

Bilfinger Berger--Siemens-- CAF
Consortium

Our ref: 25.1.201/WIM/3430

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04 September 2009

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tie limited
CityPoint
65 Haymarket Terrace
Edinburgh
EH12 5HD

For the attention of Steven Bell -- Tram Project Director

Dear Sirs,

**Edinburgh Trams Network Infraco
Notice of Dispute
INTC No. 429 - Delays Arising From MUDFA Programme Revision 8**

By Infraco Notice of tie Change No. 429 dated 08 July 2009 (ref. 25.1.201/MRH/3016) Infraco notified that tie's failure to procure the completion of the Utility Works in accordance with the Infraco Programme, as evidenced by the MUDFA Programme Revision 8, constituted a Notified Departure. This Notified Departure, based on, inter alia, the current facts and circumstances differing from Pricing Assumption 24, is a deemed Mandatory tie Change.

The extent of tie's failure, and the likely impact upon the Infraco Works, became apparent with the delivery by tie to Infraco of the MUDFA Programme Revision 8. INTC 429 proceeds on the basis of the delays indicated by MUDFA Programme Revision 8 and does not take account of any subsequent MUDFA Contractor delays.

Infraco provided tie with the Estimate in respect of the deemed Mandatory tie Change on 06 August 2009 (Ref. 25.1.201/WIM/3230). Infraco's Estimate addressed the delay consequences of the Mandatory tie Change and proposed that the details of the increase in the sums to be paid to Infraco be submitted following agreement of the extension of time applicable to each of the Planned Sectional Completion Dates. tie agreed to this proposal by their letter dated 17 August 2009 (ref. INF CORR 2050).

The likely impact of tie's failure to procure the completion of the Utility Works has been under discussion between Infraco and tie for many months. In late 2008, the senior management of both Parties agreed to jointly analyse all forms of delay impacting the project completion dates. The aim was to produce a revised Programme (Revision 2). No agreement has yet been reached. However, tie is fully aware of all programming analysis and facts relating to such delays. Infraco's request for an extension of time as part of INTC 429 proceeds on the same basis.

On 28 August 2009 (ref. INF CORR 2116/SC), tie responded to Infraco's request for an extension of time in connection with INTC 429 by alleging that the position presented did not deliver tie with the most cost effective option, and further identified six 'opportunities' for inclusion in the Estimate.

In the meeting dated 03 September 2009, Infraco explained that each of the 'opportunities' identified by tie constituted acceleration, and that notwithstanding the absence of a requirement for Infraco to incorporate acceleration measures in the Estimate pursuant to Clause 80, further

analysis of acceleration measures would a) further and unnecessarily protract the agreement of the Estimate; b) be a largely redundant exercise given that many activities are subject to change outwith the cause and effect of this INTC, and c) acceleration could be instructed by tie via separate process once the mitigated position had been agreed.

tie maintained that they required acceleration measures should be incorporated in the analysis and that the extension of time element of the Estimate would not be agreed otherwise.

It is apparent that the parties cannot agree the contents of the Estimate, and we therefore give notice pursuant to Clause 111 of the Infraco Contract and paragraph 9.1 of Schedule Part 9 that we hereby initiate the Internal Dispute Resolution Procedure in respect of the Dispute. The matters we hereby refer to the Dispute Resolution Procedure are:

1. is Infraco entitled to:
 - i. the quantum of extensions of time to the Planned Sectional Completion Dates in the Estimate provided under cover dated 06 August 2009 (ref: 25.1.201/WIM/3230), or;
 - ii. such other extensions as may be agreed or determined, and if so, in what quantum?

In accordance with Clause 111.1.2.2 this letter is being faxed to tie at the required address, and tie's Representative is requested to attend a meeting to resolve this dispute at the Infraco offices on Wednesday, 09 September 2009 in accordance with paragraph 9 of Schedule Part 9 to the Infraco Contract.

Yours faithfully


M Foerder
Project Director
Bilfinger Berger Siemens CAF Consortium

cc: R. Walker – Bilfinger Berger
Michael Flynn – Siemens
A. Campos – CAF
M Berrozpe – Siemens
A. Uriza – CAF