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To: Donald McGougan

## **Briefing for Tram Internal Planning Group 17<sup>th</sup> April 2007**

### **Introduction**

This paper is intended to give you an update for Tuesday mornings Tram Internal Planning Group. TPB papers are not yet available, but I have supplemented the note with information gained from DPD sub-committee papers and informal meetings with colleagues at **tie** and City Development. I'll brief you again next week in advance of Thursday's TPB/TEL board.

### **Internal Planning Group Papers**

#### **2) Update on Major Contracts**

##### **2.1) Mudfa**

The most concerning issue here is the delay in programme (now expected to be 5 months beyond original duration (11 months if 1b is to be undertaken)). This **must** have cost implications – but **tie** is yet to report on this.

The issue of betterment of footways needs to be resolved by the internal planning group. A corporate decision is needed to address whether the Council wants to do the work, who is going to fund it and from which budget it is to come from. The Capital Programme has been approved for 2007-10 and there is no extra money. Conceivably, it could be funded from SFC's carriageway and footway budget, but that needs to be agreed.

Other issues not included in the report include

- i) the risk of finding and diverting additional services (9 additional services have been found in the test site). **Tie** have built in a large risk contingency for the finding of additional services, but we need them to reevaluate whether this is sufficient
- ii) a side agreement negotiated by **tie** with Forth Ports, which restricts when MUDFA and INFRACO can work at Ocean Terminal so retail is not affected. This has had an impact on the programme.

##### **2.3) Infraco**

You should note that total project costs for 1A are now projected by **tie** as £517m for phase 1a (compared to the £500m in the DFBC). The £517m is net of savings assumed by **tie** for "bid equalisation" and the real figure could be closer to £545m. For commercial reasons, this information is not included in TPB papers, etc, but will be given to the procurement sub-committee. I am not entirely happy with this approach, but at least we have the information!

Betterment and Wide-area traffic management still remain to be addressed. The decision whether to fund betterment will be an issue for the Council, but the Wide-Area traffic management needs to be addressed by the Tram Project Board.

#### **3) Public Relations Strategy – No Financial Implications**

#### **4) Emerging Key Design Issues**

The main item here is the delay to Public Realm works planned for St Andrew's Square. The Council's share is part-funded from the City Growth fund, which needs to be spent by March 08. SEEL's 50% contribution may also be time-restricted. If the MUDFA programme causes works to be delayed, the Council risks losing this funding.

The financial implications of other design issues are yet to be established.

#### **5) Miscellaneous**

##### **5.1) Side Agreements**

In order to get objectors to remove their objections to the tram bills, tie negotiated a number of side agreements – some of which are now causing potential problems which could impact on the project. The two discussed here are:

- i) Network Rail – Network rail preferred to lease their land, rather than allowing CEC to compulsorily acquire it under the GVD process. However, they now want an irritancy clause to be included in the lease, which could, in theory result in a break in the tramline
- ii) BAA – This is more a programme issue, as BAA would prefer Tram and EARL to progress in tandem. As you know, delay to the tram programme is likely to involve additional costs.

##### **5.2) Contracts with third parties**

This section gives legal's perspective on the likelihood that CEC will have to give guarantees or indemnities on contracts entered into by tie. Legal is currently developing an operating agreement to cover this issue and others.

You should note that Transport Scotland are unwilling to provide more than a letter of comfort, so it is important that this is covered in the funding agreement.

##### **5.6) Vesting and Compulsory Purchase Process**

The first round of GVDs have been issued and CEC will take ownership of the land on 24<sup>th</sup> April.

A letter has now been received from Transport Scotland allowing the carry-forward of unspent grant into next financial year.

#### **6) CEC Financial Contribution**

There is little change to this section from last month. The inaugural meeting of the Tram Contribution Group has been set up for 25<sup>th</sup> April. I will attend the first meeting, and future meetings, as required.

#### **7) Funding Agreement Between CEC and Transport Scotland**

We've just received Graeme's revised draft agreement, and he has included some of the comments I sent following the meeting with David and yourself. I'll be reviewing the revised draft next week in advance of the next meeting with TS on 30<sup>th</sup> April.

#### **8) CEC Risk Register**

It is probably worth reading this, as it summarises the main risks to CEC quite well.

## Update on Other Issues

### **Programme**

As you know key parts of the programme are slipping (notably detailed design and MUDFA) and I, along with colleagues in City Development, am becoming increasingly concerned on the impact on costs.

The procurement strategy was founded on the basis that design was done in advance to “derisk” the project and therefore reduce the risk premium built into the Infraco and Tramco and MUDFA contract prices. Similarly utilities diversions were to be done in advance to “derisk” Infraco. This process meant that risks were being retained by **tie** to manage and potentially abortive design and diversion costs have been incurred as this was required to reduce costs and risks in the overall project.

However, what has happened is that the MUDFA contract has been let and will shortly commence in earnest with detailed designs only 50% complete, due to SDS slippage. This means that MUDFA is likely to take longer than planned and could require numerous variations. This will undoubtedly lead to claims from the contractor. The contract price for MUDFA is £45m with a risk element taking the total cost to £61m (it should be noted that the risk element is for unforeseen diversions, not contract mismanagement!). City Development (unofficially) would not be surprised if the final cost of MUDFA was as high as £100m.

Infraco is schedule to be let by 30<sup>th</sup> September. If this is also let without detailed designs in place, **tie** could be leaving us open to much larger claims. There is also the risk that as MUDFA has started late with inadequate designs that it could delay Infraco, leading to further claims. Given that the Infraco contract is about £300m a 10% overrun could cause costs to rise by £30m.

The TPB need to be considering these issues urgently.

### **Risk Management at tie**

Turner and Townsend have reported that the risk register held by **tie** is good. However, where it is failing is its mechanism used to report on risks. The example quoted was that when the DFBC milestone was achieved in December, the risk of not achieving the detailed design milestone in February should have been highlighted so that corrective action could have been implemented. It was not reported and this milestone was missed.

**Japanese Knotweed** - it looks as though the cost of removal is significantly less than previously estimated, and may even be met by way of a change request to the TPB. We still need to establish whether CEC or the Tram Project is paying for it.

### **Tie Cash Flow**

From the 1<sup>st</sup> April, a new procedure has been agreed, whereby advanced monies are paid into a CEC(TIE) account, operated by CEC. Cash will be transferred to from this account to **tie**, on a daily basis, based on **tie**'s cashflow requirements. This has the advantage of interest remaining with CEC and has been agreed with **tie**, CEC treasury, internal audit and RBS. Regular reconciliations are to be carried out to and over/under payments will be dealt with by adjusting the following month's payment. I

would like to formalise this arrangement in the operating agreement being developed between the Council and **tie**.

I have requested that Transport Scotland also pay CEC in advance to enable us to fund **tie**. They have would like this request to be put in writing and I have drafted a formal letter for your review and signature.

### **Monitoring and Reporting Arrangements**

I am in the process of setting up pre-meetings with Finance Staff at tie in order to resolve any questions I have in advance of the TPB. Nothing has been set up for this month due to holidays etc, but meetings should start in earnest from May onwards. These meetings will be used to inform briefings to you and Andrew in advance of TPB and TEL boards.

New standardised monitoring reports are being produced to meet Transport Scotland's requirements. I am also receiving these, though the reports need some refinement to suit the needs of the Tram Project, rather than Transport Scotland's overall portfolio.