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**From:** Stewart McGarrity  
**Sent:** 07 December 2006 09:11  
**To:** Graeme Bissett (external contact)  
**Cc:** Miriam Thorne  
**Subject:** RE: Tram asset ownership

Graeme,

I already spoke directly to Donald McGougan on this and other issues yesterday - my answer was consistent with what you have said below.

Miriam has gone off to have a look at Tramco/Infraco to see what the contracts say about ownership - if anything.

I was amazed the Donald also thought the duty of care owed by **tie** to CEC is relevant when it comes to who bears risk (on CEC projects) and that this somehow limits CEC's liabilities? No big contractor is going to be enough of a nutter to do business with **tie** without recourse to the Council. The guys from City Development also have the same misconception. I continue to brief them all otherwise.

Stewart

Stewart McGarrity  
Finance & Performance Director  
tie Limited  
[REDACTED]

-----Original Message-----

From: Graeme Bissett [mailto:graeme.bissett@[REDACTED]]  
Sent: 06 December 2006 23:55  
To: [rebecca.andrew@edinburgh.gov.uk](mailto:rebecca.andrew@edinburgh.gov.uk)  
Cc: Stewart McGarrity; Miriam Thorne  
Subject: RE: Tram asset ownership

Rebecca, the assets will end up with the Council, and will be either owned by tie during construction or immediately owned by the Council with tie as agent. Either way, the underlying contractual risk will fall to the Council, as it is highly unlikely the contractors for vehicles and infrastructure will not demand a full Council guarantee of tie's obligations. The argument is of course that we will seek terms which pass the risks to the private sector, the flipside being cost. There are also tax and VAT issues to address.

Please give Stewart, Miriam or myself a call if you want to discuss.

Regards  
Graeme

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Graeme Bissett  
[REDACTED]

O2XDAlI

-----Original Message-----

From: "Rebecca Andrew" <[rebecca.andrew@edinburgh.gov.uk](mailto:rebecca.andrew@edinburgh.gov.uk)>  
Sent: 06/12/06 14:08:31  
To: "Graeme Bissett" <[graeme.bissett@tie.ltd.uk](mailto:graeme.bissett@tie.ltd.uk)>  
Subject: Tram asset ownership  
Graeme,

At today's Conservative Tram Briefing Cllr Dixon asked a question regarding ownership of Tram assets during the construction period. He specifically wanted to know where the risks lay.

From my understanding, the assets will be owned by CEC, as TIE will be invoicing CEC for all costs.

However, as tie will be the contracting party, and has a duty of care to CEC under its operating agreement, project risks remain with tie.

One complicating factor would be if the infrastructure contractor required a letter of covenant, as has been discussed. In which case, certain risks would be underwritten by CEC.

I'd be grateful for any advice you have on this matter before Donald provides a response.

Regards,

Rebecca

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