

TRAM IPG - ACTION NOTE – 24 NOVEMBER 2010

Present: Tom Aitchison (chair), Carol Campbell, Jim Inch, Barry Leathem (note) Alastair Maclean, Bob McCafferty, Donald McGougan, Lynn McMath, Isabell Reid, Nick Smith. **Apologies:** Dave Anderson, Andy Conway, Alan Coyle, Marshall Poulton.

Item	Subject	Decision/Action	Action By
1	Note of previous meeting – 9 November	<ul style="list-style-type: none"> Agreed as accurate. 	
2	Highlight Report – 24 November	<ul style="list-style-type: none"> Noted DMcG and AM to attend initial meeting with Bilfinger Berger (BB) in early December (date TBC), discussion may explore possible mediation; CEC need to establish strategic overview/legal direction/desired outcomes in advance of meeting <u>ACTION</u> AM/DMcG/Project Team; December Council report- direction of report to be revisited in the absence of clear legal position on termination in the time available and suggestion of mediation. Revised report should include (i) explanation of mediation and associated timescales (ii) Recruitment- commentary on relationship between TEL and Lothian Buses and (iii) assessment of validity of TEL now compared to outset <u>ACTION</u> Project Team; Business case refresh- noted final redactions awaited from Ian Craig before publication; Group Leaders <u>ACTION</u> TA/AM to establish view asap (today) on if and what we are reporting; Noted recent legal advice from QC on strategy development, timing of mediation, effectiveness of existing Remedial Breach Notices, effectiveness of contract enforcement to date and view on enforcing contract performance and on termination going forward; Noted that in view of legal advice, effective enforcement of contract performance for a sustained period may provide stronger grounds for termination should there be a failure by BB to comply; Design- noted tie currently gathering information to undertake audit; 	<p>AM/DMcG/ Project Team</p> <p>Project Team</p> <p>TA/AM</p>

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		<ul style="list-style-type: none"> • DRP adjudication review- noted Shepherd and Wedderburn to provide view on adjudication outcomes. Sense that tie's presentation of decisions has been factually accurate but optimistic. View that on balance BB have likely had more success from legal perspective, with tie more success on points of financial/engineering principle <u>ACTION</u> NS to compile table of adjudication decisions from legal, financial and engineering perspectives; • Finance- cost estimates- noted forthcoming challenge session, and that numbers presented don't take account of 20%cap and inability to recover incrementally; • Tram ownership- noted meeting with PWC on 1 December should bring greater clarity on vehicle leasing option. 	NS