



Report of the Leader and Cabinet Member for Economy, Finance and Strategy

Cabinet – 18 February 2021

Approval of Swansea Bay City Deal Funding Agreements

Purpose:	To note the terms and conditions attached to the award of government funding and to approve the funding agreements necessary to secure the release of the city deal funding.
Policy Framework:	Swansea Bay City Region City Deal
Consultation:	Access to Services, Finance, Legal
Recommendation(s):	It is recommended that Cabinet: <ol style="list-style-type: none">1) Notes the terms and conditions attached to the offer of government funding contained within the Funding Award letter dated 16th December 2020;2) Approves the content of the principal funding agreement between the Accountable Body and Swansea Council in relation to the Swansea City and Waterfront Digital District Project at Appendix A and authorises the Chief Legal Officer to make any necessary amendments and to enter into the agreement on behalf of the Council to enable the Council to receive City Deal funding;3) Authorises the Director of Place together with the Chief Finance Officer to exercise delegated authority to finalise the terms of any funding agreement between the Accountable Body and Swansea Council in relation to any other City Deal projects where the Council is acting as a Project Authority Lead and authorises the Chief Legal Officer to enter into those agreements on behalf of the Council;4) Notes the content of the template secondary funding agreement that the Council will enter into with a Recipient of City Deal government funding at Appendix B and authorises the Director of Place together with the Chief Finance Officer to negotiate and agree final terms with any relevant Recipient within any City Deal project involving the Council and authorises the Chief Legal Officer to enter into those agreements on behalf of the Council.

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1. Background

- 1.1 The Welsh Government and the UK Government have committed to provide capital grant funding totalling £241 million to support the Swansea Bay City Region City Deal (SBCRCD). Of this total, £125.4 million is to be contributed by the Welsh Government and £115.6 million by HM Treasury. The release of any funding is to be managed via the Welsh Government on behalf of both governments.

2. The Award of Funding

- 2.1 The SBCRCD received its first award of funding letter with associated terms and conditions on the 24th October 2019 which provided for the release of funding of £18.0 million in 2019-20 for the SBCRCD based on the business cases submitted for the Creative Digital Cluster – Yr Egin and the Swansea City and Waterfront Digital District Projects. In addition, up to £18.0 million of further funding was available in 2019-20 to support the SBCRCD, subject to the conditions set out in the award letter.
- 2.2 A further award letter with associated terms and conditions was issued by Welsh Government and dated 16th December 2020 and provides for the release of funding of up to £36.0 million in 2020-21 for the SBCRCD. The Funding relates to the period 1 April 2020 to 31 March 2021 (relating to years 2019/20 and 2020/21) and will be paid in two instalments relating to the applicable years. The first instalment of £18.0 million will be claimed immediately and the second instalment of £18.0 million must be claimed by 28 February 2021 otherwise any unclaimed part of the Funding will cease to be available. Subject to meeting the Targets in Schedule 2, Welsh Government will aim to pay the second instalment of Funding by 31 March 2021.
- 2.3 The terms and conditions of the latest funding award letter have been considered and accepted by the Section 151 Officer for SBCRCD and subsequently approved by the Joint Committee on 14th January 2021. In accordance with the terms of the Joint Committee Agreement the funding award letter has also been approved by the Council's Chief Finance Officer and S.151 Officer utilising his delegated powers pursuant to Financial Procedure Rule 8.4.

3. Project Funding Agreements

- 3.1 Two funding agreements have been approved by the Joint Committee to enable the release of funding to the various projects. The Funding Agreements are the framework by which funding is managed and released from the Accountable Body on behalf of the programme.
- 3.2 **Principal Agreements**
This agreement details funding arrangements between Carmarthenshire County Council as the Accountable Body and each of the Councils acting as Project Authority Lead for projects within the Swansea Bay City Deal programme, as set out in the Joint Committee Agreement. It ensures that the obligations contained within the UK and Welsh Government funding award letters are transferred from the Accountable Body to the relevant Project Authority Lead as appropriate. It sets out the project outputs, the mechanism for calculating the amount of funding, the process for payment and the governance arrangements for monitoring the use of the funding.
- 3.3 **Secondary Agreements**
This agreement details funding arrangements between a Council as a Project Authority Lead and a Recipient of government funding/third party organisations enlisted to support the delivery of the Swansea Bay City Deal Programme. The template is available for Project Authority Leads to use if they wish and to tailor to the specific requirements of the project. As the Project Authority Leads are accountable to the Accountable Body for the delivery of the project outputs and the proper use of the funding, then these secondary agreements are designed to transfer some of the liability to the delivery partners as appropriate, thereby protecting the Councils as the Project Authority Leads.
- 3.4 The funding agreements support the Joint Committee Agreement by providing a governance structure ensuring there is clarity and understanding from both parties, enabling them to efficiently and effectively discharge their duties in delivering projects within the City Deal Programme. In addition to dealing with the purpose and process of project funding and the distribution basis of funding, the agreements also contain provisions relating to data protection, confidentiality and indemnities and a process for dealing with enforcement of obligations and disputes.
- 3.5 The template funding agreements were approved by the Joint Committee on 11th June 2020.

4. Swansea City and Waterfront Digital District Projects

- 4.1 The Accountable Body has now issued to the Council the principal funding agreement for the Swansea City and Waterfront Digital District Projects which is attached at Appendix A. The terms of the Agreement are standard and non-negotiable and the project specific detail is contained within the Schedules. Particular attention is drawn to Schedule 4 which contains the financial information relating to the Project and Schedules 5-8 which

contain the Targets, Project Agreed Outputs, Outcomes and Impacts. The Council is obliged to deliver the Targets and the Project Agreed Outputs as opposed to an obligation to use reasonable endeavours to deliver the Outcomes and an obligation to report on the Impacts.

- 4.2 Now that the principal agreement has been received, the Council can draft a bespoke project specific secondary agreement with each of its delivery partners/Recipients involved in the Swansea City and Waterfront Digital District Projects. The purpose of these secondary agreements will be to pass some of the obligations for achieving elements of the project deliverables to those third party organisations.
- 4.3 This report seeks approval to enter into the principal agreement with Carmarthenshire County Council as the Accountable Body and to enter into secondary agreements with all relevant delivery partners for this Project.

5. Equality and Engagement Implications

- 5.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment (EIA) process ensures that we have paid due regard to the above.

- 5.2 This report seeks to approve the SBCRCD funding agreements to facilitate the release of government funding to the city deal projects. Each of the projects and their various elements will have been subject to their own Equality Impact Assessment process which would have been approved by Cabinet when each of the projects was approved.

6. Financial Implications

- 6.1 The Award of Funding contains terms and conditions which are legally binding and there is the potential for financial consequences for the Council (claw back of funding) if the Council and its delivery partners do not comply with the conditions or with the funding agreements.
- 6.2 The Award of Funding relates to the period 2018-19 to 2020-21. The release of any funding in future will be conditional on compliance with the terms and conditions and will be subject to further Award letters.

6.3 Schedule 4 of the principal funding agreement sets out the financial profile for the Swansea City and Waterfront Digital District project and has been approved by the Council's Chief Finance Officer and S.151 Officer.

7. Legal Implications

7.1 The terms and conditions contained within the UK and Welsh Government funding award letters are legally binding and the Council must comply with the same.

7.2 By entering into the principal funding agreement with Carmarthenshire County Council, the Council will be accepting responsibility for achieving the project deliverables and there will be consequences for the Council in the event of a breach of the Agreement. It is therefore advisable for the Council to enter into a secondary funding agreement with any relevant delivery partner to ensure that liability and indemnities are appropriately shared between the parties.

Background Papers:

Award of Funding Letter dated 16th December 2020

Appendices:

Appendix A - Funding Agreement between Carmarthenshire County Council and the Council of the City and County of Swansea relating to the Swansea City and Waterfront Digital District Project.

Appendix B - Template Funding Agreement to be used between the Council of the City and County of Swansea and a Recipient of government funding.