of the gateway review, that result in a Go decision.

Should the progress of the works be such that the Diamond League event is at risk without taking additional measures then the practicality and potential cost of those measures will be discussed and the outcome recorded. The gateway review will also consider the potential effect of the proposed measures on subsequent key dates, specifically the Rugby World Cup event in September 2015 and overall completion for West Ham United Football Club to occupy the stadium commencing in May 2016.

The Parties may also agree, where practicable, that a Go decision can be taken on the basis that the completion of certain activities and / or stadium facilities may be delayed beyond the Diamond League event if they are considered to be either not required for successful event licensing or can be dealt with as temporary overlay or by deploying additional event day management. Any such decision in this respect will not affect the achievement of the subsequent key dates as noted above.

In the event of any such measures described above are agreed as necessary and acceptable and constitute a Compensation Event under Clause 6 of the Tier 1 Contract, the Contractor will submit a quotation. If this quotation is accepted, then this will result in a Go decision and (save for any unforeseen compensation events arising on or after the date of submission of such quotation) there will be no further entitlement to any extension of time or additional payment in respect of the measures expressly included in the quotation for achieving the Diamond League event, the Rugby World Cup and the final completion date. there will be no further entitlement to any extension of time or additional payment for achieving the Diamond League event, the Rugby World Cup event and the final completion date by reason of the measures which led to the submission of the quotation. The review meetings will continue but will be for the sole purpose of monitoring progress only.

If, following discussion with the Contractor, the Employer decides that the progress of the works is such that the Diamond League event cannot be staged or if the Employer does not accept the quotation detailed above then this will represent a No-Go decision and this Protocol and the working arrangements under it will be immediately terminated.

### **Collaboration**

The Parties will act in a spirit of mutual cooperation and collaboration in working to this Diamond League protocol.

**Appendix 5 to Supplementary Agreement**  
**List of Notices of Compensation Events, Project Manager's Instructions and**  
**Early Warning Notices which are not included in the full and final settlement**

The following notices of compensation events, Project Manager's instructions and early warning notices are not included in the full and final settlement of all claims and courses of action referred to in clause 6.1 of the Supplementary Agreement:

- (i) *Project Manager's* instruction nos. 111, 122, 124, 128, 129 and 131;
- (ii) *Project Manager's* instruction nos. 137 onwards;
- (iii) notice of compensation event no.62;
- (iv) notice of compensation event nos. 64 onwards; and
- (v) the early warning notices associated with the *Project Manager's* instructions and notices of compensation events referred to above.

**From:** [REDACTED] (BBplc)  
**To:** [Colin Naish](#)  
**Subject:** OST - Supplementary Agreement  
**Date:** 16 December 2014 08:36:24  
**Attachments:** [Appendix 1 to the draft Supp Agrmt - Replacement Contract Data BB review.docx](#)  
[Appendix 2 to draft Supp Agrmt - changes to pages 25-27 BB review.docx](#)  
[Appendix 3 to draft Supp Agrmt - amended clause 36 \(HSF 8-1 BB review.docx](#)  
[Appendix 4 to draft Supp Agrmt - OST Diamond League Protocol BB review.docx](#)  
[Appendix 5 to draft Supplementary Agreement - List of excluded notices o....docx](#)  
[LLDC Supplemental Agreement to Tier 1 contract \(3\) \(HSF 8-12-14\) BB review.docx](#)

---

Colin,

Without Prejudice

Please find attached the Supplementary Agreement with our comments.  
Most of the document is OK, however we have made some changes such that it is in line with the Heads of Terms, that may be due to an earlier draft of the Agreement.

Hopefully we can be in apposition to sign the Supplementary Agreement this week.

Kind regards

[REDACTED]  
[REDACTED] - Infrastructure | Major Projects | Balfour Beatty Construction  
Services UK  
t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
[balfourbeattycsuk.com](http://balfourbeattycsuk.com) | follow us [@bbcsuk](#)  
130 Wilton Road, London, SW1V 1LQ

**Balfour Beatty**

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**From:** [David Goldstone](#)  
**To:** [REDACTED]  
**Subject:** RE: OST and payment for acceleration measures  
**Date:** 11 December 2014 18:06:41

---

Thanks [REDACTED]

I understand the concern.

I can of course reassure you that we have the funds lined up ready for release prior to year end, anticipating that, as we have an agreed HoT position, signing the Supplemental Agreement should not be problematic and is achievable before Christmas.

The Heads of Terms are of course 'Subject to Contract'. We are really keen that we should get to a signed Supplemental Agreement, with a programme that has all the necessary detail and cost loading to meet NEC Contract requirements. As soon as we can do that, we will release the funds

Is there any reason that you are aware of why the supplemental agreement should be delayed? If not, we should push on and get it signed.

David Goldstone  
Chief Executive

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ  
Direct: 020 3288 [REDACTED]

Email: [davidgoldstone@londonlegacy.co.uk](mailto:davidgoldstone@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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-----Original Message-----

From: [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
Sent: 11 December 2014 11:56  
To: David Goldstone  
Subject: OST and payment for acceleration measures

Dear David

I wonder if you can help.

I understand from [REDACTED] that there appears to be an issue on OST with releasing sums due and associated with acceleration measures implemented some months ago on the project. The sum involved is not insignificant (circa [REDACTED]) and has been factored into our year-end forecasts. We had understood that the payment would be released upon agreeing the Heads of Terms for the settlement agreed by the parties. I'm led to believe that the signing of the Supplemental Agreement is now seen as a condition precedent to the funds being released.

Whilst I anticipate no issues with signing the Supplemental Agreement, I am concerned at the time that might

elapse before the payment is subsequently released.

█ has been in touch with Colin and requested that, in light of the signed HoTs and the progress being made on the ground (and up in the air) at the stadium, the payment due can be expedited.

I would welcome your seeing what can be done in this matter.

Many thanks

█

Sent from my iPad

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[www.queenelizabetholympicpark.co.uk](http://www.queenelizabetholympicpark.co.uk)



**From:** [Colin Naish](#)  
**To:** [REDACTED] [\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
**Subject:** Re: Stadium - Supplementary Agreement and Appendices  
**Date:** 11 December 2014 08:38:48  
**Attachments:** [image001.png](#)  
**Sensitivity:** Confidential

---

[REDACTED]

I can only get the payment made once I have a signed amendment to the contract as this change goes beyond my delegated authority and our financial controls will not let me do otherwise. I have worked with finance to make sure we have the funds available to make payment should we have the Supplemental Agreement (and accepted programme) in place prior to Christmas.

Colin Naish  
Executive Director of Stadium  
Queen Elizabeth Olympic Park

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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---

**From:** [REDACTED] (BBplc) [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** Wednesday, December 10, 2014 06:51 PM  
**To:** Colin Naish  
**Subject:** RE: Stadium - Supplementary Agreement and Appendices

Colin  
Yes I confirm they were attached to your e-mail, thanks.

Notwithstanding getting these reviewed, approved and signed I do think it would be good if that payment can be made, as they are costs we incurred several months ago.

We will process these as expeditiously as possible, as you know we are very much getting on with the job and that payment is significant to BB Group.

Kind regards  
[REDACTED]

---

**From:** Colin Naish [<mailto:ColinNaish@londonlegacy.co.uk>]  
**Sent:** 10 December 2014 17:56

**To:** [REDACTED] (BBplc)  
**Subject:** Stadium - Supplementary Agreement and Appendices  
**Sensitivity:** Confidential

[REDACTED]

**Without Prejudice and Subject to Contract**

I attach the Supplementary Agreement and Appendices for your review and acceptance. Can you please confirm receipt.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)



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**From:** [David Goldstone](#)  
**To:** [REDACTED]  
**Cc:** [REDACTED] [Colin Naish](#); [REDACTED]  
**Subject:** RE: OST Heads of Terms agreement  
**Date:** 04 December 2014 08:17:43

---

Thanks [REDACTED]

I agree it would be sensible to review progress in the new year , thats a helpful suggestion. I'll ask my PA to be in touch to fix a time

All the best  
David

**David Goldstone**  
**Chief Executive**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ  
Direct: 020 3288 [REDACTED]

Email: [davidgoldstone@londonlegacy.co.uk](mailto:davidgoldstone@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)



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**From:** [REDACTED] [mailto:[REDACTED]@balfourbeatty.com]  
**Sent:** 03 December 2014 15:45  
**To:** David Goldstone  
**Cc:** [REDACTED]  
**Subject:** OST Heads of Terms agreement

**EMAIL SENT ON BEHALF OF [REDACTED]**

David

Further to my note below, I am pleased to attach a signed Heads of Terms agreement.

With reference to the test events, I understand that further clarification of their nature has been provided by [REDACTED] and that this can be accommodated on this basis. His note of 25 Nov (5pm) refers.

Incidentally, I thought the BBC coverage from last Friday showed the contract in a good light.

We might want to hold a review in the New Year to take stock of progress and plans for 2015. Let me know if you think this would be helpful.

Thanks

[REDACTED]

[REDACTED]  
[REDACTED]

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130 Wilton Road, London, SW1V 1LQ

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---

**From:** [REDACTED]

**Sent:** Tuesday, November 25, 2014 11:51 AM

**To:** David Goldstone <[DavidGoldstone@londonlegacy.co.uk](mailto:DavidGoldstone@londonlegacy.co.uk)>

**Cc:** [REDACTED] Colin Naish <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)>; [REDACTED]

**Subject:** Re: OST agreement

David

Further to my note on Friday, I am now pleased to confirm our agreement to the Heads of Terms attached with your note below.

Regarding the test events, I understand that one or two of the dates are proving problematic. These are being reviewed ahead of a follow up discussion with Colin (Naish) and his team to agree the best way forward.

I loom forward to receiving the copies of the HoT for signature.

Thanks

[REDACTED]

Sent from my iPad

On 20 Nov 2014, at 17:13, "David Goldstone" <[DavidGoldstone@londonlegacy.co.uk](mailto:DavidGoldstone@londonlegacy.co.uk)> wrote:

Dear [REDACTED]

Without Prejudice and Subject to Contract

Please find attached the Heads of Terms relating to the agreed amendments to our Tier 1 contract, as finalised between [REDACTED] and Colin Naish earlier this week.

Whilst the Section 2 completion date is agreed as 7<sup>th</sup> September 2015 (and your team are targeting a 1<sup>st</sup> September 2015 date), a programme of test events needs to be held

in order for the Stadium to be licensable for the summer events. These are set out below, for a RWC only and for a Diamond League and RWC scenarios. They will need to be built in to the Accepted Programme, to be appended to the Supplemental Agreement, as the Base Programme.

UKA Diamond League/2015 RWC:

Newham Run on the 19th July 2015 (Test event) – assuming this goes to plan, the safety certificate is issued.

24th, 25th, 26th July 2015 – Stadium in athletics mode and 3 days of athletics as per the 2013 Anniversary Games. Assume 3 days of circa 50,000 spectators per session.

Move the seats forward to pitch sport mode by the 19th August 2015.

29th August 2015 RWC Test Event, circa 40-50,000 spectators.

5 x RWC matches, first game 23 September 2015.

2015 RWC only:

Test event (no later than 15th August 2015 if match on the 29th), could go up to 30,000.

29th August 2015 RWC Test Event – currently envisaged up to 40,000 spectators.

5 x RWC matches, first game 23 September 2015.

On confirmation of your acceptance of these Heads of terms, I will arrange for copies to be circulated for signature and the team can then move on to agreeing the detail of the Supplemental Agreement.

**David Goldstone**  
**Chief Executive**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ  
Direct: 020 3288 [REDACTED]

Email: [davidgoldstone@londonlegacy.co.uk](mailto:davidgoldstone@londonlegacy.co.uk)

Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]

**Sent:** 11 November 2014 05:08

**To:** David Goldstone

**Cc:** ██████████ Colin Naish; ██████████  
**Subject:** Re: OST agreement

Without Prejudice

David

Thanks for your note.

██████████ and ██████████ are continuing to work through the underpinning detail of the agreement and are due to meet again on Wednesday to progress matters further.

It is common ground between us that the ██████████ is a fixed price adjustment to the contract sum.

On point 1 specifically, however, I regret that we have a very different view on the incentive arrangements.

I have spoken to ██████████ about his discussions with the Mayor, and indeed his discussion with yourself at the end of the meeting, and he is crystal clear that the deal excluded any consideration of incentives payments per se. Indeed, there was no mention during the meeting at all of the KPI incentives embodied within the contract.

Moreover, this is entirely consistent with the discussions we had been having with LDDC and MACE involving both ██████████ and myself. All the discussions have been about the quantum of the compensation for the additional loadings and related matters.

The only express mention of incentives was in the context of the mechanism that was a feature of our proposed open-book arrangement. It is also true that ██████████ tried to resurrect this concept as part of the final negotiation. However, LDDC made it clear that such an arrangement would not meet its needs and that only a lump sum adjustment to the existing contract would be acceptable so as to preserve the intent of the original contract.

You will be aware that the KPI incentive payments embedded within the original contract sit outside the lump sum and are intended to be paid as additional sums in the event of the specified dates being met.

At no time has it been suggested that the ██████████ is in any way conditional upon the achievement of the dates set out in the original contract especially as these dates are no longer applicable in the context of the delays and programme changes. A revised set of dates are being agreed that are consistent with the revised, accelerated programme.

Finally, ██████████ was at pains to play back the simplicity of the "deal" at the end of his meeting with the Mayor and tells me that you and he had a brief conversation as you were both leaving the Mayor's office in which ██████████ asked whether there was any other complexity that might lead to confusion and he was told "no".

I hope this clarifies matters.

Thanks

██████████

---

**From:** David Goldstone [<mailto:DavidGoldstone@londonlegacy.co.uk>]

**Sent:** Monday, November 03, 2014 09:16 AM

**To:** ██████████

**Cc:** ██████████ Colin Naish <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)>

**Subject:** RE: OST agreement

[Without prejudice and subject to contract](#)

██████████

Thank you for your email with your comments on the draft Heads of Terms.

Our view is that it is necessary for the matters that we have discussed, as outlined in the Heads of Terms, to be set out in detail in a Supplemental Agreement. This will make amendments to the Tier 1 Contract as well as recording the full and final settlement of claims. LLDC's lawyers have begun drafting the Supplemental Agreement.

In relation to the points you raise

1. It was very clear in the agreement that was reached between the Mayor and ██████████ that the agreed new fixed price of ██████████ was an absolute total, including all elements such as incentive and/or milestone payments. ██████████ suggested additional incentive payments but it was made clear at the time that they needed to be included within the new agreed total, not be additional to it. So I am absolutely clear that the ██████████ of incentive payments you refer to are included within the ██████████ total, not additional to it. It is also worth noting that the public communications we have made, which Balfour Beatty agreed, are clearly on this basis, and I am sure that, if asked ██████████ ██████████ would confirm that this is the basis on which he shook hands with the Mayor. It is certainly the Mayor's understanding.
2. The Heads of Terms capture in outline the matters to be included in the revised total of the Prices, as identified by Colin and ██████████ These will be set out more fully in the Supplemental Agreement.
3. I understand that ██████████ has sent a draft of the Diamond League Protocol to ██████████ and that the terms of the Protocol have been agreed.

We will also of course need a final agreed programme, to be incorporated into the Supplemental Agreement. Again I believe that our teams are progressing that

Thanks a lot, I hope we can now move to get the agreement finalised as quickly as possible

David

**David Goldstone**

**Chief Executive**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ  
Direct: 020 3288 [REDACTED]

Email: [davidgoldstone@londonlegacy.co.uk](mailto:davidgoldstone@londonlegacy.co.uk)  
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**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** 30 October 2014 18:30  
**To:** David Goldstone  
**Cc:** [REDACTED]  
**Subject:** OST agreement

David,

Thank you for your recent note and draft heads of terms. Apologies for the delay in responding.

I wasn't entirely sure how we wanted to capture the agreement between the parties. I think it's common ground between us that the changes will be formally administered as Compensation Events in order to preserve the workings of the existing Contract. I'm actually asking myself whether it is necessary to prepare a heads of terms document in the manner proposed?

Setting that point aside, I've reviewed the proposed document with my [REDACTED] [REDACTED] who was involved in the discussions with [REDACTED] of MACE on the detail of the terms agreed.

There are a few points that warrant further clarification.

1. The initial Contract sum of [REDACTED] expressly excludes the [REDACTED] of programme incentives built in to the existing contract. Our offer of 23 October, drafted in a meeting together with Colin Naish and [REDACTED] and which formed the basis of the negotiation which ultimately involved the Mayor, preserved this arrangement. We offered additional incentives which were not in the end required by yourselves. We should clarify, therefore, that the original performance incentives remain outside the [REDACTED] in the same way that they were outside the [REDACTED].



2. Our offer included a set list of change matters that were wrapped up in addition to the Compression Truss strengthening and associated acceleration works.

There is a prescribed list of these items, which were discussed at length between Colin Naish, [REDACTED] and my team at the time and were detailed in our settlement offer. [REDACTED] and [REDACTED] met to agree these items yesterday. They are meeting again on Tuesday to conclude this exercise.

3. The only matter for which the Total of the Prices could be reduced if the Diamond league event does not take place is the Hewlett sacrificial pitch cost. It is also likely that the majority of this cost will be spent in any other scenario. [REDACTED] and [REDACTED] are separately agreeing a Diamond League Protocol.

Otherwise, we have no additional comments.

Thanks



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<image002.jpg>

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**From:** [Colin Naish](#)  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Without Prejudice - Subject to Contract  
**Date:** 19 November 2014 14:57:57  
**Attachments:** [image001.png](#)  
[Olympic Stadium Transformation Works - Heads of Terms 19 11 2014 FINAL.PDF](#)

---

[REDACTED]

Amendments accepted and incorporated into the attached. I will now ask David Goldstone to issue to [REDACTED] direct. If you can make your recommendation to [REDACTED] in parallel with this, it should speed the signing up and we can move on to the detail of the Settlement Agreement.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
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Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
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**From:** [REDACTED] [mailto:[REDACTED]@balfourbeatty.com]  
**Sent:** 19 November 2014 09:31  
**To:** Colin Naish  
**Cc:** [REDACTED]  
**Subject:** Without Prejudice - Subject to Contract

Colin,

Thanks for the revised Heads of Terms, sorry I had to dash to a bid review.

I have just run past our in-house lawyer who has pointed out a couple of ambiguities/drafting points as follows;

1. In "Matters Included in the Revised Total of the Prices" "(v)" the sentence "PMI 127 will be fully aligned to PMI 071" needs to be moved up to be part of (v).
2. In "Full and Final Settlement" the current phraseology unintentionally may widen the

coverage. Hence replace on 3<sup>rd</sup> line “all Compensation Events and other circumstances” with “the Matters Included in the Revised Total of the Prices”

3. Appendix 1 (v) remove “not to be settled in accordance with” and replace with “other than those expressly included in”

With those amendments I will recommend to [REDACTED] that he signs the Heads of terms.

Regards,

[REDACTED]

[REDACTED]

| Major Projects | Balfour Beatty Construction Services UK

t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](http://balfourbeatty.com)

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130, Wilton Road, London SW1V 1LQ

**Balfour Beatty**

---

**From:** Colin Naish [<mailto:ColinNaish@londonlegacy.co.uk>]

**Sent:** 18 November 2014 17:17

**To:** [REDACTED]

**Cc:** [REDACTED]

**Subject:** RE: RE:

[REDACTED]

Final HoT attached as per the output of our meeting today. Can you please confirm you are happy with them, and then I will get David Goldstone to issue them to [REDACTED] for signature.

**Colin Naish**

**Executive Director of Stadium**

**Queen Elizabeth Olympic Park**

London Legacy Development Corporation

Level 10

1 Stratford Place, Montfichet Road

London

E20 1EJ

DDI: 020 3288 [REDACTED]

Mobile: [REDACTED]

Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)

Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)



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---

**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]

**Sent:** 17 November 2014 10:18

**To:** Colin Naish

**Cc:** [REDACTED]

**Subject:** Re: RE:

Colin,

I am not in London today, and I am in meetings most of tomorrow.

I could possibly do 12.30pm tomorrow for an hour in Wilton Road.

It would be helpful if you outlined any issues, or any proposed drafting points prior to the meeting.

[REDACTED] approved the draft I sent through on Friday, and he is on [REDACTED] this week. I could contact him tonight, prior to the meeting, if you have any particular points?

[REDACTED]

[REDACTED]

[REDACTED] | Major Projects | Balfour Beatty Construction Services UK

t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)

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On 17 Nov 2014, at 08:45, '[REDACTED] [REDACTED] <[REDACTED]@macegroup.com>' wrote:

I can make after 4.30 today or any time tomorrow except 12.30 to 14.30

Sent from my Windows Phone

---

**From:** Colin Naish

**Sent:** 14/11/2014 20:08

**To:** [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)'

**Cc:** [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)'; [REDACTED] [REDACTED] [REDACTED] [bbact12.co.uk](mailto:[REDACTED]@bbact12.co.uk)'

**Subject:** Re:

[REDACTED]

Thanks. Let's meet early next week to go through and finalise these heads. I can do from 3pm on Monday and anytime Tuesday.

Colin Naish

Executive Director of Stadium

Queen Elizabeth Olympic Park

London Legacy Development Corporation

Level 10

1 Stratford Place, Montfichet Road

London  
E20 1EJ  
??  
DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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---

**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]

**Sent:** Friday, November 14, 2014 01:40 PM

**To:** Colin Naish

**Cc:** [REDACTED] <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>; [REDACTED]  
<[\[REDACTED\]@bbact12.co.uk](mailto:[REDACTED]@bbact12.co.uk)>

**Subject:**

Colin,

Amended document with correct dates, revised figure and amendments to reflect Western Hospitality omission and KPI incentives inclusion.

[REDACTED]

[REDACTED]

[REDACTED] | Major Projects | Balfour Beatty Construction Services UK

t: [REDACTED] | m: [REDACTED] | e:

[REDACTED] [balfourbeatty.com](http://balfourbeatty.com)

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130, Wilton Road, London SW1V 1LQ

<image001.jpg>

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**SUBJECT TO CONTRACT**

**OLYMPIC STADIUM TRANSFORMATION WORKS  
HEADS OF TERMS RELATING TO AMENDMENTS TO THE TIER 1 CONTRACT DATED 24  
DECEMBER 2013**

|  |   |
|--|---|
| <b>Preamble</b>  | <p>The purpose of these Heads of Terms is to set out the material amendments to the Tier 1 Contract to be incorporated into a formal Supplemental Agreement to give effect to the Parties' intention to</p> <ul style="list-style-type: none"><li>(a) resolve all their differences arising up to 15 October 2014 with the exception of those items listed in Appendix 1; and</li><li>(b) provide the basis for the successful completion of the transformation works to meet the requirements of (i) the Diamond League (if practically possible) (ii) RWC 2015 and (iii) the taking over of the Olympic Stadium by West Ham United Football Club.</li></ul>   |
| <b>Parties</b>   | <ul style="list-style-type: none"><li>(1) E20 Stadium LLP ("<b>the Employer</b>");</li><li>(2) Balfour Beatty Group Limited ("<b>the Contractor</b>").</li></ul>  |
| <b>Heads of Terms to be Non-Binding</b>                    | <p>These heads of terms set out the Parties' understanding in relation to the matters herein set out, but are not intended to be binding or to have legal effect. The Parties agree to negotiate the specific terms necessary to give effect to their understanding to be incorporated into a binding Supplemental Agreement, and to seek to enter into such Supplemental Agreement on or before 30 November 2014.</p>  |
| <b>Defined Terms</b>                                       | <p>Save where the context otherwise requires, the definitions in the Tier 1 Contract are used in these Heads of Terms.</p>  |
| <b>Total of the Prices</b>                                 | <p>The Total of the Prices shall be revised to [REDACTED] ("<b>the Revised Total of the Prices</b>"). The Project Manager will circulate a revised draft Activity Schedule, providing a breakdown of this figure which will reflect the terms of the Base Programme referred to below.</p>  |
| <b>Matters Included in the Revised Total of the Prices</b> | <p>The Revised Total of the Prices is inclusive of, and takes full account of, all amounts due to the Contractor in relation to:</p> <ul style="list-style-type: none"><li>(i) the design and construction of the roof, including any works necessary to support and/or strengthen the roof, and related Early Warning Notices;</li><li>(ii) all Compensation Events and other circumstances arising up to 15 October 2014, whether the subject of a Notification of a Compensation Event and related Early Warning Notice, a Project Manager's Instruction and related Early Warning Notice, the table of omissions detailed in LLDC's letter dated 4 September 2014 or otherwise, with the exception of those matters in Appendix 1;</li><li>(iii) all programme mitigation and acceleration measures necessary to meet the Accepted Programme to be agreed as part of this agreement, with a revised date for Section 2 of 7 September 2015, and the events referred to in these Heads of Terms;</li></ul> |

**SUBJECT TO CONTRACT**

|  |   |
|--|---|
|  | <p>(iv) the design (but not the provision) of the Wayfinding works; and</p> <p>(v) the omission of the Western Hospitality fit-out works as described in PMI 071. PMI 127 will be fully aligned to PMI 071.</p>   |
| <b>Strengthening of Roof Perimeter Truss</b>   | The Defined Provisional Allowance in the Project Information in respect of the strengthening of the perimeter truss shall be deleted.   |
| <b>Base Programme</b>  | The Supplemental Agreement will identify the Accepted Programme Contract at the date of its execution (" <b>the Base Programme</b> "). Once Accepted, all future programmes submitted for Acceptance by the Contractor will include the same level of information and detail as the Base Programme.   |
| <b>Dates for Completion; Key Date Completion Schedule; Target Dates for Incentivisation Schedule</b> | The Dates for Completion of each section, the Key Dates and the Target Dates for the payment of KPI allowances in the Contract Data (including Schedules 1 and 2 thereto) will be amended.  |
| <b>KPI Allowances</b>  | <p>The dates relating to the KPI allowances in Schedule 2 to the Contract Data (which are not included in the Revised Total of the Prices) will be amended as follows:</p> <p>KPI 1 – 22 May 2015</p> <p>KPI 2 – 31 May 2015</p> <p>KPI 3 – 7 September 2015</p> <p>KPI 4 – 27 May 2016.</p>  |
| <b>Wayfinding Works</b>  | By no later than 28 November 2014, the Contractor will provide to the Project Manager for acceptance a detailed design and costs for providing the Wayfinding works. The Contractor agrees that, provided that the Project Manager issues an Instruction to provide the Wayfinding works by no later than 19 December 2014, the Contractor will not be entitled to an extension of time in respect of such Instruction.   |
| <b>West Stand Hospitality</b>  | The Access Date for West Stand Hospitality works which are provided by third parties will be no later than 22 May 2015.   |
| <b>Diamond League Event Decision to Proceed</b>  | <p>These Heads of Terms reflect the Parties' mutual desire to ensure the success of both the UK Athletics Diamond League event in July 2015 and the RWC 2015 in September/October 2015. The parties agree on the need for the successful completion of the transformation works so as to meet the requirements of RWC 2015. They also recognise that to achieve their objective, it will be necessary to work proactively and collaboratively with third parties, and that in any event it will be necessary to take a decision as to the viability of the UK Athletics Diamond League event by no later than 30 January 2015. The Employer will provide a draft Protocol to address the range of issues to be considered and how they should be resolved to enable that decision to be taken, which Protocol will be included in the Supplemental Agreement.</p> <p>In the event that the decision is taken at any time/no later than 30 January 2015 that it will not be possible to proceed with the Diamond League event, the Project Manager may issue an Instruction to the</p> |

**SUBJECT TO CONTRACT**

|                                  |   |
|----------------------------------|---|
|                                  | Contractor to omit certain works, which Instruction will result in change to the Revised Total of the Prices.   |
| <b>Alto Seating</b>              | The Access Dates for the Alto seating will be no later than 31 March 2015 for the north and south stands and podium, 30 April 2015 for the east stand and 31 May 2015 for the west stand.   |
| <b>Full and Final Settlement</b> | The proposed amendments to the Tier 1 Contract set out above, including the Revised Total of the Prices, will be in full and final settlement of the Matters Included in the Revised Total of the Prices arising up to 15 October 2014, whether the subject of a Notification of a Compensation Event and related Early Warning Notice, the table of omissions detailed in LLDC's letter dated 4 September 2014, a Project Manager's Instruction and related Early Warning Notice or otherwise, save in relation to any claims by the Employer in respect of defective or inadequate design, workmanship or materials with the exception of those matters listed in Appendix 1. |
| <b>Confidentiality</b>           | Both Parties agree to keep the existence and terms of these Heads of Terms confidential, subject to any agreed press statement.   |
| <b>Governing Law</b>             | These Heads of Terms are governed by English law and are subject to the exclusive jurisdiction of the Courts of England and Wales.  |



**SUBJECT TO CONTRACT**

**APPENDIX 1**

The following issues are not to be included within this settlement:

- (i) PMI nos. 111, 122, 124, 128, 129 and 131 (the principle is accepted that these are Compensation Events under the Contract);
- (ii) PMI nos. 137 onwards;
- (iii) NCE no. 62;
- (iv) NCE nos. 64 onwards;
- (v) all Early Warning Notices other than those expressly included in paragraphs (i) and (ii) of the Matters Included in the Revised Total of the Prices.

.....  
Signed for and on behalf of the Employer

.....  
Dated

.....  
Signed for and on behalf of the Contractor

.....  
Dated

**From:** [Colin Naish](#)  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: RE:  
**Date:** 17 November 2014 17:52:36  
**Attachments:** [image001.png](#)  
[Olympic Stadium Transformation Works - Heads of Terms E20 Response 17-11-14 Final.docx](#)

---

[REDACTED]

I attach a track changes version of the doc you issued on Friday for discussion and agreement at our meeting tomorrow.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)



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---

**From:** [REDACTED] [mailto:[REDACTED]@balfourbeatty.com]  
**Sent:** 17 November 2014 10:18  
**To:** Colin Naish  
**Cc:** [REDACTED]  
**Subject:** Re: RE:

Colin,

I am not in London today, and I am in meetings most of tomorrow.

I could possibly do 12.30pm tomorrow for an hour in Wilton Road.

It would be helpful if you outlined any issues, or any proposed drafting points prior to the meeting.

[REDACTED] approved the draft I sent through on Friday, and he is on [REDACTED] this week. I could contact him tonight, prior to the meeting, if you have any particular points?

[REDACTED]

[REDACTED]

[REDACTED] | Major Projects | Balfour Beatty Construction Services UK  
t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
[balfourbeattycsuk.com](http://balfourbeattycsuk.com) | follow us @bbcsuk  
[130 Wilton Road, London, SW1V 1LQ](http://130WiltonRoad,London,SW1V1LQ)

On 17 Nov 2014, at 08:45, '[REDACTED] [REDACTED] <[REDACTED]@macegroup.com>' wrote:

I can make after 4.30 today or any time tomorrow except 12.30 to 14.30

Sent from my Windows Phone

---

**From:** Colin Naish  
**Sent:** 14/11/2014 20:08  
**To:** [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
**Cc:** [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com); [REDACTED] [REDACTED] [REDACTED] [bbact12.co.uk](mailto:[REDACTED]@bbact12.co.uk)  
**Subject:** Re:

[REDACTED]

Thanks. Let's meet early next week to go through and finalise these heads. I can do from 3pm on Monday and anytime Tuesday.

Colin Naish  
Executive Director of Stadium  
Queen Elizabeth Olympic Park

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ  
??  
DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
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---

**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** Friday, November 14, 2014 01:40 PM  
**To:** Colin Naish  
**Cc:** [REDACTED] <[REDACTED]@balfourbeatty.com>; [REDACTED] [REDACTED] <[REDACTED]@bbact12.co.uk>  
**Subject:**

Colin,



**From:** [REDACTED]  
**To:** [Colin Naish](#)  
**Cc:** [REDACTED]  
**Date:** 14 November 2014 13:43:01  
**Attachments:** [Olympic Stadium Transformation Works - Heads of Terms BB Response 14-11-14 Issued.docx](#)

---

Colin,

Amended document with correct dates, revised figure and amendments to reflect Western Hospitality omission and KPI incentives inclusion.

[REDACTED]

[REDACTED]

[REDACTED] | Major Projects | Balfour Beatty Construction Services UK

t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](http://balfourbeatty.com)

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**From:** [David Goldstone](#)  
**To:** [REDACTED]  
**Cc:** [Colin Naish](#)  
**Subject:** WITHOUT PREJUDICE AND SUBJECT TO CONTRACT  
**Date:** 23 October 2014 18:01:24  
**Attachments:** [Olympic Stadium Transformation Works - Heads of Terms 23-10-2014.docx](#)

---

[REDACTED]

Please find attached draft heads of terms for the agreement that we have recently discussed

I will be happy to receive any comments you have on them when you have had a chance to review

**David Goldstone**  
**Chief Executive**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ  
Direct: 020 3288 [REDACTED]

Email: [davidgoldstone@londonlegacy.co.uk](mailto:davidgoldstone@londonlegacy.co.uk)

Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)



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[www.queenelizabetholympicpark.co.uk](http://www.queenelizabetholympicpark.co.uk)

**From:** [REDACTED]  
**To:** [Colin Naish](#)  
**Cc:** [REDACTED]  
**Subject:** Re: Without Prejudice - Drafting to be agreed in any settlement  
**Date:** 17 October 2014 06:40:44

---

Colin,

Thanks for your note.

Clearly it is good to get this out of the way and concentrate all our efforts now on delivery.

We have the bones of the deal in the email that we jointly drafted, together with the accompanying note from last week that we referred to.

I would have thought that the easiest way to capture this is in a compensation event, or a small number of compensation events. This preserves the Option A contract methodology that you were very keen to keep to, I would however defer to [REDACTED] experience in these matters.

I can move some meetings to next week, if [REDACTED] is available today? It is usually best to jointly draft these things to avoid lawyers making work(!) and otherwise versions will potentially cross between us *ad infinitum*.

It would be good to get this done swiftly, and to then put the Contract back in the drawer where it belongs, and lets get this fantastic project over the line.

Kind Regards,

[REDACTED]

[REDACTED] | Major Projects | Balfour Beatty Construction Services UK  
t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
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On 16 Oct 2014, at 19:36, "Colin Naish" <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)> wrote:

[REDACTED]

I'll work up a heads of agreement sheet based on the below and that agreed between BJ/SM today and send it through to you both for comment before we get into drafting.

Colin Naish  
Executive Director of Stadium  
Queen Elizabeth Olympic Park

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ



DDI: 020 3288 [REDACTED]

Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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---

**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** Wednesday, October 15, 2014 06:24 PM  
**To:** Colin Naish; [REDACTED]  
**Cc:** [REDACTED] <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>; [REDACTED] <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>  
**Subject:** Re: Without Prejudice - Drafting to be agreed in any settlement

Colin [REDACTED]

Further to my note that we agreed upon just now, I have re-read, and I note that the total "offer" on the second line should be [REDACTED] not [REDACTED]!

I think that it is also worth recording your "offer" on all the same terms at [REDACTED] plus [REDACTED] incentives. Both offers are clearly Without Prejudice and subject to Senior Management ratification.

For the avoidance of any doubt this all excludes the [REDACTED] previously paid on the roof contract.

We look forward to your further thoughts on the matter.

Regards,

[REDACTED]

[REDACTED]  
[REDACTED] | Major Projects | Balfour Beatty Construction Services UK  
t: [REDACTED] | m: [REDACTED] |  
e: [REDACTED] [\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
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[130 Wilton Road, London, SW1V 1LQ](http://130WiltonRoad.London.SW1V1LQ)

On 15 Oct 2014, at 18:05, '[REDACTED]' <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)> wrote:

The issues that would need to be wrapped into our Without Prejudice offer of a [REDACTED] revised fixed price lump sum with a revised and in addition incentive payment of [REDACTED] (total [REDACTED]) are as follows,

Agreed CE's [REDACTED]  
Quotations submitted not Agreed [REDACTED]  
CENs raised not instructed [REDACTED]  
Commercial issues to be discussed [REDACTED]

Proposed Deductions totalling circa [REDACTED]

Settlement if the Compression truss strengthening and associated acceleration



Matters in the Programme and scope summary sent to E20 on Wednesday 8th at 17.52.

- LAD's removed for Diamond League and RWC
- Possible LAD free period for WHU
- BB will have no involvement in the western hospitality except simple structural and M&E core activities to make safe to enable others to carry out temporary and permanent works. A provisional sum of [REDACTED] is allowed against this item for works to be defined.
- Exceptions required to completion at each date to be agreed, the test is whether the events/handover of significant parts can take place to enable the events to take place, (lice cable) not other completion tests.
- the delays caused by the compression truss strengthening and related works have lead to significant and complex acceleration of many activities, the complete effects of which are not entirely known to the parties. This will effect *inter alia* completion, commissioning, and finishing works, and the parties will need to work together and collaborate with all stakeholders to ensure that the works and the licensing (and the like) of the venue can take place.
- the Contract has very little float on any activities, therefore if the PM instructs significant additional works such as Beverage distribution, Wayfinding, Philips wrap etc, the Contractor may need to extend all periods to complete the works and will be recompensed its cost plus fee without deductions. In the case of the Wayfinding works, the instruction to instruct, agree the cost and approve needs to be timely to ensure no delay and this is currently achievable.
- the old incentive payments are removed in the new fixed price. The new incentive scheme is [REDACTED] spread across RWC, Field of Play release and West Ham completion.
- the Contractor completing the works to the Western Hospitality will be afforded access, but no costs or delays caused by this Contractor or the carrying out of its works will be the responsibility of Balfour Beatty or will delay certification of the works or payment of incentives.

[REDACTED]

[REDACTED]

[REDACTED] | Major Projects | Balfour Beatty  
Construction Services UK  
t: [REDACTED] | m: [REDACTED] |  
e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
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Montfichet Road, London, E20 1EJ.

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**From:** [Colin Naish](#)  
**To:** [REDACTED]@balfourbeatty.com"; [REDACTED]  
**Cc:** [REDACTED]@balfourbeatty.com"; [REDACTED]@balfourbeatty.com"  
**Subject:** Re: Without Prejudice - Drafting to be agreed in any settlement  
**Date:** 15 October 2014 20:00:22

---

[REDACTED]

My thanks to you and [REDACTED] for your time and constructive approach to discussions today. Whilst I appreciate your use of "" around the word "offer", for absolute clarity, I confirmed in our meeting today that I was not empowered to make any offer. The [REDACTED] number was my view on what would be a maximum figure LLDC could go to in order to reach a settlement position. Board approval would be needed for this. I expressed my view that in addition to incentivisation to achieve the Alto seating access, RWC and WH dates, there is a logic for incensitivation to achieve planned programme to end of Jan to enable a decision to be made to go ahead with UKA summer events.

Colin Naish  
Executive Director of Stadium  
Queen Elizabeth Olympic Park

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ



DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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---

**From:** [REDACTED] [mailto:[REDACTED]@balfourbeatty.com]  
**Sent:** Wednesday, October 15, 2014 06:24 PM  
**To:** Colin Naish; [REDACTED]  
**Cc:** [REDACTED] <[REDACTED]@balfourbeatty.com>; [REDACTED]  
<[REDACTED]@balfourbeatty.com>  
**Subject:** Re: Without Prejudice - Drafting to be agreed in any settlement

Colin [REDACTED]

Further to my note that we agreed upon just now, I have re-read, and I note that the total "offer" on the second line should be [REDACTED] not [REDACTED]!

I think that it is also worth recording your "offer" on all the same terms at [REDACTED] plus [REDACTED] incentives. Both offers are clearly Without Prejudice and subject to Senior Management ratification.

For the avoidance of any doubt this all excludes the [REDACTED] previously paid on the roof

contract.

We look forward to your further thoughts on the matter.

Regards,

█

█  
█  
█ Major Projects | Balfour Beatty Construction Services UK  
t: █ | m: █ | e: █ [balfourbeatty.com](mailto:█@balfourbeatty.com)  
[balfourbeattycsuk.com](http://balfourbeattycsuk.com) | follow us @bbcsuk  
[130 Wilton Road, London, SW1V 1LQ](http://130.Wilton.Road.London.SW1V.1LQ)

On 15 Oct 2014, at 18:05, '█' <█@balfourbeatty.com> wrote:

The issues that would need to be wrapped into our Without Prejudice offer of a █ revised fixed price lump sum with a revised and in addition incentive payment of █ (total █) are as follows,

Agreed CE's █  
Quotations submitted not Agreed █  
CENs raised not instructed █  
Commercial issues to be discussed █

Proposed Deductions totalling circa █

Settlement if the Compression truss strengthening and associated acceleration

Matters in the Programme and scope summary sent to E20 on Wednesday 8th at 17.52.

- LAD's removed for Diamond League and RWC
- Possible LAD free period for WHU
- BB will have no involvement in the western hospitality except simple structural and M&E core activities to make safe to enable others to carry out temporary and permanent works. A provisional sum of █ is allowed against this item for works to be defined.
- Exceptions required to completion at each date to be agreed, the test is whether the events/handover of significant parts can take place to enable the events to take place, (lice cable) not other completion tests.
- the delays caused by the compression truss strengthening and related works have lead to significant and complex acceleration of many activities, the complete effects of which are not entirely known to the parties. This will effect *inter alia* completion, commissioning, and finishing works, and the parties will need to work together and collaborate with all stakeholders to ensure that

the works and the licensing (and the like) of the venue can take place.

- the Contract has very little float on any activities, therefore if the PM instructs significant additional works such as Beverage distribution, Wayfinding, Philips wrap etc, the Contractor may need to extend all periods to complete the works and will be recompensed its cost plus fee without deductions. In the case of the Wayfinding works, the instruction to instruct, agree the cost and approve needs to be timely to ensure no delay and this is currently achievable.

- the old incentive payments are removed in the new fixed price. The new incentive scheme is [REDACTED] spread across RWC, Field of Play release and West Ham completion.

- the Contractor completing the works to the Western Hospitality will be afforded access, but no costs or delays caused by this Contractor or the carrying out of its works will be the responsibility of Balfour Beatty or will delay certification of the works or payment of incentives.

[REDACTED]

[REDACTED]

[REDACTED] | Major Projects | Balfour Beatty  
Construction Services UK

t: [REDACTED] | m: [REDACTED] |

e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)

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**From:** [REDACTED]  
**To:** [Colin Naish](#); [REDACTED]  
**Cc:** [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
**Subject:** OST Executive Summary of offer - Without Prejudice  
**Date:** 08 October 2014 17:52:19  
**Attachments:** [OST programme commentry 141008.docx](#)  
[ATT00001.htm](#)

---

Colin,

Further to the email clarification between [REDACTED] and myself this afternoon, please find enclosed the above.

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## OLYMPIC STADIUM TRANSFORMATION - OPTIONS 1 AND 2

### Programme and scope summary related to these Options only

Section 2 Completion Date - September 7th 2015 but to enable access arrangements for RWC15.  
Date for RWC Test Event to be reviewed.

Scope by September 7<sup>th</sup> to include:

Hospitality areas on Levels LG, 0, 1 and 2 completed to a "shell" condition but with provisions acceptable to JLAB for licensing purposes.

It is now contemplated that the fit-out to the 20.20 design will be completed by others post RWC.

Field of Play complete by September 7<sup>th</sup> to a minimum standard of turf with Desso.

Review of any potential earlier Section 2 date to be undertaken by January 31<sup>st</sup> 2015. This may leave Diamond League as an option and may also target an earlier Section 2 completion date than September 7<sup>th</sup>. It will also confirm the pitch completion specification.

### Cost Options summary

#### BBG Collaborative Option 1

|                                 | £m         |
|---------------------------------|------------|
| Tier 1 Contract Price           | [REDACTED] |
| CE's                            | [REDACTED] |
| PMI's not currently settled     | [REDACTED] |
| CT Strengthening / Acceleration | [REDACTED] |
| Jointly Managed Risk Allowance  | [REDACTED] |
| Sub-total                       | [REDACTED] |
| Incentive Payments              | [REDACTED] |
| Total                           | [REDACTED] |

Amended contract conditions

Achieves RWC, and has the possibility to achieve the Diamond League, this will be reviewed in January.

West Stand completed using contract scheme – not WHU scheme

Any savings from Jointly Managed Risk Allowance revert to Employer

#### BBG Fixed Price Option 2

|                                     | £m         |
|-------------------------------------|------------|
| Tier 1 Contract Price               | [REDACTED] |
| CE's                                | [REDACTED] |
| PMI's not currently settled.        | [REDACTED] |
| CT Strengthening / Acceleration.    | [REDACTED] |
| West Stand Hospitality FO Omission. | [REDACTED] |
| BBG Risk                            | [REDACTED] |
| Sub-total.                          | [REDACTED] |
| Incentive Payments                  | [REDACTED] |
| Total                               | [REDACTED] |

Maintain current contract conditions

Achieves RWC, and has the possibility to achieve the Diamond League, this will be reviewed in January.

West Stand completed to shell only – Fit Out by others



**From:** [Colin Naish](#)  
**To:** [REDACTED] (BBplc)  
**Subject:** RE: OST - BB Options  
**Date:** 08 October 2014 17:38:37  
**Attachments:** [image001.png](#)

---

[REDACTED]

No, I have nothing direct from BB except [REDACTED] emails from 9ish this morning. I have figures from [REDACTED] but this is unsatisfactory in that it really should come from BB, both numbers and programme statement. [REDACTED] is chasing something up for me.

**Colin Naish**  
**Executive Director of Stadium**  
**Queen Elizabeth Olympic Park**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)



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---

**From:** [REDACTED] (BBplc) [mailto:[REDACTED]@balfourbeatty.com]  
**Sent:** 08 October 2014 17:32  
**To:** Colin Naish  
**Subject:** Re: OST - BB Options

Colin  
Did you get what you need, I understand [REDACTED] and [REDACTED] have firmed up the numbers, have you got the Programme statements?

Kind regards  
[REDACTED]

Sent from my iPhone

On 08/10/2014, at 10:36, Colin Naish <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)> wrote:

[REDACTED]

As discussed yesterday, will you now please convert this to a one pager exec summary sheet for both of the capped and fixed options that I can use at IC tomorrow morning.

I believe that the roof cost line does not need to be included, as it should be a like for like comparison with the Tier 1 BB [REDACTED] contract award figure.

If I could have a draft for 12.00 that would be helpful.

Thanks,

Colin Naish  
Executive Director of Stadium  
Queen Elizabeth Olympic Park

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ



DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** Wednesday, October 08, 2014 07:56 AM  
**To:** [REDACTED]  
**Cc:** Colin Naish; [REDACTED] <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>; [REDACTED] <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>  
**Subject:** Re: OST - BB Options

[REDACTED]

Looking at the email sent in some haste to Colin there is a small error in the number, and it's calculation. Overall it is good news as the cost comes down by [REDACTED] in each case.

Option 1 should have been calculated as,

|               |            |
|---------------|------------|
| Tier 1 Price  | [REDACTED] |
| CE's          | [REDACTED] |
| PMI's.        | [REDACTED] |
| Truss/Accel.  | [REDACTED] |
| Risk.         | [REDACTED] |
|               | [REDACTED] |
| Roof Contract | [REDACTED] |
| Incentives.   | [REDACTED] |
| Total.        | [REDACTED] |

Fee was included in the [REDACTED] above.

The calculation added fee to [REDACTED] at [REDACTED], which is already included, whereas it should have added the roof Contract cost at circa [REDACTED] as above.

Incidentally we need to realign the Diamond League incentive monies to the RWC, making that incentive [REDACTED], and overall the figure still at [REDACTED].

Option 2 therefore was [REDACTED] less [REDACTED], [REDACTED] for us not carrying out the Western Hospitality. Of this approx [REDACTED] was included and paid in the roof Contract as a line in the sand, therefore the Tier 1 revised lump sum would be approx [REDACTED].

This would include the PMI CE's of circa [REDACTED] handed to you in our recent meetings.

Please can you call me if you need anything further today for your papers.

[REDACTED]

[REDACTED]

[REDACTED] | Major Projects | Balfour Beatty Construction Services UK  
t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
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[130 Wilton Road, London, SW1V 1LQ](http://130WiltonRoad.com)

On 6 Oct 2014, at 15:50, "[REDACTED] [REDACTED]" <[\[REDACTED\]@macegroup.com](mailto:[REDACTED]@macegroup.com)> wrote:

FYI

---

**From:** [REDACTED]  
**Sent:** 06 October 2014 15:48  
**To:** Colin Naish ([ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk))  
**Subject:** OST - BB Options  
**Importance:** High

Colin

Here are the two options as discussed.

### **Option 1**

Amended contract conditions to the suggested BB 'Collaborative' approach with savings passing back to Client.

Programme to achieve RWC2015 with West Stand completed to original fit out scheme.

[REDACTED] Cap + [REDACTED] Fee (£11.9m) + [REDACTED] incentives = [REDACTED]

Above **does not deal with c** [REDACTED] of Notified CE's and other Commercial matters as discussed and listed at our meeting.

Diamond League to be assessed in January – but any required measures would represent an adjustment to the Cap

All other future Changes to be an adjustment to the Cap.

Diamond League and RWC2015 LAD's set at [REDACTED]

## Option 2

Retain Contract as is – Option A Fixed Price.

Programme to achieve RWC2015 with West Stand fit out deleted (exact BB scope to achieve Licencing, etc to be defined)

Revised Fixed Price [REDACTED]

Above **does not deal with c** [REDACTED] of Notified CE's and other Commercial matters as discussed and listed at our meeting.

Diamond League to be assessed in January – but any required measures would represent an adjustment to the Fixed Price

All other future Changes to be an adjustment to the Fixed Price

Diamond League and RWC2015 LAD's set at [REDACTED]

Regards

[REDACTED]

PS – On the LAD thing this is something [REDACTED] asked me to add. I do not think it unreasonable in the Option 1 scenario as it fits with a collaborative approach. In respect of Option 2 I am not so sure. You probably need to discuss with David.

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**From:** [Colin Naish](#)  
**To:** [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
**Subject:** Re: OST  
**Date:** 06 October 2014 18:54:12

---

[REDACTED]

Your confirmation on programme deliverability for RWC (but not UKA) and clarity on cost and scope inclusions and exclusions to the [REDACTED] cost capped offer greatly informed discussion at the meeting this afternoon, so thank you for your time this morning. The next step is for Investment Committee to meet and take decisions on Thursday.

Colin Naish  
Executive Director of Stadium  
Queen Elizabeth Olympic Park

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
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**From:** [REDACTED] (BBplc) [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** Monday, October 06, 2014 06:31 PM  
**To:** Colin Naish  
**Subject:** RE: OST

Colin

I clearly from this morning's meeting I would like to know how your discussions went this afternoon, can I call you this evening or in the morning to gain some feedback?

Kind regards  
[REDACTED]

---

**From:** Colin Naish [<mailto:ColinNaish@londonlegacy.co.uk>]  
**Sent:** 06 October 2014 08:58  
**To:** [REDACTED] (BBplc)  
**Cc:** [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com); [REDACTED]  
**Subject:** Re: OST

[REDACTED]

Thanks. 12.30 on the phone or in LLDC's office, or 15 mins later if you need me to walk over to the stadium office; all would work for me.

Colin Naish  
Executive Director of Stadium  
Queen Elizabeth Olympic Park

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
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**From:** [REDACTED] (BBplc) [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** Monday, October 06, 2014 08:35 AM  
**To:** Colin Naish  
**Cc:** [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com) <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>; [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com) <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>  
**Subject:** Re: OST

Colin

I am making my way to OST, very slow into London due to Signalling problems. Will call/ meet you before midday, if that is ok?

Kind regards

[REDACTED]

Sent from my iPhone

On 06/10/2014, at 08:23, Colin Naish <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)> wrote:

[REDACTED]

We did not speak on Friday afternoon as planned. Can you please give me a heads-up on what info I can expect to receive from you and [REDACTED] so I can manage expectations this end. My meeting is at 4pm.

Thanks,

Colin Naish  
Executive Director of Stadium  
Queen Elizabeth Olympic Park

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

◆  
DDI: 020 3288 [REDACTED]  
Mobile: [REDACTED]  
Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
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**From:** [REDACTED] (BBpic) [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** Friday, October 03, 2014 08:19 AM  
**To:** Colin Naish  
**Cc:** [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com) <[REDACTED]@balfourbeatty.com>; [REDACTED] <[REDACTED]@balfourbeatty.com>  
**Subject:** Re: OST

Colin

Thanks for letting me know about the meeting with the Mayor We were working towards all information being available for the close of play Tuesday, in time for the Investment Committee on Thursday

[REDACTED] and [REDACTED] are meeting today

I will give you a call this afternoon

Kind regards

[REDACTED]

Sent from my iPhone

> On 02/10/2014, at 19:13, "Colin Naish" <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)> wrote:

>

> [REDACTED]

>

> I am seeing the Mayor on Monday afternoon and I need your programme confirming what is deliverable for summer events and your fixed price cost quotation that goes with it by then please

>

> Colin Naish  
> Executive Director of Stadium  
> Queen Elizabeth Olympic Park

>

> London Legacy Development Corporation  
> Level 10  
> 1 Stratford Place, Montfichet Road  
> London  
> E20 1EJ

>

> DDI: 020 3288 [REDACTED]  
> Mobile: [REDACTED]  
> Email: [colinnaish@londonlegacy.co.uk](mailto:colinnaish@londonlegacy.co.uk)  
> Website: [www.QueenElizabethOlympicPark.co.uk](http://www.QueenElizabethOlympicPark.co.uk)

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>  
> ----- Original Message -----  
> From: [redacted] [mailto:[redacted]@balfourbeatty.com]  
> Sent: Thursday, October 02, 2014 04:15 PM  
> To: Colin Naish  
> Cc: [redacted] <[redacted]@balfourbeatty.com>; [redacted] <[redacted]@balfourbeatty.com>  
> Subject: OST  
>  
>  
> Colin  
>  
> Good to meet yesterday Useful discussion  
>  
> I confirm that [redacted] will revert on the programme by close of play Monday latest following the further internal peer review and the quantitative risk assessment exercise  
>  
> On our commercial proposition, I can clarify that we would expect an achievable programme to form an integral part of any settlement agreement  
>  
> I gather that [redacted] and [redacted] have exchanged emails since we met and are due to meet this afternoon Let's hope that they are able to make progress and that we are able to move forward in a more constructive way  
>  
> As I mentioned, I am on leave from tonight for a week [redacted] will act as the principal contact whilst I'm away I will remain in close contact  
>  
> Thanks  
> [redacted]  
>  
> [redacted] J Tarr  
> [redacted]  
> Balfour Beatty Major Projects  
>  
>  
>  
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**From:** [REDACTED]  
**To:** ["Dennishone@londonlegacy.co.uk"](mailto:Dennishone@londonlegacy.co.uk)  
**Cc:** [REDACTED]; ["Neale.Coleman@london.gov.uk"](mailto:Neale.Coleman@london.gov.uk); ["Edward.Lister@london.gov.uk"](mailto:Edward.Lister@london.gov.uk); [Colin Naish; \[REDACTED\]@londonlegacy.co.uk](mailto:Colin.Naish@macegroup.com); [REDACTED]  
**Subject:** Re: Olympic Stadium Transformation  
**Date:** 01 October 2014 00:47:08

---

Dennis

This is very disappointing.

It's unfortunate that the core essence of our proposal, namely to create the right framework for the right relationships to flourish, has been overlooked. We see this as a critical prerequisite to delivering successful outcomes for both parties.

Our proposal to cap the Employer's exposure and to offer a £ for £ rebate in the event that the scale of risks do not in practice occur was made in good faith.

Contrary to the impression you give, it is a matter of record that we have spent a lot of time over the past few weeks talking to our supply chain partners in some depth to establish in some detail what is needed to accelerate the works to meet the twin events next Summer.

We are not in the habit of making promises until we are sure that we can honour them. It is fair to say that we do not share your team's view that the dates can be met with ease. This risks seriously over-simplifying the scale of the challenge.

As you'll know from our discussions over the past couple of weeks, we remain concerned at the programmes for M&E and the hospitality fit out. You'll also be aware that we do not currently have all the information to be able to programme the works with good confidence.

We are continuing to work through these and other outstanding areas in order to determine what is possible and in what circumstances.

Ultimately, of course, we respect LLDC's prerogative to determine whether the additional measures necessary to recover the delays incurred to date represent value for money. However, we would point out that circa [REDACTED] has already been committed and that it is the money to be spent that is germane. It is clearly important to establish whether the acceleration measures as might be imminently required are to be implemented to stand a chance of safeguarding the programme. We have provided a schedule of those actions that are required by when.

For the record, we remain committed to exploring ways of resolving a way forward acceptable to both parties.

[REDACTED]

---

**From:** Dennis Hone [mailto:[Dennishone@londonlegacy.co.uk](mailto:Dennishone@londonlegacy.co.uk)]  
**Sent:** Tuesday, September 30, 2014 06:35 PM



**To:** [REDACTED]  
**Cc:** [REDACTED] Neale Coleman - GLA <Neale.Coleman@london.gov.uk>;  
Edward Lister <Edward.Lister@london.gov.uk>; Colin Naish <ColinNaish@londonlegacy.co.uk>;  
[REDACTED] Colin Naish <ColinNaish@londonlegacy.co.uk>; [REDACTED]  
<[REDACTED]@londonlegacy.co.uk>; [REDACTED]  
<[REDACTED]@macegroup.com>; David Goldstone <DavidGoldstone@londonlegacy.co.uk>  
**Subject:** Olympic Stadium Transformation

WITHOUT PREJUDICE

Dear [REDACTED]

Thank you for sending through the BB offer yesterday evening. This was discussed at the LLDC Investment Committee this morning.

In essence we reported that the main points of the BB offer are as follows:-

1. It seeks to change the entire contract to Option C.
2. Target cap set at [REDACTED] which includes [REDACTED] of risk and all CE's to date. This is circa [REDACTED] more than the original contract award.
3. [REDACTED] fee capped at [REDACTED] for BB. Target can be increased by CE's but capped fee will only change based on CE's over [REDACTED].
4. No pain or gain for BB. Any savings made under [REDACTED] is LLDC's benefit.
5. In addition BB suggesting additional £6m in milestone payments to achieve dates to give them a further [REDACTED] of profit opportunities.
6. BB believe that there is a major issue with the hospitality works and this will mean it completing two months later than the Diamond League 2015.
7. Large number of acceleration instructions required including works to the Halo and even O&M manual production.
8. Relaxation of LADs

In addition we reported that BB do not have a programme to deliver the Section 2 completion by 19 July 2015 and remain concerned that the on-site stadium team and Imtech are overly optimistic regarding the M&E works, particularly the time for commissioning and testing the building systems.

The Committee considered the report and the BB submission and noted that the possibility remained under the existing option A contractual basis for the PMA for the compression trust to be increased to reflect extra scaffolding costs (although entitlement to these costs is not conceded), the instruction of around [REDACTED] of new acceleration works and to increase incentivisation payments under the contract by [REDACTED] in respect of future issues to ensure access for the seating contractor, completion of the roof works and hand over of stadium (section 2 Completion) by key dates that would allow the 2015 summer events to take place. By LLDC reckoning this would amount to a considerable increase in the payments to BB from around [REDACTED] to [REDACTED] if this could be wrapped up in an overall commercial settlement.

The Committee were extremely disappointed that notwithstanding 3 weeks of urgent programme review with sub contractors BB still could or would not commit to a programme to deliver the 2015 Summer events and in the circumstances we are at a point at which LLDC must

inform both ER2015 and UKA that it was unlikely that these planned events will proceed. There is no prospect of agreement to the BB proposal as it is so far in excess of the LLDC's potential to resolve the commercial issues by negotiation between us. In the circumstances they have requested that we administer the existing contract including by issuing a PMA for the compression truss works. Acceleration works can only be properly considered if BB urgently issue a robust programme showing that acceleration works will deliver the Section 2 Completion on 19 July 2015 and if it was value for money to do so. Clearly once ER2015 and UKA are informed of the current state of affairs they may move to make alternative venue arrangements and acceleration will no longer be necessary. In essence the Committee are resigned that given Balfour Beatty's current position the 2015 Events will not be able to proceed and the Mayor is being briefed accordingly.

On a personal note I am disappointed we have made no programme or commercial progress in the last few weeks. It is clear that the on-site team and the LLDC Project Managers think that a programme to deliver the Summer Events is fully achievable but that the senior BB management have not backed this approach. As I set out in my previous letter to you, without a Section 2 completion programme that we can all have confidence in there is no point LLDC throwing good money after bad and the Investment Committee are simply recognising that fact.

You will wish to share this email exchange with KPMG given the ramifications for payments under the contract.

My successor David Goldstone starts tomorrow and he will lead on this matter going forward.

Dennis

**Dennis Hone CBE**  
**Chief Executive**

London Legacy Development Corporation  
Level 10  
1 Stratford Place, Montfichet Road  
London  
E20 1EJ

DDI: +44 (0)20 3288 [REDACTED]  
Email: [dennishone@londonlegacy.co.uk](mailto:dennishone@londonlegacy.co.uk)



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**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** 29 September 2014 22:38  
**To:** Dennis Hone  
**Cc:** [REDACTED]  
**Subject:** Olympic Stadium Transformation Way Forward

Dear Dennis

It's been a long day!

Further to our meeting on Friday and as promised, please find attached our proposal for a new way of working for the OST project.

I firmly believe that this is the right thing to do for the project at this time.

[REDACTED] has spent today with the team and the attachments provide a programme narrative together with a schedule itemising the identified acceleration measures. Work continues to develop a fully integrated programme.

By necessity, the attached is a work in progress but distils the merits and key features of such a changed regime.

We would be pleased to discuss the proposals further at any time.

Thanks

[REDACTED]

[REDACTED]

Balfour Beatty - Major Projects

130 Wilton Road, London, SW1V 1LQ

t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
[balfourbeattycsuk.com](http://balfourbeattycsuk.com) | follow us [@bbcsuk](https://twitter.com/bbcsuk)

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**From:** [Dennis Hone](#)  
**To:** [REDACTED]@balfourbeatty.com"  
**Subject:** Re: Dear Dennis  
**Date:** 25 September 2014 19:47:29

---

[REDACTED]

I had more positive feedback from [REDACTED] than you did from [REDACTED]

What is not negotiable is the ultimate form of contract as the Mayor and Sir Eddie Lister made clear. I have no mandate to negotiate on this point.

What we would like to discuss tomorrow is

1. Programme
2. CT strengthening costs
3. Roof Acceleration (now)
4. Future acceleration (which may or may not occur)
5. Foundations
6. Deductions

We will be open to discuss all the issues in a constructive style with a view to agreeing a commercial settlement. We have today reviewed the issues with [REDACTED] and Neale Coleman and [REDACTED] Colin and myself will attend tomorrow's meeting.

As we continue to stress this means some give and take on both sides. It therefore means that if the BB position is that they are to get everything they are claiming we will not be able to agree. I am certainly willing to compromise on a range of issues but it takes two.

We need to get to some form of understanding by Tuesday and our Investment Committee. If not we need to look at more radical options. The trouble with email is that this can look like a threat - it is not meant as such - rather a realisation that certain of your sub contractors need instructions to proceed and we can't let time march on without taking action.

To reiterate we would like to seek agreement on the 6 heads above to put an outline deal to our committee. We are happy to throw around ideas and agree a result in the round but we need to jointly seek compromise or we will fail.

Dennis

----- Original Message -----

**From:** [REDACTED] [mailto:[REDACTED]@balfourbeatty.com]  
**Sent:** Thursday, September 25, 2014 06:07 PM  
**To:** Dennis Hone  
**Subject:** Dear Dennis

Dear Dennis

I'm intending this as a private note between us.

We certainly do not want war. What we do want though is to be treated fairly. This is why I've been so keen to try to find alternative ways of resolving our differences that unite the parties by creating a common purpose. In the absence of any such agreement, you will understand that we have at the very least to protect the interests of our shareholders.

The bottom line is that BB is in no way responsible for the increased loadings nor the consequences, and yet we are effectively being asked to shoulder some of the costs of such. This is not morally, ethically or contractually sustainable in our view.

If our team is guilty of anything, it is the display of a "can do" mindset and a desire to deliver the works to meet the target dates.

All that said, I remain committed to finding a solution that seeks to reconcile the needs of each party. I had hoped that [REDACTED] and [REDACTED] would have been able to make progress yesterday but [REDACTED] feedback to me has not been encouraging although I hope that discussions between them will continue.

We have a meeting scheduled for tomorrow. I'm mindful that you and I have had a series of meetings over the past few weeks with various other attendees. To focus the session tomorrow, would it not be better for you and I to meet together with just [REDACTED] and [REDACTED] to explore what common ground we can build upon? This might be more fruitful than the plenary session planned. We can always schedule a follow up meeting(s) as may be necessary.

Let me know what you think.

Thanks

[REDACTED]

Sent from my iPad

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[www.londonlegacy.co.uk](http://www.londonlegacy.co.uk).

**From:** [REDACTED]  
**To:** [REDACTED]  
**Cc:** [REDACTED] [Colin Naish](#)  
**Subject:** RE: Olympic Stadium Transformation  
**Date:** 23 September 2014 12:35:17

---

Understood

Sent from my Windows Phone

---

**From:** [REDACTED]  
**Sent:** 23/09/2014 12:02  
**To:** [REDACTED]  
**Subject:** Fwd: Olympic Stadium Transformation

[REDACTED]

I am not sure if you have read this, but it seems that we are heading for a serious dispute, and that our meeting tomorrow is unfortunately superfluous.

There is a meeting with the Mayor this afternoon, and I will take a brief after that and be in touch.

[REDACTED]

[REDACTED] | Major Projects | Balfour Beatty Construction Services UK  
t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](#)  
[balfourbeattycsuk.com](#) | follow us @bbcsuk  
[130 Wilton Road, London, SW1V 1LQ](#)

Begin forwarded message:

**From:** Dennis Hone <[Dennishone@londonlegacy.co.uk](mailto:Dennishone@londonlegacy.co.uk)>  
**Date:** 23 September 2014 11:05:03 BST  
**To:** "[REDACTED]" <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>  
**Cc:** "[REDACTED]" <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>, "[REDACTED]" <[\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)>, Colin Naish <[ColinNaish@londonlegacy.co.uk](mailto:ColinNaish@londonlegacy.co.uk)>, "[REDACTED]" <[\[REDACTED\]@macegroup.com](mailto:[REDACTED]@macegroup.com)>, "[REDACTED]" <[\[REDACTED\]@macegroup.com](mailto:[REDACTED]@macegroup.com)>, Neale Coleman - GLA <[Neale.Coleman@london.gov.uk](mailto:Neale.Coleman@london.gov.uk)>  
**Subject:** Olympic Stadium Transformation

Dear [REDACTED]

I was surprised to receive your e-mail below as its contents do not accord with my understanding and briefing on the programme situation.

In terms of the programme the meetings with your sub-contractors have gone very well and they have all been positive about what can be achieved and delivery in time for the Summer Events. As you are aware Hares have committed to a 26 week programme based on no weekend working, 1.5 days per week time risk allowance for adverse winter weather but using double shifts. In the workshop they agreed that if the weather was positive they could achieve a 20 week programme. Hewitts have a

number of options for delivering the playing surface depending on when Hares finish and the field of play is cleared that mean the critical path of the programme is deliverable in time for the summer events with limited acceleration.

You also stated that the original accepted programme included 33 weeks for the Hares work. This is not the case. The first programme received post contract award (The accepted programme under NEC 3 contractual arrangements) was for 26 weeks. The programme submitted with your tender was NOT bound into the contract and has no relevance under NEC3 arrangements. There was no reference to any acceleration in the narrative that accompanied the first post contract award programme for acceptance.

You further make comments about changes to the specification. We discussed this last week and the 20.20 stage E fit- out design and the matrix of responsibilities was issued to BB by Mace yesterday. This confirms the extent of BB work that is required to deliver hospitality areas that can be used for summer events and align with the future fit out contractor works to deliver the hospitality areas complete for 2016 West Ham occupation. In any event your team have been aware of the level of scope omission for months. The other scope issues are minor and not programme critical. In fact I have to say we are surprised BB are making these points given the low level of changes on a job of this nature and the more pressing need to ensure their stadium team performs satisfactorily.

We have received the commercial information and are reviewing this but at first blush it seems to us that it will be difficult to come to an overall agreement without significant concessions from BB.

Our current position, subject to discussion, is that

1. We don't think a change in the contractual basis is necessary, advantageous or appropriate.
2. For all work done to date we can either agree a sum which would then be certified by Project Manager (and enshrine this in a Project Managers Assessment based on evidence put forward by BB ) OR we can issue a PMA on the basis of what the PM sees as BB entitlement and if BB are unhappy they can pursue their case through the remedies set out in the contract (i.e. Adjudication). It therefore follows that issues re costs to date have no impact on future programme and BB should not conflate the two issues.
3. For any acceleration works to deliver the summer events the same applies. We can either agree OR the PM can instruct.
4. If BB move on their commercial settlement requirements we would consider increasing the amount and timing of incentivisation arrangements but only if the total package was reasonable and justifiable on VFM grounds. The BB cost estimates I have seen would make this difficult to agree.

To be clear BB should:-

A. Proceed with the programme to deliver the stadium in time for the summer events

irrespective as to whether the outstanding commercial issues are agreed as there are contractual mechanisms to deal with commercial disputes.

B. The issues re scope changes as put forward by BB are minor and do not affect the critical path of the programme nor the commercial issues.

C. Any attempt to link the commercial issues to the delivery of the programme will not be accepted by LLDC and would lead to LLDC issuing its PMA and acceleration Instructions leaving it up to BB if they want to take this to dispute.

Finally the issue of the extra strengthening works now required on the Stadium is a perfect illustration of why we remain unhappy about the perform of the BB stadium team. The issue was picked up by chance where an external consultant saw that works previously recommended had not been implemented. This means a loss of time on the job and increased costs that the client will not accept. This shows why we are reluctant to change the contractual arrangement and why we need adequate assurance arrangements in place on a time critical project. In short if we are to reach a negotiated settlement this must include changes to the BB stadium Team Management.

We can discuss all these issues on Friday.

Dennis

**Dennis Hone CBE**  
**Chief Executive**

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1 Stratford Place, Montfichet Road  
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DDI: +44 (0)20 3288 [REDACTED]  
Email: [dennishone@londonlegacy.co.uk](mailto:dennishone@londonlegacy.co.uk)



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**From:** [REDACTED] [[mailto:\[REDACTED\]@balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)]  
**Sent:** 22 September 2014 16:16  
**To:** Dennis Hone  
**Cc:** [REDACTED]  
**Subject:** Olympic Stadium Transformation



Dear Dennis

The feedback I've received from the further programme review on Friday is that whilst it was a constructive session, there remains a considerable level of information and detail that is still needed to enable the consolidated programme to be finalised. These details include information in respect of the scope for the main entrance, changing rooms, Western hospitality, etc.

All of this serves to make me nervous and to reinforce in my mind the need to establish a new commercial framework that aligns and incentivises the parties to work together to deliver whatever is needed to allow the twin events next Summer to be staged. This will allow the management of change to be administered in a fully transparent way. Without such a collaborative model, it's hard to see how the best outcomes can be assured.

██████ met up with ██████ today and tells me that he had a very good session running through the full gamut of issues and discussing how a new commercial model might work to the benefit of all parties. Allan took away a copy of the "Project Realignment Proposal" together with other documents including a copy of our leading Counsel's Opinion which highlights the problems with the formation of the Contract. I understand that Allan will be briefing you on his take-away. ██████ and Allan plan to meet again on Wednesday.

One thing I did want to clear up is ██████ reference on Thursday to the 26 weeks duration for the roof steelwork allowed in the "Accepted" programme, citing a submission made in February 2014. Having looked into this further, it is clear that the "Accepted" programme for the roof contract was indeed 33 weeks and that the 26 week programme was an accelerated "Target" programme necessary to hold the key date for the Diamond League event.

The next 7 days are clearly critical if we are to reach an all-encompassing agreement on the way forward on both commercial and programme matters.

I will be briefing ██████ on this basis ahead of his meeting with the Mayor tomorrow.

See you on Friday if we don't speak before.

Thanks

██████

██████████

██████████

Balfour Beatty - Major Projects

130 Wilton Road, London, SW1V 1LQ

t: ██████████ | m: ██████████ | e: ██████████ [balfourbeatty.com](mailto:██████████@balfourbeatty.com)  
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**From:** [Dennis Hone](#)  
**To:** [REDACTED]  
**Cc:** [Colin Naish](#); [REDACTED] [macegroup.com](#); [REDACTED]  
**Subject:** Yesterday's Meeting - Notes and Actions  
**Date:** 10 September 2014 16:39:09  
**Attachments:** [img-910111135-0001.pdf](#)  
[Briefing Note LLDC BB Meeting.docx](#)  
[Meeting Between Representatives of London Legacy Development Corporation....docx](#)

---

Dear All,

I attach a summary note of yesterday's meeting and attach for reference documents that LLDC referred to in the meeting. If you have any comments on the notes and agreed actions please let me know.

I have asked [REDACTED] my PA to set up a follow-on meeting next week to review progress of the 2 week programme and commercial review.

I have asked Colin to ensure the necessary programme workshops are set up with [REDACTED]  
[REDACTED]

Finally we have just had our Investment Committee meeting. This was a very difficult meeting regarding the issues with BB and the impact on the 2015 Summer Events. They have decided to call an emergency meeting of the Committee for the morning of either 29 or 30 September. Their message to me (and therefore to BB) was that we can't go on much longer discussing the contractual issues - either we have a robust programme to deliver next year's events in place and a commercial deal agreed by that meeting or we should call off next year's events.

Dennis

**Dennis Hone CBE**  
**Chief Executive**

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DDI: +44 (0)20 3288 [REDACTED]  
Email: [dennishone@londonlegacy.co.uk](mailto:dennishone@londonlegacy.co.uk)



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## BB/ LLDC Meeting 9<sup>th</sup> of September 2014

### Meeting Briefing:

#### 1. Programme

##### Time Impact Positions

| CT Strengthening Time Impact                                      | Movement from 22 <sup>nd</sup> July 2015 |
|---|--|
| PMA Extension of Time to Section 2                                | 14 <sup>th</sup> August 2015             |
| BB position (Aug 14 programme for acceptance)                     | 11 <sup>th</sup> December 2015           |
| Scenario of adding 8 weeks to 22 <sup>nd</sup> July 2015 (linear) | 16 <sup>th</sup> September 2015          |

##### Submitted Programmes

|      | Milestone / Completion   | Baseline (March 2014) | May (Last accepted programme) | June (rejected - Not compliant with WI) | July (rejected - Not compliant with WI) | August (under review) |
|------|--|-----------------------|-------------------------------|---|---|-----------------------|
| KD4  | Key Date 4 - Removal of cranes from Field Play to allow follow on trades to commence (Sun 15th Feb 15) | 15-Feb-15             | 08-May-15                     | 08-May-15                               | 08-May-15                               | 10-Jul-15             |
| SC 2 | Section 2 Finish - Stadium (22nd Jul 15)   | 22-Jul-15             | 29-Jul-15                     | 29-Jul-15                               | 29-Jul-15                               | 11-Dec-15             |

\* 29th of July date driven by grass establishment

- Shows activity completions (durations) have increased from March baseline to August submission by approximately 20 working weeks
- Key differences between last accepted programme (May 2014) and programme issued on 29<sup>th</sup> of August 2014 on table below:

|  | March (baseline accepted programme) | May (last accepted programme) | August submission durations | Difference (additional durations added by BB for non strengthening activities) |
|--|-------------------------------------|-------------------------------|-----------------------------|--|
| Roof steelwork (duration & logic change)           | 125                                 | 125                           | 165                         | <b>40</b>  |
| Removal of crane mat (logic change)                | 10                                  | 10                            | 20                          | <b>10</b>  |
| Blinding layer & drainage to FoP (duration change) | 10                                  | 10                            | 30                          | <b>20</b>  |
| Total FoP activities                               |                                     | 56                            | 110                         | <b>54</b>  |

### Concurrent delays

Along with the above changes there have been 3 delays which would have affected SC2 without the impact of the strengthening works. These are:

- If the strengthening was completed as the March baseline ( i.e no delay to tightening) these activities would move the Key Date and Section Completion Date 2 as follows:

| <b>Delayed Activity</b>                                |  | <b>BB delay to Section 2</b> |
|--|--|------------------------------|
| Late issuance of roof upper gantries workshop drawings |  | <b>6 Oct 15</b>              |
| Cable Net S/C design                                   |  | <b>15 Dec 15</b>             |
| Delay of Front Roof Steelwork Workshop Drawings        |  | <b>20 Oct 15</b>             |

## **2. Summary of Commercial Differences**

Key Differences (BB schedule)

| <b>Item</b>                     | <b>BB</b> | <b>LLDC</b> | <b>Delta</b> |
|---------------------------------|-----------|-------------|--------------|
| Compression Truss Strengthening | ██████    | ██████      | ██████       |
| Acceleration                    | ██████    | ██████      | ██████       |
| Loadings                        | ██████    | █           | ██████       |

### 3. Schedule of Omissions

| No | Description                  | Contract Scope   | Omission  | Accounting  | List to BB |
|----|------------------------------|--|---|---|------------|
| 1  | Field of Play Reconstruction | Contracted scope includes break up and reconstruction of whole FoP area and replace 600mm diameter carrier drainage and manholes   | Revised scope due to Alto reduced loads allows retention of the carrier drainage and majority of existing FoP substructure                  | Saving not accounted for in AFC   | ██████     |
| 2  | Seating Enabling works       | Contract scope based on (BH) reference seating design incl piling (610no piles and associated pile caps/ ground beams) and reference scheme podium works i.e. demolish the podium and re-construct | Alto scope does not require foundations additional to substructure.<br><br>Podium alterations are significantly less than reference scheme. | Saving not accounted for in AFC however scope of conc slab / blacktop GL 1 - 2 will require £200k + £200k for Alto podium alterations | ██████     |
| 3  | Share of Landscape savings   | Base scope less VE   | Savings were well over and above the VE offer which in large part was due to the Employer accepting significant scope reductions            | Saving not taken in AFC   | ██████     |
| 4  | BWIC for Generators          | Contract cope based on BH design with underground concrete service trough from Chiller compound to NW and SE corner of the venue   | Instructed new location of generators in PMI with significant BWIC reductions. No saving in BB quote  | Saving not taken in AFC   | ██████     |
| 5  | VE Column Rebate             | Base scope D&B -48 paid for in Roof settlement   | Subsequently designed out 4 representing a D&B saving   | Saving not taken in AFC   | ██████     |

|    |  |  |   |                                       |  |
|----|--|--|---|---------------------------------------|--|
| 6  | Rationalisation of FoP ducting               | Contract scope based on STRI drawings  | Significant reduction in scope and quantity of FoP ducts and reuse of existing (driven by Mace) | Saving not taken in AFC               | ██████                                 |
| 7  | Omission of landscaping works to School site | Contract scope to deliver road /junction boundary and landscaping in the area  | Omit and transfer funds to Legatum Academy  | Savings must be secured               | ██████                                 |
| 8  | FoP Infield width reduction                  | Contract scope and dimensions required the breakout of inner running lane between DL and WRC15 to achieve infield dimensions | No longer required and instructed out   | Saving not taken in AFC               | ██████                                 |
| 9  | Free Issue of trees                          | Contract scope to supply and deliver trees   | North park surplus already paid for by LLDC.  | Savings must be secured               | ██████                                 |
| 10 | Hospitality Fit out                          | Contract base scope  | Omission of finishes and fittings   | £470k difference (MEP and Design Fee) | ██████<br>(current BB quote<br>██████) |

#### 4. Contract Admin Status

| <b>PMIs</b>                                    |    |
|--|----|
| Total PMIs raised                              | 55 |
| Total PMIs closed                              | 23 |
| Open PMIs                                      | 32 |
| Open PMIs - Awaiting quotation from Contractor | 23 |
| Open PMIs - Under PM assessment                | 9  |

| <b>NCEs</b>                     |    |
|---------------------------------|----|
| Total NCEs raised by contractor | 40 |
| Closed / Responded              | 31 |
| Awaiting response               | 9  |

| <b>EWN's</b>      | <b>BB</b> | <b>LLDC</b> | <b>Total</b> |
|-------------------|-----------|-------------|--------------|
| Total EWNs Raised | 89        | 32          | 121          |
| Closed EWN's      | 54        | 19          | 73           |
| Open EWN's        | 35        | 13          | 48           |



## Meeting Between Representatives of London Legacy Development Corporation and Balfour Beatty – 9<sup>th</sup> September 2014

1. This note sets out the items discussed and actions agreed at a meeting that took place between representatives of Balfour Beatty (BB) and London Legacy Development Corporation (LLDC) and Mace at 4.30pm on Tuesday 9<sup>th</sup> September at the offices of MACE at Moorgate, London.
2. The meeting was attended by:-
  - ██████████ (BB)
  - ██████████ (BB)
  - ██████████ (BB)
  - Dennis Hone (LLDC)
  - Colin Naish (LLDC)
  - ██████████ (MACE – LLDC Project Manager)
3. A wide ranging discussion took place covering a number of programme and commercial issues, the main points of which were as follows:-
  - (a) Both parties expressed a desire to settle matters expediently. Both parties agreed that the first step was agreement of a robust Completion Programme.
  - (b) BB suggested an intense 2 week period to determine a deliverable completion programme that would hand over the Stadium in time for the Diamond League Athletics event in Summer 2015 and agree in parallel the commercial position.
  - (c) Two weeks were required for this task so that subcontractor input, notable from Hewitts (Field of Play) and William Hares (roof steelwork) regarding the sequencing of works pre and post the 2015 summer events, could be taken into account. There will be a progress meeting on 16<sup>th</sup> September with the attendees.
  - (d) LLDC raised issues and concerns regarding the programmes submitted by BB including:
    - Work to the compression truss strengthening had been completed and that the cable net was to be raised in the coming days. The project was therefore on programme.
    - The last accepted programme in May (and subsequent submitted but not accepted programmes in June and July 2014) have shown the Section 2 completion date as 29 July 2015.

- BB had last week sent a non compliant programme showing the Section 2 completion as 11 December 2015 but although this reflects actual progress on site, acceleration measures were not taken into account. (BB said they submitted this programme as a baseline for the current scope of work)
- That despite no scope changes the roof steelwork duration appears to have increased from 125 to 165 days. Removal of the crane mat had increased from 10 to 20 days, blinding layer and drainage to the field of play had increased from 10 days to 30 days and total field of play activities has increased from 56 to 110 days. As the project was on programme this clearly indicated a revised view from BB of forecast activity duration for existing contractual scope. (Not necessarily entitlement.)
- LLDC also tabled contract administration statistics that showed that of 32 open PMI's 23 were awaiting quotations from the contractor and in respect of 40 NCE's raised by the contractor 9 were currently awaiting a response from LLDC. The statistics also showed that of 121 early warning notices raised 89 had been raised by BB and 32 by LLDC with approximately 60% of all EWN's now closed.
- These items are detailed in the LLDC briefing note attached to these minutes.

(e) In respect of the commercial position LLDC stated that they had found it difficult to fully understand the sums BB were wishing to claim under the contract. LLDC tabled a copy of Balfour Beatty's "Anticipated Final Cost Schedule – Loads imposed by the New Roof Structure Compensation Event" (copy attached to these minutes) which detailed the MACE Assessment of these costs as at 7 August 2014. From this schedule it is clear that at that time the BB estimate of the total cost of the impact was ██████ of which ██████ related to truss strengthening, ██████ related to acceleration measures, both instructed and anticipated, together with prolongation and disruption and ██████ related to roof loadings and other matters. It was noted that over the last month these amounts will have changed as the project progressed and as new information had become available, and that these figures excluded the impact of the Hewitt's field of play programme.

(f) LLDC made clear that in respect of the ██████ for truss strengthening the Project Manager assessment of allowable costs was ██████ and that ██████ of the acceleration costs appeared appropriate, but that LLLDC did not believe they were responsible for the roof loading costs under the contract. In summary, this meant against the ██████ figure the client had in principle accepted ██████.

- (g) LLDC also pointed out that in respect of the truss strengthening works additional costs of [REDACTED] had been paid on account to BB in August with a further circa [REDACTED] due in September 2014. LLDC suggested that to regularise the contract position a PMA was issued for [REDACTED] for the roof strengthening works and PMI's issued for roof steel work mitigation, MEP mitigation, BB associated preliminary and GE's and for field of play. BB requested that this action was postponed until after the 2 week focussed programme and commercial discussions.
- (h) There was a discussion regarding the contract scope omissions of circa [REDACTED]. BB made clear that they believed that most of these items were taken from the contract before it was finalised. LLDC were willing to consider any evidence or representations made by BB on this matter but that contract omissions needed to be agreed as part of any overall settlement.
- (i) BB raised the issue of the contract going forward and how this could be amended to incentivise BB to deliver the contract on time and cited examples of where they had done this on other major contacts. LLDC asked BB to produce a detailed proposal of how this would work that would amongst other things address :
- how this would be beneficial to the client;
  - how BB would use this to bear down on the costs of their subcontractors;
  - how this would incentivise BB to deliver the Section 2 completion in July 2015 and the overall project to programme;
  - what contingency provisions are required.
- (j) LLDC made clear that if it was possible to agree a commercial settlement it would need to cover all costs and claims to date, contract omissions and be enshrined in a deed of settlement.

4. It was agreed that:

- (a) There would be an intense two week focus on producing a robust programme that:
- will deliver a Section 2 completion date on or around 22 July 2015;
  - both parties accept is robust and have confidence that it can be adhered to;
  - integrates with access arrangements and works with other contractors e.g. Alto (seating) and hospitality fit out works;
  - is clear on the sequencing of works pre and post the 2015 events;

- maintains the overall project completion date.
- (b) This review would be led by Colin Naish and Davendra Dabasia for LDDC and Richard Adams and Nigel Roberts for BB.
- (c) BB would set out the commercial consequences of the programme including but not limited to:
- costs to date and anticipated future costs for base scope and instructed truss strengthening and acceleration;
  - entitlement to costs for new areas to be accelerated to meet the deliverable completion programme;
  - entitlement to costs associated with re-sequencing of works;
  - revised anticipated final contract cost.
- (d) BB would respond regarding the contract omissions producing evidence of their position that some or most of the omissions were taken into account prior to entering into the contract on 24<sup>th</sup> December 2013. Thereafter the teams to meet to seek to agree contract scope, omissions and the financial and commercial consequences thereof.
- (e) BB to formally set out their proposals for the future management of the contract taking into account the client's concerns about affordability, bearing down on costs, and achievement of contract deadlines.
5. It was recognised that the time to the summer events in Summer 2015 is limited and actions and decisions to enable these events to take place had to be taken in the next few weeks or the opportunity will be lost and the event organisers will have to be informed. To that end, if, by 26<sup>th</sup> September 2014:
- (a) the parties cannot determine with confidence a programme to deliver the Summer 2015 events; or
  - (b) the cost of the programme acceleration and re-sequencing is unaffordable; or
  - (c) the parties make insufficient progress.

Then in that situation the LLDC will:

- (a) issue the PMA for the truss strengthening;
- (b) consider whether or not there is any benefit in issuing any PMI's for acceleration of works;
- (c) inform the event organisers as appropriate.

6. The meeting concluded at 6.30pm and the parties agreed to meet in a week's time to preview progress.

Dennis Hone

CEO

10<sup>th</sup> September 2014

Attachments: LLDC Briefing Note

BB Anticipated Final Cost Schedule – Loads imposed by the New Roof Structure  
Compensation Event

**From:** [Dennis Hone](#)  
**To:** [REDACTED]  
**Cc:** [REDACTED]; Colin Naish; [REDACTED]@macegroup.com"  
**Subject:** RE: Olympic Stadium Transformation  
**Date:** 09 September 2014 11:56:01

---

Dear [REDACTED]

Thanks for your e-mail below – we clearly remain miles apart.

I think the first item for discussion should be regarding the Programme and in particular:-

- (a) Actual Progress to date
- (b) Section 2 Completion date including all acceleration that has either taken place or been instructed
- (c) Where further acceleration is required to achieve the Diamond League Athletics meeting (Section 2 Completion on or around 22 July 2015).

If we can seek to get to an agreed position on this we can then turn our attentions to the costs to date and future commercial issues.

Dennis

**Dennis Hone CBE**  
**Chief Executive**

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**From:** [REDACTED] [mailto:[REDACTED]@balfourbeatty.com]  
**Sent:** 08 September 2014 20:11  
**To:** Dennis Hone  
**Cc:** [REDACTED]  
**Subject:** Olympic Stadium Transformation

Without Prejudice

Dear Dennis

Thank you for your letter dated 4 September 2014.

I totally support your desire to reach a consolidated agreement on both the programme and commercial matters that confront us on the OST contract. This point is also reflected in the letter from the Mayor of 1<sup>st</sup> September. However, it is clear from your letter that we have very different perspectives on the issues we face on the project and it is not yet clear to me how we might reconcile these differences.

It seems to me that we have four discrete matters to address:

1. Agreement of the costs of undertaking the compression truss strengthening works, the related delay and disruption effects and the associated acceleration measures implemented to date.
2. Clarity on E20's preferred programme strategy mindful of the measures necessary to achieve it, and the inherent risks.
3. Agreement of the costs associated with the further acceleration.
4. Resolution of E20's claims to savings.

For the record, we consider E20's undervaluation of the programme impacts and the costs associated with the truss strengthening works, together with the further acceleration measures that would be necessary to meet the 2015 dates, to be significant. We also take issue with the entitlement to savings listed in your letter as these seem to duplicate savings previously offered and taken prior to contract award.

As well as the above issues, there are many other varied and additional work items being instructed by your Project Manager which remain to be agreed and which serve to put further strain on the programme and the budget. As these items are not being closed out in a timely manner, a backlog is building. We need to address these items quickly to avoid further disputes.

We probably have to be realistic about what we can achieve at our meeting [tomorrow afternoon](#).

At the very least we will need clarity on the programme that E20 would like us to work to achieve. Your Project Manager will be aware that our recently submitted non-accelerated programme shows a revised completion date for Section 2 of [11 December 2015](#). Of course, this takes no account of the acceleration measures implemented to date.

We will also need clarity on the process and timetable by which the commercial settlement you refer to is agreed between the parties. Mindful of the difficulties the parties are having in agreeing costs to date, we consider that there needs to be a fundamental shift in the way the contract is administered if we are to reconcile the divergent positions of our teams.

To this end, it may be sensible to establish a new governance structure whereby senior executives from each of our respective organisations are tasked with providing the necessary

oversight both to lead the expedited agreement of all issues of dispute and to ensure that swift action can be taken to keep the project on track.

I confirm that the Balfour Beatty attendees at the meeting tomorrow will be [REDACTED] ([REDACTED] for BB Major Projects), [REDACTED] ([REDACTED] for BB Major Projects) and myself.

Your sincerely

[REDACTED]

**Balfour Beatty**

---

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From: [Dennis Hone](#)  
To: [REDACTED]  
Cc: [REDACTED]; [REDACTED]@macegroup.com; Colin Naish  
Subject: FW: Stadium Works  
Date: 05 September 2014 13:17:47

---

Dear [REDACTED]

Further to my letter of yesterday's date I detail below certain clauses from the Venue Use Agreement with England Rugby 2015. These show why a section 2 completion date of 4 September 2014 (as set out under the accelerated option 2 in the paper you handed to me and quoted in your previous letter) does not work for the Rugby World Cup.

- ER2015 have an Exclusive Use period from 1 September 2015 to 2 November 2015: *"For the purposes of this Agreement the **Exclusive Use Period** shall mean the period commencing on (and including) 1 September 2015 and expiring on (and including) 2 November 2015 or the effective date of termination of this Agreement (whichever is earlier)."*
- Clause 8.1 states that *"the Venue Owner shall use best endeavours (at no additional cost to ER2015 as part of the Venue Hire Fee save as expressly provided otherwise [by the VUA] to secure, by no later than 4 August 2015, all Consents necessary for the staging of the Matches at the Venue (including, but not limited to, the safety certificate, premises licence and PRS/PPL licences)..."*
- The Test Event is scheduled for the weekend of 29/30 August 2015 (clause 5.1(e)).
- The deadline for completion of works is under Clause 3.12 stated as *"no later than 19 July 2015 the Venue materially meets the Stadium Specification (with the Retractable Seating positioned in 'athletics mode')...by no later than 19 August 2015 the Retractable Seating is positioned in 'ball sports' mode"*.
- LLDC are obliged under Clause 9 to complete the Venue Owner's Overlay Works by 1 September 2015.
- ER2015 are obliged under Clause 13.5 to provide vacant possession of the Stadium by 5pm on 20 November 2015.

You will be aware that failure to deliver the work in time to host the summer events in 2015 will have significant implications for all parties. Balfour Beatty are a global brand and one of the largest construction companies in the world. Your size, scale and reliability were critical factors in awarding you this contract – we had complete confidence in your ability to deliver.

Should one or both of the sporting events be cancelled, it is likely that this will lead to an intense level of media scrutiny both at home and around the world. Almost certainly this will raise doubts regarding the 2016 opening for West Ham United and the World Athletics Championships in 2017. Further, given the global nature of the events and the impact that cancellation will have on national credibility, it will almost certainly lead to significant parliamentary scrutiny and a summons to appear in front of the Public Accounts Committee for a number of us.

The reputational damage done following the UK's decision to pull out of holding the World Athletics Championship in 2005 and the failure of G4S to deliver its 2012 contract

provide salutary lessons here. I therefore hope that we will be able to focus our minds on achieving a satisfactory outcome that meets our respective needs, ensures that reputations are enhanced rather than damaged so that the public is able to enjoy these outstanding events within an iconic location next summer.

Dennis

**Dennis Hone CBE**  
**Chief Executive**

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**From:** [Dennis Hone](#)  
**To:** [REDACTED]  
**Cc:** [REDACTED]; [REDACTED]@macegroup.com"; [Colin Naish](#)  
**Subject:** RE: Olympic Stadium Transformation  
**Date:** 29 August 2014 14:13:27

---

Dear [REDACTED]

I refer to your e-mail and letter of 27 August and our telephone conversation today.

I intend to respond to your letter next week setting out our understanding of the current position (which you will appreciate is different from Balfour Beatty in some material aspects) and our current understanding of the programme and commercial issues.

I want to do this as a basis for discussion and negotiation in week beginning 8 September and we agreed to find a mutually convenient time to meet. It would be my intention that at that meeting we should seek to agree a mutually acceptable programme and commercial settlement. To this end I will be supported by project management colleagues.

Thanks

Dennis

**Dennis Hone CBE**  
**Chief Executive**

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**From:** [REDACTED] [mailto:[REDACTED]@balfourbeatty.com]  
**Sent:** 27 August 2014 18:41  
**To:** Dennis Hone  
**Cc:** [REDACTED]  
**Subject:** Olympic Stadium Transformation

Dear Dennis

Further to our email exchange on Friday, I thought I'd summarise some of the issues to arise from the programme review held over the past couple of days at OST.

██████ tried to contact Colin Naish but Colin is on leave this week and was not therefore able to participate in the review himself. ██████ contacted ██████ but he wasn't able to attend either. Three representatives from MACE did attend and no doubt you will be hearing from them directly.

In summary:

1. Two of our experienced senior project directors (██████ and ██████) spent all day yesterday (ie Tuesday) on site reviewing the programme and underpinning assumptions with the team. They proffered a number of suggestions but overall felt that the logic and sequencing made sense and concluded that the accelerated programme was tight. Weather risk during the winter months was cited as a particular concern.
2. Today, meetings were held with Hares, ImTech and Hewitts.
3. Hares gave a very good 3D model presentation of their plans for the roof steelwork to deliver the field of play by the end of April 2015. Critical to this is the need to deploy 4No. 600T cranes rather than the 2No. 600T and 2No. 300T cranes configuration they had assumed under the non-accelerated option. The need to commit to the two extra 600T cranes is a pressing matter as these works would need to start in mid-October once the cable roof structure has been lifted.
4. It's clear that there is a high level of interdependence between the 3 specialist suppliers in particular.
5. Hewitts presented their proposals for delivering the permanent playing area (16 week duration) and ran through some of the options for delivering earlier temporary pitch facilities. They have undertaken to set out the options and the associated costs.

In the light of the above, there remain three key options to my mind:

1. Accelerated delivery to provide a permanent playing surface for 4 September to allow the RWC to proceed. Additional costs estimated at £7m subject to refinement and discussions with the affected sub-contractors
2. Current programme with no further acceleration. Section 2 completion on 6 November 2015
3. Taking special measures including temporary turfing to allow the Diamond League event to take place on 24 July 2015

Option 3 naturally presents the highest risk. All options assume that matters for which BB has no responsibility can be delivered within the timescales.

In view of the emerging proposals being worked up by the specialist subcontractor, I would suggest that we need to arrange a summit in about a week to 10 days to review the options and the associated costs to allow an informed decision to be made by LLDC's re its preferred option.

The only caveat to this is the decision that needs to be made quickly regarding the need to secure the additional 600T cranes.

I'll be guided by how you wish to proceed.

Finally, in an earlier note, I said that I would respond more fully to the points you made in your note to [REDACTED] on 11 August 2014. I've set this out in the attached letter.

I hope this is helpful in summarising the current position.

Thanks

[REDACTED]

[REDACTED]

Balfour Beatty - Major Projects

130 Wilton Road, London, SW1V 1LQ

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[www.londonlegacy.co.uk](http://www.londonlegacy.co.uk).

**From:** [REDACTED]  
**To:** [Dennis Hone](#)  
**Cc:** [REDACTED]  
**Subject:** RE: Stadium Works and Programme Review  
**Date:** 22 August 2014 18:22:14

---

Dear Dennis

Thanks for your note. It was good to meet you.

You'll recall that I said at the outset of our discussions yesterday that I did not wish to use the meeting to advance our contractual entitlements preferring to focus on the options available to LLDC for the completion of the works. The Compression Truss strengthening works and the costs flowing from these works are recoverable under the contract. It is accepted that the Contractor is entitled to a delay to the various completion and key dates. It is also a matter of record that our respective teams have not reached agreement on the quantum of some of these costs and I think we're agreed that it is in both our interests that these matters are resolved as speedily as possible.

Returning to the programme options, we agreed that it would be sensible to arrange a joint review of the programmes and to allow an independent challenge of the assumptions that underpin the tabled options.

To this end, we have arranged for two of our experienced construction practitioners (who have not been involved in the OST project) to participate in such a review next week.

[REDACTED] my [REDACTED] for Infrastructure, will liaise with Colin Naish to make the necessary arrangements and to agree who attends.

Please be assured that Balfour Beatty is committed to working with LLDC to derive the best option in which the parties have confidence. We fully respect LDCC's rights to determine whether the costs of accelerating the works to achieve whatever completion date is agreed represent value for money. Just to be clear, the slippage between 22 July and the 6 November is accounted for by the acceleration measures that have yet to be instructed.

I suggest we arrange to catch up following the review next week and ahead of your planned meeting with the Mayor.

In the meantime, please feel free to contact me at any time.

Thanks

[REDACTED]

[REDACTED]  
Balfour Beatty - Major Projects

130 Wilton Road, London, SW1V 1LQ

t: [REDACTED] | m: [REDACTED] | e: [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com)  
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**From:** Dennis Hone [<mailto:Dennishone@londonlegacy.co.uk>]  
**Sent:** 22 August 2014 13:02  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Fw: Stadium Works

Dear [REDACTED]

We met yesterday to discuss the ongoing commercial and programme issues.

At the meeting you presented 3 scenarios.

Option 1 - Assuming BB view of EOT entitlement section 2 Completion 11 December 2015

Option 2 - Accelerated Delivery giving a Section 2 completion of 4 September 2015 but costing an additional £7m.

Option 3 - Current Programme with no further acceleration. Section 2 completion on 6 November 2015.

As I explained to you this scale of slippage to 6 November 2015 is exceptional and new news to LLDC as client and a substantial revision to the Balfour Beatty's Current Accepted programme that continues to show Section 2 completion by 19 July 2015.

All options rule out the Diamond League Athletics and Anniversary Games and even Option 2 which completes on 4 September 2015 is beyond the date for England Rugby exclusive use of the Stadium and is likely to cause issues re licensing and test events.

In the circumstances LLDC needs to give careful consideration to informing the organisers of these events of the slippage in delivery by BB so they can make alternative arrangements and mitigate their commercial positions. I have therefore scheduled a meeting with the Mayor of London and advisers for the morning of Thursday 28th August to brief the Mayor and agree next steps with him.

We agreed that the relevant teams with additional independent fresh pairs of eyes should urgently review the programme to as far as possible understand what can be delivered when. This must happen on Tuesday or Wednesday prior to the briefing of the Mayor for BB to either confirm the programme impact or adjust the programme dates accordingly.

[REDACTED] [londonlegacy.co.uk](http://londonlegacy.co.uk) will lead on this for LLDC with Colin Naish and I would be grateful if the Programme Review could be set up asap

We would request that representatives from your principle sub contractors (Hares, Imtech and Hewitts) attend this session so we can quickly get to the nub of the programme issues.

As you can imagine such a significant change in programme means our confidence in the BB project leadership is dented and following the programme workshop we will wish to discuss this with you.

At the meeting I explained that on the basis of legal and Project Manager advice LLDC had a significantly different view of its liability under the NEC Option A contract, had items currently within the scope of the contract and drawings it now doesn't wish or need BB to deliver and had a significantly different view of the potential extension of time applicable.

I hope that the workshop next week will produce a programme that meets the original aspirations of the client but if this is not possible or is not value for money I am sure you will understand that we will need to be fair to the event organisers and therefore we will have no alternative but to take hard decisions about next year's events and explain and justify these decisions accordingly.

Dennis

---

**From:** Dennis Hone  
**Sent:** Monday, August 11, 2014 04:26 PM  
**To:** [REDACTED] [balfourbeatty.com](mailto:[REDACTED]@balfourbeatty.com) <[REDACTED]@balfourbeatty.com>  
**Subject:** Stadium Works

Dear Nick

I met with [REDACTED] and [REDACTED] at lunchtime today to discuss the financial position on the Stadium. ♦ Colin Naish from LLDC and [REDACTED] from Mace were also present.

The meeting was to be honest not productive. ♦ The message I got loud and clear was that Balfour Beatty(BB) believe they are fully entitled to every penny of additional costs as a result of increased loading and compression trust strengthening and if LLDC do not agreed to this position BB will not move forward with supplier acceleration works. ♦ There was no room for negotiation or debate – it came across as an ultimatum as the acceleration decision needs to be made in the next two weeks.

The reason I am e-mailing you is that the next step in the escalation process is for the Senior Executives under the contract to meet , however I don't see the point if the BB position is as stated. ♦ At the moment I have advice from Mace and Wragges as to the LLDC's contractual liability under the contract and ♦ this suggest a payment of around £10m but with the BB position that the order of costs is likely to be £22m and possibly higher we are miles apart. We therefore agreed it was likely that this ♦ matter will ♦ need to go to adjudication and consequently I have asked our lawyers to start preparations. ♦ However this will take time to go through the process and we have to make immediate plans concerning preserving or withdrawing from next year's UKA Diamond League Athletics and Rugby World Cup matches.

We therefore agreed to look at the extension of time on the elements that LLDC believes it is liable for and whether we can still achieve delivery of the Rugby World Cup without further acceleration. ♦ This information should be available this week. ♦ Once I have this information I intend to brief City Hall on the consequences and the impact on next year's events and if we are withdrawing from these events then all communications with press, media and the organiser's



will be co-ordinated by the Mayor's Office given the political and other ramifications.

For your information we have no commercial agreement in place with UKA for the Diamond League meeting next year. ♦ At their risk they have paid LLDC a six figure sum for the protection of the Athletics Track but we have no further contracts in place. ♦ In extremis LLDC may have to refund UKA this amount. The agreement with England Rugby 2015 is agreed but not yet signed but the fee for staging the matches once our operation costs are taking into account will not leave LLDC with any significant profit. ♦ Whilst these events are desirable and will help showcase the stadium's future they do not make any significant financial contribution to LLDC and therefore whether we proceed or not will need to be determined against the costs of acceleration and our contractual position with BB. You will understand that if LLDC are to withdraw from hosting these events due to cost issues it is better to do so at an earlier juncture so that the organisers can make alternative plans and before we enter into ♦ any contractual arrangements with the parties.

At the meeting I told █████ that all this would be considered at the LLDC Board meeting of 23 September but I omitted to say that this matter would be first ♦ reviewed by our Investment Committee on 10 September and in any event will blow up in the next two weeks if we unwind our planned arrangements with UKA and England Rugby 2015.

I agreed with █████ that both LLDC and BB should keep talking but without any proposals to resolve the matter it is difficult to see how we can make progress.

Dennis

**Dennis Hone CBE**  
**Chief Executive**

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**From:** [Dennis Hone](#)  
**To:** [REDACTED]  
**Subject:** RE: Dennis (OST)  
**Date:** 14 August 2014 08:43:49

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Dear [REDACTED]

Thanks for your e-mail.

I should say that we are very happy with the work that BB have been undertaking on the stadium and progress to date. We will be happy to look at your proposals to bring this current disagreement to a satisfactory conclusion.

Dennis

**Dennis Hone CBE**  
**Chief Executive**

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**From:** [REDACTED] [mailto:[REDACTED]@balfourbeatty.com]  
**Sent:** 14 August 2014 08:36  
**To:** Dennis Hone  
**Subject:** Fw: Dennis (OST)

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**From:** [REDACTED]  
**Sent:** Thursday, August 14, 2014 08:28 AM  
**To:** [dennis.hone@londonlegacy.co.uk](mailto:dennis.hone@londonlegacy.co.uk) <[dennis.hone@londonlegacy.co.uk](mailto:dennis.hone@londonlegacy.co.uk)>  
**Subject:** Dennis (OST)

Dear Dennis

I refer to your note to [REDACTED] regarding the meeting you had with [REDACTED] and [REDACTED] on Monday.

As [REDACTED] is tied up this week and next with investor and analyst meetings/presentations (it's our half-year), we agreed that it would be best if I followed up directly. I am the [REDACTED] of Balfour Beatty Major Projects. Our work at the OST project comes under my jurisdiction. Both [REDACTED] and [REDACTED] are part of my team.

I will respond more substantively to the points you make in your note under separate cover but wanted here to both acknowledge your note and pick up on a couple of points in the meantime.

It is unfortunate that discussions are becoming so vexed at what is fast becoming a critical tipping point for the project. I should say that if the impression was created of our laying down an ultimatum at the meeting, it was not intentional. The reality, as your team will attest, is that we have been accelerating the truss strengthening works for some months and decisions will need to be made as to how the remaining works are to be carried out. Whilst I readily accept that you have your stakeholders' interests to protect, you will appreciate that we have similar obligations to safeguard the risks to our shareholders. It is a matter of record that the full costs of the acceleration to date have not yet been agreed and you will understand how this serves only to undermine confidence.

It is common ground between our respective teams that BB has entitlements to time and cost under the contract.

Notwithstanding, this, I sat down with [REDACTED] [REDACTED] and his team yesterday to consider the options available to LLDC. These options will be refined over the next few days and I will be in a position to discuss these with you next week if you are available to meet.

I will ask my EA to seek to schedule a time for us to meet as soon as we're able.

I look forward to meeting up.

Many thanks

[REDACTED]

[REDACTED]  
[REDACTED]

Balfour Beatty - Major Projects

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