

Critical Contractual Decisions to enable Chief Executive to use delegated powers to approve tie to sign the contract with BBS					
Item	Issue	Description	tie Final Deal Countdown List Item Dated 14 Jan 2008	Status	Anticipated Completion Date
1	Contract	1.1 a) Novation agreement ready to be signed off - CAF	1.4	Ongoing - reported to be progressing well (Draft letter from DLA has been provided stating novation is in agreed form with intent to execute)	11-Feb
		b) Novation agreement ready to be signed off - SDS	1.3	2 issues remain outstanding (PCG's and LD's) in relation to SDS Novation. Letter required from DLA to ensure alignment.	14-Feb
		1.2 CEC Guarantee agreed with BBS and ready to sign off	2.1	Need confirmation that Infraco and Grant Award Letter are aligned. Confirmation letter required from DLA	
		1.3 Due Diligence on approvals for Infraco & Tramco (post notification)	8.4	This will be completed immediately before contract award. Letter required from tie confirming due diligence is complete and they are satisfied with outcome. CEC request letter from German and Spanish Lawyers with to confirm satisfaction with due diligence	
		1.4 a) Operating Agreement - tie	4.1	tie operating agreement agreed. This will be engrossed and held for execution at a later date.	04-Feb
		b) Operating Agreement - TEL	4.2	TEL Interim operating agreement agreed. This will be engrossed and held for execution at a later date.	11-Feb
		1.5 DLA supportive letter with risk matrices	5.2	To include confirmation re consents issue and alignment of Infraco/CEC guarantee. 14th December Matrix requires to be updated. Letter from DLA stating we have the best deal possible with warning of any caveats.	14-Feb
		1.6 OCIP exclusions	9.4	Report available for review by CEC. Presentation on OCIP given to CEC Officers on 5th February. DLA opinion required on Economic loss issue. Outstanding Insurance issues to be closed out.	
		1.7 tie to provide a list of what is not included within the BBS contract (i.e. the items which BBS have specifically excluded) with a financial value against each item.	5.3	Status unknown tie yet to provide	11-Feb
2	Programme	2.1 Confirm dates for 1a and 1b	5.7	Complete	

		2.2	Agreement of On-street Construction Methodology	1.11	Statement provided by tie to give comfort to CEC that the programme is consistent with the constraints. Consequential impact of guided busway to be taken by CEC.	
		2.3	Mudfa - risks related to Infraco	5.5	MUDFA programme v6 is incorporated into BBS programme. Statement on QRA and what the allowance for slippage is in regard to MUDFA.	
3	Employers Requirements	3.1	Summary to CEC of Employers' Requirements, including detailed scope of the Tram Works with endorsement from DLA. The ER is a key part of the overall contract which sets compliance standards of the tram works. BBS have been given version 2.4 to price. BBS have responded to this with variations, this may be a lowering of standards to keep the price level below the net £498m e.g CCTV specification. tie to produce a list of variations that they are minded to accept from version 2.4, with a justification for the variation with TELs comments, and also to give assurances that what is proposed to accept as a variation is in all cases "fit for purpose" both in term of price and quality.	1.5/5.6	Final presentation required on version 3.2 to highlight contractual implications. Letter from DLA required to confirm alignment between contract and ER's and also any additional risk exposure.	13-Feb
4	Due Diligence	4.1	Statement from the Preferred Bidder that they accept the performance run-time model and "law of physics" results and confirmation of acceptance of the emerging quality of design.	8.2	Awaiting Confirmation. Response due from BBs on 1st Feb. Confirmation required on whether CAF are providing a warranty covering compliance with the DKE	01-Feb
5	Risk	5.1	Full transparency of QRA	5.3	QRA updated for meeting with tie on 4th March. Explanation given on changes in QRA - tie have provided a written statement that they are satisfied that the drop from £50m to £30m is enough cover.	14-Feb
		5.2	(a) Black flag risks: Provide a list of these items and what is the likelihood of any of these risks occurring? What is tie's strategy to avoid said risks materialising? What is the cost of exiting from a Black Flag item? (b) Details of the risk management strategy for the key risks through delivery. (c) Detailed analysis of programme risk. Confirmation of the risk allowance for programme delay. Detail of items on critical path and what is being done to ensure they do not cause (further) delay.	5.3	Costs relating to project cancellation pre and post financial close have been provided by Stewart McGarrity	
				5.3	Draft report available covering this, Susan Clark to provide	
				5.3	Confirmation of programme delay	13-Feb
		5.3	Tie written statement to CEC on risks as at 25 October 2007 compared to immediately post contract award.	5.3	Spreadsheet provided by Stewart McGarrity highlights changes in QRA from October to Financial Close	14-Feb
		5.4	Risk Register needs to be updated to include the potential risks and knock-on effects of prior and technical approvals not having being obtained prior to Financial Close. This is linked to 9.2.		Risk allowance of £3.3m in QRA for this issue. Assurance from Stewart McGarrity that this allowance along with the management procedures in place are enough to mitigate	
6	Value Engineering	6.1	VE summary included in the final deal and highlighting other potential savings with a probability value	5.8	tie to provide	13-Feb
7	Pricing & Funding	7.1	The Council requires a detailed analysis of prices, costs and risks allowance. tie required to explain how prices for maintenance, etc. impact on operating cost assumptions	1.9/5.8	Draft close report will be updated - current version Jan 08 Graeme Bisset to update	13-Feb

		7.2	Cross refer to item 1 above re exclusions from contract by BBS.	1.9/5.8	Draft close report will be updated - current version Jan 08 Graeme Bisset to update	13-Feb
		7.3	Statement on % of costs fixed and % outstanding as provisional sums with programme for moving these to fixed costs	1.9/5.8	Draft close report will be updated - current version Jan 08 Graeme Bisset to update	13-Feb
		7.4	What design version was the BBS contract priced against and what changes have subsequently taken place		Draft close report will be updated - current version Jan 08 Graeme Bisset to update	13-Feb
		7.5	Cost per week of not signing contract on time to be estimated by tie		Draft close report will be updated - current version Jan 08 Graeme Bisset to update	13-Feb
		7.6	Does the Infracore contract allow BBS to pre purchase material and equipment prior to design approval? If so how is CEC protected if such materials do not meet CEC approval.		Stewart Mc Garrity to provide statement on Advance Purchase and commercial reasons for Advance purchase. tie to ensure bond in place with CAF to cover advance material purchase.	
8	Network Rail	8.1	PPA		Amendments agreed in principle -need actual words in document	
		8.2	Framework Agreement		Latest NR amends 04/03 retracting bridge wording	
	Update/Approval required on all NR documents listed	8.3	APA		Signed	
		8.4	Neighbourhood Agreement			
		8.5	Lease			
		8.6	Bridge Agreement		Draft now available - check access agreement post construction	
		8.7	Haymarket Depot Car Park		Agreed Text	
		8.8	Servitudes incl Balgreen and Haymarket		With CEC to sign	
		8.10	Lift & Shift			
		8.11	Immunisation		Agreed Text	
		8.12	Station & Depot Change		Awaiting confirmation from NR on taxi rank.	
		8.13	Oil Tanks		Programming Issue. NR programme being negotiated with BBS. tie looking for relaxation on FS rule on only single contractors having access to their site.	
		8.14	Operating Agreement		Needs to accelerate and become substantially complete	
9	SDS Assurances	9.1	Full written explanation of SDS Novation to be provided by tie, including risks of failing to deliver design	1.4	Awaiting Draft	01-Feb

		9.2 Full details are required from tie on status and degree of completion of SDS design work.	1.4	Programme now agreed	01-Feb
		9.3 tie to provide written report on previous claim settlement with SDS identifying details, cause of claim and costs of settlement. Are any further claims expected from SDS ? Are any further claims from SDS competent	1.4	tie to provide	01-Feb
10	Funding Letter	10.1 Funding terms to be agreed with CEC and TS	2.2	Complete - CEC Finance to provide copy of signed Grant Letter to Susan Clark and Colin MacKenzie	
11	Third Party Agreements	11.1 Status report on third party agreements	5.9	Closure of West Craigs access and Gyle Licence required	13-Feb
		11.2 Disclosure list and acceptance of these by BBS	5.9	In close report	
		11.3 Status of Telewest and SP agreement and when req.	5.9	Awaiting signed documents	
		11.4 Forth Ports agreement and risk of not having this in place	5.9	Cost Delta's of base costs at Lindsay Road and technical issues outstanding.	13-Feb
		11.5 BAA		Now signed by CEC,BAA and tie.	
		11.6 SRU		Working well towards signature.	
12	Licence between CEC and tie	12.1 To be concluded before financial close	3.3	CEC to ensure tie have signed licence by 1st Feb.	28-Jan
13	Land Acquisition	13.1 Statement of land acquisitions	5.10	In close report	
		13.2 Confirmation that GVD completed	5.10	In close report	
		13.3 Confirmation of match between what land has been acquired by CEC matching BBS requirements	5.10	Statement required from tie to confirm this issue	

Other Issues

Issue re protection re advance purchase of steel to be added to 1.6 in tie list.

7.1 – 7.5 inclusive in tie's list to be moved to Section 3.

Street traders issue to be added to Section 3.