
From: Branks Kirsten
Sent: 05 December 2018 14:49
To: Williams Alex
Cc: Brown Andy (Corporate Affairs); Ritchie Charles; Carter Howard; Tagg Ella (ST); Thomson Linda
Subject: RE: Garden Bridge: draft note and attachments - TfL restricted

Alex

Mike has confirmed he is content with both recommendations. Please do confirm with City Hall and the DfT, and also provide the draft letter for Tom Copley at the appropriate time.

Many thanks
Kirsten

Kirsten Branks

PA to Commissioner

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From: Williams Alex
Sent: 30 November 2018 17:51
To: Brown Mike (Commissioner)
Cc: Brown Andy (Corporate Affairs); Ritchie Charles; Carter Howard; Branks Kirsten; Tagg Ella (ST); Thomson Linda
Subject: FW: Garden Bridge: draft note and attachments - TfL restricted

Dear Mike,

Two points on the Garden Bridge, for your consideration:

Request for payment against the underwriting of cancellation costs

We talked recently about the latest position with the Garden Bridge Trust's request against the underwriting of cancellation costs, which the DfT agreed to provide (up to a maximum of £9m) from their share of funding in the case that the project did not proceed.

We have been in discussion with the Garden Bridge Trust for a number of months now, and have reached a position where their request is both significantly lower than the maximum possible amount, and also - through working closely with the Trust to minimise their exposure - much lower than their initial estimate of how large a claim could be.

We have now reached a point where we feel able to make a recommendation for payment against that request. This is set out in the attached paper, with supporting appendices, for your consideration.

If you would like to discuss any of this then please say and we can set up some time to do so.

If you were to approve the recommendations then the next step would be for us to confirm with the GLA and the DfT that this is the course of action we plan to take, to give them the opportunity to comment before we proceed with any payment.

Legal advice on whether we could prevent future or recover past payments to the Trust

You'll remember that there has been the separate but relevant question raised recently about whether the Trustees of the Garden Bridge Trust have breached their duties, and whether that would give us or the DfT any recourse to either withhold future payments or recover past payments.

We have taken advice from Robert Pearce QC, a specialist in charity law which is attached and referred to in more detail in the attached paper. The advice is fairly conclusive in saying that there is no reasonable prospect of TfL recovering or not paying money due to the Trust under the funding arrangements.

If you were to approve the recommendations in the paper and we were to proceed to make the payment, I would suggest that you send a letter to Tom Copley AM to explain our conclusions both on the payment and the legal point, shortly before we make the payment itself.

Many thanks,

Alex Williams | Director of City Planning
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