



SIEMENS



Our ref: **25.1.201/EKI/6861**

Bilfinger Berger–Siemens– CAF
Consortium

1 October 2010

tie limited
CityPoint
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Edinburgh
EH12 5HD



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For the attention of Steven Bell – Tram Project Director

Dear Sirs,

WITHOUT PREJUDICE

**Edinburgh Tram Network Infraco
Infraco Contract: Project Carlisle – Revised Proposals**

We are in receipt of your letter referenced INF CORR 6275 dated 24 September 2010. We also refer to other correspondence between ourselves as follows:

- Infraco letter reference 25.1.201/EKI/6338 dated 29 July 2010 – Guaranteed Maximum Price Proposal
- tie letter reference INF CORR 5990 dated 7 September 2010 – Proposal for Discussions and Finalisation
- Infraco letter reference 25.1.201/EKI/6682 dated 11 September 2010 – Revised Infraco Full and Final Proposal
- Infraco letter reference 25.1.201/KDR/6790 dated 22 September 2010 – Contract Issues

In our letter, INF CORR 6682, we made it clear that there are differences between the Parties with regard to the Scope, Programme and Price to find closure and agreement of Project Carlisle. In tie's letter, INF CORR 9275, you state that you reject any explicit or implicit allegations contained within our letter and that you would not respond to it. Clearly, the parties are at loggerheads. For your use, we have attached a tabular summary of the respective amounts and the gap between us; including some footnotes.

Nevertheless, we have had verbal indications of amounts from tie's representative that are greater than what tie is formally presenting in its Proposal. The amounts verbally indicated would serve to partially close the gap between us; however the difference between the stated positions appears to be irreconcilable, without substantial further increases in tie's Proposal.

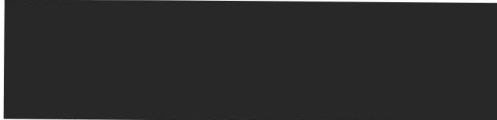
As you are well aware, our pricing for Project Carlisle is on the basis of the circumstances now, and in accordance with existing subcontracts competitively awarded at the time. Our price accordingly is arrived at from a sensible, detailed build-up of such costs; with a level of overhead and profit applied that is competitive in the market place.

To date, we have not had any breakdown of tie's amounts (refer to enclosed table), and have the impression that tie's amounts could be driven from the bottom line upwards; not from a detailed, analytical exercise based on realistic costs for the situation. Accordingly, it has not been possible to understand how tie is assessing the costs to allow a comparison of the differences to see if there is still a possibility to find ways to reach an agreement.



Until such time that the formally proposes increased amounts, we feel that Project Carlisle will most likely fail. As detailed in our letter reference 25.1.201/KDR/6790 dated 22 September 2010, it is imperative to quickly clarify the situation and our proposal to meet, remains.

Yours faithfully,



M Foerder
Project Director
Bilfinger Berger Siemens CAF Consortium

cc: D. Darcy
G. Wakeford
R. Walker
M. Flynn
A. Campos
M Berrozpe
A. Urriza



Attachment to Infraco letter dated 1 October 2010 reference 25.1.201/EKI/6861			
Project Carlisle : Amounts			
Infraco Understanding of Differences			
	tie position	BSC position	Difference
Bilfinger Berger			
Subs	102	127.2	25.2
Enab	6.5	0	-6.5
Prelims	21.5	0	-21.5
Indirect	0	41.2	41.2
Risk	0	5	5
P St	0 (1)	12.8	12.8
Exclusions	0	8.05 (2)	8.05
SDS	0	0	0
OH	0	14.7	14.7
Margin	7.7	6.35	-1.35
Sub Total	137.7	215.3 (3)	77.6
Siemens			
Aprt to Haym	68.7	0	-68.7
Haymy to Loth	3.4	0	-3.4
Loth to Wav	3.8	0	-3.8
Et Al	2.9	0	-2.9
Sys Wide		0	0
Haym to St A Sq	7	0	-7
PM		13.35	13.35
Eng		3	3
Trackwork		43.5	43.5
Depot		2	2
Electrification		6	6
Infrastructure		3.2	3.2
Ins, Bond, Guar		1.7	1.7
Control & Info		5.1	5.1
Comm		5	5
Elec, Auto, Depot Eq		29.7	29.7
Change Orders		5.1	5.1
Carlisle		0.95	0.95
Sub Total	85.8	118.6	32.8
CAF ***	45.9	60.6	14.7
SDS ***	0	15.8	15.8
Sub Total	45.9	76.4	30.5
Project Carlisle Totals	269.4	410.3	140.9
(1) tie has an interim valuation of 9.4, this is now subject to DRP under the Infraco Contract			
(2) Transferred risk from tie to Infraco			
(3) 215.3 becomes 193.4; if P St and Exclusions are separately dealt with, but as a precondition to Project Carlisle Agreement			