
From: Geoff Gilbert
Sent: 17 December 2007 16:22
To: Richard.Walker@bilfinger.co.uk
Cc: Matthew Crosse; Flynn, Michael (Siemens TS); Steven Bell
Subject: Negotiation Agreement

Richard

Further to our discussion I enclose the amended wording. Sections added from the assumptions page in your letter are in blue italics.

Regards

Geoff Gilbert

DETAILS OF THE AGREEMENT

2.0 Negotiated Price

- 2.1 The negotiated price for Phase 1a is £217,262,426. Details of the build-up to this price are set out in Appendix A.
- 2.2 The agreed Value Engineering items included in the price are set out in Appendix A3. These sums are fixed reductions save for the conditions listed in Appendix A3 under 'Key Qualifications'.
- 2.3 Provisional sums (previously normalisations) included within the price are as set out in Appendix A4. These allowances are provisional sums for the work described.
- 2.4 All other prices are fixed and firm, based on the Basis of the Price as set out below.

3.0 Basis of the Price

- 3.1 The price is based on the following:
- 3.2 Employers Requirements Version 3 as qualified by the BBS Compliance Matrix contained within BBS's Email dated 12 December 2007, save for:-
 - In respect of Prior Approvals and other consents the allocation of risk and responsibility is as set out in tie (G Gilbert) email dated 12 December 2007)
 - OLE – fixed termination system for all on street sections, from Haymarket to Newhaven and within Edinburgh Park and catenary system from Haymarket to Edinburgh Airport. Stepped poles will be adopted throughout.
 - Trackform will be as the RHEDA City system (types C, D and G) except where ballasted track will be adopted as agreed.
- 3.3 Detailed designs – BBS included in their price for the construction cost risk in the development and completion of detailed designs being prepared by SDS, save for:-
 - a) Any future changes to elements of the design for civils works that are substantially different compared to those forming the current scheme being designed by SDS.
 - b) Items designated as provisional in the Appendix A4.
 - c) Excluded items, to the extent described in 3.4 below.

In respect of pavements, full reuse of existing curbs and flags and minimal reinstatement behind curb lines is assumed. i.e. not wall to wall. Design must be delivered by the SDS in line with our construction delivery programme previously submitted.

3.4 Excluded items are:-

- a) Utilities Diversions, except the £3m provisional sum included in the allowance for Picardy Place, York Place and London Road and £0.75m provisional sum for minor utilities diversion as shown in Appendix A4.
- b) Work at St Andrew Square beyond the tram alignment works – tramstops, trackform, track bed, OHLE, road surface refurbishing and associated systems and link works.
- c) The cost of the following within the Forth Ports Area:
 - Road surface finishes, pavings, tramstop finishes and drainage.
 - Work to Tower Place and Victoria Dock bridges.
 - Lndsay Road Retaining Wall and associated highway works.which is extra over the scope included in BBS's price as at selection of BBS as preferred bidder.
- d) The Cost of the Highways and Drainage works at Picardy Place, London Road and York Place that is extra over the scope included in BBS's price as at selection of BBS as preferred bidder.
- e) Ground conditions that require works that could not be reasonably foreseen by an experienced civil engineering contractor based on the ground conditions reports provided to BBS on 20th and 27th of November and 6th December 2007. *Additionally the BBS price does not include for dealing with replacement of any materials below the earthworks outline or below ground constructions/voids, soft material or any contaminated materials.*
- f) Bernard Street additional road works as drawing provided.
- g) Full pavement reconstruction in Leith Walk.

3.5 *In respect of the Depot excavation works, the price is fixed against the quantities advised to BBS by **tie** and on the assumption that the depot excavation will be handed over to us pumped dry with a firm sound foundation.*

3.6 The programme for delivery of Phase 1A is:-

- as represented by the programme provided by BBS dated 11th December 2007 (sent to **tie** on 13th December 2007),
- the contents of BBS email (Steve Sharpe) dated 13th December 2007, contents of enabling Phase 1a to be completed by 11th Feb 2011 and the constraints and
- methodologies on which this programme is based as agreed between BBS, **tie**, TEL and CEC.

It is agreed that all parties must work together to achieve the rationalisation of city centre constraints to achieve programme delivery.

3.7 Contract terms as represented by the negotiations up to 14th Dec 2007 and for the avoidance of doubt:-

- a) Consents as set out in **tie** email (Geoff Gilbert) to BBS dated 12th December 2007.
- b) Third Party Agreement and Third Party obligations as set out in BBS email (M Flynn) dated 12th December 2007.
- c) The novation of SDS to Infraco as set out in the Novation Plan.
- d) The novation of Tramco to Infraco at the date of Infraco Contract Award.
- e) The terms negotiated and under negotiation prevail over statement in respect of contract issues stated in the technical information submitted by BBS.

3.8 In all other respects the conditions of the Preferred Bidder Agreement Apply.

4.0 Agreement

4.1 This document is agreed as a record of the outcome of the negotiations:-

Geoff Gilbert - Project Commercial Director
TRAM Project

tie Limited
Citypoint
65 Haymarket Terrace
Edinburgh EH12 5HD

tel [REDACTED]
mob [REDACTED]