



Gill Lindsay
Council Solicitor
City of Edinburgh Council
City Chambers
High Street
Edinburgh
EH1 1YS

Your reference

Our reference

JM/JM/PERSONAL/PERSONAL/
2586647.1

22 October 2007

Dear Gill,

**EDINBURGH TRAM NETWORK
CONTRACTUAL RISK ALLOCATION - PREFERRED BIDDER STAGE**

You have requested our views on how **tie** has approached risk allocation in the contract suite proposed for the implementation of the Project.

The key risks associated with the tram network infrastructure installation contract (and its major subcontracts for design, tram supply and system and tram maintenance during operational phase) are neither different nor more pronounced than to those encountered by the promoters and constructors on any other UK tram or urban on-street light rail scheme. This has allowed **tie** to take careful account of precedent where relevant as regards risk treatment.

The identification of risk and the development of its commercial and legal treatment through to the final fully negotiated contracts will have been systematically tracked by the use of Risk Allocation Matrices, as the basis for translating the underlying technical and commercial deal reached by **tie** into contractual form. The detailed contractual apportionment of risk and responsibility between the public and private sector remains the subject of structured negotiations up to and beyond the selection of a preferred bidder. **tie**'s procurement strategy aims at an outcome on risk retention and transfer which is balanced, transparent and market aligned, while taking account of the inevitable tension between affordability and the true cost of an idealised risk transfer position for CEC.

In the context of the project's design and technical information readiness, we consider the status of the draft project delivery contract suite reached with both bidders (at this important procurement weighpoint) represents a reasonable, though qualified, platform from which **tie** can move to the next stage of the procurement. It should be understood that intensive work on all fronts will be required from now until planned



contract award in January 2008. This work will aim to remove the selected preferred bidder's reservations, without compromising fundamental risk allocation acceptance, technical solutions or pricing constraints and to refine and reduce all outstanding matters to fully defined and robust contractual commitments.

Yours sincerely


ANDREW FITCHIE
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