

Tram Project Board

10 March 2010

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Agenda



- Project Pitchfork
- HSQE Report
- Overview of current progress
- Change requests and risk drawdown (page 20)

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What we were asked to do

- Current situation is unsatisfactory for all
- Bring matters to a head
- Make it feel different
- Recommend a way forward

What we have done (Workstreams)

- Audit
 - Design
 - Supply chain
 - Programme
- Design
- Programme
- On–street works
- Contractual levers
- BSC/BB position

 **Progress and Communications** 

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Relationships and Behaviours



- Tone and nature of contractual correspondence
- Recent meetings
- Inter-consortium relationships
- BSC (BB) reaction
 - Keep issues global, not detailed
 - Superficially appear to be offering solutions
 - Undermine **tie**'s technical competence
 - Make certain selected things 'public'

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Context

- History
- BB behaviour
 - “This was only ever a price for a three-wheeled car”
 - “This contract will never get a tram built”
 - Cost plus is the only way forward
 - “This contract allows us to hold you to ransom”
 - BSC have recently come to the table (Reid letter)
- Legal
- Financial

Legal Analysis

- BSC position
 - BDDI-IFC changes are client's responsibility
 - No obligation to progress works whilst in dispute
 - Delayed by MUDFA
 - Delayed by design changes
 - This contract does not work!
- **tie** position
 - Failure to progress without just cause
 - Failure to mitigate delays
 - Failure to provide competent estimates
 - Failure to manage supply chain
 - Failure to manage design
 - Failure to manage programme

Legal Context



- Price – the language in the Contract is open to differing interpretations and whilst there is a strong common sense argument which militates against BSC’s interpretation uncertainty does exist as to how far a court would go in supporting **tie**’s interpretation.
- Progress (Clause 80) – there is a strong argument available to **tie** that is likely to succeed, that **tie** is entitled to instruct BSC to progress work, even where there is a dispute about who should bear the risk of that work.
- Time – Infraco has clearly been delayed due to over-running utility diversions which Infraco. The quantum of relief from LD’s and costs due will be subject to detailed forensic analysis and Infraco is vulnerable to attack on a number of grounds due to their literal interpretation of “exclusive access” as well as a number of other factors.

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Financial Context

- Spend to date (Period 12 0910) is £338m including £6.2m on Ph1b
- Original business case £512m
- Current approval is £545m
- Likely cost range is now £600m to £650m (excluding termination)
- What has changed?
 - Utilities costs
 - MUDFA Delays
 - BSC Delays
 - BSC under-pricing?
 - BDDI-IFC
 - Client and 3rd party changes
 - Project costs
 - Our confidence level (risk allowance)

Option Identification

- 3 main categories of option, many sub-options under each
 1. *Termination – with and without just cause*
 2. *Negotiation of BB exit*
 3. *Carry on with Infraco*
- Selected 4 sub-options to develop in detail
 - 1A. (1) *We terminate the Infraco contract*
 - 2B2.(2) *Bilfinger Berger complete Airport Haymarket, then we complete the project without them*
 - 3A. (3) *Carry on exactly as we are now*
 - 3B. (4) *Carry on but with a modified arrangements to address the key issues*

Option Analysis

- Description of options
- Evaluation criteria and assessment against criteria
- Pros and cons of each option
- Evidence to support

Option Descriptions (1)



Narrative	Termination (without just cause – this would in effect be a tie default)
Cost	£388.1m
Programme	N/A
Risks	<ul style="list-style-type: none">- Potential project cancellation- Severe damage to reputation of the City- TS seek recovery of full grant- Unquantifiable litigation costs and timescales

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Option Descriptions (2)



Narrative	BB Exit – Infraco Contract remains intact with BB full or partial exit
Cost	£667.2m
Programme	December 2010
Risks	<ul style="list-style-type: none">- Potential for procurement legal challenge- Passing of contractual risk to public sector- Continued risk of DRP

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Option Descriptions (3)



Narrative	"As Is" – continued application of the Infraco Contract in its present form with the present players
Cost	£661.5m
Programme	October 2013
Risks	<ul style="list-style-type: none">- Disputes continue- Programme uncertainty inevitable- Lack of trust between the parties- Lack of Stakeholder support- tie employee dissatisfaction leads to exodus of resource

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Option Descriptions (4)



Narrative	Enforced adherence – assertive application of the Infraco contract in its present form but with disputes settled in the short term and a negotiated new way of working
Cost	£639.9m
Programme	October 2012
Risks	<ul style="list-style-type: none">- Lack of trust between the parties continues- Lack of Stakeholder support- Programme uncertainty – although less than option 3

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Evaluation Criteria

- Cost
- Programme
- Operational viability
- Legal risks
- Political risks
- Stakeholder acceptability
- Deliverability

Comparison of Options



	Options		
	Option 2 - BB complete AIR-NYM, tie procure remaining civils	Option 3 - Carry on using contract and commercial assertiveness	Option 4 - Continue with commercial assertiveness plus seek means to resolve disputes
Cost Delivers a System for the Best Price	Red	Yellow	Green
Programme Delivers the Earliest OFRS Date	Yellow	Red	Green
Operational Viability Delivers a System Which is Viable as an integrated transport scheme	Yellow	Red	Green
Legal Risk Can work within existing or legally acceptable amendment of Infraco Contract	Red	Green	Yellow
Political Politically Acceptable	Green	Red	Yellow
Stakeholder Acceptability Has the Most Stakeholder and Media Support	Green	Red	Yellow
Deliverability Ability to Deliver With Consortium	Red	Green	Yellow

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Recommendation



- What
 - Option 4
 - Keep up the pressure for another 2-3 months and meantime.....
 - Work on off-street section, withdraw from city centre by negotiation if possible
 - Escalate and resolve key issues – Clause 80, PA 1, time, design, on street
 - Amend contractual arrangements accordingly in due course
 - Keep options 2&3 as alternative strategies, with option 1 always as the ultimate sanction (being monitored)

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Justification of Option

- According to our analysis this option :
 - Provides the lowest cost option;
 - Delivers the earliest completion date;
 - Has least impact on the operation of TEL and TEL business plan; and
 - Is deliverable within the existing contract with relatively minor modification; doesn't preclude other options

- But it does carry some risks

Risks

- Trust between the parties
- Ongoing disputes – not decided in **tie**'s favour
- Stakeholder acceptability
- Getting an on street agreement that is acceptable
- Continued design issues
- Risk transfer balance

The Way Forward (next steps)



- So what are we going to do next
- Timescales & Governance
- Risks
- So what happens in the meantime
- Truncation and affordability

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The Way Forward (next steps) – 1 What



- Detailed project management plan covering:
 - Mobilise action on Clause 80
 - Seek conclusion on impact of utility delays – EOT
 - Respond on OSSA and offer alternative on street way of working
 - Refine argument over SDS management for deployment
 - Omnibus approach to resolution of outstanding BDDI – IFC disputes
 - Quantify and execute amended position on prelims
 - Seek to resolve Edinburgh – Airport disputes(to keep Siemens going)
 - Suspend on street works?
- Timescales – report back to TPB/CEC by end May 2010.
- Governance – limit of TEL's delegated authority is £545m, October 2012 OFRS & no material changes in scope.

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The Way Forward (next steps) – 4 What do we do meantime



- Manage the communications.
- Continue contractually assertive approach.
- Consider “independent expert” approach carefully.
- Pursue case on PA1.
- Additional commercial support to value INTC’s.
- Stop any further on street tramworks.

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The Way Forward (next steps) – 6 Re-phasing & Affordability



- Work previously undertaken on re-phasing during 2009.
- Refresh of this work to be undertaken and recommendations made to TPB/CEC in May 2010.
- In parallel contractual implications to be determined.

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Comms and Confidentiality



- Control and productively
- Rocky Road
- Tenacity
- Longer term vision
- Owning the City

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Tram Project Board



- HSQE (S Bell)
- Building the Tram (S Bell)
- Preparing for Operations (A Richards)

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Deliver a Tram Safely



- RIDDOR reportable over 3 day injury during Period 12. An operative working for Raynesway suffered a crush injury to his finger whilst removing excavator buckets from site.
- An increase in the number service strikes for Clancy Dowcra. Clancy have employed the services of an on-site service location and avoidance trainer for the remainder of the MUD works.
- Discussions taken place with BSC to improve the number of joint safety inspections and tours.
- Regarding the recent incidents along the Network Rail corridor, BSC have produced revised guidance for the review of Work Package Plans. tie and BSC have also carried out joint briefings to contractors on the production of adequate WPPs.
- BSC have completed approximately 1.2million man hours with only 1 reportable accident giving them a Project to date AFR of 0.08 . The performance of 1 accident per 1m man hours in line with the target set by the Olympic Delivery Authority.

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Deliver a Safe Tram



Section	Activity	Data Checked						
		IDC	Hazards	ITP's	Design Variations / Change	As Builts	Asset Register	
Carrioknowe	Foundations	0.5	On Hold	1	1	0.5	N/A	
Haymarket Viaduct	Earthing & Bonding	0.5	On Hold	1	1	0.5	N/A	
Tower Bridge	Site Set up & Trial Holes	0.5	On Hold	1	0.5	N/A	N/A	
Airport	Earthworks	0.5	On Hold	1	1	0.5	N/A	
PD	Total (y)	1.5	0	4	3.5	1	0	
	Max Possible Total (y)	4	0	4	4	3	1	
Total	Percentage Pr1	37%	66%	90%	88%	80%	50%	
	Percentage Pr2	37%	66%	93%	72%	73%	50%	



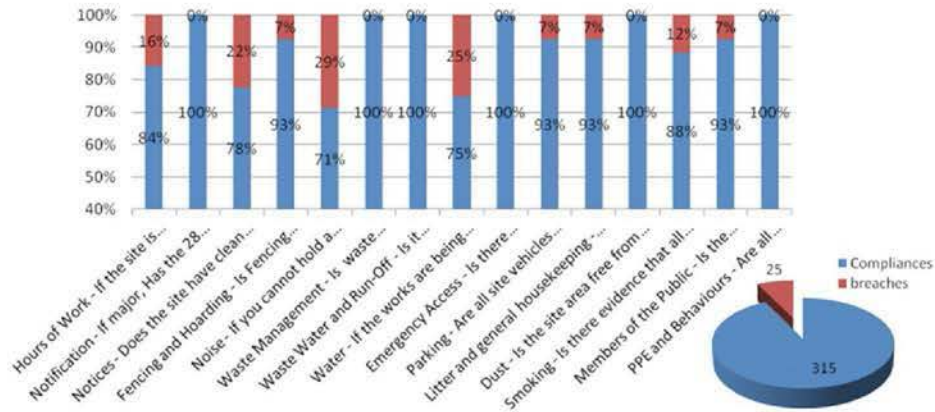
Key - Y = Evidence exists (1) N = No evidence exists (0) NA = Not applicable (-) P = Part evidence in place (0.5)

- There has been an improvement in the number of interdisciplinary design reviews taking place for the project, however, there are to date still no completed BSC interdisciplinary certificates.
- The main findings of the recent Integration audit have shown that, in general BSC have acceptable processes in place for integration, however, these are not fully complied with prior to construction commencement.
- The exercise being undertaken to close the hazard log is well underway with further meetings taking place during April 2010.
- A tie audit of the BSC Princes St handover paperwork took place but was terminated due to incomplete records. Further check due 31st March.
- BSC are logging built/installed assets on a temporary database until the procurement of the final Asset Management system. The information appears to be valid and correct to date

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Code of Construction Practice– Period 12



Compliance is at 93% for the Period 12
Main Movement since Period 11

- Compliance with CoCP hours of work has decreased slightly from 87% to 84%
- Compliance with Tram Notices/Signs has improved 68% to 78%
- Compliance with Noise Control has reduced from 91% to 71%
- Improvement in Waste Water Run off compliance from 93% to 100%
- Improvement in the control of works near water from 70% to 75%
- Improvement in the control of smoking from 80% to 88%

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Utilities

- Scottish Water are still to approve the protection proposals including the adoption of the sewer design at Ocean Drive.
- Clancy Docwra are progressing with the relocation of utilities out of Lindsay road. BT and GEO cable diversion works are due to commence in Period 13 and are expected to be completed in P1.
- Clancy Dowry commenced works on the private utility diversion works in Edinburgh Park area.
- Palmerston Place/Torphichen Street has opened to traffic after being closed due to utilities diversion works for more than 6 months. This traffic switch was completed without incident or significant disruption to traffic.



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Infraco



Progress in Period 12:

- Overall 14.2%, an increase of 0.5% against a plan of 4.4%, reflecting the lack of progress from BSC for on-street works.
- Off Street works progressing at several locations:
 - Haymarket viaduct 42%
 - Russell Road Retaining Wall (W4) (piling works) 17%
 - Carricknowe bridge (both North and South abutments) 44%
 - Edinburgh Park viaduct – approach ramps 87%
 - Depot building steelwork and cladding erection. 19%
 - Gogarburn bridge – bridge deck finishes and approach ramps 85%



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Traffic Regulation Order



- Public Deposit commenced on 22 February 2010, staffed exhibition at City Chambers (Monday to Saturday)
- Period for objections ends on 21 March 2010
- Steady number of visitors. This is the third week and so far 56 objection letters received:
 - Leith Walk – none so far but expected
 - Blenheim Place 52
 - Moray Feuers 4
- Report to Council targeted for July 2010 (or possibly September due to holiday period)
- If successful, TRO can be made October 2010, and this will set the conditions to allow trams to operate in Edinburgh

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Change Requests and Risk Drawdown (page 21)



- Drawdown in period - £68K
- Covers One item:
 - Balgreen Retaining Wall – BDDI to IFC
 - P11 COP241 estimate was approved for £230,554 as a result of a change in the track alignment due to Network Rail requirements for a 3m access route to the heavy rail network. The final agreed change was valued at £289,574 with £68K agreed as the balancing figure.

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Trams Progress



- 19 trams now completed or in production;
- 6, 7, 8 & 9 in finishing area;
- 5th tram about to start factory acceptance test;
- 3rd and 4th trams completed factory acceptance test ready for delivery;
- 1st and 2nd trams at test track in Wildenrath undergoing tests until end March 2010;
- 1st tram planned to be delivered April 2010 to Edinburgh;
- Draft O&M manuals received;
- Mock-up about to be moved to the Airport.

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Dynamic Testing - Wildenrath



Dynamic Testing - Wildenrath



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Operation Preparedness



- BROR committee held
 - Revenue collection system shortlist approved;
 - Planning reviewed and guidance provided on assumptions for delivery programme;
 - Draft plans and procedures presented;

- Preparation and coordination underway for initial fit out and testing in depot - expected Autumn 2010;

- Procurement of revenue collection system
 - Shortlisted candidates notified, dialogue sessions scheduled.

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Key operations decisions



- February
 - Shortlist ticket equipment suppliers; Achieved
 - Appoint operations mobilisation coordinator; Achieved
 - Final tram branding decision; Achieved
 - Location for first tram delivery and exhibit; In principle
 - Tramstop shelter design review presentation; Achieved
- March
 - Organisation and terms and conditions for operations staff;
 - Commissioning power provider selection;
 - Mock-up located at the airport;
 - Tramstop shelter design comments sent back to BSC;
- April
 - Ticket equipment final tender pack ready for issue;
 - First tram delivered to Edinburgh for public display;
- May
 - Approve tramstop shelter and furniture design.

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