

COMMERCIAL PROPOSALS FOR TRANSITION PERIOD FROM PRE-CONSTRUCTION SERVICES TO CONSTRUCTION SERVICES.

1. The parties (MUDFA Contractor and **tie**) agree that as a consequence of delays in the release to the MUDFA Contractor of the design for the MUDFA utility diversions a proportionate delay to the commencement of the Construction Services (CS) under the MUDFA Agreement is necessitated.
2. The MUDFA Agreement anticipates and accommodates a delay to completion of the Pre-Construction Services (PCS), and, at clause 8.6, sets out the procedure to be adopted by the parties in the event that the PCS have not been carried out completely during the term of the Pre-Construction Phase, namely that the PCS can be extended until such time as the PCS are completed and that some or all of the Construction Services (CS) and Construction Works are commenced.
3. At a meeting held in the MUDFA site office conference room on Thursday 15th March 2007 the parties agreed that a phased transition (with consequential stepped increases in resources - from both tie and MUDFA Contractor) is now needed rather than the distinct completion of the PCS phase and commencement of CS Phase. It is anticipated that the phased transition period will run from the 1st April 2007 until the 6th July 2007, based on CS Phase commencing 9th July 2007.
4. As required by **tie** Limited in their letter reference DEL.MUDFA.274.RD.GB dated 3rd April 2007, the MUDFA Contractor has provided their revised Construction Programme at Revision 05 under cover of letter dated 18th April 2007, reference AMIS/tie/Letter/AM/Projects/176.

This programme will now be updated to include the npreconstruction services and preparatory activities in respect of each work section.

5. In relation to this agreement the following commercial arrangements are adopted

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to End Construction Services

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- i) That the MUDFA Contractor proposes their Contract Preliminaries on a time based schedule of resources required to meet the obligations of the programme prepared in accordance with point 4 above.
- ii) That the rates used to price the Contract Preliminaries derived in item (i) above are either those used in the PCS to arrive at the Schedule 4 Appendix A prices in the MUDFA Agreement or those used to calculate the Contract Preliminaries at Schedule 4 Appendix C as appropriate. During the transition period between 1st April 2007 and 6th July 2007 Contract Preliminaries will be priced at the PCS rates for those individuals specifically named in the MUDFA Contractors Schedule 4 Appendix A (PCS Pricing Matrix), all other preliminaries from the 1st April 2007 will be calculated using the rates within the Contract Preliminaries at Schedule 4 Appendix C. The MUDFA Contractor may propose changes to the Schedule 4 rates for specific individuals (ie Star Rates) for review and approval by tie prior to utilisation. Any proposed changes to include detailed substantiation and justification of the business case and will be dealt with in accordance with Clause 46 of the MUDFA Agreement.
- iii) That the Contract Preliminaries derived in (ii) above are re-measured as anticipated by the MUDFA Agreement, to the extent that any prolongation of the works is not due to the default of the Contractor.
- iv) That any changes proposed to the level of resources, derived from (i) above, included as the Contract Preliminaries are advised by the MUDFA Contractor prior to implementation for review and approval by tie acting reasonably.
- v) That separately priced Work Sector Specific Preliminaries (using the rates used to arrive at the Schedule 4 Appendix C Work Sector Preliminaries) are submitted by the MUDFA Contractor under the Contract Work Order procedure for any physical works to be carried out, and changes managed in accordance with Clause 46.
- vi) That the Work Sector Specific Preliminaries are re-measured as anticipated by the MUDFA Agreement, to the extent that any

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prolongation of the Work Sector Activities is not due to the default of the Contractor.

- vii) That the rates and prices used to calculate the Schedule 4 Appendix D Bills of Quantity totals are used to price and to value the physical works to be carried out. The valuation rules for Changes set out in Clause 46 of the MUDFA Agreement and shall be applied as appropriate.
 - viii) That physical works performed are re-measured in accordance with the procedures established within the MUDFA Agreement.
 - ix) That the overhead and profit percentages contained within Schedule 4 Appendix B of the MUDFA Agreement are applied to the net rates and prices described above.
6. The acceptance by the MUDFA Contractor and **tie** of the need to vary the MUDFA Agreement to accommodate the above is required to be recorded by means of a Memorandum of Agreement to be formally executed by both parties in July 2007.
7. The parties will jointly review the Pre Construction Services deliverables required and those already formally issued in accordance with a jointly agreed timetable, for tie approval

Agreement Jointly Executed by Parties:

Director / Authorised Signatory
tie Limited

Director / Authorised Signatory
**Alfred McAlpine Infrastructure Services
Limited**

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