
From: Julie Thompson [Julie.Thompson@tie.ltd.uk]
Sent: 18 February 2009 14:21
To: Fitchie, Andrew
Subject: FW: ETN Princes Street - STRICTLY PRIVATE & CONFIDENTIAL

Importance: High
Sensitivity: Confidential

Andrew

David has asked me to forward this to you.

He is very unhappy with the tone of the email.

He would appreciate your advice.

Regards

Julie

-----Original Message-----

From: Steven Bell
Sent: 18 February 2009 14:18
To: Julie Thompson
Subject: FW: ETN Princes Street

-----Original Message-----

From: Robert Sheehan [<mailto:Robert.Sheehan@bilfinger.de>]
Sent: 18 February 2009 14:07
To: Steven Bell
Subject: ETN Princes Street

Dear Steve,

As agreed please find attached the response to tie's question - could you please forward this to David MacKay.

Following our meeting on 17th February 2009 we have been asked the following question:

"is it Infraco's position that there is no obligation to accept a tie instruction to commence work in Princes Street"?

The Infraco position is as follows:

The Agreement provides for exclusive licence to the Infraco to enter and remain upon in Designated Working Area. It is our understanding that we do not have this exclusive licence to those areas inter aliadue to maintaining a bus route.

The Agreement provides for prior agreement to an Estimate as a precursor to executing the changed works. Currently agreement cannot be reached on changes relating to these works. Given the obstacles to progress, we are

precluded from properly planning and executing the works with the inevitable consequence that those works will be delayed and disrupted. Accordingly we cannot accept liability for inevitable consequences arising from inter alia the impact upon the works of maintaining bus lane.

In consideration of the above we do not consider ourselves contractually obliged to commence works in Princes Street.

However we understand the importance of this area to you. Therefore as a gesture of goodwill and without prejudice to any entitlements with respect to events and circumstances given rise to this action we are prepared to evaluate diligently any proper instruction to commence the works in Princes Street. Such proper and detailed instruction is still outstanding. It is our strict understanding that we shall receive a proper instruction prior to our commencement of the works in Princess Street containing clear details on reimbursement of our actual costs and overheads, prelims and profit - further that we accept of the risks associated with proceeding with the works under these circumstances. In addition that any extensions of time to the relevant milestones will be granted where such works are delayed.

Our agreement as reflected in this email and any negotiations related to this topic should not be construed as any departure from the Infraco contract.

Mit freundlichen Grüßen / best regards / bien cordialement

Robert Sheehan

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