

EDINBURGH TRAM PROJECT

MEDIATION

MEDIATION STATEMENT

Submitted by

BSC CONSORTIUM comprising:

BILFINGER BERGER CIVIL UK LIMITED,

SIEMENS PLC,

CONSTRUCCIONES Y AUXILIAR DE FERROCARRILES SA

1. INTRODUCTION

1.1 The parties to this mediation are tie Limited and the BSC Consortium (comprising Bilfinger Berger Civil UK Limited, Siemens PLC and Construcciones Y Auxiliar de Ferrocarriles SA). Also involved in this mediation is the project sponsor, City of Edinburgh Council (“CEC”), and Transport Scotland who are providing funding for the ETN.

1.2 On 14 May 2008, the parties entered into a contract (the “**Infraco Contract**”) for the construction and delivery of the Edinburgh Tram Network (“**ETN**”) whereby BSC agrees to carry out the Works (defined in the Infraco Contract as the “**Infraco Works**”) and tie is obliged to pay to BSC such capital expenditure and revenue expenditure as is provided for therein.

1.3 The Project has encountered significant difficulties, and the parties to the Infraco Contract have become embroiled in dispute. Despite these difficulties BSC remains fully committed to delivering a tram network that will be appropriate to Edinburgh’s status and role as a European capital city and world heritage site. BSC believes that continuing with the Project as it currently operates is not in the interests of either party, or of the people and City of Edinburgh, or what was intended. The parties need to explore whether a resolution to these difficulties can be found.

BSC has proposed amending the Infraco Contract on the basis of a truncated project scope that can fit within a budget which is available to tie, finding a sustainable solution to the matters which currently divide parties, and proceeding on a new agreed basis (referred to as “**Project Phoenix**”). The focus of the mediation is to explore the possibility of proceeding on the basis of Project Phoenix. The aim of this document is to:

- set out BSC’s main objectives for the mediation;
- summarise the key proposals in Project Phoenix and BSC’s vision for the future of the ETN;
- set out the background to the project and the difficulties that have arisen; and

- consider any other alternative arrangements should the parties not be able to reach agreement on Project Phoenix.

2. MEDIATION OBJECTIVES FOR BSC

2.1 The purpose of this mediation is to agree the contractual arrangements and organisation structures to enable the parties to deliver part of the ETN for the City of Edinburgh. The primary objectives for BSC are:

- agreement to a revised scope of the Works – Edinburgh Airport to Haymarket;
- agreement to a price that will be paid for that scope, and all other scope undertaken to date outside the Airport to Haymarket corridor;
- removal of as many price exclusions as possible from the project price and/or transfer of risk/liability from tie to BSC in respect of known and quantifiable risks.
- agreement to a realistic programme for delivery of the revised scope;
- agreement to the revised terms and conditions for the Project;
- agreement to a simplified change mechanism which can provide certainty in relation to payment for the changes and which allows the work to proceed;
- agreement to new methods for working and administration of the Infraco Contract to avoid issues that have arisen to date including (i) appointment of an appropriately qualified Employer Representative with full authority to act on behalf of CEC as client for the Project and (ii) creation of a project board;
- agreement to the appointment of an independent third party intended to avoid or resolve disputes;
- agreement on terms for the novation of Bifinger Berger/Siemens interest in the Tram Supply Agreement and the Tram Maintenance Agreement to tie.

- 2.2 To meet these objectives BSC has prepared a detailed proposal for mediation to tie in the form of Project Phoenix. The details are summarised at Section 3.
- 2.3 As part of Project Phoenix, BSC is committed to a tight programme for delivery of the revised scope and is prepared to agree amendments to the Infraco Contract to give tie as much price certainty as is possible. If Project Phoenix can be agreed, BSC will need assurance that it can be funded by tie and its sponsors, and also that delivery of Project Phoenix will be administered in accordance with agreed principles.
- 2.4 BSC enters into this mediation in good faith with a view to reaching an agreement which is acceptable to all parties. BSC believes that the mediation, together with an agreement based on Project Phoenix, provides an excellent opportunity for the parties to move forward in a positive way and to jointly deliver the ETN for the City of Edinburgh. BSC remains hopeful that agreement can be reached to achieve the defined objectives.
- 2.5 BSC anticipates that much effort will be required to implement Project Phoenix. Further, BSC does not underestimate the work necessary to amend the existing Infraco Contract or the changes required in attitudes and organisational culture. However, the benefits to be derived from mediation and Project Phoenix justify the significant effort required by all parties.
- 2.6 Following discussions between BSC and tie in December 2010 regarding the future of the Project, BSC understands tie's objectives for the mediation are to seek a commitment from BSC to deliver an operational route from Edinburgh Airport to Haymarket for an agreed price and an agreed programme each with a high degree of certainty, with an increased transfer of risk to BSC and to bring an end to the disputes and confrontation surrounding the Project. BSC believes the Project Phoenix proposal can achieve the mediation objectives of both parties.
- 2.7 Progress on construction of the ETN has virtually ground to a halt because the parties are unable to agree a significant number of issues arising out of the interpretation and administration of the Infraco Contract and changes in scope and delays outside the control of BSC. This has led to numerous disputes between the parties, which have resulted in

further delays and additional costs to the Project. As the Project currently stands without a mediated solution, BSC believes that the only way the Works can progress is for each and every disputed matter to be referred to adjudication.

2.8 In contrast, this mediation does not relate to individual disputes that exist but focuses on finding a sustainable solution for the Project scope, price, programme and risk allocation, mindful of the budget which may be available to tie.

3. PROJECT PHOENIX AND BSC's VISION

3.1 BSC remains committed to its obligation to deliver the Project. However, given the difficulties to date the parties need to stand back to consider where the project is going. BSC considers that the underlying reason for the difficulties on the Project is tie's approach to administering the Infraco Contract. BSC believes that this issue will be difficult to address under the Infraco Contract as it stands. Given the public awareness of the difficulties tie face with budget constraints, BSC will also need reassurance that any alternative is fully funded.

3.2 The parties have discussed proceeding with works on a truncated scheme. BSC have made a proposal as part of that discussion known as 'Project Phoenix'.

Project Phoenix Proposal

3.3 BSC firmly believes that the best way forward is to agree and implement Project Phoenix, which will provide a revenue generating tram route for the City of Edinburgh. The adoption of Project Phoenix will enable the parties to deliver a tram route for the City of Edinburgh to an agreed timescale and for an agreed price.

3.4 Project Phoenix envisages a reduced scope of works running from Edinburgh Airport to Haymarket Viaduct, including certain 'Enabling work in Section A', in connection with Princes Street, Lindsay Road Retaining Wall, Lindsay Road Lowering and Tower Place Bridge.

3.5 The key programming details for Project Phoenix are as follows:

(a) Section A 16 December 2011

- (b) Section B 24 September 2012
- (c) Section C End of construction 11 March 2013; End of Testing & Commissioning 24 June 2013
- (d) Section D 22 September 2013

3.6 The Project Phoenix Proposal Programme is challenging but achievable and BSC is fully committed to delivering it. It relies on re-mobilisation with full force by **1 May 2011**.

3.7 Project Phoenix will require agreement of a new price to complete the revised scope. The Project Phoenix Proposal Price is **£449,166,366**, made up as follows:

Bilfinger Berger Civil UK Ltd.	£231,837,822
Siemens plc	£136,881,719
C.A.F. S.A.	£65,306,030
SDS	£15,140,795
Total	£449,166,366

3.8 Project Phoenix also proposes significant amendments to the Infracore Contract to reduce the extent of the risk remaining with tie. In particular, Project Phoenix will result in the significantly reduced number of pricing exclusions, qualifications and assumptions and/or a significant transfer of risk from tie/CEC to BSC and a corresponding greater certainty of price.

3.9 In addition, if an agreement in relation to Project Phoenix can be achieved, it shall be essential to have :

- (a) the appointment of an independent certifier whose judgement shall be binding on both parties unless challenged through the official Dispute Resolution Procedure, to determine issues of principle and quantum (money and time) arising from any future disputed Changes;

- (b) the appointment of an appropriately qualified Employer Representative with full authority to act on behalf of CEC as client for the Project;
- (c) creation of a project board comprising representatives of CEC and BSC; and
- (d) assured funding - BSC requires assurance of requisite funding to enable full and complete implementation of Project Phoenix.

3.10 Further, CAF agreed with tie in Autumn 2007 to *inter alia* fulfil a long term role to maintain the Trams. That long term role will, in the context of Project Phoenix, necessitate a flexible approach to the delivery of the services required to manage and maintain tie's fleet. Such flexibility will be facilitated by ensuring that as part of the implementation of Project Phoenix CAF re-establishes its direct relationship with tie. Accordingly, Project Phoenix will need to proceed on the basis that the interest of BSC in the Tram Supply Agreement and the Tram Maintenance Agreement will be novated back to tie and that obligations pertaining to the manufacture, delivery, commissioning and maintenance of the Trams will be excluded from the Infraco Contract. This will allow CAF to work with tie as its partner and develop a Whole Life Asset strategy and plan for the tram fleet. The conclusion of the novation will be dependent on agreement being reached on;

3.10.1 amendments to the Infraco Contract required as a consequence of the required exclusion of obligations relating to the Trams from the Infraco Contract;

3.10.2 CAF's entitlements in respect of delay costs;

3.10.3 CAF's exit from the Infraco Contract and any ancillary bonds, guarantees, warranties etc granted thereunder; and

3.10.4 necessary amendments to the Tram Supply Agreement and Tram Maintenance Agreement and any ancillary bonds, guarantees, warranties etc to reflect the altered circumstances in which CAF will be delivering the remaining obligations under the Tram Supply Agreement and the Tram Maintenance Agreement.

3.11 The adoption of Project Phoenix will also allow the parties to resolve existing differences and disputes, reduce the administrative burden imposed by the existing contractual arrangements and focus on delivery of a tram route for Edinburgh with greater price and time certainty. Ultimately, Project Phoenix will hopefully close a chapter on intractable and costly legal disputes and avoid plunging the parties into what threatens to become a protracted and acrimonious public legal battle, none of which serves to deliver a tram system for the City of Edinburgh.

4. **BACKGROUND TO THE PROJECT**

4.1 The Project was advertised in the Official Journal of the European Union in January 2006. Bilfinger Berger and Siemens responded to the notice as a consortium. Following a competitive tender process, the Bilfinger Berger - Siemens consortium was appointed preferred bidder in September 2007 and contract negotiations concluded in May 2008 when the Infraco Contract was signed.

4.2 As at May 2008, there remained a great number of uncertainties regarding the Project which would have had a major impact on price and programming. These included incomplete design, incomplete approvals, incomplete MUDFA Works (these being the substantial amount of utility diversion and replacement works required in advance of the Infraco Works ('MUDFA' standing for 'Multi Utility Diversionary Framework Agreement')) and uncertainty over ground conditions. In addition, third party input into the design had not been completed and the detail of Accommodation Works required to meet third party requirements had not been fully defined. The design had not been completed to a sufficient degree that would have allowed BSC to accept the novation of the designer's contract from tie and all of the risk for the development and evolution of the remainder of the design. In addition a large proportion of the third party approvals required to deliver the Project had not been obtained by tie.

4.3 The contract negotiations proceeded from September 2007 until May 2008. As time elapsed, items which could not readily be quantified by BSC during negotiations or uncertainties that were identified were baselined into a contract schedule known as

Schedule Part 4. The risks associated with the uncertainties surrounding the Project were detailed within the Infraco Contract (through the vehicle of Schedule Part 4) and retained by tie. Unfortunately many of the risks set out in Schedule Part 4 have materialized.

- 4.4 The risk allocation agreed by the parties arose as a result of the dynamic nature of events leading up to contract signature. The method by which Schedule Part 4 was used to 'fix' the Contract Price, was by the introduction of a number of assumptions, including pricing assumptions. One of these assumptions related to the evolving design. It was agreed that, as the design was continuing to develop, a final price and programme could not be achieved. A decision was therefore made that the contract would be entered into based upon the design "frozen" at 25 November 2007. This allowed the parties to agree the Construction Works Price based on the 'assumption' that the design would not change after this date, clearly reflecting the position that any change in that design would require a change under the Infraco Contract.
- 4.5 A number of other assumptions were introduced reflecting the various uncertainties noted above. The Infraco Contract expressly acknowledges that if any one of the assumptions is not realised/eliminated, BSC may have an entitlement to additional time and money. The Infraco Contract acknowledges that actual facts and circumstances would be different from the assumptions set out in the Infraco Contract and that the Construction Works Price and the Programme would change.
- 4.6 BSC has a concern that the City of Edinburgh Council was not fully appraised, at the time of contract execution, of the extent of risk retained by tie in the Infraco Contract, and the likelihood of that risk manifesting. BSC notes the comments in the "Edinburgh Tram – Financial Close and Notification of Contract Award Report; 1st. May 2008 (CEC/018/08-09/CE)" at para 2.3: *'There has also been a substantial amount of work undertaken to minimise the Council's exposure to financial risk with significant elements of risk being transferred to the private sector. This has resulted in 95% of the combined Tramco and Infraco costs being fixed with the remainder being provisional sums which tie Ltd have confirmed as being adequate.'*

4.7 BSC stresses that the statement made in the Contract Award Report is not correct and that the Infraco Contract provides that the price was highly likely to vary going forward as risks materialised (see in particular clause 3.2.1 of Schedule Part 4). BSC has subsequently sought to advise the City of Edinburgh Council directly of the operation of the Infraco Contract, its administration by tie and the difficulties being encountered.¹

4.8 Schedule Part 4, lists the risks which rest with tie and which must be administered through the "Notified Departure" mechanism set out therein. This mechanism provides that where there is a change in certain facts or circumstances from those set out in Schedule Part 4, then this will be deemed a Mandatory tie Change, under which BSC will be entitled to additional time and/or money arising from the effects of the change. Clause 4.3 of the Infraco Contract provides that nothing in the Infraco Contract shall prejudice BSC's right to claim additional relief or payment pursuant to Schedule Part 4.

4.9 Schedule Part 4 also provides (Clause 5 and Appendix C) for a number of Value Engineering ('VE') initiatives, the unique feature being that the full amount of saving which these VE initiatives may produce, was deducted from the Construction Works Price, with a mechanism being agreed for adding these sums back to the Construction Works Price, should the VE saving not be realised.

5. MATERIAL PROBLEMS ENCOUNTERED

5.1 From the outset of the Works, the risks retained by tie and reflected within Schedule Part 4 have materialised to a significant extent, primarily in respect of the impact of change and approvals on the completion of the design and delay to the preceding MUDFA Works.

5.2 There are 4 Specified Exclusions from the Construction Works Price and 43 Pricing Assumptions which are at Sections 3.3 and 3.4 of Schedule Part 4. For the purpose of explaining the main issues which have arisen between the parties to date, namely in relation to design and the MUDFA Works, the Pricing Assumptions which are of particular relevance are Pricing Assumptions 1, 24 and 32.

¹ See letter from BSC to City of Edinburgh Council dated 8 March 2010.

Completion of the Design

5.3 Pricing Assumption 1 (Clause 3.4.1 of Schedule Part 4) is paraphrased as follows:

"The Design prepared by the SDS Provider will not (other than amendments arising from the normal development and completion of designs):

1.1 in terms of design principle, shape, form and/or specification be amended from the drawings forming the Base Date Design Information...."

It is further provided that:

"for the avoidance of doubt normal development and completion of designs means the evolution of design through the stages of preliminary to construction stage and excludes changes of design principle, shape and form and outline specification."

5.4 Base Date Design Information is defined as *"the design information drawings issued to Infraco up to and including 25th November 2007 listed in Appendix H to this Schedule Part 4"*. Appendix H does not, in fact, list any drawings but provides that Base Date Design Information is *'All of the Drawings available to Infraco up to an including 25th November 2007'*.

5.5 In effect, the Contract Price is based on the design of the ETN at the base line date (25 November 2007) adopted by the parties for pricing purposes. This baseline design has become known as Base Date Design Information ("BDDI").

5.6 Clause 3.2.1 of Schedule Part 4 however acknowledges that certain assumptions such as Clause 3.4.1 would prove to be incorrect following execution of the Infraco Contract. For example, it was known by the parties that the design had already changed from base line date by the time that the Infraco Contract was executed in May 2008 and this would therefore immediately lead to the notification of a Notified Departure following execution of the Infraco Contract.

5.7 The final design issued for construction ("IFC") has differed materially from the BDDI in many respects. On every occasion where this occurs, and subject to the parameters of

Clause 3.4.1 of Schedule Part 4, this is a Notified Departure and Mandatory tie Change which requires to be dealt with in accordance with Clause 80 (tie Change mechanism) of the Infraco Contract, requiring a Change to price and Programme (if necessary).

- 5.8 Disputes have arisen between the parties (described in more detail Section 8) in relation to the operation of this Pricing Assumption, in particular on the interpretation of '*normal development and completion of designs*'.

Delays to the MUDFA Works

- 5.9 The overwhelming cause of delay to the Project to date is the late completion of the MUDFA Works. These works were agreed to have been concluded in various Sections of the Works and in the Designated Working Areas before BSC commenced work in accordance with its Programme.

- 5.10 Pricing Assumption 24 (Section 3.4.1.24) of the Infraco Contract provides as follows:

"That in relation to Utilities the MUDFA Contractor and/or Utility shall have completed the diversion of any utilities in accordance with the requirements of the Programme save for utilities diversions to be carried out by the Infraco pursuant to the expenditure of the Provisional Sums noted in Appendix B."

- 5.11 Accordingly, the Contract Price is based, amongst other things, on the MUDFA Works being completed in accordance with the requirements of the Programme.

- 5.12 Pricing Assumption 32 states:

'That the programming assumptions set out in Schedule Part 15 (Programme) remain true in all respects'

- 5.13 Schedule Part 15 (Programme) includes the following Programming Assumptions (Schedule Part 15 b):

"3.1 The programme is based on MUDFA having completed all works and all utilities being diverted that would conflict with INFRACO operations by the following dates;

1A	31 October 2008
1B	01 August 2008
1C	31 October 2008
1D	19 December 2008
2A	16 May 2008
5A	No Constraint
5B	11 April 2008
5C	16 May 2008
6 (SGN Diversion)	18 April 2008
6 (Watermain Diversion)	30 May 2008
7A	16 May 2008

To date the MUDFA Works still remain incomplete and continue to prevent BSC from commencing its works.

5.14 The MUDFA Works in the Designated Working Areas were to be complete before BSC commenced its Works, and no Works were required to be undertaken by BSC to enable the MUDFA Contractor to proceed. Thus and to the extent that the Utility works carried out by the MUDFA Contractor and/or other utilities works have not been completed in accordance with the requirements of the MUDFA Programme, and to the extent that the Programming Assumptions are not met (the MUDFA and utilities diversion works are not completed by the dates shown in the Programming Assumptions document included at Schedule Part 15 b of the Infraco Contract), then a Notified Departure has occurred which entitles BSC to additional time and money arising from the effects of the failure to complete the utilities works in time.

5.15 The MUDFA Works were not complete in accordance with the requirements of the MUDFA Programme and are still not complete, 34 months into the 38 months initial contract period.

Even today, tie is not giving any certainty as to the sequence and timing for completion of the advance works critically delaying the Works.

5.16 Where Pricing Assumptions have been undermined by events and the associated risk has materialised, this leads to a Notified Departure which, as outlined above, must be dealt with in accordance with Clause 80 (tie Changes) of the Infraco Contract and will in most cases lead to increased costs and an entitlement to an extension of time. All Notified Departures have a further programming impact on the delivery of the Works because BSC is not permitted by the Infraco Contract to carry out any Works which constitute a Notified Departure either until such time as BSC's Estimate has been agreed, or until the matter has been referred to Dispute Resolution Procedure and (if deemed urgent) an appropriate instruction issued by tie (Clauses 80.13 and 80.15). tie has repeatedly rejected this interpretation of Clause 80.13. BSC's position however has been upheld at adjudication (see below). The effect of this is that the Notified Departure mechanism is dependent on the parties reaching agreement on proposed Estimates or making regular use of the Dispute Resolution Procedure, in order to ensure progress of the Works. It is BSC's opinion that one of the major problems encountered on the Project has been tie's failure to administer this procedure as envisaged in the Infraco Contract which has effectively resulted in large areas of the Site becoming sterilised pending agreement of Estimates or referral to/ conclusion of disputes through the Dispute Resolution Procedure.

5.17 The utility works remain incomplete nearly three years later. The effect of this cannot be underestimated - this has deprived BSC, and continues to deprive BSC, of the ability to perform its Works in terms of the Infraco Contract.

Overall Impact on the Works

5.18 The late completion of the MUDFA Works and continuous changes to design and late/missing decisions from tie have delayed progress of the Works and caused increased costs to be incurred. In addition, and critically, tie's approach to the administration of the Infraco Contract has exacerbated the situation. BSC has sought to administer the Infraco Contract in accordance with its terms. As noted above, the Infraco Contract expressly

requires agreement between the parties in respect of Clause 80 Changes to the Works prior to the carrying out of changed Work. To date, BSC has notified some 696 Changes which require to be agreed with tie and tie has notified BSC of a further 102 Changes. 127 of these Changes have been superseded by further Changes and tie has to date agreed 337 Changes and issued tie Change Orders in relation thereto. For the vast majority of Changes notified by BSC, tie has refused to acknowledge that a Notified Departure has occurred and/or has refused to acknowledge the correct value of the Change. tie has disputed the very principles upon which risk has been allocated in the Infraco Contract and in particular the impact of Schedule Part 4. tie has refused to accept the principle that certain matters constitute a Mandatory tie Change as well as the price and time consequences of that Change.

5.19 Where the parties have referred disputed Changes to the Dispute Resolution Procedure set out in the Infraco Contract, BSC's explanation of the fundamental risk allocation in the Infraco Contract has invariably been supported (See Section 8). tie's attempts to limit BSC to the original Contract Price, and limit increases in that price, where entitlement arises, have been uniformly dismissed by a series of adjudicators.

5.20 The delays in preparation of the design apparent on Day 1 of the Infraco Contract, i.e. the change in the design programme between 25 Nov 2007 and May 2008, eventually (after 18 months of communication) resulted in tie agreeing a 7.6 weeks extension of time (designated EOT 1) and an addition of £3,524,000 to the Construction Works Price. In addition BSC has been awarded a 154 day extension of time for the delivery of Section A (Depot) as a result of delays to the MUDFA Works in that area which arose prior to 31 March 2009.

6. **IMPACT OF CURRENT SITUATION ON PROGRESS AND PRICE**

6.1 At the date of this Statement, other than Princes Street, limited work in the roads forming part of the on-street works has started. There is limited off-street work with many off-street areas awaiting tie to progress its administration of the Infraco Contract. The approach currently being taken by tie is adding to the delays caused by the crystallisation of the risks

retained by tie. For example, instructions are issued (pursuant to Clause 80.15) which would allow the Works to progress, but then tie blocks progress by arguing over non-core issues.

6.2 In order to progress the Works, BSC was carrying out some works on a "goodwill" (and without prejudice) basis in off-street areas, which included Changes which had not been agreed by tie and without being instructed under Clause 80.15 of the Infraco Contract. However, tie failed to make interim payments for these "goodwill" works and so BSC was forced to cease these works in October 2010.

6.3 As noted above, the preceding MUDFA Works have been significantly delayed by tie. This has seriously delayed progress of the entire Works. BSC has intimated the effect on progress that delay to the MUDFA Works has had on the Works by way of two Infraco Notifications of tie Change ("INTCs"). The first of these, based on utility delays as at 31st March 2009, was referred to adjudication and BSC was awarded an extension of time of 154 days to Section A (Depot) of the works with certain principles being established on how to assess the impact of the utility delays on other Sections of the works. The second of these INTCs seeks to quantify the impact of the delayed utility works up to and including 31 July 2010. The Estimate for this was submitted by BSC to tie on 17 September 2010². tie has yet to respond or to acknowledge any entitlement on the part of BSC to an extension of time or additional payment in respect of this critical delaying event. BSC has assessed that the impact of this event delays the current completion date for the entire project to 10 December 2012. This INTC is based on the principles established in the adjudication decisions which are summarised at Section 10 below.

6.4 In addition, there have been, and continue to be, further MUDFA delays post 31 July 2010, the impact of which remains to be assessed.

6.5 As noted above, the Infraco Contract requires, at Clause 80.13, that the parties agree the time and money consequences of each Estimate prepared in respect of a Change before BSC is permitted to carry out the work affected by the Change. If the parties cannot agree on the contents of an Estimate, that Estimate can be referred by either party to the Dispute

² BSC's Estimate of 17 September 2010 is produced (in part) herewith

Resolution Procedure. Following referral of an Estimate to the Dispute Resolution Procedure, tie may, if it considers the work is urgent, instruct BSC to progress the Changed Works with BSC being paid its "demonstrable costs" for carrying out such work (Clauses 80.15 and 80.16). Even where Estimates are not agreed, tie may refer any outstanding Estimates to the Dispute Resolution Procedure and issue an instruction in accordance with Clause 80.15. By using the mechanism set out in the Infraco Contract, tie could have secured progress of the Works.

6.6 The interpretation of this provision has been disputed by tie, but BSC's position has been upheld in adjudication as detailed in Section 8 below.

6.7 The consequence of this provision – coupled with (a) the large number of Changes encountered and (b) tie's continuing refusal to accept those Changes and subsequently agree the Estimates - has resulted in the work on the Project all but coming to a standstill. Very little work has been progressing on site since October 2010. The only works currently ongoing are structural backfilling works and work to the superstructure at the Depot Access Bridge as part of Section 5C – Edinburgh Park Central to Gogarburn, the internal fit out and trackworks at the Depot Building and Tram manufacture in Spain.

6.8 BSC's assessment of the revised duration of the Programme as a result of all of the above is:

Original duration: 38 months (July 2011)

Revised duration: 75 months (August 2014) (Ref January 2011 Project Report)

7. OTHER ANCILLARY DISPUTES

7.1 To date, there have been 31 matters referred to the Dispute Resolution Procedure.

7.2 Following mediation on EOT1 the parties reached agreement, recorded in a Memorandum of Understanding, on how extensions of time should be valued going forward.

7.3 Other areas of disagreement between the parties which, although not formally raised to dispute, have led to difficulties in the day-to-day administration of the Project include the following:

7.3.1 tie's continued refusal to recognise Change – in particular, to acknowledge the significance of Schedule Part 4 and the need of the parties to agree Estimates and/or to refer disagreements on Estimates to the Dispute Resolution Procedure to permit works to proceed in the meantime;

7.3.2 tie's delay in dealing with the Estimate submitted in respect of the MUDFA delays up to and including 31 July 2010 (this being the date up to which BSC held the relevant information);

7.3.3 tie's refusal to issue Permits to Work for reasons which are not (in part) supported by the Infraco Contract and are in fact of little importance compared with the impact of delaying the work;

7.3.4 delays in receiving third party (mainly CEC approval) for the design, this being a matter in respect of which tie has retained the risk in terms of the Infraco Contract;

7.3.5 tie's attempts, contrary to the provisions of the Design Review Procedures, to “downgrade” the level of approval given to design deliverables, preventing work being progressed which had previously been approved by tie.

7.4 In addition, tie has served a total of 10 Remediable Termination Notices and 3 Under Performance Warning Notices on BSC which relate to alleged material breaches on the part of BSC including an alleged failure to set up an Intranet; a failure to update and work in accordance with the Programme; a failure to manage the SDS Provider; a failure to assist tie in achieving Best Value; and alleged failures in respect of the quality of the works which have been carried out to date on Princes Street, amongst other things.

7.5 BSC has rejected the validity of these Remediable Termination Notices and Underperformance Warning Notices, and/or has served Rectification Plans under reservation of its primary position that no material breach of contract has occurred. tie

maintains that the Remediable Termination Notices are valid. tie has rejected all of the Rectification Plans which have been submitted, without providing substantive reasons for doing so. tie claims to have been in a position to terminate the Infraco Contract for many months but has chosen not to do so. BSC considers there are no grounds upon which tie could validly terminate the Infraco Contract. The matters relied upon by tie are repetitive, contain many errors and in certain cases, relate to issues which in fact rest with tie. Having failed for many months to elect to terminate for the many reasons relied upon by them in these Remediable Termination Notice, tie has seriously compromised the credibility of its position.

8. OUTCOME OF DISPUTES – KEY ISSUES

8.1 To date, there have been 11 adjudications between the parties out of the 31 matters referred to the Dispute Resolution Procedure, conducted in accordance with the Dispute Resolution Procedure contained within Schedule Part 9 to the Infraco Contract. One adjudication is currently ongoing as at the date of this Mediation Statement, and the decision in another is still awaited. The decisions in these adjudications are binding on the parties, none yet having been appealed. For the purposes of this mediation, BSC does not consider it necessary to revisit the outcome of each and every one of these disputes, but notes that in all of these adjudications, major issues of principle have been decided in favour of BSC. The issues of principle which have been decided in BSC's favour, and which have a bearing on the issues as they currently sit between the parties, include the following:

- 8.1.1 That in the absence of an agreed Estimate, BSC is not obliged or permitted to commence or carry out works associated with a tie Change (Mandatory or otherwise) (**Lord Dervaird: Murrayfield Underpass adjudication**);
- 8.1.2 That there is a distinction between BSC's obligation to complete the Works in accordance with the Employer's Requirements and BSC's entitlement to be paid for these Works – in this regard Schedule Part 4 to the Infraco Contract takes primacy as far as entitlement to payment is concerned (**Hunter: Carrick Knowe and Gogarburn**);

- 8.1.3 That in determining whether there has been a Mandatory tie Change to the design, the starting point is the BDDI information, not the Employer's Requirements. BDDI should be compared with IFC drawings to determine whether there has been a change in facts and circumstances, with changes being established as changes in design principle, shape, form or specification; thereafter the changes should be assessed to establish whether they should be categorised as design development, the latter being determined by what could be construed from the information available to BSC at BDDI. **(Hunter: Carrick Knowe and Gogarburn);**
- 8.1.4 That in respect of Estimates (to be submitted following the occurrence of a Notified Departure) :
- (a) the Infraco Contract does not provide a quality standard for Estimates **(Wilson: Russell Road Retaining Wall)**
 - (b) it is possible (and permissible) to submit 'Part Estimates' **(Wilson: Russell Road Retaining Wall)**
 - (c) compliance with all of the provisions of Clause 80 is not a condition precedent to BSC's right to obtain an extension of time **(Howie: Delays Resulting from Incomplete MUDFA Works).**
- 8.1.5 Where a Notified Departure has occurred, Clause 80 applies and the matter giving rise to the Notified Departure cannot also be a Compensation Event **(Howie: Delays Resulting from Incomplete MUDFA Works).**
- 8.1.6 That the following principles should guide BSC's entitlement to an extension of time as a consequence of preceding delays to the MUDFA works **(Howie: Delays Resulting from Incomplete MUDFA Works):**
- (a) BSC is both bound and entitled to work to the Programme. The Programme remains in Revision 1 and this forms the basis of BSC's analysis of critical delays.

- (b) It is correct to consider the impact of the Notified Departure on the Programme without a full retrospective delay analysis and without consideration of other potential causes of delay.
 - (c) BSC is obliged to propose potential mitigation measures in its Estimate but these:
 - (i) do not include acceleration measures (contrary to tie's assertion);
 - (ii) do not require BSC to give up any of its contractual rights including, specifically, the right not to have to work alongside others (including the MUDFA contractor) within a Designated Working Area;
 - (iii) do not make assumptions regarding the possible relaxation of contractual restrictions (again contrary to tie's assertion that in order to mitigate delay, BSC should have sought relaxation from certain 'embargoes' on working).
 - (d) Mitigation seeks to limit an over-run on the Programme (a) without increase in overall resources applied to the works or (b) the abandonment of BSC's contractual rights.
 - (e) Accelerative measures increase the rate of progress to pull back an already mitigated delay.
 - (f) Designated Working Areas are not synonymous with the Intermediate Sections (as BSC had asserted).
- 8.1.7 BSC is entitled to be paid or reimbursed Landfill Tax for the disposal of contaminated materials (subject to following the Notified Departure procedure). Insofar as any exemptions may be or may have been applicable, it was for tie to

apply for the exemption being the ultimate beneficiary of it (**Lord Dervaird: Landfill Tax**).

8.2 The only adjudication decision where an issue of principle has gone against BSC relates to the approval of forms of Sub-Contract. In that adjudication, it was declared that in relation to the obligation of BSC to enter into Sub-Contracts with Key Sub-Contractors, the Infraco Contract requires that all three of the Consortium partners are party to all Key Sub-Contracts (**Howie: Approval of Sub-Contract Terms**).

8.3 There have been a number of other disputes between the parties both for and against BSC. One of these related to a minor matter of no contractual significance (Hilton Hotel Car Park). Other disputes have dealt with the valuation to be placed on individual agreed Notified Departures (Tower Place Bridge, Depot Access Bridge, Section 7 Drainage). Copies of all of the adjudication decisions are provided by way of background.

8.4 The decisions detailed above have confirmed the extensive caveats from the standard design and build risk allocation which are found in the Infraco Contract, and in particular, have confirmed the unique and far-reaching nature of Schedule Part 4. In addition, the decisions have confirmed that the original position adopted by tie (that the Infraco Contract is a lump sum fixed price contract for all elements of the work as specified in the Employer's Requirements subject to very little change) has been repeatedly shown to be incorrect and unsustainable. Some important principles have been established as a result of these adjudications. Failure by tie to acknowledge that these principles are of universal application has added to the issues facing the Project.

9. **ATTEMPTS TO REACH A SOLUTION**

9.1 From the very outset of the Infraco Contract, there have been differences between the parties regarding the administration of the Infraco Contract. The delays to the design (EOT1) apparent at contract execution back in May 2008 took 18 months to agree.

9.2 Given the need to cooperate to reach agreement to deliver the Works in a contract where so much remains to be agreed (because of the mechanism adopted and the large range of

contingent risk (Schedule Part 4)) and in the absence of any attempt to reach agreement, the Work has ground to a virtual halt.

9.3 The parties have recognised this and there have been three principal attempts to reach a resolution of the many individual disputes.

9.4 Firstly, there have been numerous meetings regarding the production of a revised programme and a number of revised Contract Programmes have been proposed but rejected by tie. The Contract Programme has been amended only once to take account of the design differences at contract signing and does not reflect what is currently being delivered, although tie still requires progress tracked against it.

9.5 Secondly, and based upon a supplemental agreement which the parties entered into in relation to works on Princes Street (the 'Princes Street Supplemental Agreement') where it was recognised that the extent of the difficulties could effectively lead to the works grinding to a halt, the parties considered an alternative arrangement whereby all of the on-street works would be paid for on a 'demonstrable cost', 'open-book' basis (the 'On Street Supplemental Agreement' or 'OSSA'). On-street works could have proceeded under this arrangement in early 2010; a year ago. However, after 6 months of close working together and negotiations, tie declared that the OSSA would have been a breach of its obligations under EU procurement legislation and it abandoned the discussions.

9.6 Lastly, in May 2010, the parties entered into discussions to reach an agreement whereby the scope of the Works would be reduced, a new programme agreed, risk re-allocated in the Contract and a new price agreed. BSC produced two proposals on this basis ("Project Carlisle 1" and "Project Carlisle 2") which were followed by detailed discussions on how the Project might be completed, but tie failed to respond on the detail of either of BSC's proposals. Carlisle 2 forms the basis of Project Phoenix.

10. **BSC'S POSITION IF AGREEMENT CANNOT BE REACHED**

10.1 If no agreement can be reached at this mediation on how the Works can be progressed to deliver Project Phoenix, the parties are left in a position where the Works can only proceed

(very slowly) on the back of individual decisions at adjudication in relation to particular Changes (as they proceed at present). Alternatively the Infraco Contract could be brought to an end either by tie seeking to terminate the Infraco Contract or the parties reaching mutual agreement on separation, either as part of this mediation or otherwise.

- 10.2 BSC is satisfied that the Infraco Contract satisfactorily protects its commercial interests. BSC's positions on the major issues of principle have been vindicated in successive legally binding adjudication decisions.
- 10.3 BSC is frustrated by the various impasses caused by the way the Infraco Contract is being administered by tie and the reputational damage for all parties concerned.
- 10.4 BSC does not consider that there are any valid grounds for termination of the Infraco Contract. If tie chooses to pursue this route, BSC is confident that tie will be found to be in breach of contract and that BSC will ultimately be entitled to considerable additional payment in respect of additional costs, including loss of profit.

Alternative Outcomes

- 10.5 If no agreement can be reached on Project Phoenix then BSC is prepared to discuss a resolution whereby (a) BSC does not complete the Works and (b) BSC is paid in respect of work done up to the point of stopping and compensated for remaining liabilities and loss of profit (tie referring to this broad proposal as 'Project Separation'). The detail of such an outcome will depend very much on tie's (currently unknown) requirements should tie wish to pursue this alternative, e.g. will tie wish to purchase all of the trams already constructed and other materials and equipment already constructed in contemplation of completion of the entire line.

Bilfinger Berger Siemens CAF Consortium

24 February 2011

APPENDIX ONE – KEY PROJECT FACTS

Construction Works Price (BB and Siemens):	£ 238,607,664
SDS Price:	£ 3,308,815
SDS Provisional Sums:	£ 1,675,000
Tram Supply Price:	£ 55,781,634
Infraco Maintenance Mobilisation:	£ 1,782,292
Tram Maintenance Mobilisation:	£ 2,275,806
Infraco Spare Parts:	£ 1,013,090
Total of Capital Expenditure:	£ 304,444,301
Contract Signature:	14 May 2008
Commencement date:	14 May 2008
Original Completion date (Section C):	17 January 2011.
Project Duration:	38 months
Original Revenue of Tram: (Section D):	16 July 2011
Anticipated Completion date (Section D):	05 August 2014

APPENDIX TWO

ADDITIONAL CONTRACT CLAUSES RELEVANT TO THE DISPUTES BETWEEN THE PARTIES

1. Clauses 6 - Project Partnering and Clause 7 - Duty of Care and General Obligations in Relation to the Infraco Works;
2. Clause 18 – Land Consents, Permanent Land and Temporary Sites (in particular note that BSC has an exclusive licence to enter and remain upon the Designated Working Area for the duration of the time required for completion of the Infraco Works (with reference to the Programme));
3. Clause 28 – Sub-Letting and the Appointment of Sub-Contracts
4. Clause 34 – Work to be to the Satisfaction of tie
5. Clause 41 – Completion of Construction Milestones and Critical Milestones
6. Clause 60 – Programme
7. Clause 61 – Rate of Progress and Acceleration
8. Clause 62 – Liquidated and Ascertained Damages
9. Clause 65 – Compensation Events
10. Clause 66 – Payment of the Contract Price
11. Clause 67 – Payment in Respect of Applications for Milestone Payments
12. Clause 71 – Labour Tax and Landfill Tax Fluctuations
13. Clause 73 – Best Value
14. Clause 80 - tie Changes
15. Clause 90 - Termination on Infraco Default

16. Clause 101 – Confidential Information
17. Clause 104 – Information and Audit Access
18. Clause 119 – Mitigation
19. Clause 120 – Joint and Several Liability
20. Clause 121 – No Double Recovery

APPENDIX THREE

ATTACHED DOCUMENTS

Project Phoenix

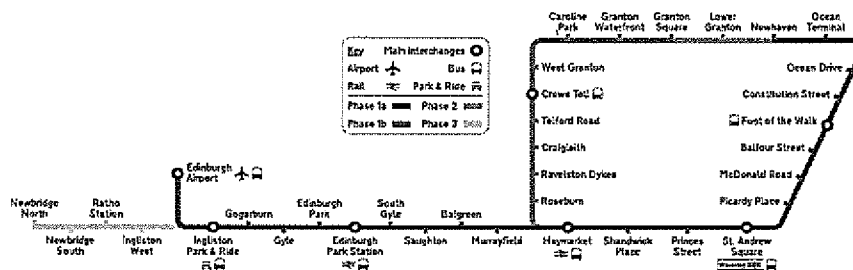
Letter from BSC to City of Edinburgh Council dated 8 March 2010

BSC Estimate in relation to MUDFA 2 dated 17 September 2010 (in part)

APPENDIX FOUR

SUMMARY OF EXISTING PROJECT

1. The Project is for the design, construction and maintenance of a tram system. The purpose of the Project is to have a tram transportation system from Edinburgh Airport through Haymarket, on through the city centre to Newhaven - a total distance of around 18.6 km and including 22 tram stops. This is designated Phase 1a. A proposed Phase 1b, to continue the system (as part of a separate option under the Infraco Contract) from Granton back to Roseburn, was abandoned by tie in mid 2009 due to financial constraints, so the Infraco Contract covers purely Phase 1a (see below).



2. Phase 1a is to be delivered in sections, with various Sectional Completion Dates (summarised at the end of this document). The Sections comprise:

Section A – the Depot (including energisation) and the first Tram delivered to the Site and assembled and the completion of all tests required by the Employer's Requirements in relation to that Section;

Section B – completion of the test track (including energisation), assumed as Depot to the airport, and five Trams delivered to the Site together with testing of all Trams;

Section C – the carrying out and completion of Phase 1a to Newhaven (including energisation) and the spur or delta at Roseburn Junction and the completion of all tests

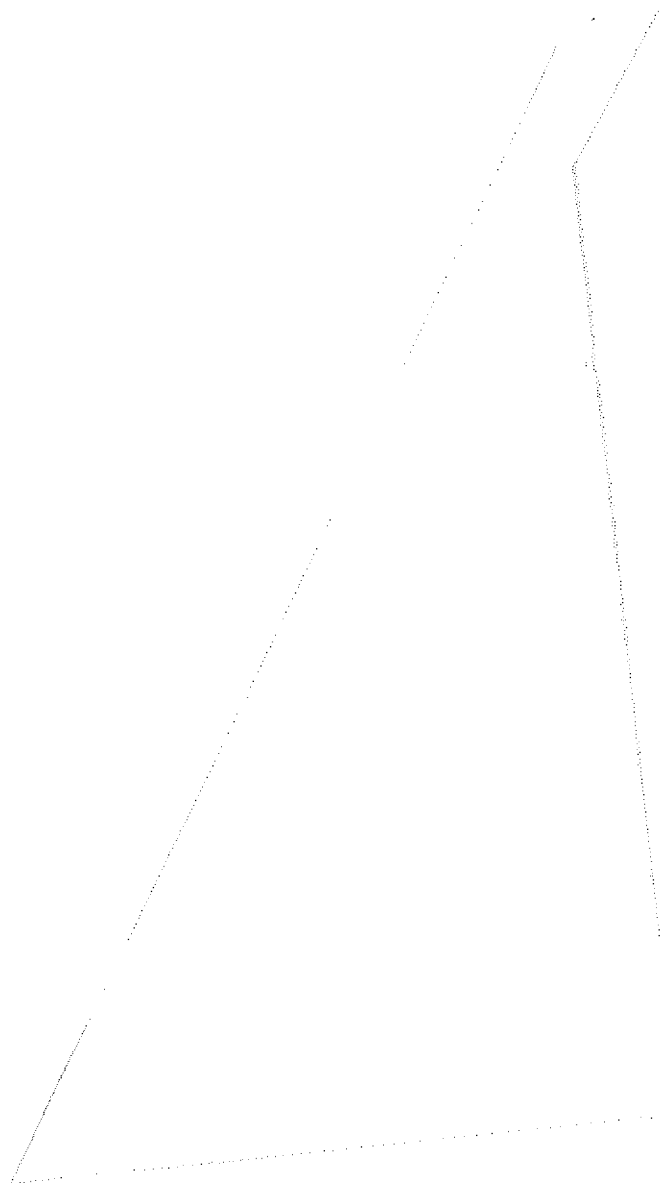
required by the Employer's Requirements in relation to that Section, including System Acceptance Tests

Section D – commencement of revenue service, and completion of all System Acceptance Tests to enable Service Commencement

3. The Infraco Contract requires the provision of 27 trams. These are housed in a substantial new depot at Gogar, which is also to be constructed under the Infraco Contract. The Project includes the construction of numerous new structures including 15 bridges.
4. A consortium was formed to allow the ETN to be delivered under the contractual arrangements proposed by tie. The BSC Consortium comprises Bilfinger Berger for the civil works; Siemens for the track works and mechanical and electrical works, CAF for the manufacture and delivery of trams.
5. The tram service itself will be run by a separate Operator appointed by tie.
6. In order for the ETN to be constructed by BSC, a substantial amount of utility diversion and replacement works were required in advance (known as the "MUDFA Works", MUDFA standing for 'Multi Utility Diversionary Framework Agreement'). The MUDFA Works were intended to remove obstructions from the line of the tramway to facilitate efficient delivery of the Project. These works were let by tie to Alfred McAlpine (later acquired by Carillion) in October 2006. Carillion was later replaced in December 2009 by Clancy Docwra and by Farrans.
7. Design services are supplied by Parsons Brinckerhoff (defined in the Infraco Contract as the 'SDS (systems design service) Provider). The SDS Provider was appointed by tie in 2005. The design services contract was subsequently novated to BSC at the signing of the Infraco Contract in May 2008. Prior to novation, tie had administered the design services contract for 3 years.
8. CAF was appointed under a Tram Supply Agreement and a Tram Maintenance Agreement by tie in autumn 2007 to supply and maintain the 27 trams, before these contracts were

subsequently novated to BSC at the signing of the Infraco Contract. CAF was also brought into the consortium formed by Bilfinger Berger-Siemens at that time.

9. It can be seen, therefore, that CAF's relationship with tie pre-dates the signing of the Infraco Contract with CAF being a supplier directly selected by tie. In that regard, CAF has worked closely with tie prior to and following the conclusion of the Infraco Contract in relation to the design and manufacture of the 27 Trams. The obligations of CAF were directly agreed with tie and set out in the Tram Supply Agreement and Tram Maintenance Agreements. The Tram Supply Agreement established a programme for the manufacture, delivery and commissioning of the 27 Trams. The manufacture of all 27 Trams is close to completion.



APPENDIX 1.4

SDS - PPP Price Breakdown

Appendix 1.4 - SDS PPP Price Breakdown

SDS Price Breakdown

Item	Description	Original SubContract Order	Scope Works		Total (excl Risk & Opportunity)	Risk / Opportunity	Grand Total
			Original Subcontract Work	Change & New Submission			
1	PH III Detailed Design Deliverables		2,204,792	-	2,204,792		2,204,792
2	Changes <i>Approved changes by tie</i>		-	4,234,948	4,234,948		4,234,948
3	Design Coordination			495,000	495,000		495,000
4	PH IV Construction Phase		1,104,023	123,290	1,227,313		1,227,313
5	Design Support Team		675,000	369,266	1,044,266		1,044,266
6	Extended Construction Support		1,000,000	2,921,089	3,921,089		3,921,089
7	Additional Technical Resources (ATRs)		-	355,795	355,795		355,795
8	Disruption Claim			500,000	500,000		500,000
9	Prolongation			1,157,593	1,157,593		1,157,593
10	Incentivisation						
Total		-	4,983,815	10,156,980	15,140,795	-	15,140,795

✓ Incentivisation has been specifically excluded from the SDS pricing on the basis that this proposal has been developed in support of the BSC input to the Project Phoenix Pricing. Incentivisation is payable directly by tie to SDS under Clause 8 of the Novation Agreement. Current valuation of the Incentivisation payment by SDS is £973,214.28 as detailed in the attached schedule.

CEC01927734_0034

SDS - Project Phoenix Proposal Pricing Summary

SDS ref:	Type			Fee to Complete	Certified to Date (1)	Overall Fee
ULE90390A	Core Scope			£ 220,013	£ 1,984,779	£ 2,204,792
ULE90390A	Changes			£ 1,424,875	£ 2,810,073	£ 4,234,948
ULE90485A	DC - Design Coordination			£ 70,714	£ 424,286	£ 495,000
ULE90391A	Phase IV			£ 378,453	£ 848,860	£ 1,227,313
ULE90393A	DS - Design Support			£ 186,308	£ 857,958	£ 1,044,266
ULE90392A	ECS - Extended Construction Support			£ 1,859,021	£ 2,062,068	£ 3,921,089
ULE90392A	ATR			£ 150,000	£ 205,795	£ 355,795
ULE90390A	Disruption			£ 500,000	£ -	£ 500,000
ULE90474A	Prolongation			£ 957,593	£ 200,000	£ 1,157,593
ULE90390A	Incentivisation (2)					
Total				£ 5,746,977	£ 9,393,818	£ 15,140,795

Assumptions:

(1) Certified on 04/01/11 for works up to 03/12/10

Fee for MUDFA/Utility works associated with the Collateral Warranty in favour of tie from the SDS Provider is not included in this Summary and is not therefore considered to be included in the 'Overall Fee' for this scope of works.

(2) Incentivisation has been specifically excluded from the SDS pricing on the basis that this proposal has been developed in support of the BSC input to the Project Phoenix Pricing. Incentivisation is payable directly by tie to SDS under Clause 8 of the Novation Agreement. Current valuation of the Incentivisation payment by SDS is £973,214.28 as detailed in the attached schedule.

SDS ref: ULE90390A Core Scope

Date from	Date to	Description	Comments	Value
15 May 2008	01 July 2011	Phase III works outstanding	10% of late deliverables - secured when DAS issued	£ 36,000
15 May 2008	01 July 2011	Phase III works outstanding	Systems Assurance deliverables	£ 193,011
15 May 2010			Adjustment for MUDFA contract	-£ 14,603
15 May 2010			Adjustment for DCR0114	£ 5,605

Total £ **220,013**

SDS ref: ULE90390A Changes

Date from	Date to	Description	Comments	Value
15 May 2008	14 January 2011	BSC Change Instructed (DCO)	Remainder of fee for instructed changes	£ 294,402
15 May 2008	14 January 2011	Difference to be agreed for DC changes		£ 216,698
15 May 2008	14 January 2011	BSC Change Estimated	Remainder of fee for Changes not yet instructed	£ 882,657
15 May 2008	14 January 2011	BSC Change Adjustment	Remainder of fee for BSC Adjustments required	£ 36,724
15 May 2010			Adjustment for DCR0114	-£ 5,605

Total £ **1,424,875**

Note:

- Changes not yet priced by SDS and/or not yet instructed are NOT included in the SDS Project Phoenix Pricing
- Difference to be agreed for DC changes is the sum of Changes Instructed But Not Completed and BSC Changes To Be Adjusted (Page 14 and Page 19)

SDS ref: ULE90485A DC - Design Coordination

Date from	Date to	Description	Comments	Value
17 January 2010	31 January 2010	Remainder of DC monies	Period 5	£ 70,714

Total £ 70,714

SDS ref: ULE90391A Phase IV

Date from	Date to	Description	Comments	Hrs	Weeks/Periods	Rate	Value
03 December 2010	15 July 2011	Fee for Phase IV - As Builts	Pro Rata per period + £50k Post Construction Surveys		8.0	£ 25,645.38	£ 255,163
04 January 2011	29 April 2011	Jason Chandler		37.5	16.4	£ 95.00	£ 58,527
04 January 2011	29 April 2011	Kate Shudall		15.0	16.4	£ 95.00	£ 23,411
29 April 2011	01 November 2012	Kate Shudall		7.5	78.9	£ 95.00	£ 56,186
04 January 2011	29 April 2011	Pauline Benn		37.5	16.4	£ 38.00	£ 23,411
				0.0	0.0	£ 49.00	£ -
				0.0	0.0	£ 78.00	£ -
04 January 2011	01 July 2011	Kevin Perry		15.0	25.4	£ 95.00	£ 36,236
		Credit for As Built Drawings Yet to Be Completed (1 CAD operative for 1 year)					-£ 74,480

Total £ 378,453

- Kate Shudall - 2 day per week until the end of April and then one day until the end of the commission preparing invoices, ATRs, change estimates.
- Pauline Benn - Document control support until the end of the design period i.e. April 2011
- Kevin Perry - Halcrow PM cover until end of detailed design.

SDS ref: ULE90393A DS - Design Support

Date from	Date to	Description	Comments	Hrs	Weeks-Periods	Rate	Total
04 January 2011	29 April 2011	Alan Dolan		9.5	16.4	£ 95.00	£ 14,827
04 January 2011	29 April 2011	Mike Coupe		37.5	16.4	£ 95.00	£ 58,527
04 January 2011	29 April 2011	Claire Paterson		9.5	16.4	£ 38.00	£ 5,931
04 January 2011	29 April 2011	Ashwin Rabadia		37.5	16.4	£ 78.00	£ 48,054
04 January 2011	29 April 2011	Laurie Mentiplay		15.0	16.4	£ 78.00	£ 19,221
17 January 2011	29 April 2011	Stewart Naylor		22.5	14.6	£ 49.00	£ 16,065
04 January 2011	14 January 2011	Colin Cromar		22.5	1.4	£ 38.00	£ 1,221
06 December 2011	31 December 2011	See Latest Application					£ 22,463

Total £ 186,308

SDS ref:	ULE90392A	ECS - Extended Construction Support
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Date from	Date to	Description	Hrs	Weeks/Periods	Rate	Total
04 January 2011	29 April 2011	Alan Dolan (time split with Design Support)	28.0	16.4	£ 95.00	£ 43,700
04 January 2011	29 April 2011	Claire Paterson (time split with Design Support)	9.5	16.4	£ 38.00	£ 5,931
04 January 2011	29 April 2011	Chris Reid	37.5	16.4	£ 95.00	£ 58,527
04 January 2011	29 April 2011	Jacek Stachowiak	28.0	16.4	£ 49.00	£ 22,540
04 January 2011	29 April 2011	Stephen Surtees	37.5	16.4	£ 95.00	£ 58,527
02 May 2011	01 November 2012	Alan Dolan	37.5	78.4	£ 95.00	£ 279,402
02 May 2011	01 November 2012	Claire Paterson	37.5	78.4	£ 38.00	£ 111,761
02 May 2011	25 May 2012	Chris Reid	37.5	55.6	£ 95.00	£ 197,973
02 May 2011	25 May 2012	Jacek Stachowiak	37.5	55.6	£ 49.00	£ 102,113
02 May 2011	01 March 2013	Stephen Surtees	37.5	95.6	£ 95.00	£ 340,473
02 May 2011	01 May 2012	Matt Fell	37.5	52.1	£ 55.00	£ 107,545
02 May 2011	01 January 2012	Scott Kelland	37.5	34.9	£ 78.00	£ 101,957
02 May 2011	01 December 2011	Kevin McGinty	37.5	30.4	£ 78.00	£ 89,004
02 May 2011	01 November 2012	General Inspector/Track Inspector	37.5	78.4	£ 95.00	£ 279,402
2 months		Roads Engineer	37.5	9.0	£ 95.00	£ 32,063
06 December 2011	31 December 2011	See Latest Application				£ 28,106

Total £ 1,859,021

SDS ref:	ULE90392A	ATR
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ATR forecast				
Architecture				£ 10,000
Depot				£ 10,000
Earthworks				£ 8,000
Misc/ Doc control/Add Drawings				£ 20,000
Structures				£ 60,000
Utilities				£ 5,000
Track				£ 12,000
OLE				£ 10,000
Systems				£ 5,000
Roads/Drainage				£ 10,000

Total	£	150,000
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SDS ref: ULE90390A Disruption

Date from	Date to	Description	Comments	Value
01 January 2008	30 December 2008	Net of EOT		£ 316,902
01 January 2009	30 December 2009	Net of EOT		£ 503,149
01 January 2010	30 June 2010	Net of EOT		£ 125,000

X
 Price to contract award.

£ 945,051

-£ 445,051.00

Reduced claim in support of the Project Phoenix Initiative and for early settlement

Total £ 500,000

SDS ref:	ULE90474A	Prolongation
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Date from	Date to	Description	Comments	Value
15 May 2008	26 September 2009	PB and Halcrow Prolongation Claim□Up to 26th Sept '09 only	Remainder of total Claim minus £200k previously certified	£ 591,890
26 September 2009	02 November 2009	PB and Halcrow Prolongation Claim□Up to 02nd Nov '09 only	EOT between 26th Sept '09 and 02 November '09	£ 60,252
28 February 2010	09 July 2010	PB and Halcrow Prolongation Claim□Up to 09th July '10 only	EOT between 28th Feb '10 and 09th July '10	£ 116,050
12 July 2010	24 December 2010	PB and Halcrow Prolongation Claim□Up to 09th July '10 only	EOT between 12th July '10 and 24th December '10	£ 189,400

Total £ 957,593

SDS ref: ULE90390A Incentivisation

Date from	Date to	Description	Comments	Value
15 May 2008	Present	Incentivisation	Issued on time	£ 508,929
15 May 2008	Present	Incentivisation	Delayed due to tie/CEC Delay	£ 464,286

Total £ 973,214

SDS - ETN - CHANGEA INSTRUCTED BUT NOT COMPLETED

Index	INTG (BSC) Ref to file	Short Title	Full Description	From BBS		By SDS				From BBS			DC Change?	DC Fee to Agree	Certified	Fee Remaining	Comments				
				Reference	Date	Number	Date	Change Estimate		Value	Number	Date						Value			
								Standard	Charge												
DCR0019	67	Murrayfield Tram Stop Design Change	Design Change - architectural, structural and landscaping design	RDC056	25/07/2008	DCR0019	18/08/2008	£	£	27,430	DCO016	05/02/2009	£	27,430.00	£	386.00					
DCR0062	76	Gogar Additional Trampstop - Detailed Design	TR0015 from file to BSC Gogar interim report on GRIP - Option 4B0	RDC052 (was RDC003)	04/02/2008	DCR0062	11/03/09	£	£	340,938	DCO055	15/06/2009	£	340,938.00	£	68,187.60					
DCR0052A		Gogar Additional Trampstop - Further requirements	As per meetings post instruction			DCR0082A	25/03/10	£	£	£101,514.35	DCO121	24/05/2010	£	100,877.00	£	18,665.37					
DCR0100	123	Forth Ports Station 1A3 Ocean Terminal By Pass Road	Section 1A3 Ocean Terminal By Pass Road: revised Forth Ports Agreement, will affect the by pass road thus having an impact on TR0's Prior and Technical Approvals	RDC057 & RDC058	19/10/2008	DCR0100	09/11/2008	£	£	47,186	DCO008	20/01/2009	£	47,566.00	£	389.00					
DCR0101	278	Wider Area Modelling	Using 2 Modelling of Fast Answers Junctions and Obstacle Surveys			DCR0101	23/02/2008	£	£	6,460	DCO002	18/01/2010	£	4,379.00	£	1,565.00	£	4,875.00			
DCR0125	259	Trackwork - ground improvement and vibration mitigation		RDC075	08/01/2009	DCR0125	29/01/2009	£	£	274,886	DCO018	23/02/2009	£	274,886.00	£	232,965.10	£	34,720.45			
DCR0127	244	Building Fixing Owner Agreement	SDS provide a completed proforma to support their work to obtain owner agreements for OLE Building Fixings.	RDC095	05/02/2009	DCR0127	29/01/2009	£	£	14,265	DCO034	02/12/2009	£	14,265.00	£	3,000.00	£	11,265.00			
DCR0134	258	NIL further future proofing		RDC073	16/12/2008	DCR0134	24/02/2009	£	£	40,542	DCO059	02/07/2009	£	40,542.00	£	36,487.25	£	4,054.15			
DCR0146	277	Design of canopy and boundary treatment at Airport Road		RDC094	30/01/2009	DCR0146	25/02/2009	£	£	42,574	DCO038	15/05/2009	£	42,574.00	£	38,316.60	£	4,257.40			
DCR0170	270	RBS Transstop Existing Utility Services	RBS Transstop Existing Utility Services	RDC110		DCR0170	02/09/2009	£	£	1,669	DCO078	24/02/2009	£	1,669.00	£	333.00	£	1,332.00			
DCR0177	377	OLE development workshop	Amend OLE System design documents at Island Farm as management in the OLE development workshop	RDC114	23/04/2009	DCR0177	01/05/2009	£	£	6,511	DCO073	23/08/2009	£	6,511.00	£	5,659.00	£	651.10			
DCR0178	378	OLE development workshop	Amend OLE Building Fixing Loads and layout drawings to show actual building fixings and where necessary obtain approvals for the revised locations.	RDC115	23/04/2009	DCR0178	01/05/2009	£	£	6,260	DCO051	02/06/2009	£	6,260.00	£	1,565.00	£	4,695.00			
DCR0179	379	OLE development workshop	Design Provision of alternative lighting where OLE Poles are not provided, possibly in a form similar to OLE Poles for Planning Consent Reasons. Design the Lighting System to take account of any relevant aspects of the OLE System (eg Tensioning Equipment)	RDC115	23/04/2009	DCR0179	01/05/2009	£	£	47,262	DCO074	28/08/2009	£	47,262.00	£	42,535.60	£	4,726.20			
DCR0191	319	Gogar Landfill Scottish Water Utility Diversion	Review CCTV video and redesign	RDC125	07/07/2009	DCR0191	05/08/2009	£	£	16,284	DCO043	05/10/2009	£	16,284.00	£	16,459.60	£	814.20			
DCR0200	450	BAA New Burnside Road Alignment	Incorporate new Burnside Road alignment, update signage and roads signage	RDC131	22/07/2009	DCR0200	01/10/2009	£	£	5,944	DCO039	18/12/2009	£	9,819.00	£	4,754.60	£	2,963.70			
DCR0202	463	Forth Ports Drainage Approvals	FP approval of drainage (inc. Siemens track drainage box) due to fact that CEC did not adopt road as per Agreement	RDC143	05/10/2009	DCR0202	10/10/2009	£	£	11,771	DCO050	12/05/2009	£	5,000.00	£	6,771.00	£	5,000.00			
DCR0203	461	Forth Ports substation re-design	Re-design required after survey received for DCR0111	RDC137	05/10/2009	DCR0203	10/10/2009	£	£	11,250	DCO049	07/12/2009	£	10,000.00	£	1,750.00	£	10,574.55	£	574.55	
DCR0212A	476	Tram Stop Development Workshop - AC works	Scope determined as per misalignment workshops - see minutes attached to RDC	RDC138	07/08/2009	DCR0212A	22/02/2010	£	£	116,482	DCO128	05/04/2010	£	28,230.00	£	60,232.00	£	26,250.00	£		
DCR0213A	477	Substation Development Workshop - All works	Scope determined as per misalignment workshops - see minutes attached to RDC	RDC139	07/08/2009	DCR0213A	13/11/2009	£	£	89,693	DCO111	12/01/2010	£	87,250.00	£	22,183.00	£	67,500.00	£		
DCR0214		Provision of 110v Supply to Transstop	See BSC letter ref: CS/0115 dated 22/02/09			DCR0214	11/03/2009	£	£	11,537	DCO102	08/01/2010	£	3,218.00	£	2,829.00	£	7,666.20	£	651.00	
DCR0216	488	Drainage Development Workshop	As per RDC	RDC142		DCR0216	21/12/2009	£	£	39,335	DCO108A	12/02/2010	£	36,700.00	£	2,635.00	£	34,865.00	£	1,935.00	
DCR0219	499	Frederick Street new crossing	CEC have identified 2 new comments (01/975, 977) in their closed responses related to a new pedestrian crossing along Frederick Street.	RDC150	30/11/2009	DCR0219	25/02/2010	£	£	11,304	DCO110	06/04/2010	£	11,250.00	£	54.00	£	10,125.00	£	1,125.00	
DCR0220	512	Compressed Air Supply	See IF-114-SPS-GIV			DCR0220	04/11/2009	£	£	10,001	DCO161	03/03/2010	£	9,750.00	£	6,257.00	£	3,750.00	£		

SDS - ETN - CHANGEA INSTRUCTED BUT NOT COMPLETED

Index	INFO (BSC) Ref to file	Short Title	Full Description	From BBS Change Notification		By SDS Change Estimate				From BBS Change Order			DC Fee to Agree	Certified	Fee Remaining	Comments			
				Reference	Date	Number	Date	Standard Charge	Value	Number	Date	Value					DC Change?		
DCR0221	500	Picardy Place incorporate 4th lane eastbound	Develop alternative design as per OEC comments by adding a 4th lane eastbound through the junction.	RDC147	22/10/2009	DCR0221	02/02/2010	£	£	28,446	DCO116	12/05/2010	£	28,445.00	£	60.00			
DCR0227	376	Develop more Warrington Civils re-design to suit Siemens OLE	Alignment of Siemens OLE Design with SDS Design	RDC110	23/04/2009	DCR0227	05/04/2010	£	£	137,848	DCO114	11/03/2010	£	77,948	£	6,000.00			
DCR0277		CCRC walkway Earthing and Protection	Civil design for Siemens ERB design on CW	RDC159	25/02/2010	DCR0277	21/02/2010	£	£	5,288	DCO135	21/01/2011	£	43	£	5,245.00			
DCR0278		Picardy Place Detailed Design	Further to DCR0173 & DCR0221								DCO133	04/11/2010	£		£	100,000.00	Provisional estimate (£200k more than order value) Scope for detailed design to be finalized during initial stage of design and options development, then further pricing required for detailed design stage.		
DCR0231	654	Gate Interchange - Name Change	Change Transport Name to Edinburgh Gateway	RDC172	20/07/2010	DCR0231	18/02/2010	£	£	1,800	DCO134	03/11/2010	£		£	1,800.00			
DCR0282		Edinburgh Gateway - A8 Drainage	Relocate the combined sewer in the original design location for the A8	RDC173	21/07/2010	DCR0282	04/03/2010	£	£	23,101	DCO133	05/11/2010	£	6,930.00	£	15,915.45			
										£ 1,477,876.85		£ 1,366,247.90		£ 211,428.50		£ 1,071,846.03		£ 294,401.87	

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SDS - ETN - CHANGE ESTIMATES NOT INSTRUCTED

Index	INTC (BSC) Ref to Use	Short Title	Full Description	From BBS Change Notification		By SDS Change Estimate				Certified	Fee Remaining	Comments	
				Reference	Date	Number	Date	Standard Charge	Value				
DCR0062	61	Gogar Surcharge Utilisation	Feasibility of using material temporary stockpiled within Gogarburn Embankment.	RDC050	01/09/2008	DCR0062	01/06/2008	£	£	1,995	£	1,995.00	
DCR0195		Informal Consultation TRO Changes				DCR0195	31/07/2009	£	£	77,940	£	77,940.00	
DCR0222		Street Lighting new comment - conical aluminium	Comment 9878 Section 10 items should be conical aluminium and not steel and without 0.5m projection			DCR0222	21/12/2010	£	£	1,895	£	1,895.00	
DCR0226		OLE Base Special - Airport	OLE Base special due to Siemens Layout change at Stop/Canopy	RDC156	16/02/2010	DCR0226	31/03/2010	£	£	27,890	£	5,577.90	£ 22,511.66
DCR0229		OLE Pinths on Structures	Detailed Design of the OLE Pinths for system proposed by Siemens			DCR0229	06/04/2010	£	£	115,528	£	15,000.00	£ 100,528.75
DCR0231		Earthing and Bonding Development Workshop Misalignment	Alignments for E&B on structures, equipment poles, Depot, substations, Voltage Limiting Devices.	RDC152	15/01/2010	DCR0231	30/07/2010	£	£	71,114	£		£ 71,114.00
DCR0238		Hydraulic Model of Gogarburn Retaining Walls				DCR0238	10/03/2010	£	£	57,960	£		£ 57,960.00
DCR0241		Topo Survey ScotRail Depot	ScotRail cannot provide sufficient As Built for the DCR0024 change, Topo Survey needed			DCR0241	02/03/2010	£	£	1,543	£		£ 1,542.50
DCR0242	167	Changes to Murrayfield Accommodation Works - Wanderers Club House				DCR0242	15/03/2010	£	£	692	£		£ 692.00
DCR0248		Special Trackform Construction at Shallow Depth obstructions	1) Victoria Dock Bridge 2) Tower Place Bridge 4) Leith Walk Bridge 5) 275kv cables Arthur St to Calmerly St 6) Leith Walk Scottish Power Tunnel	RDC162	30/03/2010	DCR0248	14/05/2010	£	£	29,579	£		£ 29,578.75 Stage One only
DCR0249		Victoria Dock Entrance Bridge				DCR0249	30/03/2010	£	£	15,329	£		£ 15,328.50
DCR0250		Further to DCR0113 amendments are required to Internal Retaining Wall for Haymarket Viaduct	Due to unforeseen site conditions	RDC161	31/03/2010	DCR0250	12/05/2010	£	£	3,606	£	3,605.00	£ -
DCR0256		Cathedral Lane Substation Misalignment	See DCR0213	RDC139	07/04/2010	DCR0256	25/05/2010	£	£	20,114	£	18,490.80	£ 4,822.70
DCR0257		Russell Road Retaining Wall unforeseen ground conditions W3	Amend Pricing Methodology based on new on-site information inc shear connection detail for W3			DCR0257	04/05/2010	£	£	7,313	£		£ 7,313.00
DCR0259		Special Trackform Construction at Shallow Depth obstructions	3) Culvert North Coast St	RDC162	30/03/2010	DCR0259	20/05/2010	£	£	18,720	£		£ 18,720.25
DCR0263		TO1853 - Update 5B MX file Trackform	The current Siemens Track Layout Design shows ballasted track in Section 5B between S22917 - S23695. In contrast to IHS the current mx trackform file ULE90130-05-Cal-00070v1 only shows ballasted track up to CH S23520 and then a track slab design.					£		12,000	£	12,000.00	Estimated Fee based on letter ULE90130-05-LET-00518 - see "Estimated Changes sheet", Final scope to be agreed and detailed estimate produced.
DCR0270		Tramstop Layout Changes	Changes to TVM layout and dimensions and branding	RDC171	13/07/2010	DCR0270	23/08/2010	£	£	54,168	£		£ 54,167.50
DCR0273	586	Junction of the Mound, Princes St and Hanover St	Additional demarcation and markings	RDC169	21/05/2010	DCR0273	28/07/2010	£	£	6,398	£		£ 6,397.50
DCR0274		Murrayfield Stadium Retaining Walls Ground Improvement Change - TO1809	S21B, S21D, S21C, S505 changes to ground conditions due to further GI					£		90,000	£	90,000.00	Estimated fee including work done to date plus additional work - scope to be confirmed by BSC
DCR0276		Elter Street Junction	Re-design Junction as requested by CEC	RDC170	06/07/2010	DCR0276	05/11/2010	£	£	70,360	£		£ 73,358.50
DCR0278		Picardy Place Detailed Design	Further to DCR0173 & DCR0221					£		200,000	£	200,000.00	Provisional estimate (£200k more than order value) Scope for detailed design to be finalised during initial stage of design and options development, then further pricing required for detailed design stage.
DCR0280	702	Pedestrian Guardrail Change	Changes to design and spec as per CEC letter	RDC177	28/10/2010	DCR0280	27/08/2010	£	£	1,448	£		£ 1,448.50
DCR0293		Re-Design due to OLE Rev F	Revision F submitted under cover letter					£		20,000	£	20,000.00	Estimated fee for design works to be done outwith Design Support team

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SDS - ETN - CHANGE ESTIMATES NOT INSTRUCTED

Index	INTC (BSC) Ref to fee	Short Title	Full Description	From BBS		By SDS				CerilBed	Fee Remaining	Comments	
				Change Notification Reference	Date	Change Estimate Number	Date	Standard Charge	Value				
DCR0299		TAA for NIL Crossing 1 & 2	OEC advised at informal consultation meeting that TAA is required for Crossing 1 and Crossing 2	RDC175	13/10/2010	DCR0299	04/11/2010	£	£	7,295	£	7,295.00	
DCR0301	690	Tower Place Bridge East Approach Embankment	Revised design of foundation due to archaeological discovery	RDC175	27/10/2010	DCR0301	09/11/2010	£	£	1,460	£	1,460.00	
DCR0302		Murrayfield Accommodation TV Duct	Design for the necessary cast in situ sections	RDC180	30/11/2010	DCR0302	18/12/2010	£	£	4,890	£	4,990.00	

£ 925,331.25 £ 42,674.70 £ 882,656.55

SDS - ETN - CHANGES NOT INCLUDED

Index	INTC (BSC) Ref to file	Short Title	Full Description	From BBS		By SDS				From BBS		Comments
				Change Notification Reference	Date	Change Estimate Number	Date	Standard Charge	Value	Change Order Number	Date	
DCR0085	06	Transfer of Utilities Diversions	Transfer of Utilities Diversions from MUDFA to Infraco	RDC023	27/08/2009							Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0232		Tower Pisco Bridge - Remove Ramp, Remove concrete downstand, Re-use OLE Basecabinula	See RDC154	RDC154 RDC154A	21/01/2010 02/07/2010							Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0240		Forth Ports Section 1A - Fence Alterations	Additional constraints in Casino area									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0244		Lindsay Rd phone mast	New phone mast construction conflicts with proposed/instructed design									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0245		OLE Special Foundations - Several										Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0262		Depot formation redesign	Additional Cross Sections for Depot Formation Design									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0264		Listed Building Consents for Dublin St	Change to levels at York Place/Queens St/ Dublin St Impacts listed buildings consent for two walls									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0266		Murrayfield Tramstop Layout Changes	Bollard, Fence and Turnstile Changes									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0272		Haymarket OLE Plinths	Amendment to loads									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0284		Lit Signs Requirements from CEG	For Section 5C - Lochside Ave									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0286		Section 5A Special OLE Foundation Design Murrayfield TramStop retaining wall	Siemens OLE pole position changes - Rev F - 2no. OLE Foundations									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0288		Visualisations and Options for Airport Canopy Design	Various Options for extension of canopy and 2no. Visualisations									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0290		Wooden Walkways in Depot	Concrete across track walkways in the Depot Stabling Area can now be changed to a wooden solution									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0291		Lighting Change for combined OLE/Lighting on Ocean Drive	Change due to height of pole									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0292		Section 2A Special OLE Foundation Design due to Unforeseen Ground Conditions	TQ2076 - 2no. OLE foundations									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0294		SDS Interface design to suit direct Fixation Track for Overcrossings	TQ2133 & details provided under Siemens submission 0306									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0297		Hydraulic Model of Gogarburn Retaining Walls (2)	Further modelling and changes to kiosk due to straightening of wall with t.c.d.									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0300		New access road to the Forth Ports cruise liner area	Full Planning Permission Required									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0140	271	Roads construction analysis of results	Requested to price at meeting with CB & SR on 27/01/09	RDC076	08/01/2009	DCR0140	29/01/2009	£	£	200,625		Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0167	281	Cathedral Lane substation alternative design - Henderson Global Concept	Alternative proposal with respect to Henderson Global and St. James centre power supplies	RDC105	16/03/2009	DCR0167	30/10/2009	£	£	117,586		Scope not yet confirmed. No Estimate included in Project Phoenix Pricing

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SDS - ETN - CHANGES NOT INCLUDED

Index	INTC (BSC) Ref to file	Short Title	Full Description	From BBS Change Notification		By SDS Change Estimate				From BBS Change Order			Comments	
				Reference	Date	Number	Date	Standard Charge	Value	Number	Date	Value		
DCR0228		South Cyle Access Bridge Detailed Design	Changes in S26 and W11 detailed design as per DCR0133 feasibility report			DCR0228	24/11/2009	£	£	223,769				Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0237		Floating Track Design	See Siemens letter ETN(BSC)SDS+TD&ABC#057137	RDC155	04/02/2010	DCR0237	09/04/2010	£	£	68,510				Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0255		Grosvenor Street 2 Way Change	Change from the previous agreed layout from one way entry from cliffon terrace to 2 way			DCR0255	04/05/2010	£	£	49,980				Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0261		Roseburn St Viaduct curtain walls	Design of curtain walls required at Roseburn St. In lieu of current fencing proposals in the vicinity of each abutment	RDC167	20/05/2010									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0265	485	Tram Turnback Strategy	Redesign of traffic signals required for tram turnback manoeuvres where police attendance is not an acceptable means of operation	ROC141	28/09/2009									Scope not yet confirmed. No Estimate included in Project Phoenix Pricing
DCR0295		OLE Planning Line 2	SDS to provide technical and planning liaison support to BSC and support BSC to secure the Approvals and Consents for the Client design			DCR0295	29/09/2010	£	£	43,485				Scope not yet confirmed. No Estimate included in Project Phoenix Pricing Assumed to be covered by Design Support
										£ 703,954.30				£ -

SDS - ETN - BSC CHANGES TO BE ADJUSTED

Index	INTC (BSC) Ref to file	Short Title	Full Description		From BBS		By SDS				From BBS		DC Change	DC Fee to Agree	Carried	Fee Remaining	Comments		
					Reference	Date	Number	Date	Standard Charge	Value	Number	Date						Value	
DCR0011	1643	Standwick Place DEC preference Treatment (Priority) Change		Completed	later	02/12/2008	DCR0011	18/10/2008	£	£	12,778	DC007	05/11/2008	£	12,778.00	£	10.00	Remaining fee to be paid	
DCR0015	78	Redesign Gogarburn Retaining Wall	Attention to Retaining Wall design from RDC025 and Apsd Road	Completed	RDC018 & RDC025	22/09/2008	DCR0015	23/08/2008	£	£	41,634	DC0015	05/02/2009	£	41,634.00	£	380.00	Remaining fee to be paid	
DCR0024	VE	Roadburn Street Viaduct VE			RDC021	29/08/2008	DCR0024	03/06/2008	£	£	316,519	DC0011 (was DC0005)	05/02/2009	£	316,519.00	£	15,519.00		
DCR0036	VE	Reconstituted Planning VE																Scope to be confirmed	
DCR0075	180	Section 10 Haymarket Taxi Stand	DEC require area in front of Haymarket Railway Station to revert back to taxi stands in lieu of bus stop	Completed	RDC063	11/11/2008	DCR0075	18/11/2008	£	£	22,300	DC0027	14/04/2009	£	22,300.00	£	30.00	Overpaid	
DCR0091	80	Gogarburn Retaining Wall Finish	All prior Approval construction DEC asked for final drawings of finish to wall to vertical panel	Completed	RDC053	06/09/2008	DCR0091	09/10/2008	£	£	3,878	DC0012	20/01/2009	£	3,878.00	£	380.00	Remaining fee to be paid	
DCR0168		Re-design WEBS trackform and drainage	As per request from Colin Brady to AD and G/H		RDC108	03/04/2009	DCR0168	23/04/2009	£	£	41,304	DC0044	08/09/2009	£	41,304.50	£	0.50	Overpaid	
DCR0172	306	Lairn Walk Underground Structure			RDC107	30/03/2009	DCR0172	21/10/2010	£	£	4,784	DC0099	05/02/2009	£	7,500.00	£	2,716.00	DC difference to be resolved	
DCR0181	203	Dapox Additional Design	Various design as request from BSC or supplier				DCR0181	09/09/2009	£	£	46,851	DC00106	06/01/2010	£	35,138.00	£	11,713.00	DC difference to be resolved	
DCR0185	439	Office Move	Light fitting need at new access road and tram crossing as per Transdev	Withdrawn			DCR0185	30/07/2009	£	£	17,994	DC0064	30/07/2009	£	17,994.00	£	871.07	BSC to change Order value	
DCR0204	457	Drainage at Dapox - BAA run off	Further to DCR0184 additional drainage to be required									DC0106	06/01/2010	£	3,294.50	£	3,294.50	Overpaid	
DCR0205	458	Redesign of drainage and slope due to BAAC/CRG interface	Further to DCR0135 - redesign of drainage and retaining slope. Design Fee only needed for the change of Burnside Road Overpass including a fee for the replacement of the existing Burnside Road		RDC144	09/10/2009	DCR0205	10/12/2009	£	£	3,262	DC0097A	07/11/2009	£	3,750.00	£	488.00	DC difference to be resolved	
DCR0217	84	Burnside Road Diversion		Withdrawn	RDC015	04/03/2008	DCR0217	05/08/2008	£	£	380			£	380.00	£		BSC to file up E380 paperwork	
DCR0129	372	W14 Gogarburn retaining wall to accommodate drainage		Withdrawn	RDC091	16/01/2009	DCR0129	20/05/2009	£	£	380			£	380.00	£		BSC to file up E380 paperwork	
DCR0182		WEBS vertical alignment change due to Drain Fix		Withdrawn	RDC118	01/05/2009	DCR0182	14/05/2009	£	£	380			£	380.00	£		BSC to file up E380 paperwork	
DCR0225		Linkway road retaining wall step ramp access	As per letter from CORR 2781403	Withdrawn	RDC140	11/11/2009	DCR0225	01/12/2009	£	£	350			£	350.00	£		BSC to file up E380 paperwork	
DCR0021	VE	Dapox Future Expansion	Build Dapox now with future expansion and reduce ear bank		RDC002	28/07/2008	DCR0021	15/09/2008	£	£	16,324			£		£	16,324.00	Change in dispute - BSC/SDS to agree	
DCR0036	VE	Reconstituted Planning VE												£		£		Scope not clear	
DCR0288		Enhanced Heavy Transform Design - Ganges	As per Damian Whissler email to JRC				DCR0288	13/10/2010	£	£	2,975	DC0129	28/10/2010	£	2,975.00	£		Payment Outstanding	
										£ 532,883.07		£ 508,648.07		£ 5,269.50		£ 492,769.00		£ 36,724.07	
												24,214.00				-£ 1,879.50			

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EOT between 26th September '09 and 2nd Nov '09

Employee/Supplier	Data	Week					Total
		28/09/2009	05/10/2009	12/10/2009	19/10/2009	26/10/2009	
CHANDLER, JASON ROY	Sum of Quantity						
	Average of Contract Rate						£
	Sum of Contract Estimate						£
CHANDLER, Mrs. CARLA (CARLA)	Sum of Quantity						
	Average of Contract Rate						£
	Sum of Contract Estimate						£
SHUDALL, KATE	Sum of Quantity						
	Average of Contract Rate						£
	Sum of Contract Estimate						£
	Sum of Quantity						
	Average of Contract Rate						£
	Sum of Contract Estimate						£
	Sum of Quantity						
	Average of Contract Rate						£
	Sum of Contract Estimate						£

Total Sum of Quantity	72.0	97.0	112.5	108.5	100.0	490.0
Total Average of Contract Rate	£ 93.45	£ 91.60	£ 91.60	£ 91.60	£ 92.34	£ 92.10
Total Sum of Contract Estimate	£ 6,644.60	£ 8,722.00	£ 10,050.00	£ 9,738.00	£ 8,547.60	£ 44,102.00

Helcrow	Brian McCrear			
		£		
	Laurie Maniplay			
		£		
		£		
Total				£ 60,252.00

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EOT between 28th Feb '10 and 09th July '10

Employee	Data	Week																		Total	
		01/03/2010	08/03/2010	15/03/2010	22/03/2010	29/03/2010	05/04/2010	12/04/2010	19/04/2010	26/04/2010	03/05/2010	10/05/2010	17/05/2010	24/05/2010	31/05/2010	07/06/2010	14/06/2010	21/06/2010	28/06/2010		05/07/2010
CHANDLER, JASON ROY	Sum of Quantity																				
	Average of Contract Rate																				
	Sum of Contract Estimate																				
SHUDALL, KATE	Sum of Quantity																				
	Average of Contract Rate																				
	Sum of Contract Estimate																				
MARTIN ALEXANDER	Planning Support																				
	Planning Support																				
	Planning Support																				
Total Sum of Quantity	71	75	75	71.5	48	60	52.5	19.5	37.5	30	45	7501.08	67.5	52.5	37.5	1255.72	211.16				
Total Average of Contract Rate	£ 95.00	£ 95.00	£ 95.00	£ 95.00	£ 95.00	£ 95.00	£ 95.00	£ 95.00	£ 95.00	£ 95.00	£ 95.00	£ 444.10	£ 95.00	£ 95.00	£ 95.00	£ 157.96	£ 69.30				
Total Sum of Contract Estimate	£ 6,745.00	£ 7,125.00	£ 7,125.00	£ 6,792.50	£ 4,370.00	£ 5,700.00	£ 4,987.50	£ 1,852.50	£ 3,562.50	£ 2,850.00	£ 4,275.00	£ 14,551.08	£ 6,412.50	£ 4,987.50	£ 3,562.50	£ 7,840.72	£ 5,851.16	£ 7,125.00	£ 4,276.00	£ 109,700.46	

Halcrow	Brian McCree	
	Laurie Mentplay	
		£ 171,150.46

Management of completion on SDS Phase II works: £ 55,110.00

Total £ 116,050.46

EOT between 12th July '10 and 24th December '10

Employee/Supplier	Project	Task	Date	Week																												Grand Total
				12/07/2010	19/07/2010	26/07/2010	02/08/2010	09/08/2010	16/08/2010	23/08/2010	30/08/2010	06/09/2010	13/09/2010	20/09/2010	27/09/2010	04/10/2010	11/10/2010	18/10/2010	25/10/2010	01/11/2010	08/11/2010	15/11/2010	22/11/2010	29/11/2010	06/12/2010	13/12/2010	20/12/2010	27/12/2010				
CHANDLER, JASON ROY	ULE9091A	1.01	Sum of Quantity																													
			Average of Contract Rate																													
			Sum of Contract Estimate																													
SHU/CALL, KATE	ULE9090A	1238.01	Sum of Quantity																													
			Average of Contract Rate																													
			Sum of Contract Estimate																													
	ULE9091A	1.03	Sum of Quantity																													
			Average of Contract Rate																													
			Sum of Contract Estimate																													
	ULE9092A	7.01	Sum of Quantity																													
			Average of Contract Rate																													
			Sum of Contract Estimate																													
ALEXANDER, Mr. MARTIN (U)	ULE9091A	1.03	Sum of Quantity																													
			Average of Contract Rate																													
			Sum of Contract Estimate																													
Total Sum of Quantity				94	51.5	37.5	75	54.5	62.5	67.5	40	52	75	75	67.5	95	88	76	75	85	86	98.5	97.5	97.5	72	70	63	1549.5				
Total Average of Contract Rate				£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00	£95.00				
Total Sum of Contract Estimate				£8,890.00	£4,892.50	£3,562.50	£7,125.00	£5,177.50	£5,937.50	£6,412.50	£3,825.00	£4,940.00	£7,125.00	£7,125.00	£6,412.50	£9,025.00	£8,310.00	£7,125.00	£7,125.00	£8,062.50	£8,062.50	£9,362.50	£9,262.50	£9,362.50	£6,840.00	£6,650.00	£5,985.00	£135,200.00				

Malcolm		
	Kevin Perry	
	Laure Mark play	

Total £189,450.45

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APPENDIX 2

Valuation of tie Changes and Prolongation

1 tie Changes

1.1 Infraco proposes that amendments to the existing Schedule Part 4 Appendix G would be appropriate to simplify the rules concerning valuation of tie Changes and to establish rates for valuation of prolongation.

1.2 The valuation of any tie Change will continue to be made in accordance with Clause 80.6.

1.3 Where Clause 80.6.3 and/or 80.6.4 applies and to the extent that they apply to a tie Change then the valuation shall be on the basis of Actual Cost or Estimated Actual Cost.

1.4 In respect of a valuation of any work under 1.3 above, tie's Representative shall apply head office overheads and profit percentages to the appropriate elements of Actual Cost or estimated Actual Cost as follows:

(a)	Civil Engineering works	10%
(b)	Systems and Track works	17%

1.5 In all cases where a tie Change is being valued in accordance with Clause 80.6, Site related overhead (Preliminaries) shall be valued and added as follows:

7.4% to be added to the net valuation of the tie Change to cover the Consortium Preliminaries.

17.5% to be added to the net valuation of the tie Change to cover any other Preliminaries with regard to any tie Change associated with Civil Engineering Works, provided that this calculation shall in no case apply to Systems and Trackwork or claims for other Preliminaries in relation to prolongation costs arising from extensions of time or delay.

Site related overhead and any other Preliminaries in respect of Systems and Trackwork and in respect of Tram Supply Obligations shall be valued in accordance with paragraph 2 (Prolongation) below.

2 PROLONGATION

2.1 Infraco acknowledges that the principle of valuation of prolongation costs arising from extensions of time granted has been established through the mediation process leading to agreement of the Estimate for Infraco Notification of tie Change Number 1. The tie Change

Order number 116 reflects the basis of this agreement, which shall be formalised and applied to the valuation of prolongation costs arising from extensions of time.

Infraco proposes that:

- (a) Preliminaries elements relating to Civil Engineering Works arising from extensions of time or delay shall be valued in accordance with the rates set out in Appendix 2.1 of this Proposal.
- (b) Prolongation costs (including site related overheads and any other Preliminary elements) relating to Systems and Trackwork shall be valued on the basis of Actual Cost or estimated Actual Cost.
- (c) In respect of the valuation of prolongation costs relating to Systems and Trackworks, 17% is to be added to the Actual Cost or estimated Actual Costs in respect of related head office overheads and profit percentages.
- (d) Prolongation costs (including site related overheads and any other Preliminary elements) relating to the Tram Supply Obligations shall be valued on the basis of Actual Cost or estimated Actual Cost.

APPENDIX 2.1

PPP Bilfinger Berger Prolongation Calculation Worksheet

Appendix 2.1 – PPP Bilfinger Berger Prolongation Calculation Worksheet

Bilfinger Berger Preliminaries								
Section of Works	Description of Works	Contractor	Project Carlisle		Delay (Wks)	Weekly Rate	Total	
			Start Date	Finish Date				
Overhead	BB - Overhead cost (Staff, Office, Business Cost)	Bilfinger Berger	01 May 2011	24 June 2013	0.00	£ 109,994.84	£ -	
							<i>Consortium Office/Overhead Subtotal</i>	£ -
Section of Works	Description of Works	Contractor	Project Carlisle		Delay (Wks)	Weekly Rate	Total	
			Start Date	Finish Date				
On Street	1A	Enabling Works in Section 1A	Bilfinger Berger	01 May 2011	23 February 2012	0.00	£ 2,633.65	£ -
	1A	Traffic Management	Bilfinger Berger	01 May 2011	23 February 2012	0.00	£ -	£ -
							<i>'On Street' Subtotal</i>	£ -
Off Street	2A / 5A (partly)	Haymarket to Murrayfield Underpass	Bilfinger Berger	01 May 2011	17 September 2012	0.00	£ 19,852.10	£ -
	5	Section 5 overall	Bilfinger Berger	01 May 2011	28 November 2012	0.00	£ 32,440.55	£ -
	6	Depot Area	Bilfinger Berger	01 May 2011	22 July 2011	0.00	£ 1,072.64	£ -
	7A / 5C (partly)	Depot to Edinburgh Airport	Bilfinger Berger	01 July 2010	28 June 2012	0.00	£ 7,014.64	£ -
							<i>'Off Street' Subtotal</i>	£ -
							<i>Bilfinger Berger Preliminaries Subtotal</i>	£ -

Sub Contract Costs								
Section of Works	Description of Works	Contractor	Project Carlisle		Delay (Wks)	Weekly Rate	Total	
			Start Date	Finish Date				
On Street	1A	Enabling Works in Section 1A	McKean & Co	01 May 2011	23 February 2012	0.00	£ 17,431.35	£ -
	1A	Traffic Management	Class One	01 May 2011	23 February 2012	0.00	£ 7,030.05	£ -
							<i>'On Street' Subtotal</i>	£ -
Off Street	2A / 5A (partly)	Haymarket to Murrayfield Underpass	John Graham (Dromore) Ltd	01 May 2011	17 September 2012	0.00	£ 82,633.00	£ -
	5 (S)	All Structures (only)	Expanded	01 May 2011	28 June 2012	0.00	£ 61,990.90	£ -
	5 (O)	All Other works (excl. structures)	Other Sub-Contractors	01 May 2011	28 November 2012	0.00	£ 22,121.00	£ -
	6	Depot Area	Barr Limited	01 May 2011	15 August 2011	0.00	£ 7,484.64	£ -
	7A / 5C (partly)	Depot to Edinburgh Airport	Farrans Ltd	01 May 2011	28 June 2012	0.00	£ 26,416.90	£ -
	Off Street	Traffic Management	Class One	01 May 2011	12 October 2012	0.00	£ 23,546.70	£ -
							<i>'Off Street' Subtotal</i>	£ -
							<i>Sub-Contractor Subtotal</i>	£ -
							TOTAL	£ -

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APPENDIX 3

Project Phoenix Proposal Drawings (PPP DRAWINGS)

The PPP Drawings cover the scope of work between the Airport and Haymarket (East end of Haymarket Viaduct), the Enabling works in Section 1A and work already executed in Sections 1B, 1C and 1D.

Refer to attached PPP Civil and Systems Drawings enclosed on CD's/DVD's