

Mr Tom Aitchison
Chief Executive
The City of Edinburgh Council
Waverley Court
4 East Market Street
Edinburgh
EH8 8BG

Our Ref: DJM/JPT

9th March 2009

Edinburgh Tram Project: Contractual Dispute with Infraco

Thank you for your letter dated 5th March 2009 regarding the ongoing contractual dispute with the Bilfinger Berger Siemens CAF Consortium. I share your desire to continue to deliver and further enhance the good governance arrangements and practical procedures already well established between the tie team and the Council officers.

Taking each of your bullet points in turn, I would comment as follows:

Bullet Point One


Marshall Poulton (Tram Monitoring Officer) will be formally provided with a report outlining the detailed matters under dispute with the Consortium. This will include the respective correspondence and position papers provided by both parties on 2 March 2009. The position papers detail the legal / contractual issues as prepared by DLA and they can provide additional information if required. These matters are covered under the strict confidentiality requirements of the Infraco Contract

Bullet Point Two

The daily reporting from tie to the Council's TMO has been discussed between Marshall Poulton and Steven Bell and agreed. This commenced on 2 March 2009 and I note its requirement will be kept under review.

Bullet Point Three

I also note that the Council will ensure any further distribution is restricted and subject to strict confidentiality.

Direct Line: 0131 
web: www.tie.td.uk

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Bullet Point Four

The Tram Project Director will submit a weekly written report on developments and progress to the Council TMO by close of business each Monday. I propose that the Tram Project Director and the TMO agree the format for that with the first report planned for delivery on 9 March.

Bullet Point Five

The work done on examining timetable implications and choices with DRP will be expanded to include linkage to the broader Strategic Options identified under Bullet Point Seven. It is proposed to cover both of these items in Papers to the ~~tie~~ Board and the Tram Project Board on 11 March 2009. The input of the TMO is welcomed here and I recommend that we present the proposals with the benefit of the Board Meeting on 11 March.

Bullet Point Six

The Tram Project Director will provide a status report and analysis of the ~250 Notifications of Change which have been advised by InfraCo. The cost analysis and ranges presented to the January TPB and the briefings for senior Council officials which took place between late January and early February already included details of assessment for such changes, their validity and potential changes to risks and opportunities. The TPD will reaffirm that information to the Tram Monitoring Officer when the analysis is presented.

Bullet Point Seven

I would propose the approach detailed under Bullet Point Five is followed here in relation to the Strategic Options.

Bullet Point Eight

There are currently no Claims notified by BSC. The verbal restatement of significant cost increases (£50m - £80m) from Bilfinger Berger has not been supported in any way by a submission from BSC. Any claim >£500k has to be discussed with the TMO and brought to the TPB under the existing delegated authority rules. We would be pleased to discuss strategy to address future items with the TMO and the Director of Finance.

Bullet Point Nine

tie will respond under separate cover with the correct contractual and legal particulars to address your request regarding assets acquired by the project and the vesting of those assets.

I look forward to continued close and thorough engagement on all of the above issues and remain available to you for discussion at any time.

Yours sincerely,

David Mackay
Interim Chairman