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**From:** Alan Coyle  
**Sent:** 05 January 2010 11:05  
**To:** Nick Smith; Andy Conway; Ailie Wilson; Gill Lindsay; Marshall Poulton  
**Subject:** RE: Tram

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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Happy New Year all !

Further to Nick's email on strategic options I think realistically the options we have are;

1. Continue the current fight with BSC, hoping that negotiations over the next 2 months yield an agreed and affordable programme. Unless there is a radical change in the BSC view for on-street agreements, for example, the cost exposure for this item could be very significant and potentially unaffordable. Also BSC's current average work rate means the project would take 15 years to construct so a significant improvement in productivity would be required.
2. De-scope BSC's contract so they only complete the Airport to Haymarket section, letting small package contracts for the remaining on street works, thus having greater control. Retention of Siemens for systems work would be advantageous. Funding would dictate the scope that could be delivered on street. The TIF may be a possibility for funding some of this work.

I am meeting Stewart this afternoon to plan the plan for how we tackle this over the next two months. We will need to continue discussions with BSC on a contractually agreed programme and on-street agreements with the deadline for an agreed programme at the end of February. In the meantime the contingency planning work will need serious attention so that we have a plan B should we not agree the programme.

I would imagine it will emerge over the next couple of weeks how negotiations are going with BSC. If there is still an impasse I would think the de-scoping discussion could be introduced to the discussions.

Once I've spoken to Stewart I think it would be useful to get together to chat this through.

Regards

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**From:** Nick Smith  
**Sent:** 24 December 2009 13:00  
**To:** Andy Conway; Alan Coyle; Ailie Wilson; Gill Lindsay  
**Subject:** Tram

Options Issues

Strictly between the recipients to this email and for discussion in the New Year I was marshalling my thoughts and I foresee the following critical issues:

- In short, there appear to be few VE opportunities available and even fewer capable of actual conversion.
- Truncation to the West is not possible for political and practical reasons.
- Truncation to the East is possible. However, termination before OT is unlikely practical for political reasons and links to eg TIF development. In addition, cost savings of even massive truncation may still not deliver enough savings to deliver within available funding and would have a huge impact on the benefit cost ratio for the project.
- We need to get updated DLA view, but likely that BSC behaviour is insufficient to constitute fundamental breach of contract and termination being justified on this basis. Would likely be fought through courts by BB.
- Termination under contract is therefore only really viable through tie default (reputationally difficult and expensive) or by negotiation. Both will likely give rise to significant costs to tie/CEC to enable the exit to take place and still leave a financial black hole for project completion.
- Once BB (or consortium?) are off the pitch by whatever means then there is no contractor in place to build the tram for a period at least and issues surrounding getting a new contractor would arise (eg re-tendering requirement etc). Reputationally for the Council this is a major issue.

As I see it the options available are:

- Continue with status quo, essentially paying BSC what they demand. This would require Council buy-in and finding the cash over £545m. Not attractive given past behaviour and the now lengthy list of risks we identified a week or two ago.
- Somehow use TIF to fund line 1A. This may sort funding issues but will not resolve contractor delivery and behaviour issues.
- Engineer negotiated BB or BSC exit and start with new provider. Timing and cost issues, as well as reputational damage. Should be aligned to a time where minimal costs would be incurred - eg before lots of subbies employed.

If ever there was a case of rock and hard place.....

Sorry for the misery dissemination, but I had some time this morning and at least it will give us a starting point.

Kind regards

Nick

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*Please note that I am not in the office on a Monday*