

Mr Andrew Malkin
MUDEFA AMIS Project Director
Alfred McAlpine
Western Harbour
Leith Docks
Edinburgh
EH6 6QF

Our Ref: DEL.MUDFA.7658.JC.GB

Date: 9 April 2008

Dear Andy,

EDINBURGH TRAM PROJECT
AMIS Settlement Agreement Up To & Including 30th September 2007

Following our recent agreement in respect of the impact on programme and cost, related to issues which have adversely affected AMIS contract position up to the 30th September 2007, we confirm the following:

1. During the currency of the project issues have arisen which have adversely affected the ability of AMIS to meet their contractual obligations. These issues are outwith the control or influence of AMIS and as such have resulted in a contractual entitlement.
2. All the issues can be categorised into three areas:-
 - Interpretation issue related to the application of PCS and progressing to Construction Services;
 - Political delay to the commencement of the works; and
 - Delay in Issue For Construction (IFC) designs from tie / SDS Provider up to 30th September 2007.
3. In recognition of these the following has been agreed:-
 - A settlement sum in full and final settlement of all issues which originate, relate to or are associated with the works up to and including 30th September 2007 has been agreed. The settlement sum is £991,142.95 (Nine Hundred and Ninety One Thousand

The British

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Reference : DEL.MUDFA.7658.JC.GB

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One Hundred and Forty Two Pounds, Ninety Five Pence only) in the following categories:

Ref	Description	£
3.1.1	Increased cost of work transfer to 2007 to 2008, i.e. Indexation, adoption of subcontract resource in lieu of direct.	593,142.95
3.1.2	Under-recovery of 2007 overheads	198,000.00
3.1.3	Budget savings at 7b	200,000.00
	Total:-	991,142.95

- In addition a document entitled Commercial Proposal for Construction Services following Pre-Construction Services Delays has been produced and agreed by both parties which summarises the way forward for the parties, copy attached Appendix A, which will be adopted as of 30th September 2007.
 - In reaching the above full & final settlement figure it was agreed that the existing incentivisation mechanism within the MUDFA Agreement was inappropriate. A review and reappraisal of the incentivisation process was undertaken. A revised MUDFA Contractor Incentivisation has been agreed which is uncapped and based upon a 50:50 shared opportunity for any value engineered savings achieved between the issue for approval designs and the IFC designs and any savings generated during the delivery of the actual works undertaken in each work section. The revised MUDFA Contractor Incentivisation will be formally incorporated within the MUDFA Agreement as a replacement for the existing Clause 48 mechanism. The basis of the new incentivisation is contained in Appendix B which forms the basis of a formal contract amendment that is currently being drafted by our legal representatives. This revised mechanism will be adopted as of 30th September 2007.
 - It has been agreed that an incentivisation benefit for Section 7 be included in the settlement payment. The assessment of the AMIS benefit taken is £200,000.00 (Two Hundred Thousand Pounds), as detailed above. This is based upon the benefit realised over budget from AMIS approach. The assessed benefit is baselined upon the savings against budgets identified prior to the issue of IFC designs, any value engineering benefits/savings which AMIS may achieve, and are agreed by tie, during construction of Section 7 will be shared equally in accordance with the agreed incentivisation mechanism.
4. As part of the process of agreeing a full and final settlement for all issues associated with the works up to and including 30th September 2007 a number of contentious measurement issues between the parties have also been resolved and included in item 3.1.1 above. Payment in respect of these contentious measurement issues were included within the December 2007 certification.

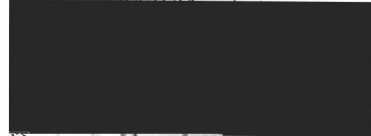
For the avoidance of doubt and as discussed during our meeting of 12th December 2007 we confirm the following:

- The settlement agreement is in full and final settlement of all issues which originate, relate to or are associated with the works up to and including to 30th September 2007.
- A revised Programme Rev 06 has been compiled and agreed by the parties as the revised construction programme to successfully deliver the MUDFA works. The programme being based upon a schedule of assumptions/basis, Appendix C attached.
- As part of the settlement agreement tie will issue a letter referring to all correspondence from AMIS related to the impact on programme and cost confirming that the issues have been resolved and included in this full and final settlement agreement.

Please find attached two copies of this letter for agreement and signature by an authorised AMIS representative confirming your acceptance of the settlement agreement as contained within this letter and the attached appendices. One signed and completed copy of this agreement to be returned to tie.

We trust you will find the above to be in order.

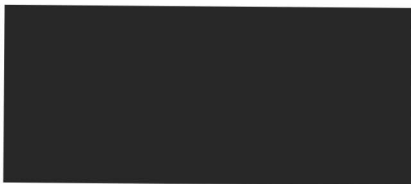
Yours sincerely



Graeme Barclay
Construction Director – MUDFA

enc.

For and on behalf of tie Limited



Authorised Signatory
Steven Bell
9th April 2008

For and on behalf of Alfred
McAlpine Infrastructure Services
Limited



Authorised Signatory
Steve Hudson
9th April 2008

Appendix A To Letter Reference DEL.MUDFA.7658.JC.GE
A150 – Principles of MUDFA Commercial Agreement

Section 1 Introduction

Following the Commercial Meeting held on the 15th & 28th March (City Point, Edinburgh), 15th and 26th June, together with the 29th August 2007 at the MUDFA offices at Western Harbour, Leith Docks, Edinburgh it was agreed a review and reappraisal of the Commercial Proposals prepared by tie Limited was appropriate.

As a result the parties wish to address three key issues;

- 1.1 Achieve a consensus on the value of the Contract and Work Sector Preliminaries for the period from April to commencement of Construction Services, as anticipated within the Contract. Thereafter the Contract and Work Sector Preliminaries from April to 28th September 2007 are to be agreed and certified by tie.
- 1.2 Establish a sustainable platform to determine the revised Contract Preliminaries and Work Sector Preliminaries for the remainder of the MUDFA Works based on Programme Revision 06. The Revision 06 Programme is to be based upon the best information and details available/current at the time of production. Subsequent changes will be dealt with in accordance with the MUDFA Agreement.
- 1.3 Propose an incentive mechanism based on the recast Preliminaries derived under item 1.2.

Section 2 Objectives

Both parties wish certainty of financial outturn, with the minimum of change, allowing both Project teams to focus on the proactive engineering led, solutions focussed delivery of the MUDFA Works.

Section 3 Calculation of Work Sector & General Preliminaries

The Work Sector and General Preliminaries will be resourced in accordance with the requirements, demands and constraints of the Revision 06 Programme.

In the period referred to item 1.1 actual resources deployed will be admeasured on the basis of the Schedule Four rates and prices, or appropriate Star Rates where agreed.

For the period detailed in item 1.2 above resources will be determined in accordance with the agreed programme, Revision 06.

The resources would be incorporated on Revision 06 of the Programme and valued at the Schedule 4 Rates and Prices, where applicable or appropriate Star Rates where agreed.

It is anticipated that the vast majority of costs will be those associated with Contract staff, with the Contract facilities and services measured and valued on an appropriate pro-rata basis against the existing Schedule Four provisions, in relation to items 1.1 and 1.2 above.

The resultant value of this process will be agreed between the parties as the target against which an Incentivisation mechanism will be calculated as set out in the document entitled MUDFA Contractor Incentivisation Proposal Revision 05.

Actual resources deployed by AMIS will be measured and valued as appropriate, using the corresponding rates, prices; substantiated by the appropriate level of substantiation. The impact of Clause 46 changes on the target will be valued accordingly on the basis of each programme iteration.

Furthermore the intention of the parties is to agree the appropriate measurement and evaluation of the Final Account for both Pre-Construction Services and the period established under item 1.1 above within one month of the agreement of the new programme, i.e. 31st October 2007.

Appendix A To Letter Reference DEL.MUDFA.7651.JC.GB
A150 – Principles of MUDFA Commercial Agreement

Section 4 Calculation of Work Order Values & Confirmation Notices

Work Order values will be determined by adoption of the Schedule 4 rates and prices, as appropriate at the date of Work Order Confirmation Notices.

As contemplated under the MUDFA terms and conditions the works will be re-measured on the basis of the utility diversions and associated works carried out by AMIS, using the appropriate rates and prices, including Clause 46 Changes valued accordingly in accordance with the agreed Contract terms and conditions.

Section 5 Notes, Assumptions and Additional Considerations

Agreed Change associated with the General and Work Sector Preliminaries is measured under Clause 46, with the target moved by a corresponding value to ensure the Incentive is determined on a 'like for like' basis. This is considered reasonable given the control of the issues contributing to Change rests with others; i.e. not AMIS.

In addition to the above matters it was the intention of this agreement to explore incentive mechanisms to replace the Value Engineering Incentive contained in the MUDFA Contract.

Appendix B To Letter Reference DEL.MUDFA.7658.JC.GB
A150 – MUDFA Contractor Incentivisation Proposal

Section 1 Introduction

Following the Commercial Meeting held on the 29th August 2007 at the MUDFA offices at Western Harbour, Leith Docks, Edinburgh it was agreed a review and reappraisal of the Contract Incentivisation Proposals prepared by tie Limited was appropriate.

The parties wish to maintain the principle of MUDFA Contractor Incentivisation throughout the life cycle of the project, as opposed to the current arrangements which were determined and measured against a baseline established in March 2007.

Therefore there is a requirement for the parties to agree a suitable and sustainable replacement for the existing Value Engineering Incentive, as set out in Clause 1, Definitions and Interpretation & Clause 48.

The parties agree that an equal proportion (i.e. 50% / 50%) of any benefit determined under this Proposal shall be shared equally between the parties.

Additionally the parties agree that the maximum cap previously contemplated should be removed, together with confirmation the Incentive Scheme is a full entitlement under the Contract, measured and valued under a bespoke agreement, with interim payment every three months, under Clause 49, on the basis of a reconciled and agreed cumulative values.

The process will be subject to appropriate measurement and evaluation, in accordance with agreed protocols to determine entitlement under the Proposal.

The intention is also for the existing provisions of the MUDFA terms and conditions, including Clause 46 to remain in force, without alteration, amendment or refinement.

Section 2 Objectives

The parties wish the revised arrangements to reflect the objectives of the MUDFA Contract by;

- Proposing and agreeing design solutions, innovations and 'smart' applications involving value engineering;
- Proposing and agreeing methods for maximising construction productivity;
- Proposing and agreeing the manner in which any disruption caused during the MUDFA Works is minimised;
- Achieving savings in the General and Work Sector Preliminaries and General costs through mitigation of delay prevailing at September 2007 and proactive management of emerging delays at source, i.e. the root cause of the event;
- Proposing alternative materials and components which meet the requirements of the MUDFA terms and conditions;
- Achieve savings in respect of Temporary Works;
- Achieve savings associated with risk mitigation.
- Ensuring decisions are made promptly, by the Joint Project team, to ensure opportunities to achieve these objectives are not lost or impaired.
- Preparing and presenting business case justification for all incentivisation proposals which identifies the potential benefits and any associated detrimental impacts involved. The net benefits being formally agreed by the nominated representatives of both parties, i.e. tie Construction Director and AMIS Project Director) prior to instigation of proposal.

Appendix B To Letter Reference DEL.MUDFA.7658.JC.GB
A150 -- MUDFA Contractor Incentivisation Proposal

It is acknowledged by both parties that the incentive mechanism, once agreed and executed, is intended to derive benefit for both parties and promote collaborative working.

Section 3 Programme -- Clause 35 and Schedule One, Clause 2.7

The parties acknowledge that a critical and pivotal element in the success of any revised Incentive arrangements is the detailed and comprehensive Construction Services Programme.

The MUDFA Works, at Revision 06 will be based on the best information that is available or current at that time. All agreed Change will be adjusted in accordance with the MUDFA terms and conditions.

Section 4 Outline Incentive Arrangements

The replacement Incentivisation arrangements will be measured and valued under two levels, with a share of the benefits as set out under Section 1 above, summarised below:-

- 4.1 **Level 1; Pre-SUC Approval / Pre-Work Order**, i.e. the parties to the Contract shall seek to replicate, insofar as is reasonable and practical the conditions and requirements contemplated by the original Pre-Construction Services.

This Level will apply for each Work Section upon receipt by AMIS of Issued for SUC Approval drawings prior to the issue of Work Order Confirmation Notices. The resource levels required being incorporated in AMIS Preliminaries contained within the agreed Revision 06 Programme

These design drawings will be measured and valued (a.) upon receipt and (b.) upon completion of the value engineering / buildability process, with any net reduction in the equivalent admeasure value shared equally between the parties.

This level will necessitate an integrated approach to working with the SDS Provider, with a variety of interventions and reviews.

- 4.2 **Level 2; On site changes**, post Work Order Confirmation Notice, that any reduction in admeasured value to both parties by reduction in workscope, technical specification, Work Order programme duration and/or Work Sector Preliminaries, temporary reinstatement, common trenching etc.
- 4.3 **Level 2.1; Contract Preliminaries**. The reduction in admeasured value of AMIS resources shall be measured and valued in accordance with the agreed target, incorporating agreed Clause 46 Changes, updating the target as appropriate.
- 4.4 **Level 2.2; Where integrated working and improved operational efficiencies** eliminate the requirement for 'man-marking' any associated reduction in the Preliminaries and General cost of tie Limited, as established based upon the Revision 06 Programme, shall be measured and valued in accordance with the agreed target.

**Appendix B To Letter Reference DEL.MUDFA.7658.JC.GB
A150 – MUDFA Contractor Incentivisation Proposal**

Section 5 Worked Examples; Levels One to Two

Working on the basis of the above noted mechanisms and based on Anticipated Final Account, Revision 05, the proposals, based on 'top down' only assessments of the reductions in outturn costs, an indicative incentive fund of £1.58M could be generated, with the parties sharing £1,576,000 in equal shares

Level	Description	£ x000				
		Target	Actual	Delta	AMIS Share	tie Ltd Share
1	Pre SUC Approval / Pre Work Order	27,726	26,882	844	422	422
2	Post Work Order	17,726	17,407	319	160	160
2.1	AMIS Preliminaries	9,794	9,471	323	162	162
2.2	tie Limited preliminaries	910	820	90	45	45
		0	0	0	0	0
		56,156	54,580	1,576	788	788

Note; No provision has been made for Pre-Construction Services Stage 1, Change Control, and Gogar Depot Advance Works in target figures.

Section 6 Notes, Assumptions and Additional Considerations

All agreed Change is measured under Clause 46, with the target moved, as appropriate, by a corresponding value to ensure the Incentive is determined on a 'like for like' basis. This is considered reasonable given the control of the issues contributing to Change rests with others.

Appendix C To Letter Reference DEL.MUDFA.7658.JC.GB
MUDFA Works - Programme (Rev. 06 Final): Programme Notes and Assumptions

ID	Notes / Assumptions ; 30 th November 2007							
1	All current SDS preliminary drawings show single line utility diversions; no allowances have been made for multiple utility trenching ducts, etc							
2	SDS Provider detailed IFC design development may produce an increase or decrease to the measured diversions over and above the Preliminary and C4 Approval Pending drawings; consequently there may be a corresponding increase or decrease in the current scope of work anticipated at this stage.							
3	<p>Of the assessed 918 IFC Utility design drawings (including Section 3 requirement), including composite drawings required for the MUDFA Works 157 No. have been provided for completed and current Worksite and 17 No. have been provided for review purposes. These design details, 174 No. in total, have been adopted in preparation of the Revision 06 Programme.</p> <p>The balance have been assessed on the current and best available information, i.e. the first generation preliminary designs issued by tie Limited to AMIS MUDFA in late October 2006; these drawings were predominately dated August 2006.</p>							
4	In recognition of items 1 and 3 above the procurement risks and dependencies, to support Construction Services are not reflected, in full, on the Programme, which is based on the current and best available information.							
5	AMIS MUDFA has assumed that the tie Limited / Statutory Utility Company Agreements support the Programme, i.e. through the provision of appropriate support, resources, approvals, technical input and the like.							
6	AMIS MUDFA has assumed that tie Limited secure the necessary Statutory Utility Company C4 approvals of SDS Provider detailed utility designs, in accordance with the dates set out in the Programme.							
7	<p>No allowance or provision has been made for any other Non-MUDFA works or services being undertaken by Statutory Utility Companies or any other third party during the currency of each Worksite.</p> <p>Other parties, Statutory Utility Companies may, with the agreement and approval of AMIS MUDFA, work in each Worksite during the currency of the MUDFA Works, with all such Works, cost and schedule adherence, treated as a Change under Clause 46.</p>							
8	<p>In recognition of items 1 and 3 above the construction durations have been derived from the following quantities,</p> <table border="1" data-bbox="414 1204 1400 1353"> <thead> <tr> <th data-bbox="414 1204 1164 1276">MUDFA Utilities</th> <th data-bbox="1164 1204 1400 1276">Single Utility Quantities (LM)</th> </tr> </thead> <tbody> <tr> <td data-bbox="414 1276 1164 1316">Power Systems</td> <td data-bbox="1164 1276 1400 1316">8,587</td> </tr> <tr> <td data-bbox="414 1316 1164 1353">Gas - Mains & Branch</td> <td data-bbox="1164 1316 1400 1353">4,416</td> </tr> </tbody> </table>		MUDFA Utilities	Single Utility Quantities (LM)	Power Systems	8,587	Gas - Mains & Branch	4,416
MUDFA Utilities	Single Utility Quantities (LM)							
Power Systems	8,587							
Gas - Mains & Branch	4,416							

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Appendix C To Letter Reference DEL.MUDFA.7658.JC.GS
MUDFA Works - Programme (Rev. 06 Final): Programme Notes and Assumptions

Water - Clean	6,971
Water - Foul & Gravity Piping	2,192
Telecoms - British Telecom (BT)	6,063
Telecoms - Tele West (TW)	1,166
Telecoms - Cable & Wireless (C&W)	2,351
Telecoms - THUS	1,171
Telecoms - EasyNet (EN)	173
Telecoms - NTL	0
Street Lighting	540
Surface Water Systems	192
Miscellaneous & Other UTL Systems	1,445
Total:	35,265

Consolidated average outputs per linear meter (LM) and traffic management arrangements have been derived from those established within the contractual framework, specifically Schedule Four and Schedule Eight.

- | | |
|----|---|
| 9 | The requirement for any specialist plant, equipment or sub-contractors will be identified by the Limited, in advance, under Clause 8. |
| 10 | As the Programme is based on the current and best available information maintaining business and retail centre critical power supplies have not been considered, in full, at this stage in the planning development phase. |
| 11 | Statutory Utility Company regulatory requirements, which are additional to the MUDFA works (i.e. betterment), which are not included in the best and current information available at October 2007, have not been included in the development of the Programme and will be considered only under Clause 8, Work Ordering and/or Clause 46, Change; as appropriate.. |
| 12 | the Limited to provide AMIS MUDFA with traffic light designs, wiring schematics, phase schedules and all associated documentation in relation to any temporary or permanent modifications to existing traffic management infrastructure necessitated to support the Programme requirements.

AMIS MUDFA provide Worksite specific Traffic Management, ie phasing plans. |
| 13 | The impact of the Schedule 13 Requirements on Construction Services has been considered insofar as is practical or reasonable in recognition of the current and best available information.

Particular concerns relates to British Airports Authority (BAA) / Edinburgh Airports Limited in relation to Sections 7A and 7B due to the pending |

Appendix C To Letter Reference DEL.MUDFA.7658.JC.GB
MUDFA Works - Programme (Rev. 06 Final): Programme Notes and Assumptions

	programme requirements.
14	Service/supply maintenance or replacement, not included in the design and information, reasonably and practically, available at the date of finalising the Programme has not been allowed in the planning development.
15	No consideration has been given to any divergence with the provisions and basis of the Addendum to Preambles within Schedule Four, i.e. CARP Part 10, Miscellaneous Matters, items 1 to 4 inclusive and 5.1 to 5.10 inclusive.
16	Work site activities and durations are based on five (5 No.) working days, comprising 40 hours per week for operatives and staff, as contemplated within Schedule Four rates and prices. Disruptive, extended and/or accelerated working has not been considered and is not viewed as appropriate.
17	The agreed programme contemplates two lanes of traffic either side or direction flowing through St Andrews square at all times. AMIS MUDFA has assumed that the scheduled works at St. Andrews Square, by others (CEC nominated Contractor) will have no impact on the MUDFA Works, or programme requirements.
18	The programme does not take cognisance of the interfaces and/or dependencies associated with the INFRACO Contractor and/or TRAMCO service provider.
19	No allowance made, to the Worksite durations / dependencies for the impact of Prime Cost and Provisional Sums not subject to a formal Work Order from tie Limited as at 28th November 2007. Provisions have been made within the P3 cost and resource modelling only.
20	AMIS MUDFA shall use their best endeavours to mobilise all resources in recognition of the demands and requirements of the Programme.
21	No consideration given to benefits derived from Value Engineering / Risk and Trade Off Proposals and the like, with the exception of Section 6, 7A and 7B.
22	Utility diversion activities which are not required to accommodate the Edinburgh Tram project are not incorporated in the programme.
23	The Programme will be adopted as a basis for the management and application of the Commercial Agreement and MUDFA Contractor Incentivisation Proposal currently under review between the parties.
24	Traffic Management and Opening Notices are to be raised on issue of C4 drawings, by tie Limited, assisted by AMIS MUDFA where appropriate

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MUDFA Works - Programme (Rev. 06 Final): Programme Notes and Assumptions

	under the Contract, in accordance with the durations set out in the Programme.
25	The Programme assumes horizontal and vertical alignment for Sections 7A and 7B are correctly established; Risk and Trade Off dependent; criticality will be addressed by tie Limited and yield 50% / 50% gainshare opportunities.
26	Resolution of all Technical Queries shall be resolved in a reasonable, depending upon the circumstances, timely and consistent manner.
27	Issues pertaining to the Longstop Date, Time for Completion, Extension of Time for Completion, together with Liquidated and Ascertained Damages shall be addressed by tie Limited following agreement of the Programme in accordance with the provisions of the MUDFA terms and conditions accordingly.
28	AMIS MUDFA will endeavour to seek and implement 'left shift' and schedule compliance initiatives to safeguard the tie Limited dependencies
29	The logic associated with the City Centre works is based upon the requirements of the stakeholders and Schedule 13 agreements and having all traffic management approvals and work permits issued to meet the Programme requirements.

***** Notes and Assumptions End *****