

HCC-VES Contract 2016-17: Extents of Publication & Redaction

John Webb, vn.2, 21 Feb. 2017, for review in progress

Please refer to source documents for authoritative versions.

Schedule	Title	Released?	Redactions? (other than identities)
	Latest Deed of Variation dated 15 July 2016	Yes	
	<u>Previous Deeds of Variation:</u> 20 August 2014 17 December 2014* 18 December 2015 30 March 2016 30 June 2016.	Only as follows: <i>*already available on HCC's web site</i>	
	Project Agreement Main Body dated 27 July 2011	Yes	61.4, Limitation on indemnity: values 81.3.2, IBA Sub-Contract and IBA rail solution: conditions 83.4 & 83.5, Guarantees: values <i>(Notes: In Part 2, Land & Permitting, 10. Land Issues, 10.1 Grant of Lease (which was previously numbered 10.1), para. 10.1.2 & 10.1.3 are no longer redacted. 10.8 Appropriation (which was heavily redacted) is no longer present.)</i>
1	Definitions	Yes	'Contractor Default': quantities. 'Contractor's Cumulative Capital Expenditure Share': levels of expenditure. 'Persistent Breach': durations. 'Project Internal Rate of Return (IRR)': a short clause. 'Reversion Sum': a clause relating to the IRR. <i>(Note: some items that were redacted in the 2011 version have been omitted altogether; others have had the redaction cleared by removing</i>

			<p><i>some values and/or clauses, e.g. for Collateral Warranty; still others have now been redacted, apparently unchanged! e.g. Contractor Default (a) & (b).)</i></p> <p><u>Relative to the 2011 version:</u> 'Project IRR' is partly revealed. 'Protester Acton' is fully revealed. 'RPP Base Case', 'RPP Deed of Variation', 'RPP Variation Date' and 'satisfactory Planning Permission' have need added.</p>
2	<p>Authority's Requirements <i>(with a note: "[BOUND INTO THE RPP DEED OF VARIATION IN SEPARATE VOLUME]" - perhaps left here by mistake)</i></p>	Yes	<p>3.23 & 3.24 about Maintenance of the Site. 1.7 Performance Deduction points & periods; also in Tables 3, 4, & 5.</p>
<i>(no Sch. 3)</i>	<p>Contractor's Proposals <i>(The title page of Schedules 1-33, dated 27 Nov, 2011, excluded these as being 'bound into the Contract in separate volumes')</i></p>		
4	<p>Payment Mechanism</p>	Yes	<p><u>Definitions:</u> Rates in 'Base Payment Index', 'Bulk Haulage Rate', 'Corporation Tax Adjustment Figure', 'Fixed Cost', 'Guaranteed Commissioning Tonnage', 'Landfill Adjustment Rate', 'Levy Exemption Certificate', 'Recycled and Recovered Materials Rate', 'Refuse Haulage Rate'. 3.2-3.4, 3.6, 3.7, 3.9: Terms in formulas about Commissioning. 6.2: a base Payment factor. 7.1.3, 7.2.1 factors for Performance. 10.2.2 & 10.3.3: mark-ups on costs for Ad-Hoc Waste Payment. 13.3-13.6: factors in Third Party Income Deduction. 13.7: factors in Corporation Tax Rebate. 15.2.2: factor in calculation of Substitute Waste Adjustment. 16.1: factors in Diversion Performance Deduction. 16.2: factor in Guaranteed Processed Landfill Tinnage. 18.1: factor in Performance Deduction Cap Reconciliatin Payment.</p>

			<p>19.2.1: factors in Ewxcross profit Share Payment.</p> <p>19.8-19.10: factors in Calculation of Excess Profit Thresholds.</p> <p>Appendix 1: Gate Fees, Performance figures.</p> <p>Appendix 4: Guaranteed Third Party Income figures.</p> <p>Appendices 5-7: Guaranteed Performance figures.</p>
5	Ancillary Documents and Project Documents	Yes	<p>None.</p> <p><i>(Note: the list of ancillary documents has been abbreviated from 7 items to 2.)</i></p>
6	Contractor Warranted Data	Yes	<p>None.</p> <p><i>(Note: Keith McGurk is now shown as a Director of the Contractor, where previously there was Tom Spaul who is now no longer shown as a Director of the Holding Company.)</i></p>
<i>(no Sch. 7)</i>	<p>Sites Information <i>(See the 2011 set of documents: Part 1, Sites Information; Part 2, Authority Site Lease)</i></p> <p><u>Redacted in the 2011 version:</u></p> <p>4. Particulars, item 7. Rents: amount.</p>		
8	Key Dates	Yes	<p><u>Dates:</u></p> <p>Planning Application Longstop, Planning Permission Longstop, Works Commencement Longstop, Readiness Longstop, Acceptance Longstop.</p> <p><u>Note: Dates & durations that were redacted in the 2011 version:</u></p> <p>Two undisclosed items, Planning Permission Longstop, Planned Pre-engineering Works Commencement, Works Commencement Longstop, Works Period, Commissioning Period, Planned Readiness, Readiness Longstop, Planned Acceptance.</p>
9	Review Procedure	Yes	None.
10	Required Insurances	Yes	None.

(no Sch. 11)	Readiness Tests (<i>Shown in the 2011 version, with redaction of the 5 footnotes in Table 1; also 4 boiler parameters, FGT residues storage period, 3 Electricity & Heat parameters and many items & parameters below 'Noise and vibrations'.</i>)		
12	Independent Certifier's Deed of Appointment	Yes	None, yet Building Contractor details are not shown.
(no Sch. 13)	<i>('NOT USED' in the 2011 set)</i>		
14	Waste Law List	Yes	None.
15	Best Value and Continuous Improvement	Yes	None.
16	Parent Company Guarantee	Yes	3.6: a clause regarding Guarantee: Compensation on Termination. <i>(Note: this item was similarly redacted in the 2011 version.)</i>
17	Compensation on Termination	Yes	<u>Part 1, Definitions:</u> Authority Losses, clause (a) with amounts. <i>(Note: this item has been added since the 2011 version)</i> Construction Contractor's Development Costs: a brief item. Contractor's Development Costs: a brief item. <i>(Note: those two items have been simplified from the 2011 version.)</i> <u>Part 2. Compensation...</u> <i>(Note: 1.2 on Default Termination Sum has been simplified)</i> 1.6.2: reference to a factor of compensation.
18	Liaison Procedure	Yes	None.
19	Revision of RPP Base Case and Custody	Yes	None. <i>(Notes:</i> <i>A redacted first item, Authority Capital Contribution and Base Case Change Rate have been omitted.</i> <i>In 8. Specific base Case Adjustments, 8.1 Authority Capital Contribution has been omitted.</i> <i>8.2 Delay has been simplified.</i> <i>8.3 Foreign Exchange has been simplified and 8.4 omitted.</i> <i>These items in 8. are no longer</i>

			<i>redacted.)</i>
20	Employment and Pensions	Yes	None.
21	Change Protocol	Yes	High Value Changes: percentage. Low Value Change: percentage. Medium Value Change: percentage. Appendix 1: Material Unit Rates. Appendix 2: Total Fees, Appendix 3: Total Fees.
22	Dispute Resolution Procedure	Yes	None.
23	Commercially Sensitive Information	Yes	None. <i>(Notes: The list of definitions in 3.1 (b) (ii) has been changed, omitting a previously redacted item. Item 3.1 (l) has been changed, omitting a previously redacted point about sub-contracts.)</i>
<i>(no Sch. 24)</i>	<i>('NOT USED' in the 2011 set)</i>		
25	Form of Collateral Warranty <i>(Note: This now has only a Part 1 since Part 2 was about a warranty by a French sub-contractor; Part 3 was about a warranty by a 'MPT Subcontractor'; Part 4 was about a Deed with a French Consultant Team.)</i>	Yes	None. <i>(Note: in Part 1 the parties to the Warranty from the Contractor's Construction Sub-contractor are: BWL Energy (Rye House) Limited, based in Northern Ireland (instead of Vinci Environment UK Limited) Veolia ES, as previously Herts CC, as previously</i>
26	Planning	Yes	<u>Definitions:</u> BBC Contribution: amount and reference to RPP Base Case. Planning Contingency Cap: entire section. Planning Permission Longstop Date: entire section. Satisfactory Planning Permission: entire section. 3.7 Impact of Planning Delay: entire section. Appendix A: Impact of Planning Delay: entire section, including Table 1: Planning Delay Increments to

			<p>Construction Cost Indexation Regulation 12.</p> <p><i>(Notes: some definitions have been added, changed or deleted, e.g: Appeal Contingency, previously redacted, but now deleted; the entry for Planning Permission Longstop Date was previously visible; 3.1.1 under Satisfactory Planning Permission is no longer redacted; 3.6.1 under Delays and Extensions of Time is no longer redacted; The heading of 3.7, Impact of Planning Delay, has been disclosed and its content reduced. 3.8, Challenge Period and Judicial Review, is no longer redacted. 3.9.8 Dosute Resolution has been omitted. Appendix A, Impact of Planning Delay, remains redacted apart from its title.)</i></p>
27	Approach to Permit Risk	Yes	None.
28	Relevant Discharge Terms	Yes	None.
29	Design Proposal	Yes	None.
30	Outline Substitute Waste Plan	Yes	1.1: quantities in tpa. <i>(Note: This paragraph is now visible apart from those figures.)</i>
31	Incoming Waste Parameters	Yes	None.
32	<p>Administrative Area <i>(contains only this cross-reference: “[SEE SEPARATE DOCUMENT IN ZIP FILE- NO CHANGE FROM 2011 CONTRACT]”. This may refer to a map of Hertfordshire with its boundary marked in red, at the end of the 2011 PDF set of Contract schedules.)</i></p>		
33	Foreign Exchange Hedging Protocol	Yes	<p><u>Definitions:</u> FX Hedge Date: a clause about the applicable Period. 4.1 & 4.1: the Protocol for adjusting the Forward Rate.</p> <p>Appendix 1, Call Currency Principal</p>

		<p>Amount: Forward trade for EUR.</p> <p><i>(Notes:</i> <i>The entry for FX Hedge Date is now visible apart from one phrase.</i> <i>Selected bank is now a description rather than identity.</i> <i>Seller has been omitted.</i> <i>2.2. about when to trigger the Protocol has been re-written without redaction.</i> <i>4. about Independent Expert Review has been added.</i> <i>5. (which was previously 4.) about Revision to the Base Case has been much expanded and redacted.)</i></p>
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