



MUDFA Project
Western Harbour
Leith Docks
Edinburgh
EH6 6QF

Telephone 0131 561 2800
Facsimile 0131 561 2811
www.alfredmcalpinepic.com

Infrastructure Services

Ref: AMIS/tie/letter/TL/Projects/950

14th April 2008

Mr. Graeme Barclay
tie MUDFA Utilities Construction Director
tie Limited.
Citypoint,
1st Floor,
65 Haymarket Terrace,
Edinburgh.
EH12 5HD

Dear Graeme,

**Subject: MUDFA Alfred McAlpine Infrastructure Services (AMIS) – Contract A150
Consolidation of Delayed, Disrupted and Dislocated Works; April 2008.**

AMIS MUDFA refers to letter Ref: AMIS/tie/letter/KAG/Projects/833 dated 11th March 2008, enclosing the "MUDFA Report and Recommendation" in respect of Clauses 46 and 50 in relation to the application of Schedule Four Rates and Prices.

The MUDFA Contractor notes this letter and submission presently awaits a substantive response from tie Limited after a period of approaching five weeks.

In order to further substantiate those issues detailed in the above noted documentation and assist tie Limited with their assessment and determination of the Proposal AMIS MUDFA have prepared a consolidation of the various Worksite specific instances where Delay, Disruption, Dislocation has occurred and an entitlement under the MUDFA terms and conditions exists but is presently not being assessed by tie Limited.

This submission consequently serves as a notification to tie Limited under Clause 46.17 of the MUDFA terms and conditions and sets out the reasons and consequential effects giving rise to the need for a variation to the MUDFA Works.

Notwithstanding the root cause and overall entitlement in respect of these items relate to the circumstances, events and basis detailed within the 11th March 2008 submission.

AMIS MUDFA has endeavoured to mitigate the impact and consequences of these events through various on site consultations where the preferred method of working has been adopted with consideration to minimise the overall impact on the elements most critical for success; i.e. the time and cost trade off.

The activities detailed below will increase the costs for MUDFA Works; the magnitude thereof cumulates in a provisional 'early warning' assessment in the concluding paragraphs. A provisional assessment can only be provided at this juncture, given the events and circumstances are known in a limited area and their impact on the balance of the Works is not known or readily identifiable.





Infrastructure Services

14th April 2008

Page 2 of 20

Ref: AMIS/tie/letter/TL/Projects/950

Further substantiation will be provided on an ongoing basis as and when appropriate, once tie Limited and AMIS MUDFA have reached a consensus on the basis of entitlement, preferred measurement and valuation method in each instance.

1) Leith Walk, Traffic Signals

There have been a number of instances on Work Site 1B at Leith Walk where delays in changing traffic signals have frustrated the AMIS MUDFA programme to complete the works in an efficient manner. The two main instances of these are as follows: -

Pilrig Street

AMIS MUDFA had to leave a 50 metre gap in diversionary works at the Pilrig Junction of Leith Walk as there was a delay in Siemens changing the traffic controls.

The request for a change in location / setup of the signals was requested approximately twelve weeks ago, the site closed in this area approximately three weeks ago therefore the nine week window in which a minimal amount of disruption would have been caused has now passed.

This has resulted in the following diversions not being able to be laid in a continuous stretch resulting in inefficiencies to the AMIS MUDFA planned method of working: -

- i. 1B/SW/D/305A;
- ii. 1B/SW/D/306A;
- iii. 1B/SW/D/33;
- iv. 1B/LP/D/07; and
- v. 1B/LP/D/28.

McDonald Road

There is also an instance at McDonald Road where AMIS MUDFA are awaiting the traffic signal to be moved to allow diversions to be laid. This will again cause a previously closed working area to be reopened.

This has resulted in the following diversions not being able to be laid in a continuous stretch resulting in inefficiencies to the AMIS MUDFA planned method of working: -

- i. 1B/SW/D/315; and
- ii. 1B/SW/D/318;

The two above working areas have experienced delay, disruption and dislocation, together with cost escalation as follows: -





Infrastructure Services

14th April 2008

Page 3 of 20

Ref: AMIS/tie/letter/TL/Projects/950

- i. Effectively laying three short diversion lengths instead of one continuous length for each diversion therefore reducing productivity;
- ii. Having to lay up to a point and reinstate, only to have to re-excavate a length of the diversion previously laid in order to connect to original pipe / duct. This will have to be executed twice for each diversion; and
- iii. Traffic management set-up in disaggregated sections therefore causing an increase in cost across each diversion.

2) Leith Walk, Manderston Street Diversion

Due to the Constitution Street road closure, a diversion route for buses was set up along Manderston Street and into Leith Walk.

This conflicted with AMIS MUDFA's planned programme of works.

AMIS MUDFA were given four week's notice of the bus diversion. There were three weeks of enabling works required at Manderston Street junction prior to commencement of the MUDFA works. Therefore AMIS MUDFA were restricted to a one week 'window' to carry out utility diversions before the bus diversion was introduced.

Furthermore, two manholes were being built as part of the programmed works. This also affected the ability of AMIS MUDFA to lay diversions within the area in such a restricted duration.

This has resulted in the following diversions either not being able to be laid in a continuous stretch or not being able to be carried out in line with the AMIS MUFA planned programme of works resulting in inefficiencies to the MUDFA Contractors planned method of working: -

- i. 1B/SW/D/304;
- ii. 1B/SP/D/02;
- iii. 1B/SP/D/03;
- iv. 1B/BT/D/503;
- v. 1B/BT/D/508;
- vi. 1B/BT/D/522;
- vii. 1B/TH/D/02;
- viii. 1B/TE/D/709;
- ix. 1B/LP/D/10;
- x. 1B/LP/D/11; and





Infrastructure Services

14th April 2008

Page 4 of 20

Ref: AMIS/tie/letter/TL/Projects/950

iii. 1B/LP/D/13.

This has affected the programme detrimentally and caused the following increases in cost: -

- i. Effectively laying three short diversion lengths instead of one continuous length for each diversion therefore reducing productivity;
- ii. Having to lay up to a point and reinstate, only to have to re-excavate a length of the diversion previously laid in order to connect to original pipe / duct. This will have to be executed twice for each diversion; and
- iii. Traffic management set-up in disaggregated sections therefore causing an increase in cost across each diversion.

3) Leith Walk, Network Rail Bridge and Trial Holes

Due to the lack of viable or adequate IFC design for the diversions crossing the Network Rail bridge on Leith Walk between McDonald Road and Shrub Place Lane, trial holes have been required to be carried out to determine the depth that utilities can be laid.

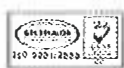
AMIS MUDFA requested the IFC design for this Section as early as November 2006 and to date provision of this information remains outstanding.

Due to the analysis required from these trial holes together with the delay in gaining the necessary Network Rail approval the following diversions have not been able to be laid in a continuous stretch resulting in inefficiencies to the AMIS MUDFA planned method of working: -

- i. 1B/LP/D/08;
- ii. 1B/SW/D/305A;
- iii. 1B/SW/D/306A;
- iv. 1B/SW/D/304A;
- v. 1B/BT/D/586; and
- vi. 1B/BT/D/597.

This has affected the programme detrimentally and caused the following increases in cost: -

- i. Effectively laying three short diversion lengths instead of one continuous length for each diversion therefore reducing productivity;
- ii. Having to lay up to a point and reinstate, only to have to re-excavate a length of the diversion previously laid in order to connect to original pipe / duct. This will have to be executed twice for each diversion; and





Infrastructure Services

14th April 2008

Page 5 of 20

Ref: AMIS/tie/letter/TL/Projects/950

- iii. Traffic management set-up in disaggregated sections therefore causing an increase in cost across each diversion.

These diversions are to be laid either side of the Network Rail bridge. The following diversions which AMIS MUDFA have not yet been able to commence as a consequence of the uncertainty surrounding the start date, have adversely affected the ability of the MUDFA Contractor to plan these diversions in a cost efficient and cohesive manner: -

- i. 1B/SP/D/18; and
- ii. 1B/BT/D/585.

4) Hiab & Hotbox Usage (Actual v Allowance in Rate)

The usage of support vehicles for reinstatement and material uplift and removal, namely 32T Hiabs and Hotboxes has been over and above that allowed for in AMIS MUDFA's Schedule Four Rates and Prices.

The Schedule Four Rates and Prices are based on the durations, sequence and modus operandi of the Schedule 8 Programme, as opposed to the emerging Works as contained within the tie Limited and Stakeholder Constrained Programme at Revision 06, which does not facilitate the planned resource sharing contemplated in the Schedule Four Rates and Prices.

This increase can be attributed to numerous causes out with the control of AMIS MUDFA, the major factors being: -

- i. Disaggregation of work sites;
- ii. Traffic management restrictions;
- iii. Ground conditions; and
- iv. Late information on diversions.

5) Scottish Water Insistence on Route Following Design

Scottish Water continue to insist the diversion routes identified on the SDS Provider IFC drawings are adhered to, regardless of infringing unidentified obstructions and impracticalities involved highlighted on the individual Technical Queries (TQ's) raised by AMIS MUDFA.

The resultant is a delay and disruption from:-

- i. Time taken to answer TQ's;
- ii. Additional works both temporary and permanent to enable the works to be constructed in the Scottish Water preferred location; and
- iii. Additional trial holes to determine the extent of the impeding obstructions





Infrastructure Services

14th April 2008

Page 6 of 20

Ref: AMIS/tie/letter/TL/Projects/950

Furthermore AMIS MUDFA does not consider the Scottish Water insistence on this matter to be in the best interests of the project in terms of practicality and cost.

Accordingly we request that tie Limited endeavour to resolve and / or mitigate this issue to avoid the exacerbation of the risk and cost profile.

6) Restrictive Working and Restrictions on Diversion Lengths Due to Traffic Management and Available Sections

This generic issue was first highlighted under cover of letter Ref; AMIS/tie/letter/TL/Projects/745 dated 25th January 2008 for work site RAT 1C/1.

Other current Work Sites including 1B WSI 001/002, 1B WSI 001/001, R.A.T. 1B/1, 1C WSI 002/001, 1C WSI 001/001 and 1C WSI 001/002 have also been subject to similar restrictions.

This has impacted on the following:-

- i. A reduction in the availability of diversion lengths accessible at any one time;
- ii. Confined working areas resulting in inefficient working;
- iii. The works requiring to be re-programmed especially when considering the additional impact of the relevant TQ's raised for each diversion; and
- iv. Reduction of the anticipated productivities included in Revision 06 of the tie Limited and Stakeholder Constrained Programme.

These restrictions and constraints are additional to those contemplated in the Schedule Four Rates and Prices.

7) Loss in Overheads & Profit - Communications and Customer Care Team

At the request of tie Limited, a total number of Eight Staff members transferred from the AMIS MUDFA Communications team to tie Limited.

Consequently AMIS MUDFA seeks to recover the loss in associated Overheads and Profits.

The Communications team staff were originally recruited by AMIS MUDFA with consideration to long term company business plan and progression beyond the MUDFA Project. AMIS MUDFA therefore seeks to recover the additional costs that will be expended on equivalent replacement staff in the future.

8) Manhole Rates to be Adjusted Where Constructed Over Existing Utilities

Rates for all Manhole types contained within the Schedule Four Rates and Prices are for building virgin Manholes on sites and locations with no interference from existing utilities.





Infrastructure Services

14th April 2008

Page 7 of 20

Ref: AMIS/tie/letter/TL/Projects/950

The majority of the Manholes being constructed are on existing Manhole locations; they therefore require work over and above that which was priced within the original Schedule 4 Rates and Prices. The majority of the extra work can be categorised as follows: -

- i. Trial hole to be dug round existing structure
- ii. Extra Shuttering;
- iii. False roof to be installed;
- iv. Demolish existing manhole;
- v. Supporting of existing apparatus;
- vi. Boxing out of manhole for existing apparatus and effects on shuttering; and
- vii. Slewing of existing apparatus.

This list is not exhaustive as the existing apparatus causes inefficiencies throughout every phase of the Manhole build apart from the reinstatement element.

It is calculated that this extra work will increase the time element of the original Schedule Four Rates and Prices by 150%.

9) Section 5B Cable Ducts, Diversions Power 5B/SP/D/26, 34 & 35 Insurance Ducts

The sequence of events in this instance is as follows:-

11th February 2008; TQ 384 was raised by AMIS MUDFA for Diversions 5B/SP/D/26, 34 & 35 requesting confirmation of whether the diversions would be carried out under INFRACO or MUDFA;

22nd February 2008; tie Limited confirmed Diversion 5B/SP/D/26 (INFRACO), and confirmed Diversions 5B/SP/D/34 & 35 would be MUDFA insurance ducts only;

22nd February 2008; TQ 418 raised by AMIS MUDFA requesting design spec for 132KV and 275KV transmission duct, warning tape and tiles;

3rd March 2008; AMIS MUDFA commenced trial holes for diversions in anticipation of the forthcoming works, 2 teams were deployed;

6th March 2008; AMIS MUDFA commenced excavation of crossings after committing 1 team in line with the work site programme;

10th March 2008; TQ 449 raised by AMIS MUDFA since outstanding TQ 418 not yet answered requesting tie Limited to confirm the procurement of ducts as per quotation attached to the TQ. The TQ was marked urgent as the impending response was now delaying the works.





Infrastructure Services

14th April 2008

Page 8 of 20

Ref: AMIS/tie/letter/TL/Projects/950

10th March 2008; diversionary team started to experience under utilisation;

14th March 2008; answer to TQ 418 received via TQ 449 stating that ducting should be supplied and installed as per Scottish Power Specification appended to the TQ;

14th March 2008; AMIS MUDFA requested a quotation from the supplier (Emtelle) in accordance with specification provided by tie Limited;

19th March 2008; Emtelle quotation handed to tie Limited for confirmation; CVI 23728 issued by tie Limited confirming approval on the 19th March 2008;

19th March 2008; AMIS MUDFA proceeded with the order; considering the 10 to 12 days lead in time anticipated delivery date was the 7th April 2008;

In the intervening period and as a consequence of the above 10th March 2008 to 7th April 2008 (4 weeks) it was only possible to utilise 1 Team for 50% of the duration.

This was not contemplated in the Schedule Four Rates and Prices or Revision 06 of the tie Limited and Stakeholder Constrained Programme and represents an AMIS MUDFA entitlement under the MUDFA terms and conditions.

10) Removal and Shoring of Embankments Where on Same Route as Diversions

Following finalisation of the Tram alignment and necessary diversionary routes AMIS MUDFA is required to remove and shore embankments which were not identified in the original work scope and definition.

This was not contemplated in the Schedule Four Rates and Prices or Revision 06 of the tie Limited and Stakeholder Constrained Programme.

11) Traffic Management, Schedule 13 and Stakeholders generally

AMIS MUDFA refer to letter Ref: AMIS/tie/letter/TL/Projects/740 dated 24th January 2008 and discussions held during the Application for Payment 15 meeting held 19th March 2008 attended by Messrs Casserly and Caldwell from tie Limited, together with Messrs Lowe, Hughes and Cowan from the MUDFA Contractor.

It has become evident that the items available to re-measure the traffic management provision within the Schedule Four Rate & Prices are inadequate and do not provide sufficient visibility when considering the traffic management being undertaken.

The Schedule Four Rates and Prices are based on the Schedule 8 Programme durations, sequence and modus operandi, as opposed to the emerging Works reflected in the tie Limited and Stakeholder Constrained Programme at Revision 06.

The demands and constraints of Revision 06 require a significant degree of flexibility by way of resource availability to meet the programme demands and ensure schedule adherence; i.e.





Infrastructure Services

14th April 2008

Page 9 of 20

Ref: AMIS/tie/letter/TL/Projects/950

Enabling Works, Change Control items, Trial Holes, Siemens Traffic Controls, ongoing delay, disruption, dislocation and prolongation to the Worksites et al.

In the professional and considered opinion of the MUDFA Contractor the modis operandi of the Schedule Eight Programme and the resultant Schedule Four Rates and Prices, is not compatible with the emerging requirements of the Revision 06 Programme.

The resultant complexities involved with the evaluation, re-measurement and certification of this item requires an alternative way forward to secure the interests of both parties.

AMIS MUDFA recommends that actual demonstrable Cost plus the agreed Overhead and Profit would be the most suitable arrangement.

12) Utilisation of Foam Concrete to Offset Delay, Disruption and Dislocation

With consideration to Revision 06 of the tie Limited and Stakeholder Constrained Programme and the effects and extent of change items currently being experienced on the live Worksites AMIS MUDFA continue to utilise foam concrete to help mitigate the extent of delay, disruption and dislocation experienced.

This initiative has been driven by AMIS MUDFA and will in no uncertain terms be to the benefit of both parties to the MUDFA Agreement.

This is evidenced by letter Ref; AMIS/tie/letter/KAG/Projects/928 and 935 both dated 11th April 2008.

The AMIS MUDFA proposal was initially raised under cover of letter Ref; AMIS/tie/letter/TL/Projects/588 dated 9th November 2007, a formal and fully substantiated tie Limited response to this issue remains outstanding whilst AMIS MUDFA continues to incur the additional associated costs and mitigate delay, disruption and dislocation accordingly.

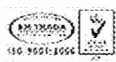
13) Excessive Hand Digging

Due to the nature and volume of uncharted utilities and service pipes, AMIS MUDFA teams are experiencing excessive quantities of hand-digging over and above that which was assumed for within the productivity outputs contained within the Schedule Four Rates and Prices.

These productivity outputs are demonstrably established within the build-ups contained within Schedule Four.

Within the productivity assumptions, AMIS MUDFA have allowed for 10% hand dig around existing utilities, AMIS MUDFA would seek, as an entitlement under Clause 46, for having to hand dig excessively above this percentage.

This would be calculated at actual costs less any value claimed via the Schedule 4 Rates and Prices for the hand-digging allowance included within the Rate.





Infrastructure Services

14th April 2008

Page 10 of 20

Ref: AMIS/tie/letter/TL/Projects/950

14) Testing of Cables

The tie Limited Work Order or Notice of Change remains outstanding for these works. AMIS MUDFA requested that a suitable Change Order be issued in letter Ref; AMIS/tie/letter/TL/Projects/493 dated 9th October 2007. A tie Limited response is currently 25 weeks overdue.

It is imperative that these works are undertaken; AMIS MUDFA is currently incurring costs that the Schedule Four Rates and Prices do not contemplate or consider.

These additional costs should be recovered through expenditure of Prime Cost Sum Item 1/3A.

15) Supply Connections (Gas and Water) and Impending Delay, Disruption and Dislocation

The necessity for a tie Limited Work Order or Change Notice was raised through email correspondence 23rd January 2008.

tie Limited confirmed in email dated 23rd January 2008 that a suitable recommendation would be provided by Monday 28th January 2008.

A tie Limited recommendation and the respective Work Order is currently outstanding for a period of 9 weeks. These additional works and the timing thereof will directly impact on the Contract Value and Revision 06 of the tie Limited and Stakeholder Constrained Programme.

Should the timing of the Works Order not coincide with, or be issued after the works on the respective Work Sites have been completed then an opportunity to mitigate the cost impact will be lost.

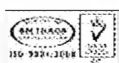
Once a tie Limited Work Order or Change Notice has been received then an assessment of additional costs and impact on Revision 06 of the tie Limited and Stakeholder Constrained Programme can be completed.

The assessment will consider the impact of the 22 days required for customer notifications, additional resources to complete the works including Traffic Management and any overtime working requirements.

16) Removal of Scottish Power Cables where no tie Limited Instruction Provided and where Required to Install a Planned Diversion – Shandwick Place

On the 5th March 2008 in order to progress the planned diversions AMIS MUDFA removed a section of Scottish Power cables. There was no restriction imposed prohibiting AMIS MUDFA from removing these cables.

Upon confirmation on CVI/Record Sheet 06638 of the resources utilised to remove the cables, the tie Limited response was that Scottish Power and AMIS MUDFA would be responsible for the removing of these cables; subsequently the estimate provided for these works letter Ref; AMIS/tie/letter/RF/Projects/850 dated 17th March 2008 was rejected by tie Limited in letter Ref; DEL.MUDFA.7822.GS.GB dated 20th March 2008.





Infrastructure Services

14th April 2008

Page 11 of 20

Ref: AMIS/tie/letter/TL/Projects/950

AMIS MUDFA is currently incurring costs with no recovery through Schedule Four Rates and Prices for these works. This is contradictory to estimates provided, certified and agreed for Power and Water abandonments on other Work Sites prior to this date.

To reiterate previous correspondence on this matter, AMIS MUDFA has made allowances in the Schedule Four Rates and Prices for the most economical solution, this includes in situ abandonments. Having to remove an existing utility and disposing of it off site has not been considered in the Schedule Four Rates and Prices.

It is contemplated that the removal of redundant apparatus where necessary would be expended against Provisional Sum Item 5/5/A.

17) HV Cables and removal Thereof Put on Hold - Shandwick Place

CVI/Record Sheet 17963 dated 4th March 2008 with the corresponding tie Limited reply instructs AMIS MUDFA to leave in situ until further instruction the banks of 6 and 8 cables in Shandwick Place that were spiked by Scottish Power in November 2007.

This issue has arisen due to no tie Limited/Scottish Power agreement being in place prior to the works commencing. This issue has also been further highlighted in email correspondence specifically for Shandwick Place where AMIS MUDFA requested the issue be resolved since works for the effected diversions were scheduled to commence 12th March 2008.

AMIS MUDFA are yet to be informed of a resolution to this issue, this has now consequentially disrupted the planned diversionary works and associated resources.

18) Additional Works Affected by Unresolved Issues

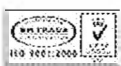
The most recent example of this is the additional diversionary works requested on Shandwick Place, namely Gas Diversion 1D/LP/D/101 issued in tie Limited Change Notice letter Ref; DEL.MUDFA.7536.SC.GB dated 5th March 2008.

These additional works and the programming thereof will be influenced by the Scottish Power cables which cannot yet be removed as described in Item 17 above.

The cables which are to be left in situ until a tie Limited instruction is received affect the sequencing and programming of all diversions on South side footway.

With consideration to the sections available and the phasing thereof for this Work Site, this issue will have a direct and consequential impact on Revision 06 of the tie Limited and Stakeholder Constrained Programme.

This will also hinder the productivity of the teams allocated to complete the phased diversionary works.





Infrastructure Services

14th April 2008

Page 12 of 20

Ref: AMIS/tie/letter/TL/Projects/950

19) Trial Holes Not Paid Where Proved That Diversions Not Required Due to Insufficient Cover (e.g. CVI 23603 & 23604 Section 5B)

Trial holes are allowed for within the AMIS MUDFA Rates and Prices on a basis as described in Letter Ref: AMIS/tie/letter/KAG/Projects/744, i.e. trial holes at the beginning, end and at intermittent intervals of 50m along the diversion length.

It is assumed that these trial holes would then be utilised as part of the diversion trench and the cost would be recovered via the rate for the diversion carried out.

Currently there is a significant amount of management time and level of effort being deployed agreeing what trial holes should be included within the AMIS MUDFA Schedule 4 Rates and Prices.

The following two instances of Trial Hole submission of records / valuation have both been rejected on instances by tie Limited:-

- i. In the event that AMIS MUDFA excavate a trial hole for either a linear / crossing diversion or a junction box / manhole and there is not sufficient space available to lay / build the apparatus in the position indicated by the IFC Drawings; and
- ii. Where AMIS MUDFA are instructed to dig trial holes to prove the sufficient depth of an existing utility.

AMIS MUDFA would seek to recover the cost of these trial holes using the Trial Hole Rate within the Schedule Four Rates and Prices.

If trial holes are dug to prove the route of diversions and it is found that the original utility is at a suitable depth so as not to conflict with the DKE, AMIS MUDFA would add these diversions to the Gain Share Register.

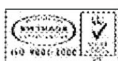
20) Status of Work Orders and Gain Share

Section 4 Level 2 of the MUDFA Contractors Incentive Scheme confirmed in letter Ref: DEL.MUDFA.7658.JC.GB dated 9th April 2008 provides, "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...".

Of the circa £19m of Work Order Estimates calculated and submitted by AMIS MUDFA to date circa £12m are yet to receive a corresponding Work Order Confirmation Notice.

With no Work Order Confirmations in place, the Gain Share Incentive envisaged in the replacement to Clause 48 incentive scheme is in jeopardy.

AMIS MUDFA recognise the failure of tie Limited to issue Work Order Confirmations, this has been the subject of contemporaneous correspondence and has been identified as a





Infrastructure Services

14th April 2008

Page 13 of 20

Ref: AMIS/tie/letter/TL/Projects/950

contravention of the MUDFA Agreement; this is for reasons outwith the MUDFA Contractors control.

21) tie Limited Accommodation

Schedule One, Clause 7.1 to 7.3 inclusive contemplates the allocation of ten (10) desks and parking spaces to tie Limited staff.

tie Limited have now exceeded this by more than double the extent of which was detailed in letter Ref: AMIS/tie/letter/KAG/Projects/461 dated 19th September 2007. There is also evidence that these tie Limited staff are working on other duties and/or projects not directly associated with the MUDFA Works.

AMIS MUDFA are currently incurring cost for the additional tie Limited personnel with no recovery through the Schedule Four Rates and Prices.

22) Delays Due to Outstanding Statutory Utility Company Approvals

AMIS MUDFA continues to incur delays through outstanding Utility Company approvals, the most recent example being recorded under cover of letter Ref: AMIS/tie/letter/OH/Projects/870 dated 27th March 2008.

Although AMIS MUDFA accepts the obligation to manage the Utilities in so far as reasonably practicable however Clause 46 of the MUDFA Agreement must be adopted as the specific mechanism for recovery of the additional costs where excessive delays are experienced.

AMIS MUDFA believe that the amount of change associated with Statutory Utility Company approvals is over and above that which was assumed or could reasonably be considered at tender stage.

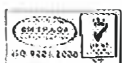
Delays, disruption and dislocation experienced as a consequence of Statutory Utility Company approvals outwith the control of AMIS MUDFA, and the MUDFA contractor expects to recover the costs incurred.

23) Delays from Enabling Works

Shandwick Place has been phased to maintain shop entrances, this has and will continue to cause delays and increased costs to AMIS MUDFA due to the inefficiencies caused by having disaggregated work sites.

The main areas in which this will increase the costs are as follows: -

- i. Difficulties in programming works;
- ii. Inefficiencies in utility teams due to full diversion lengths not being available;
- iii. Inefficiencies in support resources due to full diversion lengths not being available;





Infrastructure Services

14th April 2008

Page 14 of 20

Ref: AMIS/tie/letter/TL/Projects/950

The phasing of the enabling works has also caused major increases in Traffic Management.

24) Late Receipt of Work Order information

To date the information required to plan, estimate and produce a Work Order proposal although not strictly in accordance with the MUDFA Agreement has been available in the majority of cases prior to the construction start dates identified on Revision 06 of the tie Limited and Stakeholder Constrained Programme.

It is however becoming an increasing concern that the availability of the required information is now being received after the construction activities identified in Revision 06 of the tie Limited and Stakeholder Constrained Programme have commenced.

The most recent example of this is where tie Limited have provided IFC drawings letter ref; DEL.MUDFA.7766.SC.GB dated 17th March 2008 for works already underway since 20th January 2008.

This is not acceptable and will have a direct and consequential impact on the planned resources, Traffic Management and ultimately the completion dates scheduled in Revision 06 of the tie Limited and Stakeholder Constrained Programme.

25) Application of CARP/CECA Rates for Additional Works

There are currently a number of Change Control items which are being valued by AMIS MUDFA at CECA Dayworks rates in line with Clause 51.4 of the Contract.

The majority of these Change Control Items have been adjusted to CARP rates by tie Limited in recent Applications For Payment. The items can be split into the following categories: -

- i. Isolating apparatus;
- ii. Drilling apparatus to confirm if live / redundant;
- iii. Additional minor diversion works;
- iv. Abandoned works due to uncharted utility (AMIS MUDFA disagree Provisional Sum as not a diversion of an Unidentified Utility);
- v. Removal of redundant apparatus (Provisional Sum);
- vi. Stand down;
- vii. Supply of signage;
- viii. Disposal of Trees;
- ix. Slewing cables (AMIS MUDFA disagree Provisional Sum as not Unidentified Utility);
and





Infrastructure Services

14th April 2008

Page 15 of 20

Ref: AMIS/tie/letter/TL/Projects/950

x. Demolish of Manhole (Provisional Sum).

tie Limited are reducing the value of the AMIS MUDFA works with regard to these items on the basis that the works are Provisional Sums.

The MUDFA Contractor notes, despite a specific request made at the Application for Payment 15 Meeting held on 19th March 2008, that tie Limited have not defined the express provisions of the MUDFA terms and conditions that support their certification and adjustment to the AMIS MUDFA submitted values.

AMIS would contest that the full compliment of items listed are indeed Provisional Sums but believes that the application of Clause 53 (Use of Provisional Sums and Prime Cost Items) which refers to the determination of value using Clause 46 (Changes) is erroneous.

tie Limited have not instructed these works in accordance with the protocol and timescales clearly defined under Clause 46.

All of these works have been incidental to the actual works instructed and on the few occasions that the work has been instructed it would only have been under a CVI.

There are also a number of instances where AMIS MUDFA has priced Change Control items based on the CARP rates with the actual cost for supply of labour.

In these instances tie Limited have unilaterally taken the approach in recent Valuations that the CARP Labour Rates are to apply. This application of the actual labour rate is in line with the fact that the delay in the start of works caused AMIS MUDFA an increased cost in labour.

Furthermore AMIS MUDFA has invested in Labour that is at a premium cost due to their skill level and therefore are expected to produce more than the assumed tendered productivity when on Diversionary Work.

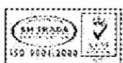
When Delay, Disruption and Dislocation occurs through Change over which AMIS MUDFA have no opportunity to control or adequately mitigate the approach adopted by tie Limited results in an under recovery of the premium rates paid to these teams through the increased production that was envisaged.

If the CARP rates continue to be applied all Changes of this nature this will result in AMIS MUDFA experiencing an under recovery on cost, through the default of tie Limited/SDS Provider.

26) Diversions Novated to INFRACO

Some non-MUDFA related works are required prior to certain diversions being undertaken. These have not been identified on the IFC drawings provided by tie Limited and consequently AMIS MUDFA where necessary have had to recommend the novation of these diversions to Infracore once on site activities have commenced.

This has impacted on the following:-





Infrastructure Services

14th April 2008

Page 16 of 20

Ref: AMIS/tie/letter/TL/Projects/950

- i. The planned activities and sequencing thereof including Traffic Management have been disrupted; and
- ii. The reduced turnover has resulted in a loss of Overheads and Profit.

27) Street Furniture Works Order

To date AMIS MUDFA are yet to receive a Work Order for the abandonment of existing street furniture where no longer in use due to the diversions being completed.

A Provisional Sum allowance for this has been provided in the Schedule Four Rates and Prices Item 3/5/H for this.

The late receipt of this Work Order will reduce AMIS MUDFA's ability to mitigate the impact on Revision 06 of the tie Limited and Stakeholder Constrained Programme and the disruption caused to resources.

28) Section 1D - Shandwick Place

There are a number of issues that have delayed the Shandwick Place works from the start of the programme, the major issues are detailed as follows: -

Relocation of Manhole MRX402A, Diversion 1D/BT/D/01

Due to the IFC Drawings issued by tie Limited conflicting with the PU drawing held by AMIS MUDFA, the location of the Manhole MRX402A, Diversion 1D/BT/D/01 had to be changed.

This resulted in a major delay to the first part of the programmed Shandwick Place works as it was 2 weeks before BT could confirm the new location.

The BT diversions in the surrounding areas were dependant on the location of the manhole therefore these were all delayed for the same amount of time.

SP Cables in diversion route

On the south side footpath there was a bank of redundant Scottish Power cables, AMIS MUDFA were delayed whilst awaiting approval from Scottish Power to remove these cables as they were in the planned diversion routes on the IFC drawings.

Cellars

A number of diversions on the IFC drawings were to be laid in footpaths but no cognisance had been taken of the cellars which come out from the building line under the footpath.

This caused a number of diversions to require re-routing.





Infrastructure Services

14th April 2008

Page 17 of 20

Ref: AMIS/tie/letter/TL/Projects/950

Scaffolding

Due to scaffolding on the north side pavement there was a delay to the planned diversion of the twin water main; please refer to letter Ref; AMIS/tie/letter/KAG/Projects/900 dated 7th April 2008.

Scottish Water Shut Offs

There has been a delay in commencing a number of the Scottish Water diversions as AMIS MUDFA are awaiting Scottish Water shutting off the relevant mains.

These problems which could not have been foreseen by AMIS MUDFA have resulted in a delay and disruption of approximately 3 weeks to all the teams that were programmed to be executing these diversions in addition to all associated site plant, security requirements (fencing etc.) and logistics support.

29) Air Test Gas Mains (Newly Installed and Not Live) Prior to Reinstatements

A number of gas main crossings have been installed in sections due to Traffic Management restrictions and constraints.

In order to ensure that when the complete diversion is tested there are no complications, AMIS MUDFA requires to air test these individual sections.

This is work that was not contemplated in the Schedule Four Rates and Prices and represents an entitlement under Clause 46 of the MUDFA terms and conditions.

30) Weekend Working to Mitigate Delays (Saturday Mornings / Public Holidays; and where Relaxation Permits Issued)

To mitigate delay, disruption and dislocation AMIS MUDFA has, where possible, been required to work on Saturdays, Public Holidays and where Relaxation Permits have been issued.

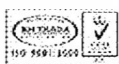
This has resulted in an increase in cost with relation to site based labour and supervisory staff that is not recoverable through the Schedule Four Rates and Prices.

31) Additional Trial Holes Causing Delay, Disruption & Dislocation; Initial Trial Hole Schedule built around IFA drawings NOT IFC drawings (e.g. BT on Constitution St)

As a consequence of the late issue of IFC drawing by tie Limited, AMIS MUDFA were required to execute their trial hole programme based on the AFC drawings.

Furthermore as a result of significant differences in the IFC's in comparison to the AFC's, AMIS MUDFA have had to execute an additional 18 trial holes in line with the IFC's where there are differences in design for every utility.

This has caused a delay and disruption to the programmed works especially on Work Site 1A WSI 001/001 (Constitution Street).





Infrastructure Services

14th April 2008

Page 18 of 20

Ref: AMIS/tie/letter/TL/Projects/950

32) Callouts (Staff & Runners) for Gogar and Shandwick Place Security

AMIS MUDFA staff and operatives have been requested to assist Security personnel employed by tie Limited out of hours due to events that could have been easily prevented through briefing, planning or contingency management e.g. generators running out of fuel and padlocks not opening.

33) Standby Costs

AMIS MUDFA did not allow for Standby in the Schedule Four Rates and Prices, this is an additional cost which AMIS MUDFA wish to recover through an increased rate.

Costs are also being incurred by AMIS MUDFA as a consequence of inappropriate call outs, most recently on Saturday 12th April 2008 where the MUDFA Contractor was requested to attend issues that were the responsibility of a Statutory Utility Company; i.e. a burst reported at Maritime Street and no water supply at 227 Leith Walk, the Alhambra Bar, none of which were the responsibility of AMIS MUDFA.

34) Jointing works and Procurement Thereof (various emails etc)

In essence on the 3rd March 2008, AMIS MUDFA raised concerns over the absence of a tie Limited Work Order or Change Notice for the associated Scottish Power works.

On the 4th March 2008 a response was received from tie Limited stating that the outstanding information would be provided.

To date and approximately six (6) weeks later we are yet to receive any additional information with the relevant tie Limited Work Order or Change Notice.

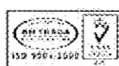
The procurement of all joint and cable caps have also been put on hold until a tie Limited Work Order Confirmation or Change Order has been received.

The consequence of the late receipt of the Work Order Confirmation or Change Order will require and not be limited to additional Traffic Management arrangements, additional excavations, and the like to expose connections with all resources including plant, labour, materials and supervision with any additional Preliminary items should the Work Order not be forthcoming.

Conclusion and Way Forward

It is evident that the above noted events and circumstances should have been managed in advance of the Worksites commencing construction works on site by the following means, in a manner that supports Construction Services under Revision 06 of the tie Limited and Stakeholder Constrained Programme:-

- Management of the IFC Designs and Design Related Information;
- Management of SDS Provider and the overall Design Deliverables;





Infrastructure Services

14th April 2008

Page 19 of 20

Ref: AMIS/tie/letter/TL/Projects/950

- Delivery of Traffic Management Design and TTRO obligations;
- Contract Compliance, i.e. Clause 8, Work Orders and Clause 46 Change;
- Design Process and Accuracy, together with Schedule Adherence;
- Management of the Prime Cost and Provisional Sums; and
- Management of the technical interfaces and dependencies that support and facilitate physical progress, i.e. outputs and production. Please refer, by way of illustration, to letter Ref: AMIS/tie/letter/KAG/Projects/935 dated 11th April 2008.

The attention of tie Limited is drawn to letter Ref: AMIS/tie/letter/KAG/Projects/342 dated 7th August 2007, where AMIS MUDFA submitted their Anticipated Final Account (AFA) Revision 05, which reflected a 35% global provision to address the anticipated magnitude of unplanned Clause 46 Change, Risk, Contingency and the costs associated with the agreed Addendum to the Schedule Four Preambles.

It is apparent that items 1 to 34 above reflect all the categories considered by the MUDFA Contractor within their AFA Revision 05 submission, with the possible exception of discrete Clause 46 Change and any resultant prolongation to the Contract period.

Consequently the 35% global provision could not reasonably be applied in this instance.

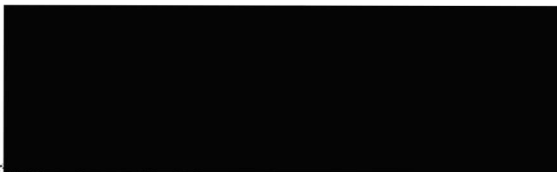
However in recognition of the foregoing the MUDFA Contractor considers these items will necessitate in the region of a £1.5M provision by tie Limited for the MUDFA Works completed to date.

Furthermore we request suitable tie Limited proposals in order to address these issues in the first instance, or alternatively mitigate the overall impact in terms of outturn cost and schedule adherence.

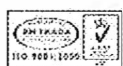
Should you wish to discuss or review any of the above please do not hesitate to contact the undersigned, Mr. Keith Gourlay or Mr. Taryne Lowe.

Yours sincerely,

For and on behalf of **Alfred McAlpine Infrastructure Services Ltd**



Andrew Malkin
MUDFA AMIS Project Director





Infrastructure Services

14th April 2008

Page 20 of 20

Ref: AMIS/tie/letter/TL/Projects/950

Copies:-

tie Project Team

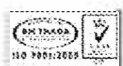
John Casserly

MUDFA Project Team

Keith Gourlay

Taryne Lowe

Stephen Miller



Alfred McAlpine Infrastructure Services Limited. Registered in England No. 00728599
Registered Office: Kinnaird House, 1 Pall Mall East, London SW1Y 5AZ

CEC01520586_0020