
From: Donald McGougan
Sent: 13 August 2009 17:22
To: Alan Coyle; Ailie Wilson
Subject: FW: Message from Richard Jeffrey to the Board members - Private & Confidential

Importance: High
Sensitivity: Confidential

From: Julie Thompson [<mailto:Julie.Thompson@tie.ltd.uk>]
Sent: 13 August 2009 17:01
To: Brian Cox; Kenneth.Hogg@scotland.gsi.gov.uk; Strachan, Peter; Perkins, Carol; Gordon Mackenzie; Phil Wheeler; Allan Jackson; Ian Perry; david_mackay@t
Cc: Dave Anderson; Marshall Poulton; wwcampbell@lothianbuses.co.uk; Steven Bell; Stewart McGarrity; Donald McGougan; Graeme Bissett (external contact); Alastair Richards - TEL
Subject: Message from Richard Jeffrey to the Board members - Private & Confidential
Importance: High
Sensitivity: Confidential

Dear Board Member

I thought it would be useful to advise you of the significant developments in our relationship with BSC.

On Friday, BSC wrote to us confirming that they were not prepared to start work in Shandwick Place (due to start at the end of August) unless we changed all remaining on-street works onto a cost plus arrangement. My starting position is, of course, that they should continue these works under the existing contract but failing that I have offered them the option to complete all remaining on-street works under a revised version of the Princes Street Supplemental Agreement. They have rejected these options arguing that both the existing contract and the Princes Street Supplemental Agreement are unworkable and that the only workable option is cost plus on all the on-street works.

This is entirely consistent with all the conversations we have had with them, where they are constantly trying to undermine and frustrate the operation of the contract.

I believe that moving to a cost plus arrangement fundamentally changes the nature of the risks that BSC have contracted to carry and would be commercially highly inadvisable for us.

I believe we should strongly resist any move towards a cost plus agreement and that we are, therefore, heading for another stand-off as we had in February.

There are significant differences between now and the time of the Princes Street stand-off in February in that we have much greater control over the timing and the nature of the dispute. For example, as agreed with the Board, we have started the contractual process against BSC (the first letters were issued Tuesday) and I believe we have properly galvanised our stakeholders support for our position. The feedback that I have had from stakeholders so far has been universally supportive. The risk of course remains that this dispute spills over into Princes Street but so far we feel that this risk is small. I had a meeting with BSC on Tuesday which I left them in no doubt as to the strength of feeling and the robustness of our position.

These latest developments raise the temperature even more, and of course mean any predictions of ultimate cost and completion dates inevitably have a higher degree of uncertainty than they would have under more benign circumstances.

I will of course keep you updated as the situation evolves.

Regards

Richard

PS – after taking further legal advice we have reluctantly decided to pay the £3.2m, but we have done so under protest.

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