



PRESS RELEASE

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HMGOG Announces Resumption of the Runway Tunnel Works

HM Government of Gibraltar is pleased to announce that it has successfully negotiated a settlement with Obrascon Huarte Lain SA (OHL) to complete the runway tunnel. Not only will this settlement avoid further delays by requiring the contractor to complete the tunnel by 30th November 2018, it will do so at a price close to the original 2008 budget. The completion contract explicitly specifies that any delay to the contracted completion date would immediately incur financial penalties to be paid to Government by OHL.

This settlement therefore provides Government and the taxpayer with the certainty of a completion date and also with certainty of cost.

OHL were the contractors who originally started work on the project but, after HMGoG terminated the contract in August 2011, the company commenced proceedings against the Government. In 2014, the High Court of England & Wales found in favour of HMGoG and held that the Government had correctly terminated the contract and that OHL should pay all the additional costs which would be incurred by the Government in order to complete the project. OHL were also ordered to and did pay the costs of the proceedings. OHL lodged an appeal against the decision on liability which was dismissed by the Court of Appeal in July 2015. Subsequently they sought leave to appeal to the English Supreme Court but this was refused. The trial to assess the exact amount of damages to be paid by OHL to HMGoG was envisaged to start in 2017. The completion contract will bring to an end all the costs and uncertainties associated with these legal proceedings as well as various claims still being pursued by OHL against HMGoG which will now be abandoned.

Having originally contracted to pay OHL £30m for the tunnel in 2008, OHL will now receive a total sum of no more than £24m. This amount includes sums already paid. The reduction in price will contribute towards the costs and expenses incurred by HMGoG since termination. These include the cost of certain works undertaken directly by GJBS.

Another feature of the completion contract is that many potential risks involved in completing the tunnel project will now be assumed by OHL rather than by HMGOG. The contract provides for dealing with various different eventualities in light of the unusual circumstances giving rise to it. Importantly however HMGOG is improving its current position by obtaining bank guarantees in the total sum of £37.1m to ensure OHL's performance of the works. Government will also be able to pursue OHL for further sums if they fail to deliver. This completion contract includes various safeguards and places HMGOG in a far better position to avoid the problems of the past. These include the provisions of bank guarantees, termination provisions designed to avoid lengthy litigation



and a specific provision for any disputes to be resolved by a retired construction judge within 84 days. Government will continue to retain a team of monitoring consultants to supervise the completion works to ensure these are delivered on time with the agreed specifications and to the required quality.

OHL has stated that this settlement now closes all past differences between the parties and, in a new climate of cooperation with the Government of Gibraltar, it wishes now to focus all its efforts in the successful completion of the project. Under the completion contract, they have agreed that they will bring in a completely fresh team to work on the tunnel project and have appointed members of OHL's international division to ensure the delivery of the project in accordance with its obligations. OHL will be mobilising on site during the early part of July although formal commencement under the completion contract will be 1st August 2016.

The Chief Minister, the Hon Fabian Picardo QC MP said: "Although this announcement may come as a surprise to many, our priority has been to ensure that work on the tunnel is going to be completed as soon as possible and to the standard required. By reaching this agreement with OHL, we can now begin immediately with a contracted end-date in sight and for a clear and final agreed price. To continue with the court case would potentially only delay the finalisation of work on the tunnel and would incur continuing expense. It also exposed us to the risk and uncertainty of further court hearings relating to quantum. This settlement with OHL ensures that the final cost of the tunnel will be as close as we could hope to achieve to that which was originally budgeted for. The result also de-risks the process for Gibraltar quite considerably. This is a chance for OHL to demonstrate what it can do and to re-establish a reputation that has been severely tarnished in Gibraltar. Finalising this litigation, in which Gibraltar has been repeatedly successful has been hard work in particular for the professional and legal teams involved. I want to thank the team at TSN comprising Guy Stagnetto and Nick Culatto, the team at Corbett & Co led by Edward Corbett, Mr Nigel Pardo and also Stephen Orciel and John Joe de la Paz who have been involved throughout. Additionally I am also very grateful to the team in-house within HMGoG in particular Michael Gil, Hector Montado, Dilip Dayaram, Albert Mena, former Chief Minister Sir Peter Caruana who have been of great assistance in the litigation leading up to this result. GJBS have - as usual - stepped into the breach when they were needed by the Gibraltarian taxpayer and they could have done a great job of finishing the tunnel. The work they have done and completed is of the very highest standard, as usual. I want to thank them also for that work. Now, on behalf of the people and Government of Gibraltar, I very much look forward to our disputes with OHL being a thing of the past and to seeing this project completed as soon as possible and by the date agreed. It's time to put the dispute behind us and move on."