
From: Susan Clark
Sent: 07 April 2011 10:00
To: Richard Jeffrey
Subject: RE: draft note to Vic

Richard

I could have gone on, and on, but haven't as I don't think it adds value to the high level debate. However, I have a list of other things I have identified in Colin's report which I will retain for future reference if we need it and will discuss it with Steven next week.

Susan

From: Richard Jeffrey
Sent: 07 April 2011 09:32
To: Susan Clark
Subject: draft note to Vic

Vic, I have now had Colin Smith's report for under 24 hrs, but think you should be aware of my initial views prior to your meeting with the consortium tomorrow.

Payment schedule

Colin's report refers to a payment schedule totalling £49m. The tie team believe a more reasonable and supportable, but still generous number is £19m. In addition the profile of this payment means that, prior to any deal becoming unconditional on 1st September, the gap between value of work done, and payments made will be much larger than it is now. This obviously creates risks if the deal is not done.

Commitment to progress

Colin's report highlights that BBS feel that the depot and mini test track cannot be completed by 15th October. It is the **tie** team's view that 15th October is reasonable and achievable if BBS assume productivity rates consistent with average industry standards. I understand BBS agree that 15th October is achievable, but that they did not price for this. One possible consequence of this is that BBS could hold back progress on these works until after the deal becomes unconditional on 1st September, but still meet their proposed completion dates. This does not reflect the idea that 'time is of the essence'. They may also be using some of this time early on to deal with remedial works in the depot which are not contained in the "Prioritised works " programme.

Draft Minute of Variation

The draft MOV included in Colin's report is the latest mark-up from BBS. The **tie** team believe that this shows a very one sided approach and have raised a number of significant concerns with Alastair Maclean, Colin and McGrigors. For example,(not exhaustive)

- it includes time based payments for preliminaries unconnected with progress and without substantiation required.
- it is written on the basis that CAF have already left the consortium, clearly this MoV will be signed before CAF leave the consortium, and we need to consider what happens if this MoV is signed, but MoV2 never gets signed.
- it removes many of the controls, checks and balances that we currently have under the contract. Whilst I understand this in relation to design, the broad nature of these removals means that tie may not be able to meet its obligations to CEC (easily resolved by amending the tie/CEC operating agreement), but more importantly obligations we hold on behalf of CEC to 3rd parties, or obligations under the Tram Act.

Additionally, and not contained within the draft MoV but contained in Section 5 of Colin's report is a proposal to have site works inspected by Engineer's Inspectors (I assume CEC's). This contradicts the idea that BBS will be self certifying as per the MoV. Additionally, currently the **tie** site supervision collect information on progress to allow challenge of the milestones to be paid based on progress. Would these Engineer's Inspector role fulfil this task and feed it back to tie who will still (as far as we can see) carry out the evaluation of progress and value to be certified by the Independent Certifier?

I await an amended draft to see to what extent these (and other issues) have been incorporated.

Project Governance and structures

Colin's report contains (at appendix 5) a project governance document which is not consistent with our discussions

Princes Street

I believe that BBS proposals for Princes Street are designed around what is most cost effective and lowest risk for BBS, not around minimising the disruption to the city. I would point out that, despite agreement to the contrary, their proposed payment schedule mentioned above appears to include £550k for Princes Street traffic management, and this is confirmed in appendix 11, page 3 f 9, 2nd paragraph after the bullet points. Additionally, Colin's report suggests that trackform for Princes St is agreed. Whilst Trackform might be agreed, what has failed on Princes Street is the integration of trackform into the road infrastructure and I understand that this is not yet approved.

Behaviours

I remain concerned that the progress and documentation since Mar hall do not illustrate that behaviours have changed to reflect the spirit of what I think was agreed.

Happy to discuss

R

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