

Sandra Elgin

From: Alastair Maclean
Sent: 15 April 2011 16:01
To: Sue Bruce (Chief Executive)
Subject: Fwd: Draft letter to CEC regarding TEL/CEC Operating Agreement; CEC / tie Operating Agreement
Attachments: Vic Emery TEL letter 130411.docx; ATT741901.htm

This is the matter we discussed the other day.

If they seek approval you cannot give that without council approval as it would amend the tel operating agreement.

Realistically we are not likely to sue tel as it is a wholly owned company of CEC for a technical breach of the operating agreement so long as actual spend does not go over 545/546m. they should be able to take a reasonable commercial view of this.

A

Begin forwarded message:

From: "Carol Campbell" <Carol.Campbell@edinburgh.gov.uk>
Date: 15 April 2011 15:42:07 GMT+01:00
To: "Alastair Maclean" <Alastair.Maclean@edinburgh.gov.uk>
Subject: Fwd: Draft letter to CEC regarding TEL/CEC Operating Agreement; CEC / tie Operating Agreement

Sent from my iPhone

Begin forwarded message:

From: Steven Bell <Steven.Bell@tie.ltd.uk>
Date: 15 April 2011 15:12:49 GMT+01:00
To: Carol Campbell <Carol.Campbell@edinburgh.gov.uk>
Cc: Nick Smith <Nick.Smith@edinburgh.gov.uk>, Alan Coyle <Alan.Coyle@tie.ltd.uk>
Subject: Draft letter to CEC regarding TEL/CEC Operating Agreement; CEC / tie Operating Agreement

Carol,

I know you are busy on MOV matters today, but in Nick's absence, I would appreciate a discussion on the attached draft document before it is finalised. It was discussed at the Tram Project Board and Vic Emery took the action to write to CEC on behalf of TEL.

18/04/2011

CEC02087172_0001

Donald and Dave were in attendance at the Board and promoted and supported this approach.

Can you give me a call to discuss when you are available.

Regards

Steven

Steven Bell

Project Director

Edinburgh Trams

Citypoint

65 Haymarket Terrace

Edinburgh

EH12 5HD

Tel: [REDACTED]

Mobile: [REDACTED]

Email: steven.bell@tie.ltd.uk

Find us online (click below):

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For the Attention of Dave Anderson – Senior Responsible Officer (SRO) – Edinburgh Tram Project
 CC: Sue Bruce; Donald McGougan; Richard Jeffrey

Dear Mr Anderson,

FUNDING AGREEMENT AND DELEGATED AUTHORITY

We refer to the letters from Brian Cox (interim Chairman of TEL/TPB) to Marshall Poulton (TMO) on 17th and 18th January 2011 (Reference: INFCORR7150/BC & INFCORR7152/BC) and the letter from Marshall Poulton to Brian Cox on 27th January 2011 (Reference: SS1)

On behalf of TEL and authorities delegated by TEL to the TPB, it is my obligation to inform you under clauses 2.22 and 2.24 of the TEL/CEC Operating agreement of all “matters affecting the programme, cost and scope of the project”.

We are now at the point where the Council is likely to breach the terms of its funding agreement (clause 2.5 CEC/tie Operating Agreement).

At the last TPB on 13th April 2011 it was reported that spend on the Edinburgh Tram Project is now £411.5m to the end of Period 13, 2010/11. The value of budget contingency remaining available to drawdown as at the end of Period 13–2010/11 was £2.8m* following the approval of the Staff PM/DRP change paper (-£2.5m) submitted to the FCL and TPB. See table below:

Funding Summary - P13 - 2010/11	<u>£k</u>	<u>actual - £k</u>	<u>forecast - £k</u>
<u>Risk/ Funding Summary</u>		<u>(P13 - 2010/11)</u>	<u>(P1 - 2011/12)</u>
Original QRA Risk	30,336		
Further Funding Approved (TPB)	32,983		
Uncommitted Budgets 'on hold'	12,690		
Additional +£1m per TEL/CEC MOU	1,000		
Total Risk/ uncommitted funding		77,009	
<u>Drawn Down</u>			
Risk drawn down to end Period 12		-71,194	
Risk remaining start Period 13 - 2010/11		5,815	
Risk drawn down in Period 13		-517	
Risk remaining start Period 1 - 2011/12			5,299
Change Paper (PM Staff Costs/ DRP)			-2,476
Risk remaining end Period 1 - 2011/12			2,823

* including the provision of the +£1m funding variance allowed in the TEL/CEC Memorandum of Understanding over and above the original funding cap of £545m for the ETP

The management of TEL and tie will continue to minimise additional funding commitments and we are reviewing expenditure on an ongoing basis. In the last period we have reviewed our contracting resource in full, and reduced headcount by seven during March-11. Further reductions are being implemented. Despite this, the available funding of £2.8m remaining to draw down against is now under pressure. We have exhausted the majority of the £12.69m of Uncommitted budgets put ‘on

hold' in January, and we now anticipate that we will have committed any residual funding within the current delegated limits before the end of May 2011.

In terms of the CEC/TEL and CEC/tie Operating Agreements, TEL and tie are unable to make any further commitments without a change in the authorised and delegated funding from CEC.

I request an increase in TEL's delegated authority to make financial commitments exceeding the £546m in the TEL/CEC Operating Agreement and MOU.

Yours sincerely,

Vic Emery
Chairman - TEL