



Report
For
City of Edinburgh Council

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Edinburgh Tram – Scottish Water Commercial
City of Edinburgh Council

August 12

CEC02015794_0001

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Rev	Originator	Approved	Date
0.1	Richie Hales	-	25 th August 2012
0.2	Richie Hales	Gary Easton	4 th September 2012
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Introduction

The purpose of this account summary is to highlight the relevant positions with regards to the commercial settlement of the legacy Scottish Water Account.

This document should be read in conjunction with the calculations included in Appendix A.

The following was a summary of the positions of both Scottish Water and Edinburgh Trams as at the end of the meeting on the 19th July 2012:

- Edinburgh Tram's pragmatic position was that Scottish Water would be due a payment in the region of c. £1.2m to City of Edinburgh Council
- Scottish Water's position was that City of Edinburgh Council would be due a payment to Scottish Water of c. £3m

The following Sections refer to the Box numbers as shown in Appendix A.

Boxes 1, 2, 3, 4 and to a great extent 7 are the establishment of the base allowable cost upon which the calculations for Betterment, Deferment and Cost Share are carried out.

Box 5, 6, 7 and 8 calculate the actual allowances for Betterment, Deferment and Cost Share.

It should be noted that this position paper takes no account of exceptional works such as Grosvenor Street Sewer, where discussions between City of Edinburgh Council and Scottish Water on betterment / deferment of renewal are taking place.

Box 1 – Applied Rates to Measured Works

1.1 Overview

Tie Costs		
CUS Measured Works	4,923,000	Box 1

Whilst in the majority of cases the measured works account has been agreed there remains outstanding measured variations for which there is no item within the Carillion Utility Services' (CUS) contract Bill of Quantities.

Scottish Water (SW) are challenging the rates for some of these items put forward by Tie. This includes: ductile iron; 'PE' pipe work rates; and kerb re-installment.

1.2 Scottish Water Position

Scottish Water are applying, what they regard as, standard industry rates to measurable items for which there is no original bill item for within the CUS contract.

These standard rates are significantly below that put forward by Tie.

It should also be noted that this work type, of large scale multi-utility diversions within a dense urban environment is not a typical project.

1.3 Edinburgh Tram Position

In putting forward the costs to SW, Tie used the output from the final account agreement from CUS. In effect this is the actual incurred cost.

In calculating the variation cost, and as agreed in the CUS final account, Tie have calculated the measurable variations rates by the pro-rating the existing bill rates within the CUS contract where similar works exist. This follows the standard industry guidelines for variation agreement.

Tie did attempt to justify the rate put forward from first principles however this contained a number of errors.

However, as noted to Scottish Water, this justification is irrelevant as Edinburgh Tram believe that the variation valuation rules are clear.

Notwithstanding these rules, the New Roads & Street Works Act, which is the basis for establishing cost share in diversions, states that the cost to be included in the base costs for calculation should be "reasonable". Edinburgh Tram's opinion is that items which have been agreed through the basis of mediation, should be regarded as reasonable.

It is therefore felt that the position taken by Tie in this regards is fair and reasonable.

Box 2 – Applied Preliminaries

2.1 Overview

CUS Tender Prelims	2,028,672	Box 2
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As with the above, Scottish Water is challenging the actual costs put forward by Tie/CEC for CUS Preliminaries.

Tie based their output on the final account agreement in place with CUS however SW's position is that the agreement is above that which it would expect from its knowledge of the market.

2.2 Scottish Water Position

Scottish Water are applying the initial estimate rates for preliminaries when calculating final amounts due and ignoring the actual costs incurred.

The initial estimate figures were established by taking the CUS lump tender figure for Prelims over the tendered measured works amount to establish an applicable percentage uplift and take no account of any additional post tender preliminary cost which is over above that which would be recovered through additional measured works.

2.3 Edinburgh Tram Position

For the purposes of establishing a settlement figure Edinburgh Tram have followed the method put forward by SW.

However the amount due should be calculated on the actual cost (as noted in Box 1) and not the estimated cost. The actual cost is significantly above that position.

It should be noted that Tie were of the opinion that one of the main reasons for the delays encountered in the MUDFA contract was due to the utility companies not being able to identify the positions or condition of their assets in advance of the works.

Box 3 – Variations

3.1 Overview

CUS WORK SECTION Prelims	value inc above	Box 3
CUS Change Control	7,080,976	

This box refers to are non measurable variations to the MUDFA contract and include items such as additional traffic management, removal of central reserve throughout Leith Walk and archaeology watching brief. The value included within the calculations put forward by Tie was established according to the proportion of water / waste works within the CUS final account.

Works in relation to side entry manholes, which was not part of the original scope of works has also been included within this element.

For the above items, the calculations have only looked at including the Cost Share element i.e. 7.5%.

We believe that an argument could be put forward that some of these items should incur a proportion of the betterment cost however for the purposes of the establishing a settlement position this position has not been adopted.

In addition, the depot water main diversion for which deferment is applicable, has been assumed to be 100% reclaimable under the 3rd Party Agreement.

3.2 Scottish Water Position

Scottish Water have made no allowance for variations.

3.3 Edinburgh Tram Position

For the purposes of achieving a settlement we have included for items such as trial holes, archaeological works, A8 sewer diversion and side entry manholes (Items graded 1 and 2 on the variation schedule in Appendix B).

Whilst there may be valid claims (they were after all costs incurred by MUDFA as a consequence of carrying out the diversion works), we have not included labour escalations, sub-contract prolongation etc. (Graded 3 on the variation schedule) which Scottish Water would appear to have significant objections to. SW indicated at meeting on 5th June 12 that they knew they would have obligations to contribute to the variations.

In summary Edinburgh Trams have taken 7.5% of the items graded 1 & 2 and 100% of the depot water main.

Box 4 – MUDFA Works Carried Out By Others

4.1 Overview

These are MUDFA works which were not carried out by CUS. Contractors include: Farrans; Clancy Docwra; and Land Engineering.

Farrans Measured Works	674,273	Box 4
Clancy Docwra - Diversions 1A / 1C / 1D	1,795,896	
Barhale South Gyle Sewer	912,675	
Frontline - Side Entry Manholes	43,000	
Land Engineering - Side Entry Manholes	236,000	
Clancy Docwra - Abandonments	310,000	
BBS - 500mm twin crossing / Crawley Tunnel / Princes St.	500,000	

These contractors were appointed on an area by area basis following the breakdown of the CUS contract.

4.2 Scottish Water Position

Scottish Water have made allowances for works for which they believe they have the relevant paperwork, i.e. C9 Final Accounts. This is as per received up to March 2012.

They have made no other allowances.

4.3 Edinburgh Tram Position

Edinburgh Tram have detailed the works and the associated value for the diversion works for the non CUS works.

As at 18th July 2012, Scottish Water were in receipt, with the exception of Princes Street, of all account information with regards to the non CUS works.

An allowance has been made for Princes St, which is broadly in line with the information which Tie was able to obtain from BBS for the works.

There is no doubt that these works have been carried out and that Scottish Water were aware of them and therefore their inclusion in any agreement is both fair and reasonable.

Box 5 – Deferment of Renewal Calculations

5.1 Overview

Deferment of Renewal	5,242,910	Box 5
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This box refers to the Deferment of Renewal that Scottish Water is due CEC as a result of renewing its assets during diversionary works.

There is various legislation that is put in place regarding the movement / diversion of utilities where new roads, structures and tram works etc. In particular the New Roads and Street Works Act (NRSWA) was put in place.

This legislation is topped up to suit individual projects by additional agreements, which in the Edinburgh Tram project’s case is the 3rd Party Agreements which have been put in place.

The difference of opinion over which documents are in play has arisen due to the issue of an updated set of guidance notes in late 2010 which significantly changed the rules around which age of assets applies.

In addition the commonly referred Act of NRSWA does not apply to where works are not under a road, however, where this is the case, there is normally either a separate agreement put in place to allow the parties to agree a suitable way in establishing what, if any cost sharing agreement is in place for works.

5.2 Scottish Water Position

5.2.1 Applicable Act / Guidance

It is Scottish Water's position that the HAUC Code of Practice Advice Note 2010/01 applies.

The approximate impact of this position is in excess of £1m, although Scottish Water have not yet establish their actual financial position in this regard.

It should be noted that in compiling their position summary, it would appear that they have taken the view that the 2010 Advice Note does not apply.

5.2.2 Works Not Under a Road

Scottish Water's position is that as the works are not under a road, as per the requirements of NRSWA, then there is no entitlement to any Cost Share, Betterment or Deferment.

It should be noted that they did advise that, following our issue of our position, they were in consultation with their legal team regarding the validity of same. They have not provided any further update in this regard.

5.3 Edinburgh Tram Position

5.3.1 Applicable Act / Guidance

It is the Edinburgh Tram position that given that the 3rd Party Agreement was put in place mid 2005 and further more that original diversion works were substantially complete pre issue of Advice Note (Dec 2010), we believe that this document is not applicable.

There are numerous examples of where the introduction of new legislation or advice does not allow a party to be impacted by its introduction.

Further more if the account had been agreed at the time of the works being complete, this issue would not have arisen.

5.3.2 Works Not Under a Road

Whilst we are in full agreement that the NRSWA does not apply to works not under a road, we believe the 3rd Party Agreement in place between tie & Scottish Water puts in place a mechanism for valuing the works.

Clause 6.2 confirms the basis of measuring betterment and deferment where any of the Authorised Works are not major works for the purposes of the 2003 Regulations. This basis broadly follows the principles of agreement set out in the NRSWA regulations. It should be noted that there is no other reason for the Clause 6.2 being in place other than being where works are not under NRSWA, i.e. not under a road. An extract in Clause 6 has been included in Appendix D.

As an additional point, the Manual of Contract Documents for Highway Works (MCHW) Volume 6 notes that it’s generally accepted by utility providers that the principles of NRSWA are useful in agreeing the costs associated with any betterment of deferment of any diverted utilities in Greenfield areas.

In principle, why would it make any difference to the benefit gained from a new asset was paid for by the utility provider whether the works were in a road or not.

Box 6 – SW Direct Instructions

6.1 Overview

Advance Payment Discount	1,207,000	
CCTV Surveys outwith the DKE + 2	495,000	Box 6

This box refers to direct instructions given by Scottish Water to carry out works on their behalf.

6.2 Scottish Water Position

Scottish Water have made no allowance for variations.

6.3 Edinburgh Tram Position

There are a number of items where SW have directly instructed works on their behalf. For the purposes of establishing an agreement, Edinburgh Tram have included for the CCTV surveys out with the DKE +2m only however have included additional correspondence highlighting change in Appendix

The CCTV, as defined with the 3rd Party Agreement, was to be carried out within the DKE +2m only. SW requested that these surveys be carried out to allow establishment of both the location and condition of their assets.

Box 7 – SW SR06 Costs

7.1 Overview

Total SW SR06 Costs	3,526,177	Box 7
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This box relates to the costs incurred by Scottish Water carrying out their duties under the 3rd Party Agreement which is essentially a review of information, approvals and general watching brief.

Due to the fact that this cost is incurred as a result of diversionary works, the cost can be included within the overall cost of the works which allows both Deferment and Cost Share to be recovered.

The period SR06 covers 1st April 2006 to 1st April 2010.

The difference between SW and Edinburgh Tram has arisen due to the fluctuating nature of the information provided by SW.

7.2 Scottish Water Position

Scottish Water at the meeting dated 19th July 2012 issued what they considered their cost for SR06 period.

7.3 Edinburgh Tram Position

Tie based their original calculations based on a paper issued by SW in Aug 2011 which stated the SR06 costs.

SW have since revised this position on multiple separate occasions, with the last one being at the meeting dated 19th July 2012. Whilst we have received an updated accounts summary indicating this position, we are unable to actually reconcile this against actual resources employed.

For the purposes of our settlement proposals, and due to the fluctuations in the information being provided, we have included the cost as per notified in August 2011.

Box 8 – Payments made by Tie/CEC

8.1 Overview

Total Paid by tie to SW to date	375,000	Box 8
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Tie/CEC have made payments to SW totalling £375k. SW have verbally agreed with that position on a number of occasions but continue to issue calculations which show £325k.

Whilst no further work is required against this item, care should be taken when reviewing any figures from Scottish Water.

Appendix A – Calculation Summary Comparison

	SCOTTISH WATER POSITION AT 15th MARCH 2012		SCOTTISH WATER POSITION AT 5th JUNE 2012		Edinburgh Tram		
SR06							
Tie Costs							
CUS Measured Works		4,709,219	Based upon SW assessment of CUS final account	4,709,219	4,923,000	Box 1	
CUS Tender Prelims	11.6%	546,269		546,269	2,028,672	Box 2	
CUS Work Section Prelims	5.3%	249,589		249,589	value inc above		
CUS Change Control			No substantiation has been provided so unable to agree any value		7,080,976	Box 3	
Subtotal		5,505,077		5,505,077	14,032,648		
CUS Overheads & profit	8.8%	484,447		484,447	1,234,873		
Subtotal		5,989,524		5,989,524	15,267,521		
Farrans Measured Works		674,273		674,273	674,273		
Clancy Docwra - Diversions 1A / 1C / 1D		315,386		315,386	1,795,896		
Barhale South Gyle Sewer		747,806		747,806	912,675		
Frontline - Side Entry Manholes					43,000		
Land Engineering - Side Entry Manholes					236,000	Box 4	
Clancy Docwra - Abandonments					310,000		
BBS - 500mm twin crossing / Crawley Tunnel / Princes St.					500,000		
Subtotal		7,726,989		7,726,989	19,739,365		
SDS Design	5.0%	386,349		386,349	986,968		
Tie Overheads	11.0%	849,969		849,969	2,171,330		
Total Measured Works		8,963,307		8,963,307	22,897,663		
DoR	33.0%	2,671,631	Excluding South Gyle Sewer (no DoR on sewers)	33.0%	2,671,631	5,242,910	Box 5
Advance Payment Discount	7.5%	471,876		471,876	1,207,666		
CCTV Surveys outwith the DKE + 2					495,000	Box 6	
Total Payable by SW - Works		3,143,507		3,143,507	6,945,576		
Total Paid by SW to Date		3,010,817		3,010,817	3,010,817		
Residual to be paid by SW - Works		132,690		132,690	3,934,759		
SW SR06 Costs		7,867,864		7,867,864			
Debt							
Tie Payment 01		-1,885,817		-1,885,817			
Tie Payment 02		-1,125,000		-1,125,000			
Gogar Works		-48,607		-48,607			
TIE Accrual				-700,400			
Grade 3 Sewers				-326,405			
Deductions		-3,059,424		-4,086,229			
Total SW SR06 Costs		4,808,440		3,781,635	3,526,373	Box 7	
DoR	33.0%	1,586,785		1,247,940	1,217,892		
Advance Payment Discount	7.5%	241,624		190,027	354,477		
Total Payable by SW - Watching Brief		1,828,409		1,437,967	1,572,369		
Residual for Payment by Tie		2,980,031		2,343,668	1,954,004		
Total SW SR06 Liability		-2,847,341		-2,210,978	1,980,755		
Total Paid by Tie to SW to Date		325,000		325,000	375,000	Box 8	
Outstanding Liability		-2,522,341		-1,885,978	2,355,755		
SR10							
SW SR10 Costs to Date		1,129,529		2,039,142	1,129,529		
SW Forecast SR10 Costs to Complete			Based upon Completion in December 2014	2,796,400	1,525,686	Based upon SW completion Dec 2013	
Total SW SR10 Liability		3,389,028		4,835,542	2,655,215		
Total to be paid by SW to tie		-5,911,369		-6,721,520	-299,460		

SUMMARY

Total Payable by SW - Works	3,143,507		3,143,507	6,945,576	Deferment, Cost Share & Instruction Output from Boxes 1 to 6	
Total Payable by SW - Watching Brief	1,828,409		1,437,967	1,572,369	Deferment & Cost Share Output from Box 7	
Payments Made to Date by SW	-3,010,817		-3,010,817	-3,010,817	Agreed	
Payments Made to Date by CEC	325,000		325,000	375,000	SW agree to £375k	
SW SR06 Costs	-4,808,440		-3,781,635	3,526,373	Box 7	
SW SR10 Cost to Date (Oct 2011)	-1,129,529		-1,129,529	-1,129,529	Agreed	
SW SR10 Cost from Oct 2011 to May 2012	-2,259,499		-909,613	-884,471	Not part of legacy settlement	
SW SR10 Forecast Cost			-2,796,400	-941,215	Not part of legacy settlement	
Total to be paid by SW	-5,911,369	CEC due SW £5.9m	-6,721,520	299,460	CEC due SW £0.3m	
Liability to 1st Oct 2011	3,653,870	Legacy Settlement Agreement - CEC due SW £3.6m	3,015,507	Legacy Settlement Agreement - CEC due SW £3.0m	-1,226,222	Legacy Settlement Agreement - SW due CEC £1.2m
Liability post 1st Oct 2011	2,259,499		3,706,013		1,125,489	



Appendix B – Variation Summary Comparison

Item	Value	Proportion attributed to SW	Take Forward Value	SWs Latest on File Comment	T & T Comments	SWAB		
						A	B	C
Sewer CCTV Inspections	495,000.00	100%	495,000.00	SW maintain that these are covered by Clause 4.14 of the TIE/SW/CEC Agreement. TIEs provide copies of either letters, emails or Confirmation of Verbal Instructions requesting surveys.	Clause 4.4 refers to surveys within 100, 200, 300, 400 & 500m. These surveys refer to all properties situated in that area.	Taken forward to the summary sheet as full value		
Trial Holes in various locations throughout the route to facilitate the establishment of existing water services	445,883.52	36%	160,384.30	Trial holes were required to provide information on existing services then they are included with Clause 4.4 of the TIE/SW/CEC Agreement and are at TIE's cost.	SW have a responsibility under Clause 4.1 & 4.2 of the 3rd Party Agreement to provide all contemporary data relating to the presence and location of all buried and aboveground Apparatus within the limits of deviation and particularly focusing upon the BKE plus two metres on either side thereof. Trial holes were deemed necessary due to the non provision of that complete information from all utility providers.	160,384.30		
800mm water main diversion at Gagar Depot	1,838,000.00	100%	1,838,000.00	The original apparatus for the Gagar Main is not for a highway, street or road and therefore does not fall within the NSW Act sharing legislation and is a cost for TIE.	3rd Party Agreement includes for works not included under a road.	Taken forward to the summary sheet as Full value		
APB sewer diversion	1,792,924.00	100%	1,792,924.00	TIE to provide details		1,792,924.00		
Remove central reserve and kerb outcrop on Leith Walk to facilitate Traffic Management	161,500.00	36%	58,091.55	SW maintain that this is a kerb and making road and therefore covered under the original scope of works. TIE require substantiation for consideration by TIE. Substantiation to be provided will include correspondence between TIE and CUS, contemporaneous records of labour, plant, materials and sub-contractors utilised for the works and detailed reasoning as to why SW are liable for a share of the costs associated with these works.	The original scope of the works did include kerb removal and reinstatement (as noted in the BQs) however this was for measured works items and in local areas to suit the works. The claimed works relate to the complete removal of central reserve of Leith Walk to allow traffic management to be put in place.	58,091.55		
Hire of MASS barrier for TM	4,041,894.53	36%	374,769.46	Substantiation to be provided as to why this was not included in the original contract. Substantiation to be provided will include correspondence between TIE and CUS, contemporaneous records of labour, plant, materials and sub-contractors utilised for the works and detailed reasoning as to why SW are liable for a share of the costs associated with these works.	Works were part of the TM necessary to carry out the works. TM was greater than initially anticipated due to the amount of additional work associated with unknown services.	374,769.46		
Design of TM	183,198.50	36%	65,896.50	Substantiation to be provided as to why this was not included in the original contract. Substantiation to be provided will include correspondence between TIE and CUS, contemporaneous records of labour, plant, materials and sub-contractors utilised for the works and detailed reasoning as to why SW are liable for a share of the costs associated with these works.	Works were part of the TM necessary to carry out the works. TM was greater than initially anticipated due to the amount of additional work associated with unknown services.	65,896.50		
Provision of AMIS Insurance	70,883.51	36%	25,496.80	Why was the contract let without the inclusion of insurance provided by either the contractor or TIE on behalf of CUS.	The insurance provision cost would have been a cost to the project when it was included at contract award or not. Reasons for not being in contract are irrelevant.	25,496.80		
Archaeological works	124,562.40	36%	44,805.10	Agreement in principle. TIE to provide proposed cost share split between relevant parties prior to final acceptance	As per split noted	44,805.10		
Escalation of labour	144,769.52	36%	52,073.60	Quantum supplied. TIE to provide additional details of change control background to demonstrate why cost share to be considered by SW.	This is increase in costs for works due to delays. Works prolonged as a result of increased scope and lack of knowledge of proximity of apparatus.	52,073.60		
Prolongation of Sub-Contractors	130,000.00	36%	46,761.00	Quantum supplied. TIE to provide additional details of change control background to demonstrate why cost share to be considered by SW.	This is increase in costs for works due to inflation. Works prolonged as a result of increased scope and lack of knowledge of proximity of apparatus.	46,761.00		
Indexation	1,837,000.00	36%	660,768.90	Quantum supplied. TIE to provide additional details of change control background to demonstrate why cost share to be considered by SW.	This is increase in costs for works due to delays. Works prolonged as a result of increased scope and lack of knowledge of proximity of apparatus.	660,768.90		
Overheads	198,000.00	36%	71,220.60	Overheads are included as a fixed percentage relative to the measured works. Therefore SW deem overheads to be included in the measured works and applied uplifts no additional cost share relative to overheads to be considered by SW.	This is increase in costs for works due to delays. Works prolonged as a result of increased scope and lack of knowledge of proximity of apparatus.	71,220.60		
Logistics support	856,484.36	36%	308,077.42	Quantum supplied. TIE to provide additional details of change control background to demonstrate why cost share to be considered by SW.	This is increase in costs for works due to delays. Works prolonged as a result of increased scope and lack of knowledge of proximity of apparatus.	308,077.42		
August Embargo	56,225.99	36%	20,224.49	TIE have not provided SW with dates of their construction programme. Please provide details of the agreement to pay embargo costs to CUS and the timeline relative to embargos included in the original TIE / CUS contract and the establishment of those in addition.	This is increase in costs for works due to delays. Works prolonged as a result of increased scope and lack of knowledge of proximity of apparatus.	20,224.49		
Working of Non Productive Overtime	229,892.05	36%	82,670.59	TIE have not provided any details as to what this change control item relates to. Full substantiation and contemporaneous records to be provided	This is increase in costs for works due to delays. Works prolonged as a result of increased scope and lack of knowledge of proximity of apparatus.	82,670.59		
Works to meet Embargo restrictions including backfill of excavations / excavations that will require re-opening and demobilisation of affected sites	119,000.00	36%	42,804.30	TIE have not provided SW with dates of their construction programme. Please provide details of the agreement to pay embargo costs to CUS and the timeline relative to embargos included in the original TIE / CUS contract and the establishment of those in addition.	This is increase in costs for works due to delays. Works prolonged as a result of increased scope and lack of knowledge of proximity of apparatus.	42,804.30		
Additional TM works- New OB to Aug 09	227,000.00	36%	81,651.90	TIE require to provide detailed substantiation of variation for consideration by TIE. Substantiation to be provided will include correspondence between TIE and CUS, contemporaneous records of labour, plant, materials and sub-contractors utilised for the works and detailed reasoning as to why SW are liable for a share of the costs associated with these works	This is increase in costs for works due to delays. Works prolonged as a result of increased scope and lack of knowledge of proximity of apparatus.	81,651.90		
Gain Shale	1,025,858.4	36%	36,900.13	No allowance for Pain/Gain share detailed in TIE / CUS contract. Profit already resolved via fixed percentage relative to the measured works.	This is increase in costs for works due to delays. Works prolonged as a result of increased scope and lack of knowledge of proximity of apparatus.	36,900.13		
Hand digging	152,000.00	36%	54,674.40	Hand digging is included in the rates	Rates include for machine digging only.	54,674.40		
Side Entry Manholes	2,225,608.00	100%	2,225,608.00	No comments received		2,225,608.00		
						4,307,309.75	440,665.96	1,457,877.32

Appendix C – SW Instruction Examples

Tara Edgar

From: Nisarg Hirani [Nisarg.Hirani@scottishwatersolutions.co.uk]
Sent: 01 August 2007 13:36
To: Ian Clark
Cc: Tara Edgar
Subject: RE: SW Issues

Ian, my comments attached bellow in blue.

Thanks
Nisarg

Nisarg Hirani
Special Projects Manager
Capital Investment Delivery - Infrastructure
Scottish Water
Phone : 01506 [REDACTED]
Mob : [REDACTED]
Email : nisarg.hirani@scottishwatersolutions.co.uk

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

From: Ian Clark [mailto:Ian.Clark@tie.ltd.uk]
Sent: 01 August 2007 09:07
To: Nisarg Hirani
Cc: Tara Edgar
Subject: SW Issues

Nisarg,

Further to our various discussions and emails over the last couple of weeks I agreed to summarise what we believe are the outstanding responses and issues from Scottish Water;

1. Repair to manhole cover at MacDonald Road preventing completion of the sewer surveys.
SW work order has been raised to rectify, this will be carried out as soon as agreement has been reached with highways re traffic management. Allan Hill has already been informed about this.
2. Repair to MH9701 brickwork and reset of cover and frame preventing completion of sewer surveys.
SW work order has been raised to rectify. As works in Princess Street need to be carried out on a Sunday and due to the embargo on works in the city centre CEC will not allow works in Princess street to be carried out until after 4th Sep. Works has been programmed to be carried out on Sunday 9th Sep. Allan Hill has already been informed about this.
3. We have requested DAP/DAS information but have received no response to date.
Request received for Allan Hill on 26/07 and it was agreed that this will be on agenda for discussion 02/08 WW meeting @ MUDFA office.
4. The current working pressures in all the areas of proposed work. The priorities being 5A, 5B, 6, 1D but the rest need to follow.
Pressure info provided for section 6, SW is currently checking pressure for 5A/5B (by w/e 10/08) & 1D (by w/e 17/08), can you please give me programme for remaining work.
5. Confirmation that the use of the protectaline is acceptable for all but the 250mm DI at Ocean Drive – the information from the testing is recent.
Information received from Allan Hill 30/07. SW is currently reviewing information.

01/08/2007

CEC02015794_0017

6. Response from SW following the meeting with Ed Irvine and you regarding the Gogar Depot Diversion. I understood you were going to speak with your legal team and confirm your understanding of the diversion requirements.

SW will require existing twin main to be replaced with twin 800mm main. We can discuss issues regarding betterment (where existing 600 is to be upsized to 800 in next meeting on 02/08.

These are the main issues at the moment and I appreciate that some require a timescale. I requested on Monday that more than 1 hour be made available at the meeting on Thursday but I have had no reply. ***(Meeting time has been changed to 15:00 to 17:00 as requested)*** We are working on a number of design fronts and we will not be able to continue productively if we can only get one hour per week ***(SW has not fixed 1hr/week for TIE, time will be made available as required)***. I appreciate that the Scottish Water team have obligations outside of the Tram project.

Regards

Ian Clark
Project Manager
MUDFA

Western Harbour
Leith Docks
Edinburgh
EH6 6QF

Tel : 0
Mobile
Fax : 0

Email : Ian.Clark@tie.ltd.uk

From: John Flett (SWS) [mailto:John.Flett@scottishwatersolutions.co.uk]
Sent: 27 December 2007 14:21
To: Ian Clark; Ed Irvine; Steve Shuter
Subject: TIE SV larger casements 18/12/07 agreed

AM/JF/TIE SV CASEMENTS PAYMENT AGREED

Hello Ian

sorry Ian; trying to complete background facts ; however I understand it was agreed at the meeting between Gus and John on 18/12/07, that SW would pay for the larger covers

john

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

From: Ian Clark [mailto:Ian.Clark@tle.ltd.uk]
Sent: 17 December 2007 16:58
To: John Flett (SWS)
Cc: Ed Irvine; John Casserly
Subject: RE: TIE SV larger casements 28/11/07

John,

This response is what we received several months ago and we were assured the request for these works would be confirmed in writing. Scottish Water may determine that larger chambers are to be provided and under NRSWA this will be considered betterment. All we ask is that you acknowledge this request which was agreed with the previous SW Project Manager.

Regards

Ian Clark

From: John Flett (SWS) [mailto:John.Flett@scottishwatersolutions.co.uk]
Sent: 17 December 2007 16:36
To: Ian Clark
Cc: Ed Irvine
Subject: TIE SV larger casements 28/11/07

AM/JF/TIE SV CASEMENTS

Hello Ian

Further to your letter of 28/11/07, re larger SV chamber casements, I confirm that Scottish Water require these covers to be provided throughout the TIE contract, and I would be grateful if these could be provided.

I have still to establish the commercial aspects of this requirement and whether the SW spec clearly specifies this requirement. I note that whilst the generic spec shows drawing with 150 x150 cover, the text says, 'as determined by Water authority'

I will try and resolve < 17/01/08

Regards

John.

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Scottish Water

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postmaster@scottishwater.co.uk

CEC02015794_0020

Green, Janice

From: Kelly, Tom (Edinburgh Tram)
Sent: 29 March 2010 13:14
To: Shudall, Kate
Subject: FW: Drawings

Kate
See below from tie with regards producing drawings for Scottish Water.

Regards
Tom

-----Original Message-----
From: Sheena Smith [mailto:Sheena.Smith@tie.ltd.uk]
Sent: 25 March 2010 14:59
To: Kelly, Tom (Edinburgh Tram)
Subject: FW: Drawings

As discussed.

Sheena

Sheena Smith
Quality & Environmental Manager

Edinburgh Trams
9 Lochside Avenue
Edinburgh Park
Edinburgh EH12 9DJ

Tel: (+44) (0) [REDACTED]
Mobile: (+44) (0) [REDACTED]
Email: Sheena.Smith@tie.ltd.uk

Find us online (click below):

-----Original Message-----
From: Keith Robinson [mailto:Keith.Robinson@scottishwater.co.uk]
Sent: 01 March 2010 14:13
To: Sheena Smith
Cc: Kelly, Tom (Edinburgh Tram); Andrew Brown (Q.S)
Subject: Drawings

Sheena,

I confirm that unique Scottish Water "as built drawings" that I have asked you to instruct SDS to produce are requested work and as such Scottish Water will pay for their production and issue.

Scottish Water's site staff are now waiting for these drawings so will you please ask SDS to produce the remainder of these drawings as quickly as they possibly can.

It would also be beneficial to us if they could phase the issue these drawings with the following priority:

- 1 Complete Leith Walk
- 2 Haymarket Area
- 3 York Place to Princes Street
- 4 Ocean Terminal
- 5 Gogar

On completion of these areas I will prioritise the rest of the works.

Regards

Keith

Keith Robinson
Scottish Water ~ CID ~ Infrastructure
Phone: 01 [REDACTED]
Mobile: 07 [REDACTED]

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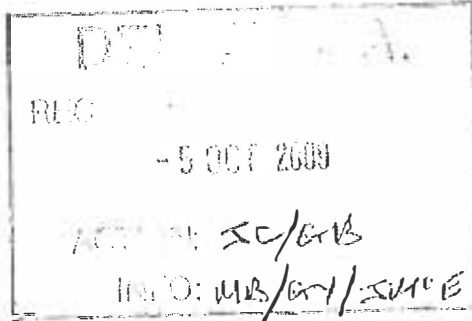
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29th September 2009



FAO Graeme Barclay
Tie Ltd.
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65 Haymarket Terrace
Edinburgh
EH12 5HD



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Alba Campus,
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W: www.scottishwater.co.uk

Your ref; handovers
Our ref; 33155/N 143

Dear Graeme

**TIE Edinburgh Tram Project
Manhole step irons**

I refer to the ongoing discussions between the parties regarding the provision of step irons in sewer manholes, and our investigations to ascertain the exact specification requirements at the time the agreement between the two parties was signed

In the absence of any clear information to substantiate either party's case, I confirm that SW would confirm that step irons/ladders must be fitted to all MHs which have been relocated and or amended by the tram works, and to move the matter to a conclusion SW propose that we agree to a 50/50 split on costs

Can you please progress re fitting of the outstanding metalwork asap

Yours Sincerely
For and on behalf of Scottish Water



John Flett
Project Manager

Cc James Poole; SW AIM



Appendix D – 3rd Party Agreement Extract

5.9 The parties agree that in the event that during the Advance Diversion Works the Framework Contractor uncovers equipment belonging to a statutory undertaker or other person which has not been previously referenced pursuant to clause 4, SW shall

5.9.1 assist the Framework Contractor in identifying the owner of such equipment;

5.9.2 attend the relevant site as required by the Framework Contractor; and

5.9.3 facilitate

5.9.3.1 obtaining any relevant approvals as may be necessarily required by the Framework Contractor; and

5.9.3.2 the production of any information reasonably required for a variation of the Advance Diversion Works

and that with a view to enabling the Framework Contractor to perform the Framework Contract to programme, SW accepting that it shall approach and perform its obligations under this clause 5.9 as if the uncovering of the equipment referred to above by the Framework Contractor is "emergency works" as defined in the 1991 Act.

6. COSTS, EXPENSES AND FINANCIAL CONTRIBUTIONS

6.1 The parties agree that, without limitation, the categories of Authorised Works listed in part 6 of the Schedule shall be 'major works' for the purposes of the 1991 Act and the 2003 Regulations.

6.2 In the event that any of the Authorised Works resulting in the Advance Diversion Works are not "major works" for the purposes of the 2003 Regulations, whether by agreement of the parties or otherwise:-

6.2.1 if Apparatus

6.2.1.1 of better type, of greater capacity or of greater dimensions is placed in substitution for existing Apparatus of worse type, of smaller capacity or of small dimensions except where this has been solely due to using the nearest currently available type; or

6.2.1.2 (whether existing Apparatus or Apparatus substituted for existing Apparatus) is placed at a depth greater than the depth at which the existing Apparatus was situated,

then if the placing of such Apparatus involves cost in the relocation of the Apparatus exceeding that which would have been involved if the Apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, SW shall pay to the Authorised Undertaker a sum equal to such excess cost, the parties agreeing to establish a mechanism for determining such excess costs; or

6.2.2 if the Advance Diversion Works include the installation of new Apparatus provided in substitution for Apparatus already in place for more than 1/20th of its stated design life prior to such installation so as to confer on SW any financial benefit by deferment of the time for renewal or refurbishment of the Apparatus in the ordinary course, SW shall pay to the Authorised Undertaker a sum representing that benefit as calculated in accordance with the Code.

6.3 The Authorised Undertaker shall pay to SW:

6.3.1 in connection with Advance Diversion Works relating to Apparatus situated in roads those costs, charges and expenses reasonably incurred by SW (including appropriate demonstrable third party costs) in carrying out its obligations under clause 4 and clause 5 of this Agreement which are recoverable by SW in pursuance of the 1991 Act and under clause 4 and clause 5

6.3.2 in connection with Advance Diversion Works relating to Apparatus which are not situated in a road, all reasonable expenses incurred by SW as a result of carrying out its obligations under clause 4 and clause 5 of this Agreement, such amount calculated at rates as may be agreed between the parties using suitable industry and discipline benchmarks and provided that SW demonstrates in advance to the satisfaction of the and the Authorised Undertaker that such expenses do not relate in any way to Advance Diversion Works relating to Apparatus situated in roads ; and