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GF/JE-jw
16. August 2010
20100816JEjwB0204

Dear Mr Mackay,

I acknowledge your letter dated 12th August and agree with you regarding our relationship on this Project. We both understand that, if a compromise solution cannot be found for "Project Carlisle", we cannot continue to carry on with this Project in the way it has to date.

Since the beginning, the Project has been limping and suffering from scope changes including time to address these, utility delays, access restrictions, design issues including third party input / approval and fundamental differences between us on interpretation of aspects of the Contract. Infracore has been obliged to engage, and continues to be obliged to engage, in the Dispute process under the Contract, to have its entitlements recognised. This process alone drives up cost and consumes further time and diverts resources.

Coming back to "Project Carlisle", we appreciate your recognition of the support we are giving this, with on-going goodwill, additional manpower and extra efforts by everyone involved with input into "Project Carlisle". We did make it clear in our submission that there had been limits to what we could do in the timescale; for example negotiating with subcontractors on pricing had not been possible.

Nevertheless, I was told you have conveyed the unacceptability of the amount and have let us know that tie is producing a counter proposal. We will review and respond as quickly as we can. However, this is giving us increasing concern on tie's financial capacity, and on City of Edinburgh Council's support, to adequately fund the Project.

Regarding your point of yourself and Richard Jeffrey meeting with myself and the "deciding minds" of the Consortium, Bilfinger Berger has always brought full and senior decision-making capacity to the table. David Darcy, at Executive level, is available at any time, and this is even

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better facilitated now by his very recent, full-time transfer to the UK. I stress that David Darcy is fully empowered by Bilfinger Berger and has all my trust. David and I are in continuous contact.


Taking the opportunity of this personal letter, I emphasise some particular real concerns I have. Firstly, as already referred to, on the funding and I ask that **tie** provides proof of adequate funds for the Project. Could it also please be confirmed that City of Edinburgh Council, as Guarantor, is backing the Project in the light of the obvious increased cost.

Then, as we stand today, the on-street works are part of the scope of the Contract, but we do not know when the utility works will be complete. Our contract contemplates that Infracore is responsible to deliver the project scope and **tie** is not only responsible to fund the project but also to provide an exclusive and adequate workplace in the required time sequence for Infracore to perform its contractual obligations.

Thirdly, another particular concern I have is that **tie** is withholding payments; specifically, the monthly amounts for preliminaries that were paid each month up to March 2010 but have not been paid since then. I kindly ask you to revisit your current position by honouring our due entitlements.

Mr Mackay, Bilfinger Berger fully supports the project. We re-iterate our willingness to continue to co-operate on possible ways and options to move the Project forward in a better way.

Yours sincerely,


Bilfinger Berger Ingenieurbau GmbH


Joachim Ehenke