



THE CITY OF EDINBURGH COUNCIL

DEPARTMENT OF CORPORATE SERVICES
LEGAL SERVICES DIVISION

**Edinburgh Tram Network
Financial Close**

I, Donald McGougan, Director of Finance, I Dave Anderson, Director of City Development, and I Gill Lindsay, Council Solicitor, hereby advise and confirm that, taking into account all the circumstances, we consider it is appropriate to support and agree with Tie’s recommendation to you that there is now an imminent financial close to this project. As you know, following the lodging of the Intention to Award Contract, BBS (the Infraco partner) has required an additional sum of money from Tie and considerable negotiations have taken place between Tie and BBS in this regard. The current Close Report details more fully the financial circumstances. In summary, there will be additional incentivisation payments of approximately £4.8 million, £1.8 of which will be fully reflected in value by a reduced risk in the QRA Risk Register and a deferred payment of £3.2 million should Line 1B not be built. In addition, Tie will not have access to any residual sum of £1 million which may have been left as a provisional sum in respect of uninsured economic loss arising from third party claims. Whilst this price increase was regrettable Tie have advised and confirmed that the best option remains to now financially close with BBS with immediate effect. The details of this are more particularly described in your report to the Policy and Strategy Committee of today’s date who are asked to approve the award of contracts.

We have received an updated letter of advice from DLA, external solicitors to the project. In respect of procurement and the ability of Tie/CEC to withstand a procurement challenge, as advised whilst there is always a risk in this regard the risk profile has increased with the adjustments to price, though Tie remain of the view that the new arrangements are sufficiently robust to withstand a procurement challenge. DLA have provided detailed comment in relation to procurement and they advise: “our considered opinion is that Tie has good material and justifiable reasons for responding to the procurement difficulties in the way it has.” They further state “our view is therefore that the risk of complaint by tram lines should not be discounted but that a legal challenge aimed to halt and disrupt the procurement is far less likely than a complaint designed to create leverage to reclaim part or all of expended bid costs.” As you are aware, the intention is that CAF will formally join the BBS consortium at financial close. DLA’s letter is attached for reference.

.....
Director of Finance

.....
Director of City Development

.....
Council Solicitor

I, Tom Aitchison, Chief Executive City of Edinburgh Council, do hereby confirm and agree that, following approval of award of contracts by the Policy and Strategy Committee of 13th May, Tie may now immediately achieve financial close and sign the Infraco contract documents. The Council Solicitor may now sign and deliver the agreed financial guarantee from this Council.

.....
Chief Executive