



Mr Nick Flew
Managing Director
Parsons Brinkerhoff (Europe)
6 Devonshire Square
London EC2M 4YE

Our Ref: INF CORR 5277

Date: 4th June 2010

STRICTLY PRIVATE & CONFIDENTIAL

Dear Mr. Flew,

Edinburgh Tram Network

Your Mr. Peter Banks gave me your name as Managing Director of Parsons Brinkerhoff so that I could write to you on a matter which I feel you would wish to be informed of and assist with. I write in my capacity of Senior Advisor to tie Limited and with their authority.

Parson's Brinkerhoff have been engaged by tie Limited as the designer for the new Edinburgh Tram Network since 2005 and you were novated to the Infraco Consortium in May 2008. The Consortium consists of three parties; Bilfinger Berger (UK) Limited (Civil Engineering Works), Siemens PLC (E&M and track work) and CAF A/S (supply of trams). Each Consortium Member is jointly and severally bound under a bespoke Contract and Siemens assumed responsibility for the design of their works at the time the Contract commenced in May 2008 – we understand that under the Consortium Agreement they are charged with integrating the design.

Progress on the Contract has been extremely disappointing. Amongst other causes of delay are delays to diversion of utilities (tie's responsibility) and delay to completing an integrated design (the Consortium's responsibility). The delay caused by the utility diversions is not denied by tie and they have offered to extend the Contract duration in the absence of a fully detailed claim from the Contractor. However, the design is still incomplete. A critical part of the Works which is not designed being the On-street track. The attached abstract from tie's letter to the Consortium shows the extent to which tie are prepared to assist the Consortium and you in resolving this issue.

As the Consortium has not offered any explanation for the substantial delay in completing the design, we are minded that they may be concerned that they believe that you can defend any claim against you for late delivery because of defaults by the Consortium, or a Consortium Member. This may have led to an agreement between you and the Consortium, or a Consortium Member to work together to mitigate the impact on the Consortium, or a Consortium Member. In the circumstances where the delay is so acute tie would expect there to be some such agreement subject to it being referred to them for approval pursuant to Clause 11.5. If such an agreement exists it hasn't been approved by tie.

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My role at this juncture is to consider options open to **tie**. Options will include Termination of the Contract with the Consortium or an arrangement whereby responsibility for constructing the On-street trackworks is removed from that Contract. Both would need your agreement to some extent and sadly I imagine you may consider either to be preferable to continuing as we are.

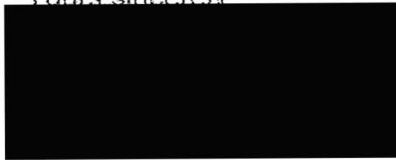
I would assure you that **tie**'s Chairman has written to the Chief Executive Officers of all three Consortium Members expressing **tie**'s hope that a solution, which is collaborative and in the spirit of open mutual cooperation, can be found. However, in the meantime we cannot let the search for a solution cause further delay to the project. I am authorised therefore to meet with you (at your convenience) to discuss how you may assist with:

Firstly, expediting the completion of the design.

Secondly, what it is you may do to assist with reaching a decision on the options open to **tie**.

I look forward to hearing from you soon on this urgent and important matter.

Yours sincerely



AR **Anthony Rush**
Signed in his absence.

Copies to:
David MacKay – Chairman **tie** Limited
Richard Jeffrey – CEO **tie** Limited
Steven Reynolds – Parson Brinkerhoff (Manchester)

Attachment

ABSTRACT FROM letter reference dated 3 June 2010

Notwithstanding that your "design methodology" lacks approval under the Infraco Contract it would appear to us that it would be necessary for you to reach formal understanding with the SDS Provider before you can present us with a fully integrated design solution. In light of the suggestions and claims which abound that there have been delays caused by Siemens being late in providing design solutions for those parts of the Infraco Works which were excluded from SDS Provider's responsibility; and delays in Infraco obtaining approval from Approval Bodies; and the provisions of Clause 11.5, we would expect such an agreement to be defined as a Deliverable. We request copies of such relevant documentation that exist between BSC, or any single Infraco Member, and the SDS Provider. Moreover, we request a written statement from the SDS Provider which details:

- * any agreement to improve the delivery of an integrated design solution for On-street trackworks;
- * any delays to such delivery caused by failure of other Infraco Parties to provide design information for integration purposes;
- * any delays to such delivery caused by failure of other Infraco to obtain approval from Approval Bodies.

Inter alia our letter 4487 dated 19 March 2010 and letters referred to therein instructs you to proceed with trackworks in Section 1D. However for the reasons apparent from those letters you are unable to execute that instruction. Clause 6.1 places a mutual obligation on us to work in cooperation and it is in this spirit that we suggest the following methodology for your consideration:

1. Recognising the hierarchy which applies to the country of origin for Codes of Practice we draw your attention to what is regular practice for the construction of the foundation using DMRB Part 7. It would appear sensible to us that a performance specification of a minimum 20%CBR is applied to the finished sub-base (which may be either granular or cement bound).
2. We have commissioned a "best practice" review and it shows that the Rheda City solution is widely used. In accordance with the spirit of Clause 6.1, we are prepared to accept that it should therefore be economic, efficient and effective provided that its integration into the Infraco Works is capable of satisfying the Independent Competent Person. (We accept no responsibility for its design).
3. We are concerned that the detailing of the infill "mastic" to the rails is consistent with European specifications and materials. Asphalts in Scotland, whilst compliant with DMRB, have their own physical characteristics which are determined by the physical properties of the coarse and fine aggregates. We need technical evidence backed by an assurance that your solution will be durable.
4. With regard to the alleged ORR requirement for a "one metre span" capacity: we suggest that SDS Provider simply check the capacity of the Rheda City design to span voids.

5. With regard to latent or hidden voids: we suggest that SDS Provider enter the risk into the Residual Risk Register on the basis that any patent void will be filled up to formation level to achieve a performance requirement of a minimum CBR and that Infraco's Design and Construction Assurance Statements will complement the hazard log close out and Residual Risk Register entries.
- ~~6. With regard to other physical or artificial obstructions, we suggest that they be dealt with if and when they arise on the basis that you will act on our instruction.~~
7. With regard to the longitudinal ducts: we refer you to the solution adopted at Croydon and suggest that you consider it for ETN.
8. Finally we suggest the SDS Provider gives assurance that the integrated design solution is suitable to act as both tramway and road.