

CERTIFIED EXTRACT OF MINUTE OF MEETING OF THE CITY OF EDINBURGH COUNCIL HELD ON 20 DECEMBER 2007

14 Edinburgh Tram: (i) Contracts Acceptance and (ii) Independent Review of Tram Funding Strategy – Council Contribution

The Council had approved the Edinburgh Tram Final Business Case version 1 (FBCv1) on 25 October 2007. Approval was now sought for:

- the Final Business Case version 2 (FBCv2) prepared by **tie** for the Edinburgh Tram Network
- staged approval for the award by **tie** of the contracts for the supply and maintenance of the infrastructure works (Infraco) and tram vehicles (Tramco) subject to conditions
- governance arrangements for the Tram through completion of the contracts, commissioning and commencement of integrated transport operations.

The findings of the DTZ review of the Council's strategy for funding the estimated £45m contribution towards the cost of constructing the tram system were also presented.

Motion

- 1) To approve the Final Business Case version 2 for the Edinburgh Tram Network.
- 2) To authorise the Chief Executive to instruct **tie** to enter into contracts with the Infraco bidder (BBS) and Tramco bidder (Construcciones y Auxiliar de Ferrocarriles SA (CAF)), providing the remaining issues were resolved to the satisfaction of the Chief Executive as detailed in the joint report (no CEC/139/07-08/CD+F) by the Directors of City Development and Finance.
- 3) To delegate authority to the Chief Executive to exercise the role in terms of paragraph (2) above.
- 4) To authorise the Director of City Development to grant leases or licences, as required, to facilitate the construction and operation of the tram.
- 5) To note that the formal award of these contracts was programmed to take place in January 2008 and would be notified to Council on 7 February 2008.

- 6) To issue the Guarantee (as detailed in paragraphs 8.7-8.10 and Appendix 2 of the joint report) and to delegate authority to the Council Solicitor to conclude and execute this on behalf of the Council for the benefit of BBS.
- 7) To note that the terms of the Draft Grant Award had been agreed in principle and to delegate authority to the Director of Finance to execute this on behalf of the Council.
- 8) To approve:
 - a) the Tram governance structure as detailed in Appendix 1 to the Directors' joint report.
 - b) the draft **tie** Operating Agreement as detailed in Appendix 2 to the Directors' joint report and to delegate authority to the Council Solicitor to execute the Operating Agreements with **tie** and TEL on behalf of the Council.
 - c) the delegation of general authority to the Tram Project Board through TEL and **tie**.
 - d) the nomination of the Director of City Development and Director of Finance to the Tram Project Board.
- 9) To note the schedule of milestones presented at paragraph 8.19 of the Directors' joint report.
- 10) Subject to the satisfaction of the Chief Executive, as detailed in paragraph 2 above, to resolve in terms of (i) Edinburgh Tram (Line One) Act 2006, Section 69 (2) & (3); and (ii) Edinburgh Tram (Line Two) Act 2006, Section 68 (2) & (3):
 - (a) To enter into an agreement with **tie** Limited whereby **tie** Limited is permitted to exercise the powers of authorised undertaker to enter into and manage a contract ("the Infraco Contract") with Bilfinger Berger UK Ltd and Siemens plc (together "the Infraco" acting with joint and several liability) for the design, construction and maintenance of the Edinburgh Tram Network Phase 1a (and Phase 1b if instructed) such Infraco Contract to be on terms approved by the **tie** Limited Board;

- (b) To enter into an agreement with **tie** Limited whereby **tie** Limited is permitted to exercise the powers of authorised undertaker to enter into the tram vehicle and tram maintenance contracts with Construcciones y Auxiliar de Ferrocarriles S.A. on terms acceptable to **tie** Limited and to novate the contracts to the Infraco at the time of the execution of the Infraco Contract, such tram vehicles and tram maintenance contracts to be on terms approved by the **tie** Limited Board;
 - (c) To authorise **tie** Limited to novate the design contract dated 19 September 2005 between **tie** Limited and Parsons Brinkerhoff Limited to Infraco in accordance with the terms of that agreement (and such other conditions as **tie** may agree) at the time of execution of the Infraco Contract.
 - (d) To authorise **tie** Limited to make such use of (and amendment to) the agreement dated 14th May 2004 between **tie** Limited and Transdev Edinburgh Tram Limited as **tie** sees fit in connection with the operation of the authorised works under the Tram Act.
 - (e) To notify Scottish Ministers in accordance with the provision of the Tram Acts that an agreement has been entered into between the Council and **tie** concerning the exercise of certain of the statutory powers granted to the Council.
- 11) To note that **tie** was to act as agent for the Council under NRSWA 1991 for the purposes described in paragraph 8.9 of the Directors' joint report.
 - 12) To note that the Chief Executive would report back to Council on 7 February 2008 on the outcome of the above.
 - 13) To note the findings of the DTZ report on the review of the Tram Funding Strategy as detailed in Appendix 1 to the joint report (no CEC/130/07-08/CD+F) by the Directors of City Development and Finance.

- moved by Councillor Wheeler, seconded by Councillor Dawe.

Amendment

To reject the Final Business Case version 2 for the tram scheme, believing that:

- 1) the financial risks associated with the project were too great;
- 2) it would not deliver all the benefits that were claimed for it; and

3) in the Council's current financial situation, there were higher priority areas where the money should be directed.

- moved by Councillor Elliott-Cannon, seconded by Councillor McIvor.

Voting

The voting was as follows:

For the motion - 43 votes
For the amendment - 12 votes

Decision

To approve the motion by Councillor Wheeler.

(Reference - Act of Council No 3 of 25 October 2007; joint report no CEC/139/07-08/CD+F by the Directors of City Development and Finance, submitted.)

Declaration of Interests

Councillors Jackson and Wheeler declared a non-financial interest in the above item as non-Executive Directors of TEL.

Councillors Jackson, Gordon MacKenzie and Wheeler declared a non-financial interest in the above item as non-Executive Directors of **tie**.

Councillor Buchan declared a financial interest in the above item as an adviser to a tram contractor and left the Chamber during the debate on the matter.

**True and complete copy
JOHN STURT
Council Secretary
14 April 2008**