



FAO Mr Martin Foerderer
Bilfinger Berger – Siemens – CAF Consortium
9 Lochside Avenue
Edinburgh Park
Edinburgh
EH12 9DJ

Our Ref: INF CORR 1760

Date: 9 July 2009

Strictly Private and Confidential
Without Prejudice

Dear Martin,

Edinburgh Tram Network Infraco
Infraco Contract – Mediation Follow Up

Thank you for your letter dated 8 July 2009. We agree that there were lengthy and constructive discussions during the week beginning 29th June and we were very disappointed by the outcome.

Unfortunately, the proposals contained in your letter do not demonstrate real progress on significant issues compared to previous positions put forward by the Consortium. It is also not clear to us why further proposals by yourselves which were made on Friday are excluded from the letter. However, as we explained at the time, your proposals do not reflect an equitable outcome supported by robust evidence of entitlement and are therefore unacceptable to us.

Furthermore we are disappointed that you do not refer to the proposals we made to you on Friday, or any consideration on the follow up details provided on the 4 and 5 July. These proposals from tie represented a willingness to go to the limits of what we believe is an acceptable outcome on the main issues in order to reach an agreed compromise. The lack of any reference to the tie proposals leads us to assume that the Consortium has rejected those proposals.

Whilst there were many issues that the mediation has not resolved, there was some progress, particularly in relation to the proposed appointment of an independent OS to evaluate those changes which are not disputed in principle but where we have been unable to agree rates and prices. I will discuss this with you further when we meet as it is clearly in the interests of both parties to progress this particular course of action and we have already provided you with a listing of such changes.

Furthermore tie made a number of specific proposals regarding individual structures which could unlock such differences in the short term.

In relation to your last paragraph I can assure you that we have been, and remain committed to, making decisions in a timely manner on receipt of the relevant information. As we mentioned on several occasions during the week, we believe that InfraCo's failure to deliver

tie limited

Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD

tel: +44 (0) 131 622 9300 / 622 8600 fax: +44 (0) 131 622 8701 / 622 8601 www.tie.co.uk

Registered in Scotland No. 230948 at City Chambers, High Street, Edinburgh EH1 1YJ

edinburgh tram network projects

timely information is at the root cause of many of the issues that are currently unresolved, and is adding further delay and expense to the project.

tie remains open to further discussions on all of the important aspects of the proposals we put to the Consortium last week. However, it appears from your letter that this avenue will not bear fruit and the **tie** Board has instructed the project team now to pursue the information needed and to seek a resolution of the key issues under the processes defined in the contract. It is disappointing that this conclusion has had to be reached but the proposals in your letter make it clear that this is now likely to be the only route which will lead to a conclusion on reasonable terms.

Yours sincerely,



Steven Bell
Project Director – Edinburgh Tram