



EDINBURGH TRAM

Highlight Report to the Chief Executive's Internal Planning Group 29 February 2008



3.2 Path To Financial Close

22 nd February	Review all critical areas by tie team and preparation of detailed management plan.
25 th February	Infraco proposal/SDS design/ ER alignment meeting (All parties).
26-27 th February	SDS novation, Infraco terms, finalisation and alignment of matters.
28 th February	Progress all other areas.
3 rd March	Issue of close report.
4-5 th March	CEC briefings.
5 th March	Finalisation of Council Report.
3-7 th March	Finalisation of all contract areas.
10 th March	Notification of Award.
13 th March	Full Council meeting.

Note some of these dates may be subject to slippage.

4 Critical Contract Decisions

See Appendix 2: Critical Contract Decisions to enable Chief Executive to use delegated powers to approve tie to sign the contract with BBS. Paper to be discussed.

Where items in the description column are highlighted in red these are what CEC see as critical decisions needing resolved.

In the status column there are three colours used.

- Green: Item closed out.
- Orange: Requires clarification/approval.
- Red: Incomplete or not received from tie.

Where the status is orange additional supporting documentation is required from *tie* such as a supporting letter. The CEC Legal team will then advise on the quality and robustness of these supporting documents. This will require dedicated resource from CEC to consider this documentation and report back to the next IPG meeting.

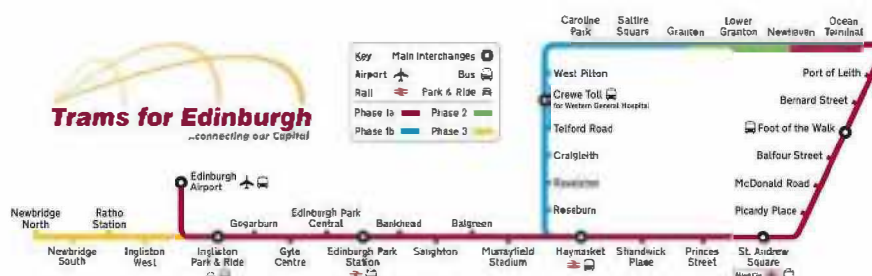
4.1 Outstanding Issues

• Contract

1.1b: CEC require terms of the SDS novation agreement, currently being negotiated between BBS/SDS.

1.2: Before CEC can sign off the Guarantee DLA are to confirm that the Infraco contract and the Grant Award letter are aligned.

1.5: Letter required from DLA confirming CEC have best possible deal, warning of any caveats and including updated risk matrices.



5 Update on Major Contracts

5.1 MUDFA

- **Leith Walk**

AMIS continue to occupy the south bound carriageway from Brunswick St to Pilrig St and the north bound carriageway from Pilrig St to Jane St. Right turn movements are restricted from Leith Walk into Brunswick Place, Brunswick St, Albert St, Iona St and Dalmeny St. Similarly left turn only movements are being imposed for vehicles exiting Springfield St and Castlebank St and for vehicles entering Jane St.

Balfour St has now been re-opened to traffic.

- **Constitution St**

Works will commence in Constitution St on the **24 March**. This work will involve closing sections of Constitution St.

Works will also be carried out on Duke St during this period which will restrict traffic movements at the junction with Leith Walk.

Following discussions with Lothian Buses all traffic including public transport will be diverted via Duncan Place, Easter Rd and Manderston St or Dalmeny St.

Access and loading facilities will have to be provided for frontagers throughout the works.

Diversion works via Laurie St and Academy St which are designed to divert utility plant away from Constitution St have commenced.

- **City Centre**

On the **1 March** Shandwick Place will be closed and significant restrictions will be installed at the West End junction. These restrictions will be in place for approximately 5 months. See appendix 7 for latest leaflet detailing the diversion routes.

East bound public transport will be diverted via Manor Pl, Melville St, Queensferry St, Charlotte Sq, rejoining Princes St via South Charlotte St.

West bound public transport will be diverted via Lothian Rd, West Approach Rd and Morrison St Link to Haymarket.

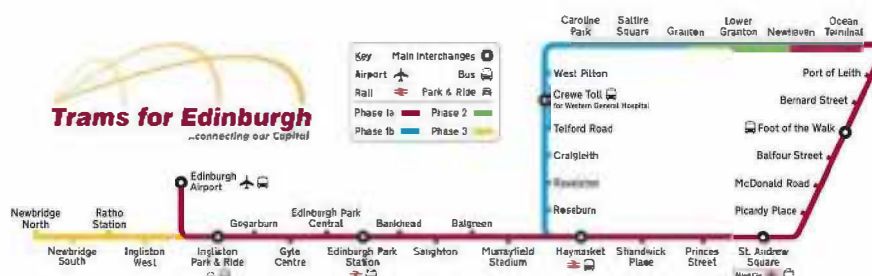
General traffic will follow a similar diversion routes except that east bound traffic will be diverted from Melville St to Queen St via Randolph Crescent, Ainslie Pl and St Colme St.

The traffic modelling for this diversion is complete and the installation of signs, road markings and traffic signal alterations is underway.

This stage of the works will result in the loss of 110 pay and display 29 permit holders' bays.

9000 communication letters have been sent out to residents and businesses in the Shandwick Pace area. Meetings have been held with traders, local communities, taxi companies, and emergency services and 3 events have been held at West St Georges Church, Shandwick Place.

The installation of chambers and ducts for BT Outreach cables is underway on the east side of St Andrew Square and York Place. This work will be going on for some 16 weeks.



5.2 INFRACO

Work is ongoing developing detailed proposals which ensure that the programme is achievable but which minimises disruption, particularly in the city centre. This is a significant challenge but discussions are very positive. As noted previously, the Mudfa contractor is also involved in the discussions to ensure that traffic management for both elements of the project are coordinated.

6 Design Process

6.1 Planning Prior Approvals

Of 63 batched submissions:

- 1 Planning Permission Granted
- 11 Prior Approvals Granted
- 1 Application pending consideration at Planning Committee
- 8 Prior Approvals currently under consideration
- 2 Submission cancelled
- 40 Batches remaining to be submitted for Prior Approval
- 25 out of the 40 batches under Informal Consultation

Of the batches received, a number have been put on hold awaiting revised details from the designers. Appendix 4a lists the remaining prior approvals and identifies the main outstanding issues.

There is concern that prior approvals may have to be revisited if there are substantial changes in design coming from inter-disciplinary coordination, technical approvals or value engineering.

Where a number of objections are received on a particular batch this will have to go through the statutory process of being reported to Planning Committee. This process may increase the approvals period beyond the 8 weeks programmed.

The Prior Approval programme has been reviewed to smooth out the workflow by tying in delivery/approval dates with the Infraco construction programme (See appendix 5). Having reviewed the revised workloads it is expected that one additional officer will be required to review the batches between now and August 2008. This officer is due to be appointed in March.

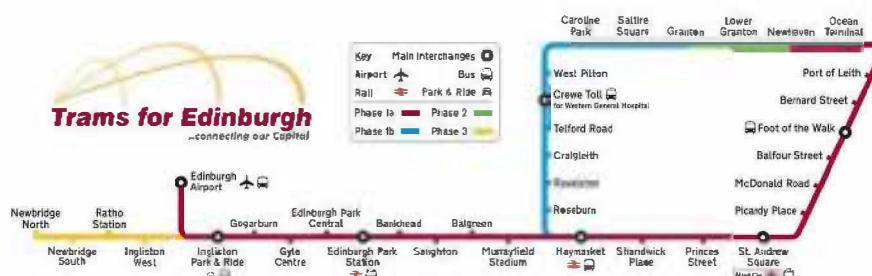
6.2 Technical Approvals

CEC have received the first 2 of 14 Roads Technical Approvals. The programme for the remaining approvals is still being revised to tie into the BBS construction programme. Due to the compressed nature of the programme it is likely that most of the technical approvals will have to be carried out in a compressed timescale, this will have resource implications which may require prioritisation and smoothing.

The current technical approvals progress is shown in Appendix 4b

6.3 Picardy Place & Cathedral Lane

The gyratory design for Picardy Place is being finalised by SDS. This design will be presented to CEC for Technical and Prior approval in the coming weeks.



7.5 LBVTV Roadshows

The LBVTV roadshows have now commenced with the first one taking place in the Gyle shopping centre from the 8th to the 17th of February. The next event will be in the St James Centre from the 25th of February. LBVTV have produced a short commercial which shows the Edinburgh tram running through the various locations on tram line 1a.

7.6 Councillor Communications

Ward Councillor briefings are ongoing. Leith, Leith Walk and City Centre councillors have now all had the chance to attend ward specific follow up meetings. Those councillors who were not able to attend their briefing have been sent relevant information. A full council presentation is being planned for the 6th March in conjunction with tie.

7.7 Staff Communications

Both the intranet and website have been updated with new tram information including the bus and general traffic diversion routes. A short advert was also put into an internal e-newsletter promoting tram presentations. As a result of the advert and other informal communications 15 staff presentations have been organised for the next couple of months. Some groups have asked for the presentations to be customised to their requirements and interest needs whilst others are keen on knowing more about the tram works and diversion routes.

7.8 Outlook

The next issue of Outlook which is due out in the middle of March will have a full tram page. The page will focus on the Shandwick Place closure but will also remind readers of the benefits of tram.

7.9 Contact Centre

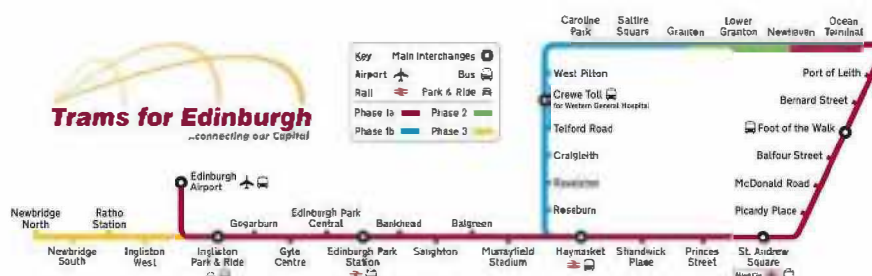
Enquiries Received to the Council's Contact Centre (last 4 weeks)

- 12 General Tram enquiries
- 1 Comment/Suggestion

Of the 13 items received, 3 have been closed, all three were closed within target. 10 remain open, and all ten of these have missed the target date. The reason for the 10 which have missed their target date is due to technical emails problems at the Contact Centre. These problems have now been rectified.

If a decision is made to cease the process for tram correspondence to be dealt with by the Contact Centre alternative procedures and resources must be in place particularly at a time that major on-street works are about to get underway.

Appendix 6 details correspondence dealt with by the Contact Centre since it went live in October 2007.



EDINBURGH TRAM PROJECT REPORT ON TERMS OF FINANCIAL CLOSE ("CLOSE REPORT")

FOR THE ATTENTION OF THE TRAM PROJECT BOARD, TEL BOARD AND TIE BOARD

DRAFT 21.01.08

Purpose of report

The principal contractual commitments to be entered into at Financial Close are :

- Infraco Contract Suite – incorporating Infraco and Tramco construction / supply and maintenance ; Tramco and SDS Novation ; security documentation ; ancillary agreements and schedules including Employer’s Requirements
- Council Financial Guarantee
- Grant Award Letter
- Operating Agreements between the Council and respectively tie and TEL

Various important agreements with third parties have also been completed or are in substantially agreed form.

The purpose of this report is to provide the Boards with an up to date view of the principal terms of the contracts and related documentation which are being committed to at Close. A reasonable degree of prior knowledge is assumed.

It is understood that the Council will prepare appropriate papers for its own approval purposes, specifically to support the provision of delegated authority to the tie Executive Chairman to execute the contracts.

Approvals & Recommendations required

TPB	approval of terms of Infraco and all related documents including note of main open areas, recommendation to TEL on those terms and on the proposed delegated authority to approve and sign ; approval of governance and delegation paper
TEL	approval of terms of Infraco and all related documents including note of main open areas, recommendation to Council on those terms and the proposed delegated authority to approve and sign ; acknowledgment of terms which will be assigned to TEL in due course ; approval of the TEL Operating Agreement and; approval of governance and delegation paper
Tie	approval of terms of Infraco and all related documents as basis for commitment, including note of main open areas; acknowledgement of the proposed delegated authority to approve and sign ; approval of the tie Operating Agreement ; approval of governance and delegation paper

The Council will require to confirm its approval of the Grant Award Letter and the Financial Guarantee in addition to the contracts which will be entered into by tie.

Report Contents [Status in brackets]

1. Introduction [Complete]
2. Infraco contract suite [Work in progress]
3. Council financial guarantee [Complete]
4. Grant Award letter [Complete]
5. Notification of Award stage and risk of challenge [Complete]
6. Third party agreements [Work in progress]
7. Land acquisition arrangements [Complete]
8. Governance arrangements & corporate matters [Complete]
9. Risk allocation matrix and DLA letter [awaited]
10. Risk assessment of in-process and provisional arrangements [complete]
11. Update on critical workstreams and readiness for construction [awaited]

(1) Introduction

The significant stages in the project to date include :

April 2003	Ministerial approval of initial Business Case and grant award
December 2003	Finalisation of STAG and submission of Bills to Parliament
May 2004	Commencement of early operator involvement with Transdev
October 2005	Commencement of design work under SDS
April / May 2006	Royal Assent to Tram Bills
April 2007	Commencement of utility diversion work under MUDFA
May / June 2007	Change of government and re-confirmation of project
October 2007	OGC Gateway 3 Review
October 2007	Final Business Case for fully integrated system approved by CEC
December 2007	Resolutions to proceed approved by CEC
January 2008	Financial Close – construction and vehicle supply

Although there have been several key events, the completion of the contract suite which commits delivery of the system is highly significant in terms of the scale of commitment and the definitive nature of the programme to complete the project.

To reach this stage has involved close collaboration over a number of years between tie, TEL and the Council along with principal consulting and contractual partners. Throughout, progress has been monitored by the Project Board and the tie and TEL Boards, with full Council approval at key stages. Until mid-2007, Transport Scotland (and predecessor departments) played an active role in the project, since then a more arms length role has been played but crucially this has supported the commitment to the majority of the funding.

The balance of this report summarises the main features of the project and its supporting documentation as a basis for the Boards to assess readiness for commitment. More detailed information is available on every aspect on request.

(2) Infraco contract suite

NOTE THAT THIS SECTION IS SUBJECT TO ROLLING AMENDMENT AS THE FINAL TERMS OF THE CONTRACT SUITE ARE NEGOTIATED. THIS DRAFT SHOULD BE VIEWED AS A HOLDING POSITION, WITH A DEFINITIVE VERSION TO BE CIRCULATED PRIOR TO COMMITMENT

Process of drafting, negotiation, review and quality control

The structure, membership and competence of the tie / TEL negotiating team have been assessed previously and has remained largely consistent since the bid evaluation process commenced. Council officers have operated in an integrated manner with the main negotiating team, which has also had extensive support from our legal advisors, Transdev and other advisors.

When the Infraco contract suite is substantially agreed, a full-scale consistency and quality control review will be performed on the documents. In a number of critical areas, senior tie and TEL people have performed a review of terms independent of the main negotiating team, the important elements of which are set out in this report. The TPB, TEL and tie Boards have been regularly kept abreast of progress in all important areas and have confirmed or redirected effort as appropriate. Communications on these key matters with senior Council officers has been conducted both through the TPB and its sub-committees and also through frequent informal contact. Finally, the OGC Gateway 3 Review Team examined key areas of the contract suite before approval in advance of the October 2007 Council meeting.

In broad terms, the principal pillars of the contract suite in terms of programme, cost, scope and risk transfer have not changed materially since the approval of the Final Business Case in October 2007. It is felt that the process of negotiation and quality control has operated effectively to ensure the final contract terms are robust.

Infraco

Overview of contract terms

The Infraco Works are to be carried out pursuant to an Infraco Contract between tie Ltd and Bilfinger Berger (UK) Limited and Siemens plc. Bilfinger Berger (UK) Limited and Siemens plc have formed a consortium to carry out the Infraco Works and are together called the 'Infraco', each company separately being an Infraco Member. Both Bilfinger Berger (UK) Limited and Siemens plc have joint and several liability for the performance and discharge of the Infraco Contract.

The Infraco Contract comprises an Agreement executed by tie Limited, Bilfinger Berger (UK) Limited and Siemens plc and a series of referred to Schedules to the Infraco Contract which fully details and further amplifies the scope of the Infraco Works.

Under the Agreement the 'Infraco' has a duty of care and general obligation to carry out and complete the Infraco Works fully in accordance with the Agreement. Infraco are further obligated to procure that the Infraco Parties which shall include the Infraco member and their agents, advisors, consultants and sub contractors carry out the Infraco Works in accordance with inter alia, the Agreement, the Employer's Requirements, the Infraco Proposals, tie and CEC

policies to enable the Edinburgh Tram Network to be designed, constructed, installed, tested, commissioned and thereafter operated and maintained. The Employer's Requirements are suitably detailed such as to elaborate on the intent and to ensure that the Infraco can develop and complete the Infraco Works to enable the delivery of the Edinburgh Tram Network.

'Infraco' shall ensure that the system integration of the Infraco Works are implemented.

The Agreement contains permission for the transfer of title to CEC in all materials, goods, and equipment included to be part of the completed Edinburgh Tram Network. 'Infraco' shall procure that each Tram is supplied free from security interests.

A contract price has been agreed. The contract price and pricing schedules for carrying out the Infraco Works is contained in schedules to the Infraco Contract. A substantial portion of the Contract Price is agreed on a lump sum fixed price basis however there are certain work elements that cannot be definitively concluded in price and as such Provisional Sums are included. Section 10 below provides an up to date view on the contract sums.

The Agreement provides that 'Infraco' shall progress the Infraco Works to achieve timeous delivery and completion of the Infraco Works (or parts thereof) and in their obligations under the Agreement all in accordance with an agreed Programme which is bound into the Schedules.

The Agreement provides that, as a condition precedent, Infraco shall enter into and execute Novation Agreements to incorporate and bind previous agreements between tie and the design provider (SDS), the Tram supplier (Tramco) and the Tram Maintenance provider (Tramco), into the Infraco Contract. These agreements therefore become the full responsibility of 'Infraco' in the completion of the Infraco Works. In addition to the Novation Agreements, collateral warranties are to be provided to tie by the design provider (SDS), the Tram supplier (Tramco) and the Tram Maintenance provider.

Under the Agreement 'Infraco' acknowledges that it will require to comply with the Asset Protection Agreement (APA) with Network Rail in relation to the Edinburgh Tram Network and that tie has certain specific obligations owed to Network Rail through a framework agreement between Transport Scotland and Network Rail. Infraco are to comply with the APA and undertake that if shall not put tie in breach of the APA or the framework agreement. 'Infraco' has also obligations which concern interface or co-operation with the operator.

'Infraco' shall provide a permanent representation for the Project Safety Certificate Committee and shall develop and implement a safety management system to address all aspects of safety. tie has granted a non exclusive license to Infraco to enter and remain upon the permanent land of the term of the contract and exclusive license to enter and remain upon designated working area for the duration of the Infraco scheme and shall permit 'Infraco' with all necessary land consents.

Possession of permanent land or temporary site by Infraco shall always be subject to the requirements of Third Party Agreements executed by tie and/ or CEC.

[Infraco has a substantive responsibility in relation to consents and approvals but there is a critical interface with tie / CEC which is being defined at this stage.]

Infraco shall comply with the requirements of the Code of Construction and Code of Maintenance Practice with regard to the maintenance of access properties, bus stops, bus services and closure of roads.

'Infraco' shall procure the appointment of a Tram Inspector and agree the identity of such Tram Inspector to enable the execution of a Tram Inspector Agreement. It is a condition precedent that Infraco enters with the Tram Inspector Agreement with tie and the Tram Inspector in the agreed form.

The construction sequence is broken down into construction milestones and critical milestones and procedures have been agreed for the monitoring of progress toward each milestone based upon milestone schedules. Interim Payments will be made to 'Infraco' monthly subject to and in accordance with the completion of stated Milestones. The Agreement obliges 'Infraco' to complete the Infraco Work in sections and 'Infraco's failure to complete sections by the sectional completion date will result in Infraco becoming liable to pay liquidated and ascertained damages to tie at amounts stated in the Agreement. If 'Infraco' are delayed by reason of certain prescribed events they may be able to apply for a Extension of Time and/or claim costs in connection with certain prescribed events listed in the Agreement.

The Agreement contains provisions in relation to the management of variations. Variation rules depend upon the type of change instructed whether it is a tie change or an 'Infraco' change.

'Infraco' acknowledges that tie may, subject to notice' instruct the Phase 1b works to be carried out provided that this is no later than 31st March 2008. The Agreement contains provisions for 'Infraco' to carry out Phase 1b works if so instructed.

If tie defaults on certain prescribed matters 'Infraco' may serve a termination notice in accordance with the Agreements. The Agreement sets out the rules relating to any such proposed termination. If 'Infraco' defaults in certain prescribes matters tie may, after giving required notice terminate the Agreement. The Agreement sits out the rules relating to such proposed termination.

The Agreement contains provision for the settlement of any disputes under a Dispute Resolution Procedure contained in the Schedules to the Infraco Contract.

Infraco Payment mechanism

Construction

Payment under the contract is entirely against a 4 weekly claim from Infraco in respect of milestones which have previously been certified by tie as having been achieved. The milestone schedule reflects the Infraco price allocated in amounts to series of construction milestones and critical milestones and to the future period in which each milestone is expected to be achieved in accordance with the agreed programme.

The milestone schedule and certification mechanism has been prepared and agreed in accordance with the following key principles:

- Infraco will not be paid in advance of its own outgoing cash flows through its own supply chain
- The individual milestones are defined such that the process of determining whether or not they have been achieved will be subject to the minimum of uncertainty or dispute
- The certification of a milestone will require evidence that all required consents and approvals have been delivered in respect of the related works

The contract provides an effective mechanism for the addition and variation to milestones (valuation or date) initiated by either tie or Infraco.

Infraco will submit a detailed claim for payment within 3 business days of the end of each 4 week reporting period in respect of milestones certified as achieved following which tie will have 5 business days to certify the total payment and a further 15 business days to make payment. There are no retentions of payment but a retention bond is provided as explained below.

Commissioning and Maintenance

Infraco will commission Phase 1a in 4 key sections, transfer title accordingly and hand over control of each section to the operator and maintainers:

- Section A – The depot, certified after system acceptance test T1 has been passed for that section;
- Section B – Depot to the Airport, certified after system acceptance test T1 has been passed for that section;
- Section C – The rest of Phase 1a, certified after system acceptance test T1 has been passed for that section and system acceptance test T2 has been passed for Phase 1a, and
- Section D – Driver training and commissioning, certified after system performance test T3 has been passed for Phase 1a.

Certification of Section D requires that in addition to passing the system performance demonstration all consents and approvals have been obtained and documentation and initial spares have been delivered.

After the period of trial running without passengers has been completed, then passenger service will commence.

During the commissioning period Infraco will be paid Mobilisation Milestone Payments according to the programme for establishing the maintenance organisation and systems. The Operator will be paid on a 4 week reporting period basis up to a maximum of a capped sum for the commissioning activities as a whole.

After the commencement of passenger operation, the Operator and the Infraco will be paid their respective operating and maintenance fees on a 4 week reporting period basis. The performance of the delivered systems in passenger service will be monitored against two final system acceptance test criteria, Network Performance test T4 and Reliability test T5. After the Reliability Certificate has been certified then the 4 weekly fees paid will be subject to the performance regime.

Performance security arrangements

Bonds during construction period

Two bonds are provided by Infraco from financial institutions of good credit, a Performance Bond and a Retention Bond. Both bonds are in substance 'on-demand', meaning there is no requirement that proof of failure by Infraco must be produced by tie before a claim can be made under the bond.

The Performance Bond is in the amount of £20m throughout the construction period reducing to £10m when a certificate of Revenue Service Commitment is issued and further reducing to £8m when a certificate of Network Certificate relating to the achievement of performance criteria is issued. The issue of the aforementioned certificates is subject to a rigorous testing regime as defined in the Employers Requirements, including evidence that all consents and approvals have been delivered, and provides both security for tie/CEC and incentive to Infraco to perform.

The Retention Bond is in the amount of £2m initially adjusting to the following amounts at sectional completion:

£4m section A – The depot

£6m section B – Depot to the Airport

£8m section C – The rest of Phase 1a

£10m section D – Driver training and commissioning

£6m at issue of Network Certificate (pertaining to reliability as defined in the Employers Requirements)

The Retention Bond is released when a Reliability Certificate is issued and the required bond for the maintenance stage of the contract has been provided.

The Operator provides a Performance Bond from a financial institution of good credit. The Bond is 'on-demand', meaning there is no requirement for proof of failure by the Operator to be produced by tie before a claim can be made under the bond.

The Performance Bond provided by the Operator is in the amount of £10m.

Infraco is required to provide a security at any time that there is determined by survey to be remedial work of a value greater than £50,000 to reinstate the Edinburgh Tram Network assets to the Handback Condition, This may either be in the form of a cash deposit or an on-demand Handback Bond covering the full value.

The bonds are provided by banks of global standing.

Parent Company Guarantees (PCGs)

PCGs are provided by the ultimate holding companies of both Infraco consortium members in respect of all performance, financial and other obligations of their subsidiaries which are contracting with tie. The substance of these entities, which are the group holding companies in each case, has been subject to legal verification.

The PCGs respect the joint and several liability provisions in the Infraco contract; each claim by tie under the PCG's must be served on each of the parent companies in the proportion of their share of the Infraco consortium but in the event of either parent company to honour payment of such a claim the other parent company is liable up to the limit of overall liability specified in the Infraco contract (20% of the Infraco contract price).

The PCGs provide that in the event of a change in control or ownership of the subsidiary companies which are entering into the Infraco contract, the PCG's remain in force until a replacement PCG has been provided on terms which are acceptable to tie.

In all other respects the PCGs are constructed such that the obligations and liabilities of the parent companies mirror that of the two subsidiaries in the Infraco consortium including the dates on which obligations expire.

All necessary collateral warranties have been agreed.

Performance securities during maintenance period

[o/s]

Tramco contract with CAF

Overview of contract terms

Trams will be supplied pursuant to a Tram Supply Agreement between tie Limited and Contrucciones y Auxilliar de Ferrocarriles S.A (CAF) "Tramco". Tramco are to carry out the Tram works and design, manufacture, engineer, supply, test, commission deliver and provide 27 trams and if required any additional trams in accordance with the Employer's Requirements, the tram Suppliers Proposal and agreed programme. Tramco shall ensure that all data, component, systems, devices, equipment, software and mechanism incorporated in the trams are fit for purpose and compatible with each other. Tramco shall operate under good industry practice, comply with all applicable laws and consents and ensure that each tram meets the required standards. The parties have agreed to work in mutual cooperation to fulfil the agreed roles and responsibilities to carry out and complete the tram works in accordance with the Agreement.

Tramco shall provide support in respect of the key elements of system integration of the tram works with the Edinburgh Tram Network.

Tramco acknowledges that the operator shall be responsible for the Operator Maintenance of the Edinburgh Tram Network and that Tramco would at all times liaise with the Operator.

Tramco shall deliver and finalise the designs, design data and all other deliverables as prescribed in the Employer's Requirements.

The Agreement allows for the introduction of changes either by tie or Tramco always subject to notices and prescribed rules. tie may, subject to notice and terms, order additional trams with related spare parts and special tools.

Tramco shall at all times utilise a Project Quality Assurance Programme compliant to standards. A tram manufacturing and delivery programme is agreed and regular monitoring of progress will take place.

There is provision in the Agreement for tie to be involved in inspecting the trams at various stages of the manufacturing process. Tramco shall deliver the trams to the designated point of delivery at the depot and delivery tests shall be conducted.

Tramco, tie and the operator shall agree a training programme and the detailed implementation.

Tramco shall provide Trams free from all security interests transforming title to CEC.

Termination of the Agreement may be made by either party subject to certain prescribed defaults and terms.

Tramco Payment mechanism

Supply agreement

The payment mechanism under the supply contract conforms substantially to that under the Infraco contract as described above with the milestone payments heavily weighted towards:

- Initial mobilisation and establishment of supply chain
- Delivery of tram vehicles
- Attainment of performance and reliability standards as specified

Maintenance agreement

Infraco is required to provide a security at any time that there is determined by survey to be remedial work of a value greater than £50,000 to reinstate the Edinburgh Tram Network assets to the Handback Condition. This may either be in the form of a cash deposit or an on-demand Handback Bond covering the full value.

Performance security arrangements

Bonds during supply period

Tramco will provide a Reliability bond in the defined amount of 5% of the Tramco price such bond to be provided on or before the due date of delivery of the first Tram vehicle.

Parent Company Guarantee (PCG)

The supply and maintenance contracts with Tramco are with the ultimate holding company so the issue of a PCG does not arise. The liability cap of Tramco under the tram supply agreement is 20% of the Tramco supply price.

Performance securities under maintenance agreement

Tramco is required to provide a security at any time that there is determined by survey to be remedial work of a value greater than £50,000 required to reinstate the Tram assets to the Handback Condition,. This may either be in the form of a cash deposit or an on-demand Handback Bond covering the full value of the remedial work outstanding. The liability cap of the Tramco under the tram maintenance agreement is 18.5% of the aggregate 30 year Tram maintenance price.

(3) CEC Financial Guarantee

CEC are required to provide a guarantee to Infraco of the financial obligations (including future variations) of tie under the Infraco contract in recognition of the fact that tie on its own has no capacity to bear any financial commitment insofar as it is not 'back to back' with the funding of the project which is channelled through CEC. In this sense it is materially consistent with the provisions of the PCGs (including periods allowed for payment of amounts due and duration of the agreement) provided by Infraco except that it is a guarantee of financial obligations only and not of performance.

The guarantee is provided to Infraco meaning either or both of Bilfinger & Berger UK Limited or Siemens PLC or their assignees as permitted and approved under the Infraco contract. The guarantee remains in force until the Infraco contract ceases, or when tie has met all payment obligations if earlier, and would remain in force in the event of any change in function, control or ownership of tie.

The provisions of the guarantee ensure that tie will not be compromised in its management of the contract by virtue of an ability on the part of BBS to go directly from CEC for recompense. CEC will benefit from the same contractual rights and remedies as tie and will have no liability greater than tie's. No claim can be made for an amount which is in dispute if it has been referred under the dispute resolution provisions of the contract.

The practical day to day implication of the guarantee is that its provisions will not be invoked so long as the process for drawdown of cash from CEC to tie to meet payment obligations as they fall due is uninterrupted.

(4) Grant Award Letter

Transport Scotland will provide up to £500m of the total capital cost and the balance will be provided by CEC, which has initially allocated £45m for this purpose. The source of these funds is a matter for the two funders. The Government grant is documented in an award letter which is specific to the project but follows standard terms for grants under S70 of Transport (Scotland) Act 2001. CEC has identified a range of sources and an independent review confirmed the validity of the assumptions made by the Council.

The programme concentrates on Phase 1a initially and the parties have the opportunity to commit to Phase 1b before 31 March 2009 on pre-agreed terms with BBS. During 2008-9, an assessment will be made of funding availability to support Phase 1b. Government contribution will not exceed £500m under the current arrangements.

Grant will be drawn down pro rata with Council contribution. The amounts of grant available in each financial year will be capped, with the balance of any undrawn grant added to the sum available in 2010-11. There are detailed arrangements for payment approval and audit.

With the contributions agreed, the pro rata drawdown mechanism becomes an accounting process each month and within tolerances will not create any difficulty. The annual capping does have potential to create difficulty, but it is felt there is sufficient tolerance in the spend plans versus funding availability that this limitation is manageable.

The terms of the grant letter are weighted in favour of the awarding body and fall short of the sort of protection which a borrower would seek from a commercial lending bank. This is however normal and the Council are satisfied that the terms of the award offer sufficient protection bearing in mind the relationship between Government and the Council.

The letter was negotiated with TS by tie and Council Finance and Legal officials with support from DLA. See Section 8 for taxation assessment.

(5) Notification of Award, challenge process and cooling-off period

This section contributed by Jim McEwan, who performed a review of procurement process integrity independent of the main procurement team.

Summary

Over the last 12 months tie has pursued the procurement of both the Infraco contract for the construction of the Tram infrastructure in its entirety and the Tramco contract for the supply and delivery of the Tram vehicles. The focus of the procurement strategy was to deliver fixed price contracts for each.

The process followed for each contract was consistent with that specified by the EU directive on Public procurement and details of the evaluation methodology employed are outlined below.

The Bilfinger Berger and Siemens (BBS) consortium have been duly awarded the Infraco contract.

CAF has been awarded the Tramco contract.

In the event of any challenge to these awards tie is well placed to successfully defend the fairness and integrity of the process undertaken in the selection.

Infraco

The Evaluation Methodology employed by tie in the Tram Project is detailed in a document dated 8th January 2007 'Evaluation Methodology for submissions in response to the invitation to negotiate issued on 3rd October 2006 for the procurement of the Infraco for Edinburgh Tram Network' .

In the process 6 key areas were identified in the evaluation and a stream leader appointed to each :

- Financial
- Programme and Project Execution Proposals
- Project Team and Resources
- Technical and Design proposals
- Legal and Commercial
- Insurance

Evaluation team members were identified in the methodology together with stream leaders for each of the key areas

Each team was charged to prepare a 'consensus' score matrix on each of the key areas, these have been duly completed and lodged in the central document repository.

Proper probity on the process was maintained with financial information being restricted to only those in the finance stream and to the tie executive team.

Security employed on maintaining confidentiality was consistent with best practice with documentation stored in a locked room and the financial documentation stored in a locked cabinet within the room. (Note: The details of the financial bids were only available to those in the Financial stream, the evaluation of the other streams was therefore carried out without prejudice on costs.)

All meetings with Suppliers were documented and the notes of said proceedings are held in the central repository.

Financial position was reviewed as was the normalisation process which ensures bids are viewed on an equal footing basis

Tramco

The Evaluation Methodology employed by tie in the Tram Project is detailed in a document dated 11th October 2006 and titled Tramco Evaluation Methodology.

The process employed was identical to that employed in the Infraco evaluation as detailed above with 6 streams and the same methods of approach on scoring, confidentiality, probity and security. All required documents have been lodged in the central document repository.

(6) Third Party Agreements

This section contributed by Alasdair Sim, who took the lead role developing the agreements. A second (and consistent) view on risk is provided by Stewart McGarrity in Section 10.

THIS SECTION WILL BE UPDATED ON A ROLLING BASIS UNTIL FINANCIAL CLOSE.

In addition to the principal Infraco Contract Suite, there are a number of agreements which are of varying significance to Financial Close. This section describes the purpose and status of these agreements, together with an assessment of the level of risk to programme / cost arising from the agreements remaining open at the date of Financial Close.

THE AGREEMENTS ASTERISKED ARE REGARDED AS THE MOST IMPORTANT IN RELATION TO REACHING A ROBUST POSITION AS AT FINANCIAL CLOSE.

6.1 Edinburgh Airport Limited - Licence *

Purpose of Agreement

This is a licence agreement between Edinburgh Airport Ltd and City of Edinburgh Council, the purpose of which is to enable/facilitate the construction of the Edinburgh Tram within the boundary of Edinburgh Airport. This agreement covers MUDFA and INFRACO works as well as the construction of the Burnside Road alternative access route, and sets out the working arrangements between EAL, tie/CEC and contractors working on the Edinburgh Tram Network.

Current Status of Agreement

This agreement is expected to be signed by CEC in week beginning 21/01/08 and countersigned by EAL immediately afterwards. This agreement has been drawn down into Schedule 13 of the INFRACO Contract.

Risk to INFRACO Contract Award

MUDFA programme within Airport expected to commence on 30 March 2008; INFRACO works are expected to commence in September 2008. Risk to award of INFRACO Contract is considered insignificant.

6.2 Edinburgh Airport Limited – Lease *

Purpose of Agreement

This is a 175 year lease between Edinburgh Airport Limited and City of Edinburgh Council to facilitate the operation of the Edinburgh Tram Network. This lease follows the terms of the Minute of Agreement signed by the two parties during the Parliamentary process in September 2005.

Current Status of Agreement

This agreement is expected to be signed by CEC in week beginning 21/01/08 and countersigned by EAL immediately afterwards.

Risk to INFRACO Contract Award

The lease will commence following construction and prior to commencement of passenger services. The commencement of the lease is suspensive on the completion of an operating

agreement between EAL and CEC/TEL. Risk to award of INFRACO Contract is considered insignificant.

6.3 Edinburgh Airport Limited – Operating Agreement

Purpose of Agreement

The purpose of the operating agreement is to set out operational interface arrangements and procedures for running passenger services to and from the airport. This agreement will be an evolving document which will be updated periodically during the lifetime of the project.

Current Status of Agreement

An outline document is current under review by tie and TEL. The intention is to develop this document into draft agreement form during the first quarter of 2008, and complete the agreement prior to commencement of passenger services.

Risk to INFRACO Contract Award

The Operating Agreement is a non-construction related document, and for this reason, it offers insignificant risk to CEC for award of the INFRACO Contract.

6.4 CEC/tie Licence *

Purpose of Agreement

The purpose of this licence is to pass over responsibility for land acquired for the ETN from CEC to tie. This will enable tie to manage the process of making land available to INFRACO on a programme/needs basis using the agreed Land Access Permit Procedure. CEC will manage the land/asset until the point that INFRACO take occupation of each worksite.

Current Status of Agreement

The agreement is currently in final draft format, with the expectation that the document will be executed in week beginning 21/01/08.

Risk to INFRACO Contract Award

If this agreement is not executed, then responsibility for managing the procedures to allow access to work sites will reside with CEC and not with tie. This could potentially lead to unbudgeted resource and programme implications. There are significant compensation event risks in the INFRACO contract if land is not available to the contractor when required.

6.5 SRU Side Agreement

Purpose of Agreement

This agreement governs design and construction activities in the vicinity of the Murrayfield Stadium. The agreement includes the construction of the Murrayfield Tram Stop, Roseburn Street Viaduct, Murrayfield Retaining Wall, the Wanderers Clubhouse remodelling and the relocation of the training pitches. The agreement also sets out the requirement to develop a local construction plan which the INFRACO contractor will be obliged to comply with. This will also include arrangements in relation to the temporary occupation of land within the Murrayfield site. The draft SRU agreement has been stepped down into Schedule 13 of the INFRACO Contract.

Current Status of Agreement

The agreement is currently in near final draft format. However it is now unlikely that this will be signed by financial close. This is because of a number of technical matters which will take some time to resolve, including VE savings arising from design of Roseburn Viaduct and the specification of pitch relocation and ancillary works related to flood prevention. The latter point is being pursued to optimise works and lower overall cost. The fallback arrangement should final execution of the agreement be held back whilst technical/design matters are concluded, is that SRU will provide a letter confirming that the wording of key elements of the document is in agreed form.

Risk to INFRACO Contract Award

INFRACO works are expected to commence in the vicinity of Murrayfield in August 2008. Risk to award of INFRACO Contract is considered low.

6.6 Royal Bank of Scotland Agreement

Purpose of Agreement

This agreement builds upon the existing Section 75 Agreement between RBS and CEC which sets out the funding arrangements for the Gogarburn Tram Stop. The current proposal is for the INFRACO contractor to undertake the works within RBS land under licence, and sets out the procedure for CEC to later acquire the operational land based on the 'as built' (and at nil cost) using the GVD process. The agreement also covers the desire of RBS to maintain the landscaping between the Gogarburn Tram Stop and the A8 Glasgow Road.

Current Status of Agreement

The agreement is currently in draft format, with finalisation expected on completion of the detail design, as this will allow final costs for the tram stop to be calculated. RBS have provided written confirmation that access to the land will be secured under licence.

Risk to INFRACO Contract Award

INFRACO works are expected to commence in the vicinity of Gogarburn from June 2008. Risk to award of INFRACO Contract is considered low.

6.7 Local Code of Construction Practice – Forth Ports *

Purpose of Document

The existing Minute of Agreement between Forth Ports and CEC requires the development of a Local Code of Construction Plan to govern how the construction works are to be undertaken within the Forth Ports area. This would include method statements, programme details and consultation/notification requirements to be agreed prior to the commencement of construction. The Forth Ports Minute of agreement is included with Schedule 13 of the INFRACO Contract.

Current Status of Document

tie are currently drafting a local COCP for the Forth Ports area to a template format. This will require BBS input which will need to be included prior to engagement with Forth Ports. tie meet with the Forth Ports Project Manager on a weekly basis and will arrange confirmation by side letter that matters are in progress and on schedule and that Forth Ports do not intend imposing further restrictions beyond those placed within the existing agreement that would impact negatively on either INFRACO costs or programme.

Risk to INFRACO Contract Award

INFRACO works are expected to commence in the Forth Ports area from June 2008. MUDFA works will recommence in the Leith Docks area following the Easter embargo period from April 2008, and is currently being undertaken on a work by works licence basis, which contains the relevant elements that INFRACO will include within the final Local Code of Construction Practice document.

On confirmation of Forth Ports' position as indicated above, risk to award of INFRACO Contract is considered low.

6.8 Local Code of Construction Practice – New Edinburgh Limited *

Purpose of Document

The existing Minute of Agreement between New Edinburgh Ltd and CEC requires the development of a Local Code of Construction Plan to govern how the construction works are to be undertaken within Edinburgh Park. This would include method statements, programme details and consultation/notification requirements to be agreed prior to the commencement of construction.

Current Status of Document

tie are currently drafting a local COCP for Edinburgh Park to a template format. This will require BBS input which will need to be included prior to engagement with New Edinburgh Ltd. tie to meet with NEL and arrange for confirmation by side letter that there are no other restrictions beyond those placed within the existing agreement that would impact negatively on either INFRACO costs or programme.

Risk to INFRACO Contract Award

INFRACO works (track) are expected to commence in Edinburgh Park from June 2008, with construction of the Edinburgh Park Station Bridge commencing in August 2008.

On confirmation of NEL position as indicated above, risk to award of INFRACO Contract is considered low.

6.9 Local Code of Construction Practice – Edinburgh Airport *

Purpose of Document

The licence between EAL and CEC sets out construction requirements in Schedule Part 5 – Development Rights and Obligations. This agreement has been drawn down into Schedule 13 of the INFRACO Contract.

Current Status of Document

tie are currently drafting a local COCP based on the obligations set out in Schedule Part 5 to a template format. This will require BBS input which will need to be included prior to engagement with EAL. tie meet with the EAL Project Manager on a four weekly basis and will arrange confirmation by side letter that matters are in progress and on schedule and that EAL do not intend imposing further restrictions on construction beyond those placed within the existing agreement that would impact negatively on either INFRACO costs or programme.

Risk to INFRACO Contract Award

MUDFA programme within Airport expected to commence on 30 March 2008; INFRACO works are expected to commence in September 2008.

On confirmation of EAL position as indicated above, risk to award of INFRACO Contract is considered low.

6.10 Network Rail Asset Protection Agreement *

Purpose of the Agreement

The APA is an agreement between NR and CEC which governs design/construction activities as well as access to Network Rail land. The APA is designed to ensure that the heavy rail network can operate in tandem with the construction and commissioning of the ETN.

Current Status of Agreement

There are issues to resolve between NR and CEC in relation to indemnities and future costs. These have been referred to Transport Scotland and the Office of Rail Regulation (ORR) for resolution. Closure on this issue is currently being pursued.

Setting the indemnities issues aside, a final APA draft was received from NR on 18/01/08, which is currently being reviewed and an agreed form of wording is expected to be confirmed by CEC and NR on 25/01/08.

The finalisation of the APA is suspensive on the approval of the Station and Depot Change Proposals (these are Regulated Processes also covered in later sections below). The APA will require to be signed before the INFRACO contractor can take access to Network Rail land.

Risk to INFRACO Contract Award

The most significant risk relates to the proposed BBS construction programme in the vicinity of Haymarket Station Car Park. The demolition of the Caley Ale House followed by the construction of the Haymarket Tram Stop viaduct is scheduled from commencement on 31 March 2008. At this stage therefore, reaching agreement on the principal terms of the APA and related agreements is an important risk to the date of financial close.

6.11 Network Rail Depot Change *

Purpose of Document

This is a regulated process between Network Rail and First ScotRail, the operator of the Haymarket Light Maintenance Depot. Depot change is the process which defines the revised lease arrangements which will be required as a result of the tram construction and operation. This procedure also defines the methodology of undertaking works in the vicinity of the Haymarket Depot and sets out the interface requirements of the Depot Manager. A key requirement of FSR is that only one contractor (at a single work site) will be permitted to conduct works within the depot area at any given time. BBS are aware of this constraint, and have sequenced their programme and depot construction methodologies accordingly.

Current Status of Document

The formal submission of the Depot Change (by NR) to FSR was completed on 11/01/08. The regulated process allows for a maximum review period of 45 calendar days for comments to be

submitted. If no comments are received then the proposal receives deemed consent. The review period expires on 28 Feb 2008.

tie and BBS met with NR and FSR on 08/01/08 and agreed the content and detail contained within the Depot Change Proposal. Whilst the formal regulated change will not be completed by Financial Close, tie are seeking written confirmation from FSR that they have no objection to the proposals. It is expected that this confirmation will be provided by 25/01/08.

Risk to INFRACO Contract Award

The risk arising from depot change agreement in itself is considered low. However, the INFRACO works at Haymarket Depot are scheduled for commencement after completion of the NR Pollution Prevention Works Contract (PPLMD). It is a legislative requirement for NR to comply with environmental standards, and the proposed works involve a number of activities within the Haymarket Depot, including the relocation of diesel fuel tanks, in close proximity to the proposed Roseburn Street viaduct. These NR managed works are scheduled for completion at the end of July 2008.

There is a residual risk that should the PPLMD works be delayed, which is outwith the control of tie, then the INFRACO programme in this area would also be delayed.

Risk to award of INFRACO Contract is considered moderate and we are seeking confirmation from NR as to progress in order to fully assess this risk.

6.12 Network Rail Station Change *

Purpose of Document

This is a regulated process between Network Rail and First ScotRail as the operator of Haymarket Station. The Station Change procedure also requires the consent of the other Train Operating Companies (TOC's) using the station and these are; Arriva Cross Country, Virgin, Trans Pennine Express, National Express East Coast and EWC.

The station change concerns the permanent loss of 49 parking spaces at Haymarket Station Car Park and the temporary closure of the car park as a result of the construction of the Haymarket Viaduct and Tram Stop, as well as the relocation of taxis currently operating from the forecourt of station.

Current Status of Document

NR formally submitted the Station Change proposal to FSR on 16/01/08, which triggers the start of the 45 calendar day consultation process which ends on 01/03/08.

tie are working with NR and FSR to fast track this process and are aiming to get written confirmation from the TOC's at a workshop scheduled for 24 January 2008 that they have no in principle objection to the Station Change Proposal pending conclusion of the formal regulated consultation process.

Risk to INFRACO Contract Award

Risk to award of INFRACO Contract is considered low.

6.13 Car Park Compensation Agreements

Purpose of Document

The loss of income generating car park spaces at Haymarket Station is a compensation matter for both NR and FSR. Under Station Change, FRS receives a standard indemnity from Network Rail to cover losses, so the commercial arrangements can be negotiated separately and do not form part of the Station Change approval process.

Current Status of Document

Discussions are awaiting FSR to provide a date to commence these discussions, and FSR have confirmed that the compensation formulae adopted for the Platform Zero settlement can be used as a basis for this negotiation.

Risk to INFRACO Contract Award

The compensation settlement to both NR and FSR are commercial arrangements which have a budget allocation within the FBC and are not part of the Station Change approval process. There is therefore minimal risk to the award of the INFRACO contract.

6.14 Network Rail Framework Agreement

Purpose of Agreement

This is an overarching document beneath which reside a suite of construction, property and operations related agreements.

Current Status of Agreement

The Framework Agreement is in largely agreed form, pending NR confirmation that they accept the CEC negotiating position that the use of CPO Powers will be limited to resolving any future title issues in relation to the proposed lease.

A side letter from NR is to be provided confirming the status of this agreement.

Risk to INFRACO Contract Award

The Framework Agreement is not a construction related document, so the Risk to award of INFRACO Contract is insignificant.

6.15 Network Rail Lease Agreement

Purpose of Document

This is a 175 year lease between NR and CEC to allow operation of the ETN.

Current Status of the Agreement

The lease is substantially in agreed form, pending drafting on protecting CEC position in relation to the treatment of contamination in the vicinity of Haymarket Light Maintenance Depot. The lease does not become active until after construction and commissioning have been completed, and is suspensive on the execution of an Operating Agreement with Network Rail.

A side letter from NR is to be provided confirming the status of this agreement.

Risk to INFRACO Contract Award

The lease is not a construction related document, so the Risk to award of INFRACO Contract is insignificant.

6.16 Forth Ports Agreement/Stanley Casinos

Purpose of Agreement

A variation of the existing Minute of Agreement between CEC and Forth Ports is currently in draft. This agreement is based around changes to the design in the Leith Docks area, which will be funded by Forth Ports.

The Stanley Casinos side agreement is also design dependant, and takes cognisance of the revised junction and access proposals at the Constitution Street/Ocean Drive junction. The agreement will also include provision for remodelling the Casino car Park.

Current Status of Agreements

Heads of Terms have been agreed and signed by CEC and Forth Ports. The highways and track design activities will be completed by October 2008, and a full understanding of the cost implications of these changes will not be attained until then. It is envisaged that the Stanley Casinos agreement will be concluded at the same time as the Forth Ports agreement.

The transfer of land from Forth Ports to CEC will be part of the FP contribution to the project, and this is part of the existing Section 75 agreement.

Risk to INFRACO Contract Award

INFRACO under novation assume responsibility for the SDS Programme, which will dictate the construction programme in the Forth Ports area. CEC risk to award of the INFRACO contract is therefore considered low.

6.17 Other Site Specific Code of Construction Plans

Purpose of Documents

As part of the suite of side agreements drawn down into Schedule 13 of the INFRACO Contract, there is a requirement in several agreements for the contractor to develop a local construction plan or CoCP as part of the notification/consultation process in advance of the works commencement. The relevant agreements are:

- USS
- Safeway/Morrisons
- Murrayfield Indoor Sports Club
- ADM Milling
- Ocean Terminal
- Royal Yacht Britannia
- Baird Drive Residents (Community Liaison Group undertaking)

Current Status of Documents

tie have prepared a suite of drafts setting out the construction related requirements of the relevant side agreements. BBS input will be required as these plans are developed and presented to the relevant 3rd parties.

It is notable that the construction requirements laid down in these side agreements generally relate to those aspects of site working such as confirmation of programme, maintenance of access during the works, pedestrian management, dealing with dust/noise, site cleanliness,

reinstatement of property etc, that one would normally expect a competent contractor to be cognisant of.

Risk to INFRACO Contract Award

All relevant 3rd Party agreements are detailed within the INFRACO contract in Schedule 13. The requirements on Infraco are entirely in line with normal construction practice and the risk to CEC for award of the INFRACO contract is considered low.

6.18 Licence – The Gyle

Purpose of Document

The licence will allow the INFRACO contractor to undertake the works within Gyle owned land prior to permanent acquisition. In agreeing to undertake this work under licence, CEC will be able to meet the terms of the existing side agreement whereby permanent land take is to be minimised. At this stage in the design process, SDS cannot define with certainty the extent of the operational land. The proposal made to The Gyle is therefore to defer permanent acquisition until this certainty is available.

The acquisition of the 'as built' operational land will eliminate the risk of not meeting the obligations of the side agreement. The existing side agreement already makes provision for a licence to undertake works.

Current Status of Agreement

tie have put this proposal to The Gyle and are seeking confirmation in writing that this is acceptable. It is expected that a positive outcome will be received by 25/01/08.

Risk to INFRACO Contract Award

INFRACO works are expected to commence in the vicinity of The Gyle from June 2008. Risk to award of INFRACO Contract is considered insignificant, as CEC still has the ability to invoke the GVD for this land, a process that can be concluded in 28 days.

6.19 Licence – West Craigs

Purpose of Document

The licence will allow the INFRACO contractor to undertake the works within West Craigs owned land prior to permanent acquisition. In agreeing to undertake this work under licence, CEC will be able to meet the terms of the existing side agreement whereby permanent land take is to be minimised. At this stage in the design process, SDS cannot define with certainty the extent of the operational land. The proposal made to West Craigs is therefore to defer permanent acquisition until this certainty is available.

The acquisition of the 'as built' operational land will eliminate the risk of not meeting the obligations of the side agreement. The existing side agreement already makes provision for a licence to undertake works.

Current Status of Agreement

tie have put this proposal to West Craigs and are seeking confirmation in writing that this is acceptable. It is expected that a positive outcome will be received by 25/01/08.

Risk to INFRACO Contract Award

INFRACO works are expected to commence on the proposed licence site from January 2009. Risk to award of INFRACO Contract is considered insignificant, as CEC still has the ability to invoke the GVD for this land, a process that can be concluded in 28 days.

6.20 Network Rail – Neighbour Agreement

Purpose of Agreement

This agreement sets out the ongoing relationship between CEC and Network Rail for managing the interface between tram lease land, NR operational land and other CEC land which is adjacent to the railway. The Neighbour Agreement will be updated as required over the period of lease.

Current Status of the Agreement

This agreement is approaching agreed form with NR, the latest draft is with the NR legal team for review.

Risk to INFRACO Contract Award

The Neighbour Agreement is a non-construction related document, and for this reason, it offers insignificant risk to CEC for award of the INFRACO Contract.

6.21 Network Rail – Operating Agreement

Purpose of Agreement

The purpose of the operating agreement is to set out operational interface arrangements and procedures for running tram passenger services adjacent to the railway line. This agreement will be an evolving document which will be updated periodically during the lifetime of the project.

Current Status of Agreement

A draft is current under review by tie and TEL. The intention is to develop this document into draft agreement form during the first quarter of 2008, and complete the agreement prior to commencement of passenger services.

Risk to INFRACO Contract Award

The Operating Agreement is a non-construction related document, and for this reason, it offers insignificant risk to CEC for award of the INFRACO Contract.

6.22 Network Rail – Bridge Agreement

Purpose of Agreement

The purpose of the Bridge Agreement is to set ongoing maintenance and operational responsibilities for the Carrick Knowe and Edinburgh Park Station Bridges, as these structures interface directly with the heavy rail network

Current Status of Agreement

A draft is current under review by CEC, and subject to finalisation of the detail design of the relevant structures (scheduled for July 2008), the intention is to finalise this agreement by end of August 2008.

Risk to INFRACO Contract Award

The Bridge Agreement is a non-construction related document, and for this reason, it offers insignificant risk to CEC for award of the INFRACO Contract.

6.23 DPOFA 2007 Revision

A negotiation was concluded with Transdev to amend the DPOFA signed in 2004. The process is now complete and the principal agreed changes relate to :

- Improved performance bond underpinning both mobilisation and operating obligations
- Alignment with Infraco contract where previous drafting was based on anticipated Infraco terms
- Scope revised to reflect the Phase 1a / 1b configuration from the originally anticipated Lines 1 and 2
- Revisals to KPI performance regime based on up to date commercial view.
- Replacement of original tram revenue incentive mechanism with a reduced cost recharge, reflecting a fully integrated bus and tram system
- Alignment of insurance arrangements under OCIP
- Obtained tram cost synergy savings with introduction of TEL being responsible for transport integration

6.24 Mobilisation agreements (Infraco and Tramco)

The pre-close mobilization agreements with Infraco and Tramco are designed to enable works necessary to maintain programme. The agreements are The Advance Works and Mobilisation Contract ("AWM") and Tram Advance Works Contract ("TAW").

The core of the AWM is that Infraco will perform a schedule of works with payment determined by "Agreed Element Estimates" agreed by the parties in respect of each element of work.

The AWM does not overlap with the Infraco Contract because, when the Infraco Contract is entered into, the AWM automatically terminates. The Infraco Contract therefore deals with payment and other terms relating to advance works underway at that time. The AWM also states that it terminates if the Infraco Contract is not entered into by 28 January and an extension will therefore need to be agreed. The TAW works similarly, in that it ends automatically when the Tram Supply Agreement is entered into. Again, the deadline for this to occur is 28 January subject to agreed extension.

The work on utility diversion under the MUDFA contract and related arrangements is described in Section 11 below.

(7) Land acquisition arrangements

Purpose of process

The process of assembling land required for the construction and operation of the Edinburgh Tram Network has been managed using a combination of Compulsory Purchase (using the General Vesting Declaration Procedure), and entering into long term lease arrangements with Network Rail and Edinburgh Airport Limited.

Current Status of Agreement

By financial close, the position in regard to Land available to INFRACO is as follows:

Nature Of Land	Land Area (sqm)	Available to INFRACO	Land Take Achieved	Target Date	No Plots
Pre GVD	498	Yes	0.1%	Nov-05	3
GVD 1&2	177467	Yes	21.0%	Feb-07	43
GVD 3	167854	Yes	19.9%	Jul-07	22
GVD4	43323	Yes	5.1%	Sep-07	19
GVD5	2381	Yes	0.3%	Dec-07	5
GVD6	83588	Yes	9.9%	Dec-07	17
Licences	24885	Yes	2.9%	Jan-08	14
BAA Licence	18388	Yes	2.2%	Nov-07	17
NR APA	42480	See above	5.0%	Feb-08	37
Forth Ports (S75)	80293	Yes	9.5%	Mar-08	51
Adopted Roads	202521	Yes	24.0%	Achieved	78
	843679		100.0%	Total	306

Of the total land required, 85.5 % is under the control of CEC through ownership or license, a further 9.5% is committed under Forth Ports existing S75 agreement with the balance of 5% subject to the Network Rail APA agreement discussed above.

Risk to INFRACO Contract Award

The risks to CEC for award of the INFRACO Contract are programme related, with the conclusion of the APA with NR the key factor.

(8) Governance & corporate arrangements

8.1 Governance & delegations

The Governance model deployed to oversee and control the project has evolved as the project itself has moved through different stages of development. **Appendix 1** is a detailed paper which requires specific approval from the Boards. The paper sets out :

- 1) the proposed governance model for the construction period ; and
- 2) the proposed levels of delegated authority

The paper is an update of previous submissions to the Boards and differs only in two material respects – the inclusion of specific levels of delegated authority and alignment with the terms of the tie and TEL Operating Agreements (see below). Neither of these factors should cause concern : the levels of delegated authority are in line with those previously deployed by the TPB and the terms of the operating agreements have been subject to significant scrutiny by senior people over recent months.

8.2 Operating agreements

These agreements require specific approval by the tie and TEL Boards and the draft documents are attached at **Appendices 2 and 3**.

tie

The tie agreement was previously reviewed by the tie Board in December 2007 and the changes since then are in line with the request made by the tie Board. The tie agreement supercedes the existing agreement and sets out tie and the Council's mutual responsibilities for delivering the tram project.

Aside from a limited number of technical tweaks, the tie agreement is now in agreed form between tie and the Council. Any significant outstanding matters – from any source - should be tabled at the Board meeting for debate and resolution.

TEL

The TEL agreement reflects TEL's role but the detailed wording is consistent with the tie agreement. The TEL agreement sets out the specific authority delegated to it by the Council with acknowledgement that TEL will sub-delegate its authority to the TPB.

The wording of the clause which provides delegated authority to TEL (3.1) has to be agreed. Aside from marginal tweaks, the document is otherwise approved in principle by the TEL Chairman and CEO. The Council's review procedures are not yet complete but any significant outstanding matters – from any source - should be tabled at the Board meeting for debate and resolution.

8.3 Taxation

Advice has been taken from PwC on two principle areas :

- 1) The tax effect of the Infraco contract suite structure ; and
- 2) The VAT status of the grant funding

The main objective in tax planning has been to ensure that the arrangements were VAT neutral such that there would be no irrecoverable input VAT and that no unforeseen output VAT would require to be accounted for. We have a formal report from PwC addressed to tie, CEC and TEL confirming this. We have also engaged with HMRC and have a clearance letter from them confirming that the objective is achieved.

The contract structure has also been assessed by PwC to ensure that it will be possible in due course to establish a cost base in TEL by either selling or leasing system assets owned by CEC which will create corporation tax shelter in TEL. This could prove very valuable over the operating period of the integrated system.

(9) Risk allocation matrices and DLA Report

[THIS SECTION IS DEPENDENT UPON THE FINAL TERMS OF THE INFRACO CONTRACT SUITE]

(10) Risk assessment of in-process and provisional arrangements

This section contributed by Stewart McGarrity, who reviewed those areas of the documents which are provisional in nature and the documents which will be in draft form at Close.

tie's approach to identifying and managing risks was fully explained in the Final Business Case. This section reviews the current status of the risks relating to the Infraco and Tramco contracts which were identified as wholly or partly retained by the public sector beyond financial close which were:

- The process for granting of approvals and consents;
- The process for granting of permanent TRO's
- The interface with the implementation of utility diversion works
- Delays to design approvals for reasons outside the control of the Infraco
- Stakeholder instructed design changes

Specific areas covered are:

- Price certainty achieved through the Infraco and Tramco contracts with a view on items included in the contract price which will remain provisional at Financial Close
- Specific exclusions from the Infraco contract price
- Responsibility for consents and approvals

And as an area of particular concern to stakeholders:

- The risks associated with significant 3rd Party Agreements not concluded in full at Financial Close.

Price certainty achieved

The Tramco price agreed at £54.4m is a fixed sum in pounds sterling for the supply of trams. The overall capital costs estimate for Tramco also includes a fixed sum of £2.3m for mobilisation costs associated with the maintenance contract and to be paid prior to the commencement of operations.

The Infraco price of £216.3m comprises

- £219.9m of firm costs
- less £13.8m of Value Engineering initiatives taken into the price with the agreement of BBS but with qualifications attached
- plus £10.2m of items which remain provisional at Financial Close.

A thorough risk appraisal has been carried out on the deliverability of the Value Engineering initiatives with reference to the qualifications which attach to them. As a result a prudent allowance of £4m has been made (in the Base Cost estimate for Infraco) against the possibility that for certain items these qualifications will not be removed.

Provisional items comprise a defined list of 13 Items each with a clear process for and programme for resolution. The estimate for each item has been reviewed by tie's technical consultants and by BBS and the risk of understatement is considered to be low. The most

significant item is a £6.3m allowance for civil works, including utilities, at Picardy Place as the design for the approved layout is not yet complete. The cost of the actual tramway, tram stop and associated works at Picardy Place are included in the firm element of the price.

The overall capital cost estimate for Infraco includes a further £3.4m comprising £1.4m for maintenance mobilisation (as for Tramco), £1m for major spare parts based upon a schedule of prices provided by Infraco and a £1m provision for known design changes at the Airport tram stop where the change are yet to be included in the design which formed the basis of the Infraco price.

Infraco price basis and exclusions

The Infraco price is based upon the Employers Requirements which have been in turn subject to thorough quality assurance including synchronisation with the current SDS design. Crucially the price includes for normal design development (through to the completion of the consents and approvals process – see below) meaning the evolution of design to construction stage and excluding changes if design principle shape form and outline specification as per the Employers Requirements. The responsibility for consents and approvals is further considered below.

Significant exclusions from the Infraco price are items not included in the Employers Requirements in respect of (responsibility for securing incremental sources of funding in brackets):

- Additional works at Picardy Place, London Road and York place (CEC)
- Additional works at Bernard Street (CEC)
- Full footway reconstruction in Leith Walk (CEC)
- Additional works in St Andrew Square outwith the tram alignment (CEC)
- Changes within the Forth Ports area (Forth Ports)
- Any other scope required by third parties not already included in the Employers Requirements by virtue of a commitment in an existing agreement

Responsibility for consents and approvals

As previously tie/CEC will retain the risk associated with the process of obtaining TROs and TTROs whilst Infraco (together with their novated designer SDS) will bear the cost and programme consequences of not delivering the information in sufficient quality and timeliness to process the applications. Full provision has been made in the Risk Allowance for the costs associated with a public hearing and other costs associated with obtaining the TROs.

For all other required consents and approvals (either design or construction related) the principles which apply are:

- Infraco (including SDS) bear the costs and programme consequences associated with not delivering the required information in a timely and sufficient manner to the consenting or approving authority
- tie/CEC bear the incremental cost and programme consequences associated with a delay in granting consent or approval having received the required information in a timely and sufficient manner and/or the cost and programme consequences of changes to design

principle shape form and outline specification (as per the Employers Requirements) required to obtain the consent or approval.

To clearly delineate responsibility and therefore risk allocation the Infraco contract and associated schedules, including the SDS Novation Agreement, clearly defines in detail and in a manner agreed by Infraco, SDS and tie/CEC:

- The necessary consents and approvals already obtained at Financial Close
- The remaining consents and approvals and whether the information to obtain such rests with Infraco or SDS
- The expectations with regard to quality of information including compliance with relevant law and regulation
- The programmed dates for delivering information and obtaining the necessary consents and approvals consistent with achieving the overall programme for the project

The role of tie in this complex process is to carefully manage the programme of delivery and take mitigating action as necessary to avoid any cost or programme implications from slippage on individual items. tie also retains responsibility for obtaining specific items including obtaining NR possessions which align with the construction programme agreed with Infraco.

The Risk Allowance does not provide for the cost or programme consequences associated with a wholesale failure of this process – see QRA alignment & Risk Allowance below.

3rd Party Agreements

All relevant agreements with 3rd parties form part of the Infraco contract (at schedule [13] and the Infraco price includes for the costs of any works and/or any construction constraints imposed by these agreements and as reflected in the Employers Requirements [Important issue still under debate with BBS].

A thorough risk assessment has been carried out with regard to all third party agreements which will not be concluded at Financial Close and attention is drawn to the following significant matters which are significant for the award of Infraco:

Network Rail Asset Protection Agreement (APA) – The APA, which provides Infraco with access to NR land for construction, cannot be formally concluded until the Station Change and Depot Change processes above have been concluded. However even if a side letter were to overcome this obstacle, the APA as currently drafted contains wide ranging Indemnity clauses in respect of all future events which CEC cannot regard as tenable. It is not possible to determine a quantified risk allowance in respect of these indemnities and no provision is made in the Risk Allowance for the project.

Station Change (actually between NR and First Scotrail/TOCs) - The risk here relates to the programme implications of not getting access to the car park at Haymarket for Infraco to commence demolition of the Caley Ale House at the end of March 2008 and the acquisition of car parking spaces for the permanent Tram works. A statutory consultation period is in process and we hope to have confirmation of no objection in principle agreement by the date of financial close. The Infraco's also has responsibilities to obtain all necessary construction consents prior to commencing the works. tie is of the opinion that a delay of 3 to 4 weeks to the start of this activity could be absorbed with no impact on critical path or costs.

Depot Change (actually between NR and First Scotrail) - The risk again relates to the programme implications of Infraco not getting access to the depot site at Roseburn for Tram works programme to commence in July 2008. Again the statutory consultation process has begun and tie is seeking a comfort letter confirming no objection to the proposals before financial close. The risk of undue delay to the agreement (or prior pollution prevention works by Network Rail at the depot) is considered to be small.

Local Codes of Construction Practice – Existing agreements with Forth Ports, New Edinburgh Limited and Edinburgh Airport require that such local agreements be concluded with these parties. Any additional requirements by these parties which might have cost or programme consequences which tie and the Infraco cannot effectively mitigate would be an additional cost to tie/CEC. Tie considers that the likelihood of significant additional costs arising from these agreements is minimal.

QRA and Risk Allowance

tie's risk identification and management procedures as detailed in the FBC describe a process whereby risks associated with the project which have not been transferred to the private sector are logged in the project Risk Register. Where possible the cost of these risks is quantified by a QRA in terms of a range of possible outcomes, probability of occurrence and thereby the Risk Allowance which is included in the capital cost estimate for the project.

The project Risk Register also details the "treatment plans" being followed to mitigate individual risks and thereby avoid all or part of the cost allowance.

As the Infraco and Tramco procurements have progressed tie has maintained and reviewed contractual Risk Allocation Matrices, which reflect the risks retained by the public sector arising from the contracts, and has exercised prudence in ensuring the Risk Register, QRA and therefore Risk allowance provide adequately for risks retained for the public sector including the major areas or risk assessed above. There has been no material change in the Risk Allocation Matrices between Preferred Bidder stage and the position now.

The Final Business Case cost estimate of £498m includes a risk allowance of £49m which in turn includes

- £17.5m in respect of procurement stage risks on Infraco and Tramco including all the risks associated with achieving price certainty and risk transfer to the public sector as has been effectively achieved in the Infraco contract as summarised above. The negotiated Infraco and Tramco prices, inclusive of provisional sums and other allowances as described, will result in an aggregate crystallisation of the Risk Allowance in the amount of £14.2m thus leaving a balance £3.3m to be held as a contingency against residual risk during the construction phase.
- £3.2m in respect of specifically identified risks held by and to be managed by tie during the construction phase including adverse ground conditions, unidentified utilities and the interface with non-tram works.

- £4.3m in respect of post Financial Close consents and approvals risks which provides for the cost or programme consequences of imperfections which may arise in elements of the consents and approval risk transfer as described above.
- £[3.3]m [To be confirmed] to provide for the cost of minor Infraco / Tramco programme slippage of up to [X] months (other than as a result of delays to MUDFA which is provided for elsewhere in the risk allowance).

tie has assessed these amounts as providing adequately for the residual risk retained by the public sector arising from the Infraco and Tramco works and the post Financial Close consents and approvals process. However the Risk Allowance does not provide for the costs of:

- Significant changes in scope from that defined in the Employers Requirements – whether such changes were to emerge from the consents and approvals process or otherwise
- Significant delays to the programme as a result of the consenting or approving authorities failing to adhere to the agreed programme (Infraco/SDS having met their own obligations) or any other tie/CEC initiated amendment to the construction programme which forms part of the Infraco contract.

All other things being equal any such changes falling into these categories would give rise to an increase in the cost estimate for Phase 1a of the project above £498m.

(11) Update on critical workstreams and readiness for construction

- Design due diligence
- Run-time due diligence
- TTRO / TRO process
- MUDFA including interface with Infracore programme

- Management team and handover
- Safety
- Commercial management
- Insurance
- Risk management

Appendix 1 - Governance & Delegations paper

tie Limited

Paper to : tie Board, Tram Project Board, TEL Board, CEC
 Subject : Project Governance
 Date : 18th January 2008

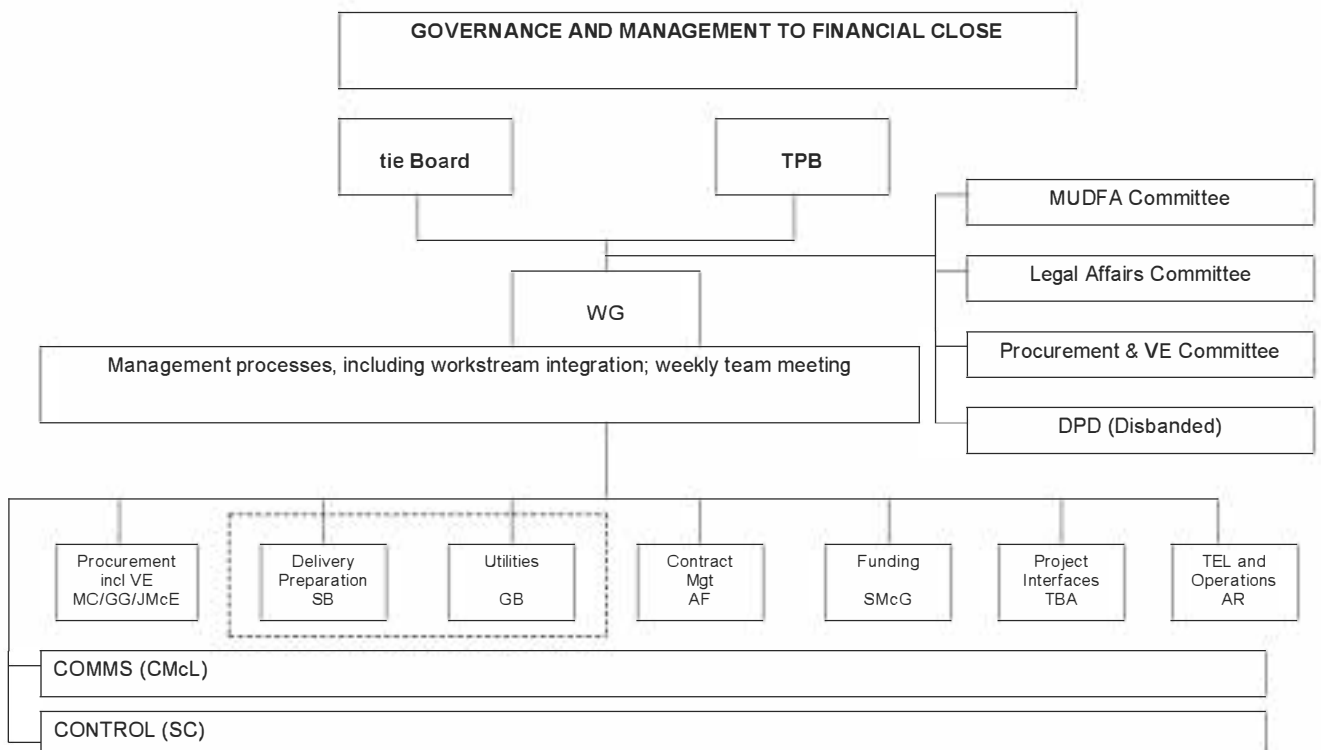
THIS PAPER SUMMARISES THE PROPOSED GOVERNANCE AND MANAGEMENT MODEL AS IT STANDS AT 18 JANUARY 2008. THE AREAS WHICH HAVE NOW BEEN UPDATED INCLUDE FINALISATION OF OPERATING AGREEMENTS AND THE DELEGATED AUTHORITY WHICH FLOWS FROM THOSE AGREEMENTS.

Edinburgh’s integrated transport system Project governance for the construction period

(1) Governance and management model in period to financial close

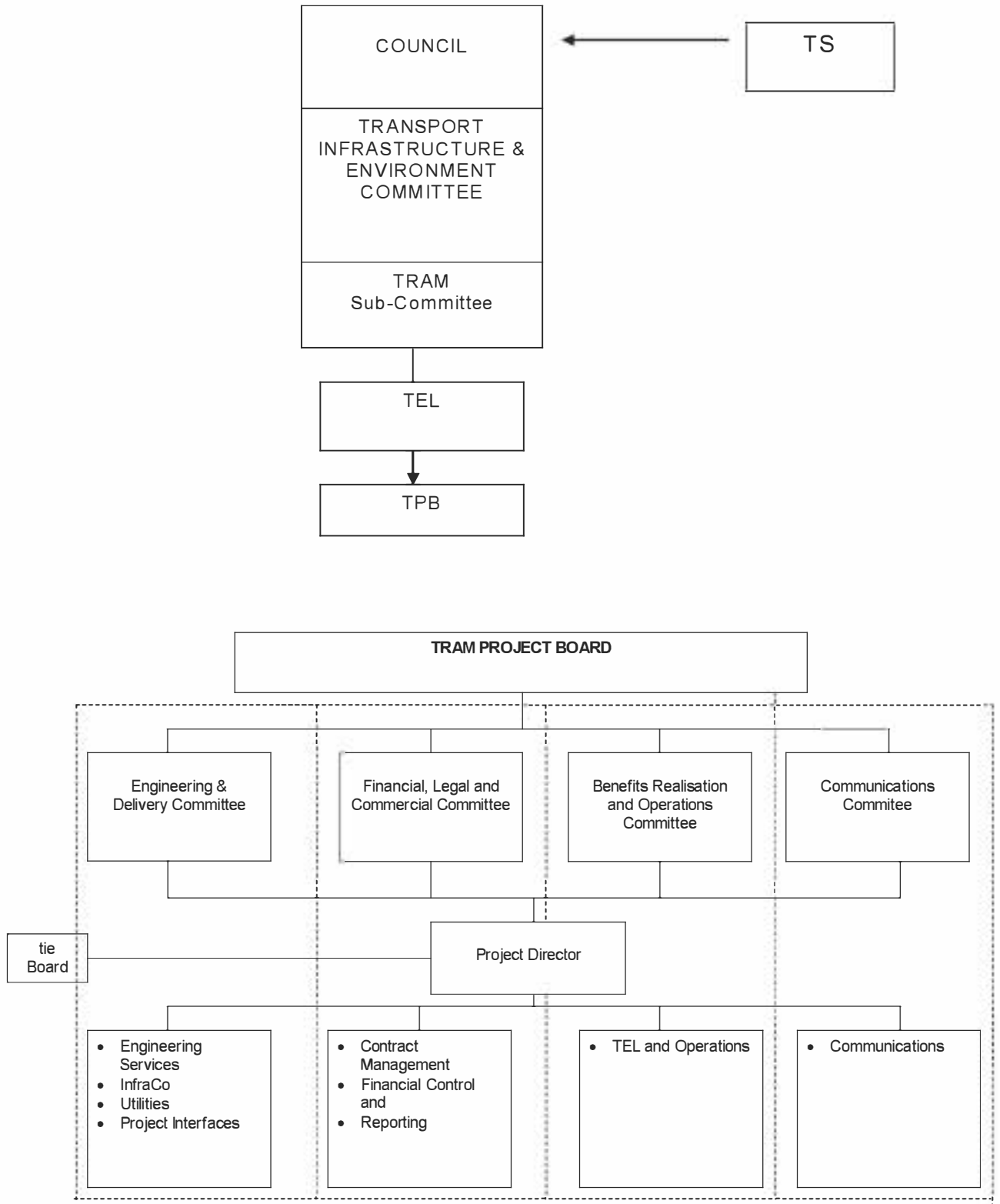
The recipients of this paper approved a governance and project management model for the period to Financial Close prior to the Council’s meeting on 25 October 2007. The purpose of this paper is to present the proposed model for the period from Financial Close to operational commencement, planned for Q1 2011. The proposed model is very similar to the outline presented in October but this paper is drafted to be independent of previous submissions.

The current model is set out in the following diagram, including the project workstream structure under the TPD.



(2) Governance and management model in construction period

The diagram below sets out the proposed governance model for the construction period .



The roles & responsibilities of the entities within the new governance and management model are summarised below.

Transport Scotland (TS)

TS exercise their oversight of the project through 4-weekly reporting in prescribed format and a 4-weekly meeting with the City of Edinburgh Council (CEC).

The principal contractual relationship between TS and CEC is the Grant Award Letter which sets out the terms on which TS will provide the balance of the £500m grant. This contains detailed reporting and certification requirements appropriate to the conduct and scale of the project..

CEC

CEC have established a "Tram sub-Committee" of the existing Transport, Infrastructure and Environment Committee. The sub-Committee is chaired by the Executive Member for Transport with a 6-8 weekly meeting cycle. The purpose of the sub-Committee is to review and oversee decisions with respect to the project. This will include addressing matters directly affecting the Council and providing assurance that matters which cross Council departmental boundaries are managed cohesively (for example, responsibilities for roads & traffic management and budgets).

CEC have prepared Operating Agreements between the Council and respectively tie Limited and Transport Edinburgh Limited (TEL) to codify the arrangements between the entities and the responsibilities of the two subsidiaries. The signing of the Operating Agreements creates the authority for tie and TEL to execute their responsibilities.

The Council Report approved on 20 December 2007 indicated that some issues will require to be referred to Council including the approval of the annual business plans for tie and TEL. Significant changes to Council obligations, including material changes to scope and cost within the Tram Project, will also be reserved to Council. Full Council will also require to ratify settlement of any claims greater than £500k or £1million in a 12 month period. The precise definition of the delegated interface between the full Council and its committees is a matter for the Council.

The Operating Agreements also specify certain matters which require the approval of a council Monitoring Officer. The Monitoring Officer is intended to be the same individual with respect to both tie and TEL and will also be a member of the TPB and TEL Board, in order to ensure that the governance structure is clear and singular.

TEL

The TEL Board is focussed on its overall responsibility to plan an integrated tram and bus network for Edinburgh, on behalf of CEC. The Board is responsible for compliance with its Operating Agreement and it will also address any matters outwith the direct arena of Integrated Bus and Tram systems and any statutory TEL considerations.

The TEL Board comprises an independent non-executive Chairman, independent non-executive directors, Elected Members and Executive management. There is appropriate common membership across the TEL, tie and LB Boards to ensure consistency of approach.

The following matters will be a matter for the TEL Board to determine :

All matters affecting the programme, cost and scope of the Project except

- (A) those which involve a significant change to the Council's obligations. In this context, significant is defined as a matter which will or could reasonably be

- expected to involve 1) a) delay to the programme of greater than 3 months ; or 1) b) increased cost of £10m ; relative respectively to the programme leading to commencement of revenue service by 31 March 2011 and capital cost of £498m (Phase 1a) or £87m (Phase 1b) set out in the Final Business Case ; or
- 2) substantial change to the design, scope or service pattern set out in the Final Business Case.; and
- (B) the settlement of any single claim in excess of £500,000, or series of claims in any 12 month period which would exceed in aggregate £1,000,000 ;

The TEL Board may delegate responsibility for all other matters to the TPB and the TPB may in turn delegate responsibility for all other matters to a competent third party (to include tie so long as within tie's own authority).

The Council's majority shareholding in Lothian Buses (LB) is planned to be transferred to TEL and parallel changes to the composition of the Lothian Buses Board would then be addressed.

Tram Project Board (TPB) and its sub-Committees

The TPB maintains its role as the pivotal oversight body in the governance structure. The TPB is established as a formal sub-Committee of the TEL Board with full delegated authority to execute the project in line with the proposed remit set out in Appendix 1. In summary, the TPB has full delegated authority to take the actions needed to deliver the project to the agreed standards of cost, programme and quality within the authority delegated to the TEL Board.

The suggested membership of the TPB is 7 people (Office of Government Commerce constituency definitions "highlighted"):

- Chair (David Mackay)
- Senior CEC Representatives - "Senior User Representatives" (Donald McGougan and Andrew Holmes)
- TEL CEO and Project "Senior Responsible Owner" (Neil Renilson)
- "Senior Supplier" representatives (tie Executive Chairman and TEL Operations Director) (Willie Gallagher and Bill Campbell)
- Executive Member for Transport (Phil Wheeler)

The Chair will continue to be the TEL Non-executive Chairman, rather than the Project SRO. Other parties, principally senior project management and advisers, will be called to attend as required, though it is anticipated that a common group of senior project directors will attend

The remit and delegated authority given by TEL to the TPB, and by the TPB to the SRO and Tram Project Director (TPD) are set out in Appendix 1. The TPD will formalise delegated authority downwards to senior members of the delivery team.

tie Limited

tie's role is to deliver the tram network fit for operational purpose, on time and budget. For the foreseeable future, tie will have only one major project, the tram. It will maintain roles with certain smaller projects and will require to comply with normal statutory responsibilities as a limited company, including formal compliance with its Operating Agreement.

The tie Board presently comprises a group of independent non-executive directors and Elected Members under the Executive Chairman. The Elected Members will be the same on each of the TEL and tie Boards to ensure consistency of view across delivery of the system and operations.

The independent non-executive members will also provide experienced participation in the TPB's sub-committee deliberations, as explained below.

In overall terms, the composition of the tie Board will be maintained in its present form. The Board will maintain its Audit and Remuneration committees, membership of which are restricted to the NXDs. In addition, a new tie Board sub-Committee will be established to address Health & Safety, chaired by an experienced NXD.

In its role on the tram project, tie provides services to the TPB. The tie Operating Agreement provides tie with the legal authority to enter into all competent contracts to deliver the tram system. The tie Board will delegate authority to its Executive Chairman to execute its contractual responsibilities for the tram project. The Tram Project Director (a tie employee) is given delegated authority by the tie Executive Chairman to manage and deliver the project. The authority given to the TPD in his role as a tie employee is synchronised with the authority delegated to him by the TPB. This ensures that the TPD leads the project delivery under delegated authority from his employer (tie) and from the project client (TEL through the TPB) which is consistently defined.

Further changes to the composition of the TEL, tie and LB Boards will be effected as is deemed necessary over the period ahead. In particular, in the event that tie assumes responsibility for additional major projects in the future, the Board composition may need to be addressed. All such changes will require the formal approval of the Council.

In summary, the roles of the parties are :

CEC

- To be responsible for the creation of a financially viable integrated bus and tram system in line with the approved Business Case ;
- Compliance with the terms of the Grant Award Letter

TEL

- Under authority delegated by its parent CEC, to prepare for the operation of the integrated tram and bus network, including oversight of the delivery of the tram infrastructure executed through its sub-Committee, the TPB ;
- Compliance with the CEC / TEL Operating Agreement ;
- Statutory responsibilities including Board membership, statutory reporting, maintenance of books of account and statutory records ;
- Matters relating to TEL employees including Health & Safety

TPB

- Prepare for the operation of the integrated tram and bus network, including oversight of the delivery of the tram infrastructure, conducted directly or through scrutiny by sub-committees of the TPB

tie

- Management of the delivery of the tram infrastructure including management of the contracts written with third parties to achieve delivery of the tram network fit for operational purpose, on time and budget
- Compliance with the CEC / tie Operating Agreement ;
- Statutory responsibilities including Board membership, statutory reporting, maintenance of books of account and statutory records ;
- Matters relating to tie employees including Health & Safety

TS

- To provide grant funding in line with the terms of the Grant Award Letter

(3) Practical operation of the governance model

It is recognised that there is inevitable duplication between the scrutiny by the tie Board of its Executive activities and the oversight role performed by TEL and the TPB. However, this situation is normal, if tie's role of providing a service to its client, in this case TEL, is borne in mind.

It is suggested that the tie and TEL Boards will meet every second period on a period-about basis. The frequency of TEL Board meetings is expected to increase as operational commencement approaches. The TPB and its sub-committees will operate on a 4-weekly cycle, linked to the 4-weekly report to TS. The means by which the Project Director arranges day to day management of the project is not reflected in this paper but will also follow the 4-weekly cycle and will respond to the reporting requirements of the tie and TEL Boards.

The current TPB sub-Committee structure will be dissolved and the new sub-Committee structure will comprise :

Engineering & Delivery Committee (E&D)

- Delivery under contracts - Infracore, Tramco, Utilities / MUDFA, design,
- Health & Safety, Quality & Environment
- Improvement initiatives - VE, Innovation, ICT
- Project interfaces & approvals - Land & Property, Traffic, third parties

Financial, Commercial & Legal Committee (FCL)

- Financial management - reporting, control, audit, risk management, insurance
- Contract management - reporting, compliance, interface with delivery, claims & variations

Benefits Realisation & Operations Committee (BRO)

- Operational & integration planning
- O&M contract planning
- Transdev
- Marketing

Communications Committee

- Comms management - utilities / MUDFA, Construction, Media, stakeholders

It is anticipated that the BRO and Communications committees will not meet for the early period of construction in the absence of any material issues arising which require separate scrutiny. The TPB will deal directly with any relevant matters under these headings for the foreseeable future.

In order to create close cohesiveness between the TPB / sub-Committee governance model and the project management structure, the sub-Committees will be directly interfaced with the Project workstreams and the individual directors responsible. Appendix 2 sets out the interfaces which effectively constitute the remits for these committees.

To further reinforce cohesion, the tie Executive Chairman will Chair each of the sub-Committees. The attendance of senior project and client officers, and the clear responsibilities allocated to individual Project Directors, will ensure that appropriate independence and challenge is achieved. As currently, the sub-Committees will have clear remits and will focus on detailed interrogation of key issues, leading to recommendations to the TPB which retains decision-making authority over all key areas.

(4) Health & Safety

A detailed analysis of the means by which H&S responsibilities are discharged is set out in Appendix 3. In summary, H&S is clearly of paramount importance both currently and in the construction phase of the Project. CDM 2007 will be a key focus and will be given appropriate prioritisation by all parties at all levels. The application of legal H&S responsibilities in the context of the governance and management of a large, complex project requires very careful analysis.

Appendix 1 - Tram Project Board ("TPB") Remit

TPB has delegated authority for the delivery of an integrated Edinburgh Tram and Bus Network on behalf of TEL and CEC, in particular :

1. To oversee the execution of all matters relevant to the delivery of an integrated Edinburgh Tram and Bus Network, with the following delegations :
 - a. Changes above the following thresholds
 - i. Delays to key milestones of > 1 month
 - ii. Increases in capital cost of > £1m
 - iii. Adversely affects annual operational surplus by >£100k
 - iv. is (or is likely to) materially affect economic viability, measured by BCR impact of > 0.1
 - b. Changes to project design which significantly and adversely affect prospective service quality, physical presentation or have material impact on other aspects of activity in the city
 - c. Delegate authority for execution of changes to TEL CEO (the Project SRO) with a cumulative impact as follows:
 - i. Delays to key milestones of up to 1 month
 - ii. Increases in capital cost of up to £1m
 - iii. Adversely affects annual operational surplus by <£100k pa
 - iv. is (or is likely to) materially affect economic viability, measured by BCR impact of <0.1

The TEL CEO will delegate similar authority to the Tram Project Director.

These levels of authority apply to all matters affecting the programme, cost and scope of the Project except :

- (A) (1) those which involve a significant change to the Council's obligations, where significant is defined as a matter which will or could reasonably be expected to involve a) delay to the programme of greater than 3 months ; or b) increased cost of £10m ; relative respectively to the programme leading to commencement of revenue service by 31 March 2011 and capital cost of £498m (Phase 1a) or £87m (Phase 1b) set out in the Final Business Case ; or 2) substantial change to the design, scope or service pattern set out in the Final Business Case ; and
- (B) the settlement of any single claim in excess of £500,000, or series of claims in any 12 month period which would exceed in aggregate £1,000,000 ;

All matters which fall to the determination of the TPB will be reported to the TEL Board on a comprehensive and timely basis. Matters which do not fall within the TPB and TEL Board's delegated authority levels described above will require determination by the Tram Sub-Committee of the Council.

2. To appoint the Senior Responsible Owner (SRO) and Tram Project Director (TPD) for the project and to receive reports from the SRO and TPD on project progress
3. To receive reports from TPB sub-committees established to oversee specific areas
4. To ensure project workstreams are executed according to robust programmes under the leadership of Project Director.
5. To approve the submission of funding requests and to recommend approval of funding terms to the TEL Board ; and to confirm compliance with all relevant aspects of the grant award letter.
6. To ensure proper reporting through the TPB Chairman to the TEL Board and to CEC (as appropriate) of decisions made.

Appendix 2

Interface between new governance bodies and project management structure in the construction period – people identified are included for discussion only at this stage

TPB Governance body	Chair	Management responsibility	Director
Engineering & Delivery Committee	Gallagher	Engineering & Delivery - Infraco Tramco Utilities / MUDFA Engineering design Health & Safety planning & management	Bell
		Improvement - VE Quality & Environment ICT Innovation	McEwan
		Project Interfaces & Approvals - Land & Property Traffic management / regulatory Other CEC, third party	Sim
Financial, Commercial & Legal Committee	Gallagher	Financial management - Financial reporting Financial control, internal audit Risk management Insurance	McGarrity/ Thorne
		Contract management - Contractual reporting & compliance Claims & Variations management	Fitchie
Benefits Realisation & Operations Committee	Gallagher	Operational Planning - Integration & service planning O & M planning Transdev Commissioning Marketing	Richards
Communications Committee	Gallagher	Communications management - Utilities / MUDFA Construction Media Stakeholder	McLauchlan

Appendix 3 Health & Safety

General

H&S obligations are well-understood and entrenched in the project governance and management structure. The increased level of physical activity which may give rise to H&S risks once construction commences reinforces the need to ensure H&S responsibilities are clear and that the highest standards of H&S management are applied. These considerations must be addressed on a daily basis in all actions and at all levels by parties involved in Project.

In overall terms, the key H&S considerations for CEC, TEL, the TPB and tie are:

- the health & safety of their people - the corporate H&S Management Systems address this responsibility
- ensuring that CEC, TEL, the TPB and tie deliver against clearly stated H&S responsibilities in the framework of the project including working alongside third party H&S management systems
- monitoring and reporting regularly that these responsibilities are being properly discharged
- ensuring that all persons employed by CEC, TEL and tie are competent
- ensuring that contracts entered into address H&S issues adequately
- ensuring that H&S ramifications are considered when key business decisions are made

The H&S responsibilities are currently defined clearly to meet the demands of the current project activity including the utility works now underway. These responsibilities are being revised to integrate with the revised governance structure described in this paper and to enable effective management of the full-scale construction activity which will follow Financial Close. The narrative below provides a description of the responsibilities of the bodies involved in the project and has been drafted with the full involvement of DLA.

Relationship of revised governance model to H&S responsibilities

The TPB creates an "inclusive" decision making process which is important for the effective operation of the project. The TPB will be a formal sub-Committee of the TEL Board so that members of the TEL Board on the sub-Committee retain the formal responsibility for decisions taken at the TPB, with all other parties to TPB deliberations being participants or observers only. The TPB itself is not a shelter from health and safety liabilities or a clearing house for liabilities. Legally CEC, TEL and tie cannot delegate H&S responsibility to the TPB in the governance structure and thereby declare that they have discharged their health and safety liabilities and have no further duty regarding input into or consideration of health and safety issues.

The ultimate responsibilities for the TPB decisions flow up to the TEL Board and CEC, subject to the intended election under the Construction Design and Management Regulations 2007 ("CDM 2007") of tie as "Client" under those regulations. A Procurator Fiscal may consider that all parties (CEC, TEL and tie), together constitute the entity for the discharge of H&S obligations. As a result H&S implications must be considered by all these parties when making significant decisions affecting design and implementation through the construction phase of the Project. The HSC guidance *Director's Responsibilities for Health & Safety* must be followed by CEC, TEL, the TPB and tie. Appropriate leadership should be demonstrated in this area by the boards and senior management.

Where changes are submitted for TPB approval, or are requested by the TPB, tie/TEL/CEC (and the appointed CDM 2007 parties) will be legally responsible for identifying and managing any

impact that these changes will have on safety. The TPB will be responsible for ensuring that they understand and have responsibility for any decisions made in this respect. It is intended that tie will be mainly responsible for implementing the decisions made throughout the construction period.

It is considered that TEL/CEC would remain the "client" in terms" of CDM 2007 as the TPB is not a separate legal entity although it will make decisions on behalf of TEL/CEC. tie is responsible as the elected second client under CDM 2007 and the client/employer (for general health & safety regulations) for the overall project safety management for the development and implementation of the Project. Such an election is, however, not a full delegation of all rights and responsibilities. tie and the TPB must ensure that its activities or its stakeholders or advisors do not undertake actions that encroach upon the role of the designer under CDM 2007, because this would mean that they would require to demonstrate competency in this role and fulfil added responsibilities.

The revised project governance structure described in this paper will distance Transport Scotland from the H&S responsibilities as their responsibilities are related to those of the principal funder of the project, in the absence of any material involvement in design or construction matters.

Health & Safety, Quality & Environment will form an element of one of the new TPB governance sub-Committees. H&S matters within tie will be the responsibility of the Engineering and Delivery Director. In addition to the E&D Director's leadership on this issue, a senior NXD will be the nominated chair of the H&SQE sub-committee of the tie Board to add a further H&S check in the operation of tie and the TPB.

A regular safety report is produced and presented to the tie Board and to the TPB each month. The TPB will ensure that safety is a core agenda item for each meeting and will ensure that the safety report tabled at each meeting is actioned where appropriate. Copies of these reports, or summary documents as appropriate, will be disseminated to TEL and CEC. This will ensure that H&S issues are considered at senior level on a regular and disciplined basis.

Legal backdrop

There may be occasions where a decision which is made by the TPB under its delegated authority from TEL is driven by one of the stakeholder directors to the exclusion of the other members of the board. In the event of an incident, this may result in the contractual relationships or duties between the stakeholders being considered. Notwithstanding that financial indemnities could be put in place to cover losses suffered, if a particular party declares that it will be held accountable for a decision impacting safety, it is important to highlight that it is not possible to ensure that fines imposed as a result of prosecution can be the subject of an enforceable indemnity. It is not possible to contract out of criminal liability nor is it possible to insure against a fine. Although it may be competent to include a clause in a contract, it is possible that such a clause would be construed by the courts as unenforceable and contrary to public policy. In this context, the representative of each stakeholder would need to look to their employer, with regard to personal accountability.

The creation of appropriate safety responsibility structures, safety management systems and culture will form a key defence to any prosecution assuming all procedures have been followed. Clearly there could also be a number of other parties involved in a safety incident, for example contractors, sub-contractors, agency staff, designers, CDM-Coordinators and third parties.

The Corporate Manslaughter and Corporate Homicide Act 2007 will come into force on 6 April 2008. Corporate homicide will be committed where a death is caused by an unlawful or grossly negligent act of the senior management of an organisation. The management and organisation of activities by senior management must constitute a "substantial element" of the breach, in

other words, partial delegation of the duty will not prevent liability attaching to senior management. Breach is punishable by a fine. Although directors do not face personal liability under the Act, the offence will make directors more vulnerable to disciplinary action and further crystallise their accountability for health and safety compliance to their stakeholders. It remains possible for directors and senior management to face personal liability if there is sufficient evidence to bring a prosecution under the existing common law or under the Health & Safety at Work etc Act 1974.

Critical Contractual Decisions to enable Chief Executive to use delegated powers to approve tie to sign the contract with BBS									
Item	Issue	Description	tie Final Deal Countdown List Item Dated 14 Jan 2008	approval Finance	approval Legal	approval CDD	tie action	Status	Anticipated Completion Date
1	Contract	1.1 a) Novation agreement ready to be signed off - CAF	1.4			DF		Ongoing - reported to be progressing well (Draft letter from DLA has been provided stating novation is in agreed for with intent to execute)	11-Feb
		b) Novation agreement ready to be signed off - SDS	1.3			DF		Meeting set up for 4th Feb on consents issues. CEC require to see the terms of novation agreement	14-Feb
		1.2 CEC Guarantee agreed with BBS and ready to sign off	2.1		CM			Need confirmation that Infraco and Grant Award Letter are aligned. Confirmation letter required from DLA	
		1.3 Due Diligence on approvals for Infraco & Tramco (post notification)	8.4			DF		This will be completed immediately before contract award. Letter required from tie confirming due diligence is complete and they are satisfied with outcome. CEC request letter from German and Spanish Lawyers with to confirm satisfaction with due diligence	
		1.4 a) Operating Agreement - tie	4.1		NS			tie operating agreement agreed. This will be engrossed and held for execution at a later date.	04-Feb
		b) Operating Agreement - TEL	4.2		NS			TEL Interim operating agreement agreed. This will be engrossed and held for execution at a later date.	11-Feb
		1.5 DLA supportive letter with risk matrices	5.2		GL	DF		To include confirmation re consents issue and alignment of Infraco/CEC guarantee. 14th December Matrix requires to be updated. Letter from DLA stating we have the best deal possible with warning of any caveats.	14-Feb
		1.6 OCIP exclusions	9.4			DF	CEC request this item is moved from 9.4 into Section 4 Governance and Corporate and request detail on caps or non insured aspects.	Report available for review by CEC. Presentation on OCIP given to CEC Officers on 5th February. DLA opinion required on Economic loss issue.	
		1.7 tie to provide a list of what is not included within the BBS contract (i.e. the items which BBS have specifically excluded) with a financial value against each item.	5.3			DF		Status unknown tie yet to provide	11-Feb
		2	Programme	2.1 Confirm dates for 1a and 1b	5.7			DF	
2.2 Agreement of On-street Construction Methodology	1.11					DF		Statement provided by tie to give comfort to CEC that the programme is consistent with the constraints. Consequential impact of guided busway to be taken by CEC.	
2.3 Mudfa - risks related to Infraco	5.5					DF		MUDFA programme v6 is incorporated into BBS programme. Statement on QRA and what the allowance for slippage is in regard to MUDFA.	

3	Employers Requirements	3.1	Summary to CEC of Employers' Requirements, including detailed scope of the Tram Works with endorsement from DLA. The ER is a key part of the overall contract which sets compliance standards of the tram works. BBS have been given version 2.4 to price. BBS have responded to this with variations, this may be a lowering of standards to keep the price level below the net £498m e.g. CCTV specification. tie to produce a list of variations that they are minded to accept from version 2.4, with a justification for the variation with TELs comments, and also to give assurances that what is proposed to accept as a variation is in all cases "fit for purpose" both in term of price and quality.	1.5/5.6			DF		Workshop held with CEC and needs to be completed. Agreed with Duncan Fraser/Susan Clark that the presentation used for this workshop would suffice as the summary requested by CEC. DLA sanction required on finalised ER's. Check if CEC have approved version 2.4 and check if CEC have approved variations to 2.4. Questions submitted to Matthew Cross on ER's from Council Officers on Roads and Structures. Confirmation required that Tramco, Infraco and SDS all comply with the latest version.	13-Feb	
4	Due Diligence	4.1	Statement from the Preferred Bidder that they accept the performance run-time model and "law of physics" results and confirmation of acceptance of the emerging quality of design.	8.2			DF		Awaiting Confirmation. Response due from BBs on 1st Feb. Confirmation required on whether CAF are providing a warranty covering compliance with the DKE	01-Feb	
5	Risk	5.1	Full transparency of QRA	5.3		RA		All issues on CEC Item 5 require to be incorporated in 5.3 of tie's list.	Need QRA to be updated and contrasted with 25 October version. Draft QRA to be run week ending 29th Feb 08 with further run at Contract Award	14-Feb	
		5.2	(a) Black flag risks. Provide a list of these items and what is the likelihood of any of these risks occurring? What is tie's strategy to avoid said risks materialising? What is the cost of exiting from a Black Flag item? (b) Details of the risk management strategy for the key risks through delivery (c) Detailed analysis of programme risk. Confirmation of the risk allowance for programme delay. Detail of items on critical path and what is being done to ensure they do not cause (further) delay	5.3		RA			Draft report available covering this, Susan Clark to provide. Report has been provided however quantum of black flags must be provided.		
				5.3		RA			Draft report available covering this, Susan Clark to provide		
				5.3		RA			Programme report available covering this item	13-Feb	
		5.3	Tie written statement to CEC on risks as at 25 October 2007 compared to immediately post contract award	5.3		RA			tie will update just in advance of notification to award	14-Feb	
		5.4	Risk Register needs to be updated to include the potential risks and knock-on effects of prior and technical approvals not having being obtained prior to Financial Close. This is linked to 9.2.						Residual risk relating to Prior and Technical Approvals to be quantified.		
6	Value Engineering	6.1	VE summary included in the final deal and highlighting other potential savings with a probability value	5.8			DF	Item 5.8 on tie list to include probabilities of VE items	tie to provide	13-Feb	
7	Pricing & Funding	7.1	The Council requires a detailed analysis of prices, costs and risks allowance. tie required to explain how prices for maintenance, etc. impact on operating cost assumptions	1.9/5.8		RA		Detail of CEC Item 7 requires expansion of tie list items 1.9/5.8	Draft close report will be updated	13-Feb	
		7.2	Cross refer to item 1 above re exclusions from contract by BBS	1.9/5.8		RA			Draft close report will be updated	13-Feb	
		7.3	Statement on % of costs fixed and % outstanding as provisional sums with programme for moving these to fixed costs	1.9/5.8		RA			Draft close report will be updated	13-Feb	
		7.4	What design version was the BBS contract priced against and what changes have subsequently taken place							Draft close report will be updated	13-Feb
		7.5	Cost per week of not signing contract on time to be estimated by tie							Draft close report will be updated	13-Feb
		7.6	Does the Infraco contract allow BBS to pre purchase material and equipment prior to design approval? If so how is CEC protected if such materials do not meet CEC approval.							Stewart Mc Garrity to provide statement on Advance Purchase and commercial reasons for Advance purchase. tie to ensure bond in place with CAF to cover advance material purchase.	
8	Network Rail Update/Approval required on all NR documents listed	8.1	PPA								
		8.2	Framework Agreement								
		8.3	APA							Final Draft for Review 26th Feb hopeful of signature by NR week ending 29th Feb. Outstanding issues around interplay between APA and Indemnities	
		8.4	Neighbourhood Agreement								
		8.5	Lease								

	8.6	Bridge Agreement					Agreement with Dundas & Wilson. Looking for agreement on principles week ending 29th Feb. Agreement on sale of Land with bridge abutments required.			
	8.7	Haymarket Car Park								
	8.8	Servitudes Incl Balgreen and Haymarket								
	8.10	Lift & Shift								
	8.11	Immunisation								
	8.12	Station & Depot Change					Station Change - No objections from TOC's. Depot Change - Hopeful this can be signed off week ending 29th Feb.			
	8.13	Oil Tanks					Programming Issue. Meeting set up between relevant bodies. tie looking for relaxation on FS rule on only single contractors having access to their site.			
	8.14	Operating Agreement					Substantially Complete			
	8.15	Plan B to take account of any delays in achieving agreement with NR on all matters, including Caley Ale House, Lift and Shift and Immunisation. This to be included in QRA report.	Section 6			SS	tie to provide	13-Feb		
9	SDS Assurances	9.1	Full written explanation of SDS Novation to be provided by tie, including risks of failing to deliver design	1.4			DF/ACon	Damien Sharp to provide full report on SDS assurances	01-Feb	
		9.2	Full details are required from tie on status and degree of completion of SDS design work as at 14 January 2008, including prior and technical approvals. If approvals risk is not being transferred to BBS the Council needs to know the impact and likelihood of the risks and a strategy for managing the risks.	1.4			DF/ACon	Confirmation required from BBS/SDS that all prior and technical approvals and all other necessary consents will, as a minimum requirement, be fully compliant with Tram Design Manual and other relevant CEC Policies and Guidelines	01-Feb	
		9.3	Confirmation that the public sector (tie & CEC) are not liable for delays for Planning or Road Approvals	1.4			DF/ACon	tie to provide	01-Feb	
		9.4	tie to provide written report on previous claim settlement with SDS identifying details, cause of claim and costs of settlement. Are any further claims expected from SDS? Are any further claims from SDS competent	1.4			DF/ACon	tie to provide	01-Feb	
10	Funding Letter	10.1	Funding terms to be agreed with CEC and TS	2.2			RA	Complete - CEC Finance to provide copy of signed Grant Letter to Susan Clark and Colin MacKenzie		
11	Third Party Agreements	11.1	Status report on third party agreements	5.9			DF	Items in Section 11 of CEC list require to be added to item 5.9 of tie list	In close report & will be updated until notification date	13-Feb
		11.2	Disclosure list and acceptance of these by BBS	5.9			DF		In close report	
		11.3	Status of Telewest and SP agreement and when req.	5.9			DF		Issue with Scottish Power in relation to Leith Walk Tunnel to be closed out. Progression on content of Scottish Power agreement with targeted sign off week ending 29th Feb.	
		11.4	Forth Ports agreement and risk of not having this in place	5.9			DF		Some changes required to drafting which do not need further approval by Forth Ports board. Baseline estimate and payments terms must be worked into final agreement. Target signature week ending 29th Feb.	13-Feb
		11.5	BAA						Now signed by CEC and BAA awaiting Willie Gallaghers signature on his return from leave.	
		11.6	SRU						Working well towards signature. SRU still in favour of V/E option at bridge. SC looking for possible contribution from SRU under their preferred proposal.	
12	Licence between CEC and tie	12.1	To be concluded before financial close	3.3			SS		CEC to ensure tie have signed licence by 1st Feb.	28-Jan

13	Land Acquisition	13.1	Statement of land acquisitions	5.10			SS	Items in Section 13 of CEC list require to be added to 5.10 of tie list.	In close report
		13.2	Confirmation that GVD completed	5.10			SS		In close report
		13.3	Confirmation of match between what land has been acquired by CEC matching BBS requirements	5.10			SS		Statement required from tie to confirm this issue

Other Issues

Issue re protection re advance purchase of steel to be added to 1.6 in tie list.

7.1 – 7.5 inclusive in tie's list to be moved to Section 3.

Street traders issue to be added to Section 3.

- Appendix 3 - Draft Council Report
To be tabled.



• **Appendix 4a - Planning Prior Approvals Progress**

Prior Approval Batch	Contents of Batch	Current Status	Status Information (Action)
1.01	Newhaven Road Tram Stop / Lindsay Road Retaining Wall / OLE Newhaven Stop to Victoria Quay	Preliminary Design yet to be submitted	Negotiations with Forth Ports (SDS/TIE)
1.02	Ocean Terminal Tram Stop / OLE Victoria Quay to Tower Place Bridge / Victoria Dock Bridge	Preliminary Design yet to be submitted	Negotiations with Forth Ports (SDS/TIE)
1.03	North Leith Sands Substation	Approved	Approval Granted 06/07/2007
1.05	Tower Place Bridge / OLE Leith Conservation Area to Tower Place	Preliminary Design yet to be submitted	Ongoing design issues (SDS)
1.06	Port of Leith Tram Stop / OLE Tower Place to Dock Gates	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
1.07	Bernard Street Tram Stop / OLE Dock Gates to Queen Charlotte Street & Building Fixings / Relocation of Robert Burns Statue	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
1.08	Foot of the Walk Tram Stop / OLE Queen Charlotte Street to Foot of the Walk	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
1.09	Balfour Street Tram Stop / OLE Foot of the Walk to Pilrig Street	Under CEC consideration	Decision due by 11/04/2008 (CEC)
1.10	Leith Walk Substation	Approved	Approval Granted 08/01/2008
1.11	McDonald Road Tram Stop / OLE Pilrig Street to Annandale St	Under CEC consideration	Decision due by 11/04/2008 (CEC)
1.12	Picardy Place Tram Stop / OLE from Annandale St to York Place	Preliminary Design yet to be submitted	Ongoing design/layout issues (SDS/TIE/CEC)
1.13	OLE from Picardy Place to North St Andrew Street	Preliminary Design yet to be submitted	Ongoing design/layout issues (SDS/TIE/CEC)
1.14	Cathedral Lane Substation	Approved	Planning Permission Approval Granted 29/10/2007
1.15	St Andrews Square Tram Stop / OLE St Andrew Square & Building Fixings	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
1.16	Princes Street Tram Stop / OLE St Andrew Square to Queensferry Street & Building Fixings	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
1.17	Shandwick Place Tram Stop / OLE Shandwick Place, Coates & Atholl Crescents & Building Fixings	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
2.01	Haymarket Tram Stop / Haymarket Terrace Substation / Haymarket Viaduct / Haymarket Junction / Relocation of War Memorial	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
2.02	Line of Route - Haymarket Yards to Russell Road	Approved	Approval Granted 06/01/2008
2.03	Russell Road Bridge	Informal Consultation Stage	Ongoing design/layout issues (SDS/TIE/CEC)
2.04	Russell Road Substation	Approved	Approval Granted 06/07/2007
3.02	Balbernie Place / Roseburn Maltings Retaining Walls / Roseburn Corridor A / Roseburn Tram Stop / Roseburn Terrace Bridge	Informal Consultation Stage	Response from Historic Scotland/Tram Stop Layout (Historic Scotland/SDS)
3.03	Coltbridge Viaduct	Informal Consultation Stage	Awaiting formal submission (SDS)
3.04	St Georges Access Bridge and Footbridge / St Georges Retaining Walls / Roseburn Corridor C	Approved	Approval Granted 28/01/2008
3.05	Ravelston Dykes Bridge / Ravelston Dykes Tram Stop	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
3.07	Craigleith View / Blinkbonny Road Retaining Walls / Roseburn Corridor D / Craigleith Underbridge / Craigleith Drive Bridge	Approved	Approval Granted 22/02/2008
3.09	Craigleith Bank / 11-13 Craigleith Crescent Retaining Wall / Roseburn Corridor E / Queensferry Road Bridge / Holiday Inn Bridge / Queensferry Road Retaining Wall / Roseburn Corridor F	Approved	Approval Granted 22/02/2008

Prior Approval Batch	Contents of Batch	Current Status	Status Information (Action)
3.10	Craighleith Tram Stop / South Groathill Avenue Substation	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
3.11	Groathill Road South Bridge / Groathill Retaining Wall / Roseburn Corridor G	Under CEC consideration	Objections to be reported to Development Management Sub-Committee.
3.12	Telford Road Bridge / Telford Road Bridge Retaining Wall / Roseburn Corridor H	Informal Consultation Stage	Awaiting formal submission (SDS)
3.13	Telford Road Tram Stop / Drylaw Drive Bridge Removal	Under CEC consideration	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
3.14	Crewe Toll Tram Stop	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
3.15	Crewe Road Gardens Bridge	Under CEC consideration	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
3.16	West Pilton Tram Stop	Informal Consultation Stage	On hold due to negotiations over tram stop layout and access road issues. (SDS/TIE/CEC)
3.17	OLE West Granton Access & West Granton Road Junction	Approved	Approval Granted 07/09/2007
3.18	Granton Mains East Substation	Approved	Approval Granted 15/11/2007
3.19	Caroline Park Tram Stop	Under CEC consideration	Decision due by 20/03/2008 (CEC)
3.20	Saltire Square Tram Stop	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
3.21	Granton Square Tram Stop	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
3.22	Granton View Substation	Approved	Approval Granted 07/12/2007
5.05	Russell Road Retaining Wall 1 & 2	Informal Consultation Stage	Design delayed due to ground investigation on contaminated land. (SDS)
5.06	Murrayfield Stop Retaining Wall / Murrayfield Tram Stop	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
5.07	Murrayfield Stadium Boundary and Accommodation Works / Murrayfield Stadium Retaining Wall / Roseburn Street Bridge / Murrayfield Turnstiles Planning Permission	Preliminary Design yet to be submitted	SRU agreement outstanding. (TIE)
5.08	Water of Leith Bridge / Murrayfield Underpass / Murrayfield Pitches Retaining Wall	Preliminary Design yet to be submitted	Ongoing design issues (SDS/TIE)
5.09	Murrayfield Training Pitches	Cancelled	Cancelled – to be dealt with under separate application (tie)
5.10	Jenners Depository Substation / Balgreen Road Tram Stop / Baird Drive Retaining Wall / Balgreen Road Retaining Wall / Balgreen Road Retaining Wall / Balgreen Road Bridge	Preliminary Design yet to be submitted	Negotiations with Network Rail (SDS/TIE)
5.11	Line of Route	Preliminary Design yet to be submitted	Negotiations with Network Rail (SDS/TIE)
5.12	Carrick Knowe Bridge and Approaches	Informal Consultation Stage	Negotiations with Network Rail and Landscaping issues (SDS/TIE/CEC)
5.14	Saughton Tram Stop / Line of Route / Existing Broomhouse Road Bridge / Existing Saughton Road Bridge	Informal Consultation Stage	On hold due to negotiations over tram stop layout and Landscaping issues. (SDS/TIE/CEC)
5.15	Bankhead Drive Substation & Comms Mast / South Gyle Tram Stop / South Gyle Access Road Bridge / Bankhead Drive Retaining Wall	Informal Consultation Stage	On hold due to negotiations over tram stop layout and Landscaping issues. (SDS/TIE/CEC)
5.16	Edinburgh Park Station Tram Stop	Informal Consultation Stage	On hold due to negotiations over tram stop layout and Landscaping issues. (SDS/TIE/CEC)
5.17	Edinburgh Park Bridge/Viaduct	Under CEC consideration	Ongoing design issue (SDS)
5.18	Edinburgh Park Central Tram Stop / Line of Route	Informal Consultation Stage	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
5.19	Gyle Centre Tram Stop / Line of Route / Gyle Stop Retaining Wall	Under CEC consideration	On hold due to negotiations over tram stop layout. (SDS/TIE/CEC)
5.20	Structure A8 Underpass	Under CEC consideration	Decision due by 06/03/2008 (CEC)
5.22	Gogarburn Tram Stop / Line of Route	Preliminary Design yet to be submitted	RBS design input required. (SDS)
6.01	Gogar Depot Substation / Gogar Depot Access Bridge / Gogar Depot Internal Retaining Walls / Gogar Depot / A8 Bridge	Informal Consultation Stage	Ongoing design issue (SDS)

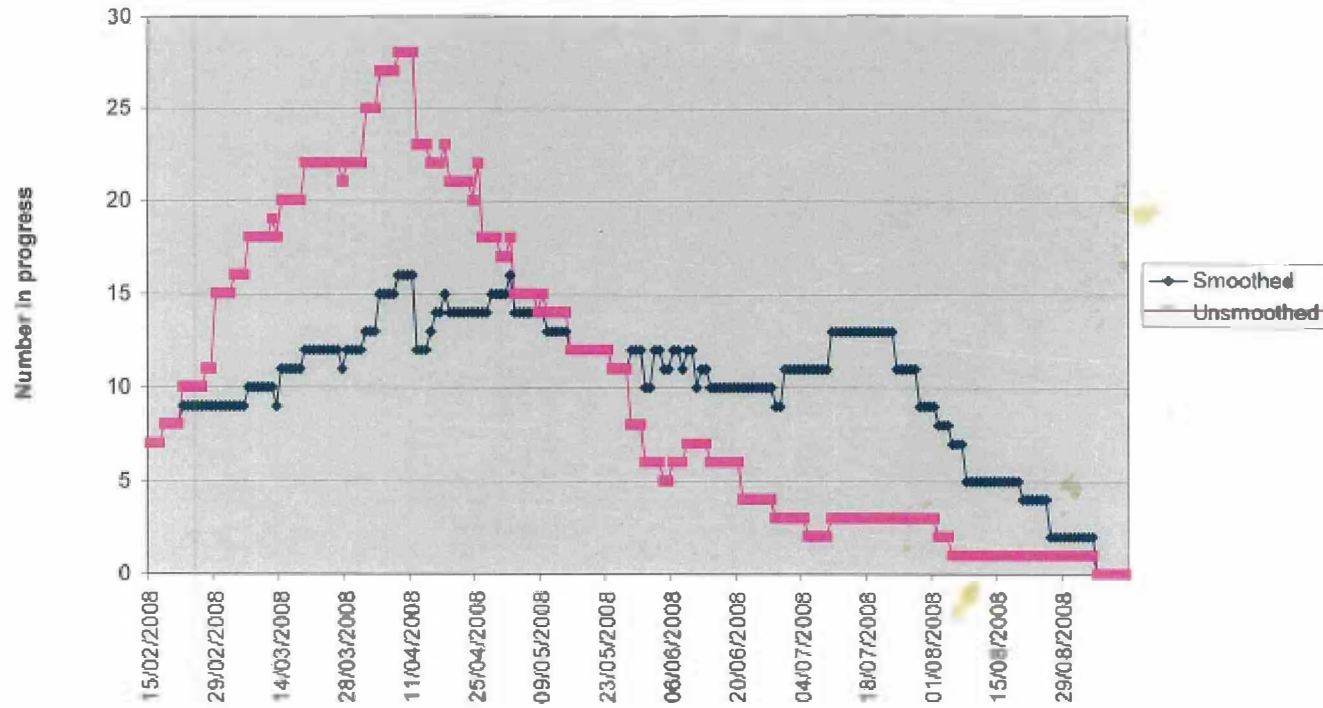
Prior Approval Batch	Contents of Batch	Current Status	Status Information (Action)
7.23	Line of Route (Contaminated Land)	Preliminary Design yet to be submitted	Resolution of Contaminated Land mitigation to be confirmed. (SDS)
7.24	Gogarburn Bridge	Approved	Approval Granted 31/12/2007
7.25	Gogar Culvert 1 / Line of Route	Preliminary Design yet to be submitted	Revisions required due to demise of EARL Project (SDS/TIE/CEC)
7.26	EARL Overbridge	Cancelled	Cancelled due to demise of EART Project
7.27	Ingliston Park and Ride Tram Stop / Ingliston Park and Ride Substation	Preliminary Design yet to be submitted	Revisions required due to demise of EARL Project (SDS/TIE/CEC)
7.28	Gogar Culvert 2 & 3 / Line of Route	Preliminary Design yet to be submitted	Revisions required due to demise of EARL Project (SDS/TIE/CEC)
7.29	Eastfield Road/Eastfield Ave Substation / Edinburgh Airport Tram Stop / Line of Route / Burnside Road / Gogar Burn Retaining Wall 1 & 2	Preliminary Design yet to be submitted	Revisions required due to demise of EARL Project (SDS/TIE/CEC)

• **Appendix 4b - Roads Technical Approvals Progress**

Section	Location	Current Status	Status Information
1A	Newhaven to Foot of the Walk	Informal Consultation Stage	Pending design changes to Tower Place bridge, Ocean Terminal road layout, Newhaven road layout.
1B	Foot of the Walk to McDonald Road	Technical Approval Progressing	Design received: 7 Feb 08 - Approval due: 3 Apr 08
1C	McDonald Road to Princes Street	Informal Consultation Stage	Pending design changes to Picardy Place, York Place, St Andrew Street.
1C1	St David Street	Technical Approval Progressing	Roads only section. Design received: 20 Feb 08 - Approval due: 16 Apr 08
1D	Princes Street to Haymarket	Informal Consultation Stage	Pending design changes to Haymarket junction. Design expected early March 08
2A	Haymarket to Roseburn Delta	Informal Consultation Stage	Design expected early March 08
3A	Roseburn Delta to Ferry Road	Informal Consultation Stage	Phase 1b: Approval de-prioritised.
3B	Ferry Road to Caroline Park	Informal Consultation Stage	Phase 1b: Approval de-prioritised.
3C	Caroline Park to Granton Square	Informal Consultation Stage	Phase 1b: Approval de-prioritised.
5A	Roseburn Delta to Balgreen	Informal Consultation Stage	Pending design changes due to NR agreements.
5B	Balgreen to Edinburgh Park	Informal Consultation Stage	Pending design changes due to NR agreements.
5C	Edinburgh Park to Gogarburn	Informal Consultation Stage	Pending design changes to A8 Underpass.
6A	Gogar Depot	Informal Consultation Stage	Pending design changes to depot.
7A	Gogarburn to Edinburgh Airport	Informal Consultation Stage	Pending design changes due to demise of EARL.

- Appendix 5 - Prior Approvals Smoothed Workload

Prior approvals workload



• **Appendix 6 - Contact Centre Correspondence**

This report shows the number of tram related enquiries that have entered the Contact Centre trams team. The trams team is responsible for answering general enquiries and forwarding complex enquiries and complaints to those most appropriate. The service went live on the 24th October 2007 using a new correspondence protocol signed off by Andrew Holmes and produced by Wendy Bailey (Tram Communications Officer) and Rachel Goud (Customer Services Development Manager). The tram team use BT Contact Central to log and manage these enquiries.

The table below shows the numbers of enquiries received by email and letter by month. All enquiries are assigned a ten day target for completion.

	Num Received	Number Open	Missed Target Open	Closed	Closed Within Target	Closed Within Target %
October	9	0	0	9	9	100%
November	12	0	0	12	12	100%
December	8	0	0	8	8	100%
January	16	12	12	4	4	25% ¹
February ²	4	4	-	-	-	-
TOTAL	49	16	12	33	33	60%

Each piece of correspondence is categorised on entry to the tram “hub” and either dealt with on the spot or assigned to those within the Council or at tie for an appropriate response to be provided. The table below shows a breakdown of how these enquiries have been distributed.

	Comment / Suggestion	General Enquiry	Complaint	Updates
October	3	5	1	-
November	1	11	1	-
December	1	5	-	2
January	1	15	-	-
February	2	1	1	-
TOTAL	8	37	3	2

Top 3 enquiries –

- 1: Cycle lanes / provision for cyclists
- 2: Traffic management of Leith Walk and the effects on the surrounding streets / pedestrian access
- 3: Traffic management of Shandwick place and surrounding streets

If the choice is made to withdraw the service from the Contact Centre, we shall make the necessary provisions for the 1st March 2008.

¹ Decrease in performance due to a combination of technical issues and the number of enquiries forwarded to tie for a response.

² Up until and including 6th February

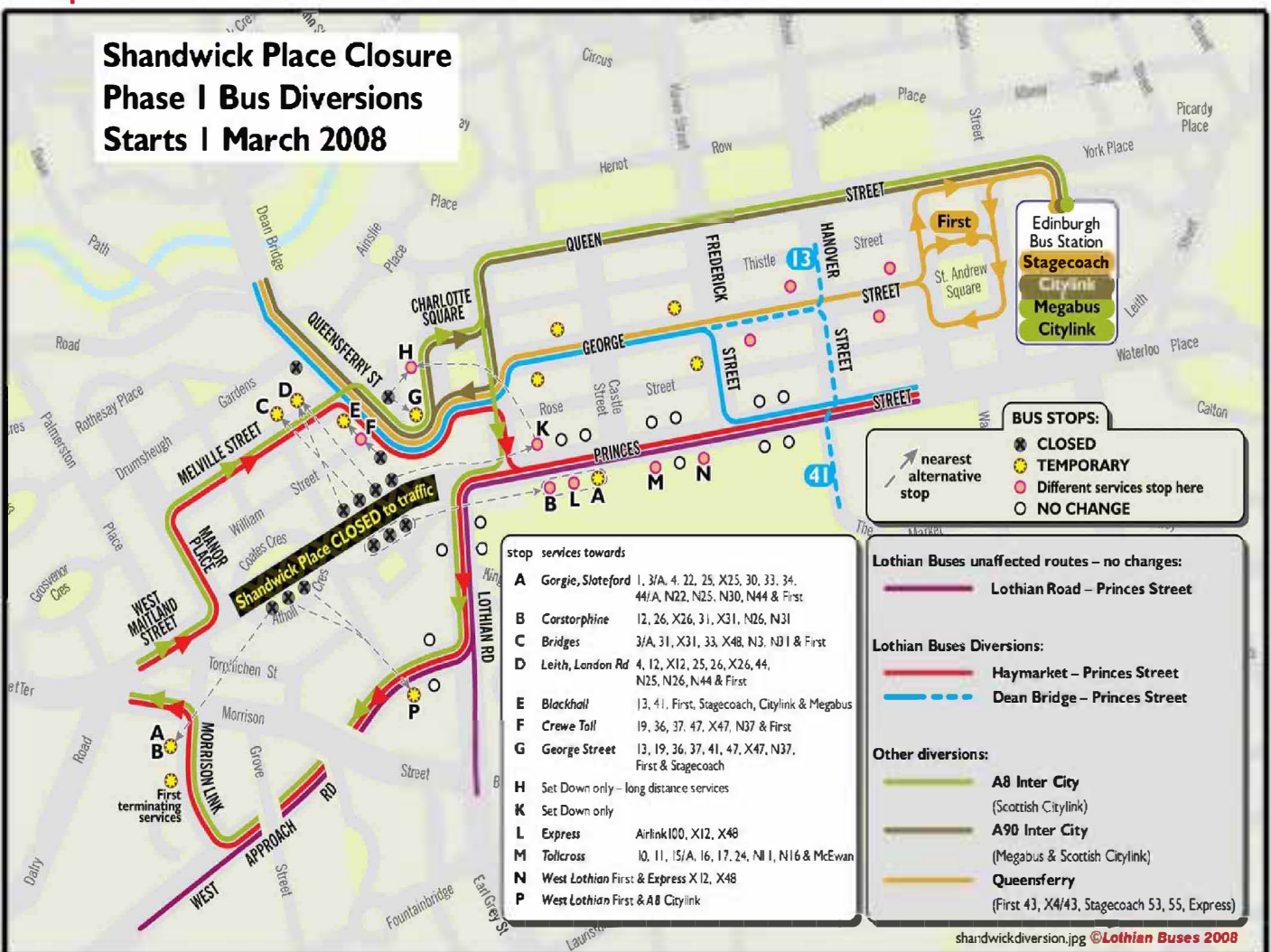


Utility Diversions – Shandwick Place

Temporary traffic management measures will be put in place from Saturday, 1 March 2008. Shandwick Place, from Manor Place to the Lothian Road junction, will be closed for five months. Utility Diversions work will begin on Monday, 3 March.

- During the closure of Shandwick Place traffic will be diverted via Manor Place or Morrison Street and the Western Approach Road. See Map 2.
- The diverted bus and taxi routes are detailed on Map 1 below and clear signage will be posted throughout the works.
- The revised parking arrangements covering this area are also outlined in Map 2.
- Temporary loading and unloading arrangements for businesses are being developed in conjunction with the Shandwick Place and Stafford Street business community. See Map 3.
- Pedestrians will still have normal access to Shandwick Place, Stafford Street and William Street throughout the works.

Map 1



During the construction of Edinburgh’s 21st century tram network, we would like to thank you all for your support and patience in helping to build a new and modern transport system.

Business loading facilities from 1 March 2008

Day-time loading arrangements

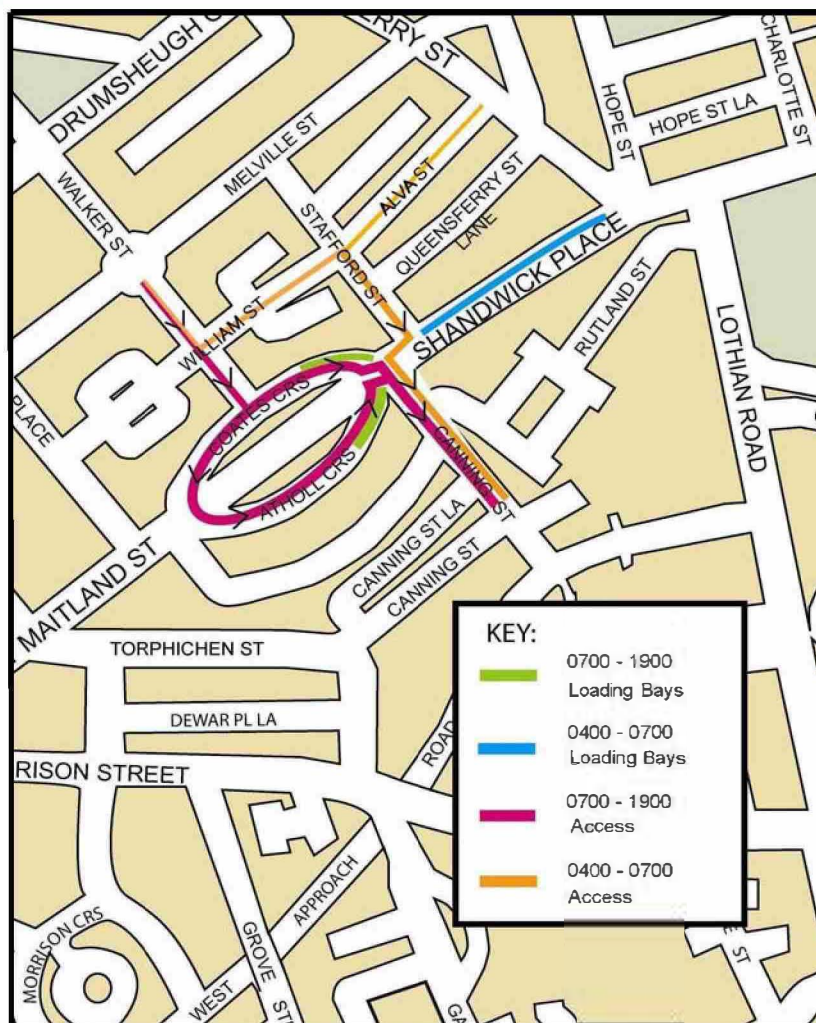
Special access for loading and unloading is being arranged in collaboration with each business. Loading bays for goods deliveries between 0700 and 1900hrs will be in Atholl Crescent and Coates Crescent (Coates Crescent is part of Phase 2, commencing in week 9). Delivery vehicles will access the Crescents from Melville Street via Walker Street and will exit the loading area at Canning Street.

Access to designated loading and unloading areas will be clearly signposted.

Night-time loading arrangements (by exception)

Loading will take place in Shandwick Place between 0400hrs and 0700hrs. Vehicles will access the site via Stafford Street and will be met by a tram logistics operative who will escort them through the site to the closest designated loading area to the business premises. Once loading is complete, vehicles will be escorted out of the site to the Canning Street exit.

Map 3



Edinburgh's businesses will remain open and accessible and welcome your continued patronage.

Businesses

Each business within and around the work site will remain open for business as usual. Special access for loading and unloading is being arranged in collaboration with each business (see previous page). We will work with the business community to agree suitable solutions to meet business requirements during ongoing works.

Residents

All residents within the works area have been advised of the upcoming work. Access to homes in the construction area will be maintained throughout and any special needs will be addressed. Temporary parking arrangements for the duration of the works are outlined in Map 2. If you are concerned about a delivery to your property, please call the helpline on 0131 623 8726 and choose Option 2.

Buses / Taxis

tie has been working closely with Lothian Buses to ensure that diverted routes cause minimal disruption to travel (this includes other bus operators). Buses will be diverted away from Shandwick Place and Map 1 highlights the bus diversion routes and temporary bus stop locations. For more information, visit www.lothianbuses.com or your local operator's website. Taxis will be allowed to use the diversion routes allocated for buses. Taxi stance locations will remain unaffected.

Motorists

Drivers should use alternative routes to the city centre where possible, or follow the signed diversion routes to their destination. There will be a number of temporary parking restrictions in place, all of which are clearly identified on Map 2. We would ask all drivers to assist us in keeping the city centre roads clear and to keep Edinburgh moving.

Shoppers / Tourists

Throughout the works Shandwick Place and the West End will continue to be open for shoppers and tourists. Any changes to access will be clearly signposted. For your safety we would ask that all pedestrians use the clearly signed pedestrian routes around the work sites.

Cyclists

We are in close dialogue with Spokes to agree any future amendments to cycling routes during construction. In the interim, cyclists should follow the appropriate traffic diversions. For more information, visit www.spokes.org.uk.

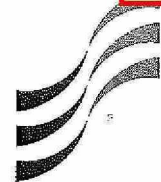
Special Needs and Emergency Services

All pedestrian routes will have disabled access. For any specific needs or requirements, please contact us using the information below. Consultation has taken place with all emergency services and an agreed protocol is in place.

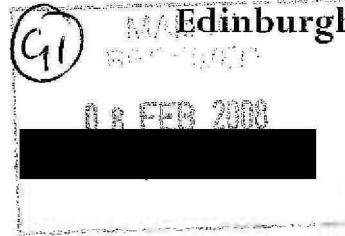
Learn more / Share your thoughts

- Speak to the uniformed tram construction advisers who will be at every work site
- Customer Helpline: 0131 623 8726
- Email: roadworks@tramsforedinburgh.com
- Website: www.tramsforedinburgh.com

While we build > > > > > Edinburgh is open for business



Scottish Enterprise
Edinburgh and Lothian



07 February 2008

Will Garrett
Group Leader (Built and Natural Heritage)
The City of Edinburgh Council
Waverly Court G1
4 East Market Street
Edinburgh
EH8 8BG

Dear Will,

BERNARD STREET PUBLIC REALM PROJECT

Thank you for your letter of 24th January about the involvement of Scottish Enterprise in the Bernard Street public realm project.

Please be sure that Scottish Enterprise is committed to ensuring the overall success of the Edinburgh Waterfront Project. As well as already having made significant investment in the reservation of Leith, SEEL are partners in the Waterfront Development Partnership and shareholders in Waterfront Edinburgh Ltd.

Scottish Enterprise has embarked upon a significant restructure and change of focus since inception of the Bernard Street project a number of years ago. These changes are designed to allow for a more strategic approach to economic development and will mean that SEEL ceases to exist from the end of this financial year. Another implication of these changes is that public realm projects which deliver regeneration benefits at the local level will not be provided with funding support.

Another relevant issue is funding availability. Whilst Scottish Enterprise will deliver record levels of investment in the Edinburgh economy this year through nationally significant projects like the Edinburgh BioQuarter, it currently finds itself in the situation of having far more investment opportunities in nationally important business infrastructure projects than it has the funds to support.

All of this has crystallised over the last few weeks and leads me to the view that funding support for the Bernard Street public realm project from Scottish Enterprise is now very unlikely, certainly within the timescales that you now seem to be working towards and when taking into account funding bids from a number of other public realm projects across the City.

Whilst I do not see much value in an urgent meeting to discuss these issues it may be useful to meet after our restructuring exercise has concluded in early April to share with you the impact of this on SE's future role on public realm projects.

Yours sincerely,



DAVID LEVEN
Team Leader – Development Solutions



INVESTOR IN PEOPLE



Awarded for excellence

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