

## Edinburgh Tram Project

### SUMMARY OF RISK TRANSFER POSITION

By award of the Infraco contract in October 2007 a number of the current risks will have passed. The key risks that will be retained by the public sector (practically CEC) will be:-

- Changes to the scope of the work to deliver the Edinburgh Tram Network specified by tie (effectively CEC)
- Changes to junction priority that are specified to achieve the stipulated run time.
- Any financial liabilities over and above the contract cap levels – The cap level is likely to be around 10% of the contract sum – a liability of circa £26m. In the event that caps are breached or likely to be breached then tie would have the right to terminate the contract. This effectively limits the contractor's responsibility for the Employer's cost of delays or other performance failure. The contractor remains responsible for his own additional costs and those of his sub contractors. This together with the magnitude of the liability cap means that the Infraco contractor remains incentivised to perform.
- Delays to commencement of Infraco works due to delay in completing utility diversions (primarily MUDFA works).
- Delays to commencement of Infraco works due to TROs not being in place (other than where this is due to some failure on the part of the contractor to provide the necessary information)
- Delays to commencement of works due to Prior Approvals not being in place (other than where this is due to some failure on the part of the contractor to provide the necessary information)
- Cost increases due to changes to the scope and design required by tie (effectively CEC)
- Increases in the cost of utility diversions due to finalisation of or changes to the scope. The MUDFA contract is effectively a remeasurement contract.
- Delays to work due to Act of God type events (contractually force majeure events)

A more detailed commentary on the allocation of risk is contained in the Draft Final Business Case – Section 10.

The above represents the anticipated position once tender evaluation and negotiations with Infraco have been concluded.