



Edinburgh Trams

MUDFA Programme Challenge Session

15th June 2009

Utility Diversions - MUDFA

- Diversion of all utilities
- Contract with CUS
- Design work by SDS
- NRSWA Agreement With SUC's



Current MUDFA Position

- Revision 8 programme agreed with CUS - completion date of 28th August 2009
- Current Approved Budget (excluding MUDFA identified risk allocation) - £53.337m
- During the currency of the MUDFA Project issues out with the control or influence of CUS have arisen which have adversely affected the ability of CUS to meet their contractual obligations.
- In recognition of the above tie has negotiated and agreed contractual settlements covering the period from commencement up to and including the 30th September 2008 in respect of both extensions of time to completion and associated additional costs/claims as follows:
 - Extension of time to complete 28th August 2009
 - Total settlement of claims £2,191,142

- In reaching the settlement position at 30th September 2009 a revised programme Rev 8, based upon the information available at that time and the known requirements of Infracore, was agreed with CUS and communicated to Infracore.
- The agreed Rev 8 programme with a completion of 28th August 2009 is predicated upon working through embargo periods and working extended hours including weekends in a number of specific areas such as Haymarket and the Mound
- Performance against the Rev 8 programme is monitored and reviewed weekly during a formal progress review meeting held with CUS
- Any potential impacts on the programme including delays are recorded in a number of ways as follows:
 - recorded in the minutes of the weekly review meetings – mostly global assessments of total impact of all events in each work site
 - Potential events / issues assessed by tie and incorporated in weekly programme planning review process - any potential or actual movements incorporated and or advised in the weekly flash reports and monthly PD reviews
 - Correspondence from and to CUS related to individual events
 - Contract change control process and associated records of events/actual works undertaken for each individual event / issue including CVI's, record sheets, PM/APM/Site Supervisor records etc
 - Each individual potential event is allocated a specific change control reference number and all correspondence, records, photographs etc are referenced and recorded against the specific change control reference number.

The current indicative work section completion dates issued by CUS during the progress meeting of 10th June 2009, which reflect the CUS assessed level of risk to completion dates, are detailed on the attached RAG report. The details of the attached have been communicated to and discussed with Infracore as an early warning.

Delay Allocation & Management

- Tie recognise the MUDFA works have been delayed from commencement and may continue to be delayed by a number of issues, including but not limited to, issues out with the control of CUS.
- In accordance with the MUDFA Agreement tie has subsequently agreed and settled all delay and disruption issues with CUS up to the 30th September 2008.
- From the 1st October 2008 CUS have issued a number of letters regarding issues which they believe have delayed and disrupted their works and which they consider entitles them to both extensions of time and additional incurred costs in the form of claims. No formal contractual claims for time or additional costs have actually been submitted by CUS in respect of the purported delays (although a high level financial consideration is made within the CUS monthly application for payment for each month from October 2008, the figure submitted by CUS from 1st October 2008 to the 29th May 2009 is circa £8.5m).
- The correspondence received from CUS and the high level financial considerations submitted as part of the application for payment do not, in the opinion of tie, meet the contractual requirements of Clause 38 (Extension Of Time For Completion) of the MUDFA Agreement. Tie have accordingly replied to the CUS purported events by either rejecting the issue (approximately 90%) or requesting substantiation and justification for review.

- Although tie believe CUS have failed to meet the requirements of Clause 38 tie have assessed the delay and corresponding commercial impacts and made on the basis that a number of issues are out with the control or influence of CUS such as the late issue of design for the gas main diversion at the Mound. Tie have certified and made 'payments on account' in respect of same to CUS amounting to £1.05m. The 'payments on account' are subject to CUS providing substantiation and justification and maintaining their entitlement going forward.

- The indicative Rev 8 completion dates advised by CUS during the weekly progress review meeting of 10th June 2009, which reflect the CUS assessment of risk to completion dates, are currently being investigated and reviewed by tie PM's, APM's and planner. The main areas of concern being:
 - Manor Place to Haymarket – approximately 60% of the IFC design is considered unachievable in this location due to the extent of the existing unexpected utilities discovered when excavations commenced. Design solutions through TQ's are currently being progressed.
 - The Mound – Princes Street will be complete 12/06/09 as programmed. BT cabling to follow with final resolution of the gas main diversion in Hanover Street to abandon the existing main. Delay due to sleeve in existing gas main, however two potential solutions have been identified and are being progressed to resolve the issue the indicative completion of the gas and BT ducting excluding cabling would be either 17/8/09 or 28/9/09. BT Cabling completion dates would be either 12/10/09 or 26/10/09 all of which has been discussed with Infraco.
 - Broughton Street to North St Andrews Square – Indicative completion date for diversions 9/10/09, followed by 2 weeks service transfers /abandonments. 16 weeks BT cabling to complete. There is no anticipated impact on Infraco but the reasons for the prolonged duration in this area have yet to be established and confirmed by CUS.

Commercial Summary

- MUDFA Anticipated Final Cost (AFC) £55.330m
- Current Approved Budget (excluding MUDFA identified risk allowance) £53.337m
- Current remaining MUDFA risk allowance £ 0.998m
- Potential budget deficit -£ 0.995m

- The MUDFA AFC is based upon tie's assessment of a number of issues and the likely potential costs associated with same.
- The attached 'Claims and major issues summary with CUS' details the applied and certified differences between tie and CUS at April 2009 and a range of potential outcomes at completion which are based upon the tie view of the issues and discussions with CUS.

Commercial Risks

- Tie assessment of the likely final costs including CUS claims and major issues, particularly in relation to potential claim for delay and disruption and enabling works assessment may be inadequate.
 - Mitigation Measures
 - CUS have failed to meet and comply with the contractual requirements of Clause 38
 - The CUS method of valuing the potential claim is flawed in a number of respects
 - The staff/overhead costs associated with delay to the works has been assessed, included in tie AFC and is paid separately as prelims for the whole construction period of the project up to and including 31/07/09
 - The previously agreed settlement figures reached at September 2007 and September 2008 for the same staffing/productivity levels and nature of works amounts to circa £100k per month as a guide
 - Tie have procured an experienced independent 3rd party to review the tie assessment and basis of claims and the major issues to check validity of tie position
- Tie assessment of SUC NRSWA betterment and deferment contributions amounting to £5.6m may not be realised
 - Mitigation Measures
 - Tie have secured SUC contributions amounting to £3.38m to date excluding any contribution from BT (£2m) and circa 30% of Scottish Water contribution to be finalised
 - Tie are in regular dialogue with the SUC and are commencing a series of reviews of the BT works to finalise the associated contribution now the majority of the duct works are complete and accepted.

- Late receipt of design/inadequate design/information to support construction (Clause's 6,8,35,37,38,39,46 and 51).
 - Mitigation Measures
 - The utilities IFC design is complete
 - Potential risk associated with unachievable IFC designs due to the extent and nature of unexpected services encountered, this is being addressed by trial holing the remaining areas of works
 - TQ process in place to address issues as they arise on site
- Adverse physical conditions & obstructions encountered (Clause 10)
- Bespoke Method Of Measurement (Clause's 51 & 52)
- Transfer of work scope between MUDFA & Infracore and resultant programme integration MUDFA/Infracore

Commercial Opportunities

- Tie assessment of the likely final costs – including CUS claims and major issues, particularly in relation to potential claim for delay and disruption and enabling works assessment may be greater excessive – probability low.
- Tie achieve greater NRSWA contributions from SUC's than anticipated – probability low
- Transfer of elements of the remaining scope are delivered cheaper by others than anticipated CUS costs (Note: this includes potential reduction in claims liability in respect of CUS supervision/prelims costs and prolongation)