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**From:** Richard Jeffrey  
**Sent:** 29 September 2010 08:27  
**To:** david\_mackay@ [REDACTED] Fitchie, Andrew; Anthony Rush; Steven Bell; Mandy Haeburn-Little  
**Subject:** suggested words for party briefings - DRAFT FOR COMMENT - URGENT

David, Andrew, Tony, Steven, Mandy.

This needs to CEC go midday today

At the meeting with CEC yesterday I was asked to produce some guidance on what we can say to the politicians. I know we would all rather say nothing, but at this stage this is not possible, we have to say as much as we reasonably can. I would welcome your input.

suggested words for party briefings, Andrew, is there anything here we must not say?

- For the last 9 months or so we have been pursuing a twin track approach to try to break the impasse that exists between us (tie) and the consortium (BSC)
- It is important to note that whilst we have been pursuing this twin track approach work on site has been progressing in the west of the city, (albeit at a slower rate than we would like/expect) and a site visit is highly recommended to see this level of progress
- The twin track approach has been
  - a) To seek to agree a revised scope, price and programme, which achieves a tram running to at least St Andrew Square with a very high degree of cost and programme certainty
  - b) To continue to administer the project in a robust manner (including compiling evidence of BSC's breaches of contract where they exist)
- **Workstream a)** -Following many twists and turns the negotiations on a) above have now reached the point where any early settlement looks unlikely. It is important to note that negotiations are still continuing, but the deadlines we set (mid September) have been passed without agreement being reached. Either party can walk away from these negotiations at any time, but in the meantime neither party has done this.
- **Workstream b)** Under workstream b) above we have now compiled a comprehensive database of evidence to support our view of the fact that BSC have breached the contract on numerous occasions and material ways. As a result of this we have so far issued 7 Remediable Breach Notices, each of which gives the consortium 30 business days to provide remediation plans. The first remediation plans have now been received, and we are considering this, and others are due over the coming weeks.
- We must recognise that, in the event the consortium does not submit acceptable remediation plans we have the right, but not the obligation to terminate the contract.
- We must give the contractor every opportunity to rectify their breaches and review their remediation plans in an open and objective way so as not to pre-determine the outcome.
- There is a clearly laid out timetable for the above and this shows that any decision on termination of the contract, (IF that is the route we recommend) is most likely to be in mid-late November (Disclosing this is the bit that makes me most nervous!)
- There is a third option, if neither a) or b) are acceptable, and that is to continue to grind on with the existing contract.

Thanks

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