



For The Attention of Martin Foerder
Project Director
Bilfinger Berger Siemens CAF Consortium
9 Lochside Avenue
Edinburgh Park
Edinburgh EH12 9DJ

Our Ref: INF CORR 6320

Date: 7th October 2010

Dear Sirs

**Edinburgh Tram Project – Infraco Contract
Infraco Notification of tie Change (INTC) No. 154**

We refer to your letter dated 24 September 2010 (reference 25.1.201/GA/6812). We also refer to your letter dated 23 September 2010 (reference: 25.1.201/MRH/6799), in which we assume you intend to refer to our letter dated 17 September 2010 with reference INF CORR 6065 (rather than 6067).

Further to, and in line with, our letter of today's date with reference INF CORR 6397, we acknowledge that your opinion is that the circumstances referred to in INTC 154 amount to a Notified Departure. You have never demonstrated to us that the facts and circumstances are such as to amount to a Notified Departure.

We acknowledge that you have submitted your Estimate in respect of INTC 154. It took you one year and 7 months from the date of notifying the INTC to do so. Our review of your Estimate, and the pursuit of information from you to demonstrate whether or not the facts and circumstances amount to a Notified Departure, is subject of separate correspondence between us.

We have instructed you to carry out the works which are the subject of INTC 154. You say that you are unable to carry out these works, which you allege to be changed, in the absence of a tie Change Order.

The provisions of Clause 80.20 apply in these circumstances and the provisions of Clauses 80.15 and 80.16 are deemed to apply *mutatis mutandis* to the work carried out by you in complying with our instruction. As a consequence, you are required to carry out the works which are the subject of INTC 154.

Please confirm that you are complying with our instructions and carrying out the works which are the subject of INTC 154.

Citypoint Offices, 65 Haymarket Terrace, Edinburgh, EH12 5HD
Tel: +44 (0) 131 623 8600 Email: info@edinburghtrams.com Fax: +44 (0) 131 623 8601 Web: www.edinburghtrams.com

Registered in Scotland No: 230949 at City Chambers, High Street, Edinburgh, EH1 1SS. Edinburgh Trams is an operating name of tie Ltd

Direct dial: +44 (0) [REDACTED]
e-mail: steven.belli@tie.ltd.uk
web: www.tie.ltd.uk

CEC00037547_0001

We note that INTC 154 is included on the list enclosed with your letter dated 29 September 2010 (reference: 25.1.201/KDR/6860) in respect of your ceasing the works. Please advise how you will recover any time lost in completing the works as a result of your breach.

We refute that there is any adjudication decision which supports your position in refusing to accept our instructions and carry out the works in respect of a Notified Departure which has not been demonstrated by you, let alone that they are "numerous".

Yours faithfully



Steven Bell
Project Director – Edinburgh Tram