
From: Colin MacKenzie
Sent: 15 April 2008 12:07
To: Alan Coyle
Cc: Andy Conway; Gill Lindsay; Nick Smith; Rebecca Andrew
Subject: RE: EDINBURGH TRAM: REPORT TO COUNCIL 1 MAY

Alan,

Thanks. I agree that this matter should be discussed tomorrow at IPG.

Regards,

Colin MacKenzie
for Council Solicitor

From: Alan Coyle
Sent: 15 April 2008 10:08
To: Colin MacKenzie
Cc: Andy Conway; Gill Lindsay; Nick Smith; Rebecca Andrew
Subject: RE: EDINBURGH TRAM: REPORT TO COUNCIL 1 MAY

Colin

I agree with your comments, however, I suspect the situation with the report will not change unless there is will from Dave A, Donald to change the content. Perhaps IPG tomorrow could be a forum for this discussion.

Regards
Alan

From: Colin MacKenzie
Sent: 14 April 2008 13:02
To: Andy Conway; Alan Coyle
Cc: Gill Lindsay; Rebecca Andrew; Nick Smith; Chris Highcock
Subject: EDINBURGH TRAM: REPORT TO COUNCIL 1 MAY
Importance: High

Andy and Alan,

I have considered the draft report prepared for Council on 1 May which has been circulated by Chris Highcock for comment.

It will come as no surprise to you that I have an over-riding concern about the purpose of this report. As we all appreciate, Financial Close has not been reached as of today's date, and it may be another week before this is achieved. On the other hand, finalisation of the Council report must be on or before 23/24 April.

Members have received no formal update on the Tram Project since 20 December 2007 when they approved the Final Business Case and delegated authority to the Chief Executive to allow **tie** to award the contracts, subject to various conditions. This is likely to be the biggest single project in terms of value that the Council is involved in for the foreseeable future, even though its role is as guarantor in respect of **tie's** financial obligations. In my view, given the various changes which have emerged since December 2007, it would be prudent and proper to report again to members before Financial Close is authorised.

I do not need to rehearse in detail with you the changes to the FBC since December 2007, other than to identify the new final estimate of £508 million; a four month delay to the revenue operating date; and continuing concern over the risks to the Council arising from the SDS programme. **tie** also acknowledge the changes to FBC when suggesting that the Operating Agreements (for TEL and **tie**) now need to be changed.

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As recently as last Thursday we had the extraordinary emergence of the Russell Road Bridge Prior and Technical Approval situation. I understand that the potential risks to the Council as Promoter could amount to an additional £2 million in a worst case scenario, although it was generally agreed this morning in discussion with Planning colleagues that the risk is not so great now.

All of these matters lead me to conclude that it would be inadvisable for the Chief Executive to exercise his delegated authority in favour of **tie** when we are so close to a Council meeting. I believe there is nothing to lose by holding back the exercise of his authority pending a final update report to Council on 1 May with a transparent statement of changes to the vital elements of the FBC. I have no difficulty with a recommendation, on the updated information, that Financial Close be pursued immediately after Council approval.

There may be points of detail in the draft report which require to be addressed later, but I thought it appropriate to mention the substantive issue at this stage.

I look forward to hearing from you in early course.