

DRAFT AWARD OF FUNDING LETTER

Ein cyf/Our ref: MA-JJ-2953-20

Chris Moore
Director of Corporate Services
Carmarthenshire County Council
Accountable Body for the Swansea Bay City Region City Deal

cmoore@carmarthenshire.gov.uk

16 December 2020

Dear Mr Moore

Award of Funding in Relation to the Swansea Bay City Region City Deal for the Period 1 April 2020 to 31 March 2021**1. Award of Funding**

- (a) We are pleased to inform you that funding of £36,000,000 (*thirty six million pounds*) ('the Funding') is awarded to you for the Purposes (as defined in Condition 4(a)).
- (b) The Funding relates to the period 1 April 2020 to 31 March 2021 and will be paid in two instalments. The first instalment of £18,000,000 must be claimed by 31 December 2020 and the second instalment of £18,000,000 must be claimed by 28 February 2021 otherwise any unclaimed part of the Funding will cease to be available to you.
- (c) If you have any queries in relation to this Award of Funding or the Conditions, please contact the Welsh Government Officials who will be happy to assist you.

2. Statutory Authority and State Aid

- (a) This Award of Funding is made on and subject to the Conditions and under the authority of the Minister for Housing and Local Government, one of the Welsh Ministers, acting pursuant to functions transferred under section 58A of the Government of Wales Act 2006 and section 31 of the Local Government Finance Act 2003.
- (b) You must comply with the European Commission's State Aid Rules.
- (c) This award relates to funding for the Swansea Bay City Region City Deal (SBCRCD) in 2020-21 only. The release of funding for the SBCRCD in future years and the consideration of business cases for Projects will be conditional on the Conditions being met in full.

3. Interpreting the Conditions

Any reference in the Conditions to:

'you', 'your' is to Carmarthenshire County Council as the Accountable Body for the SBCRCD;
County Hall
Carmarthen
SA31 1ZD

'we', 'us', 'our' is to the Welsh Ministers;

'Welsh Government Officials' is to Debra Carter, Deputy Director – Local Government Strategic Finance and Nick McNeill, Head of City Deals Delivery
Welsh Government
Cathays Park
Cardiff
CF10 3NQ
TEL: 03000 251223 / 03000 259704
EMAIL: debra.carter2@gov.wales / nick.mcneill@gov.wales

or such other Welsh Government Officials as we may notify you.

'Programme Manager' is to Chris Moore, Director of Corporate Services, Carmarthenshire County Council, or Jonathan Burnes, Programme Director – Swansea Bay City Region City Deal, Carmarthenshire County Council:
Carmarthenshire County Council
County Hall
Carmarthen
SA31 1ZD
TEL: 01267 224120
EMAIL: cmoore@carmarthenshire.gov.uk / jburnes@carmarthenshire.gov.uk

'Accountable Body' is to Carmarthenshire County Council acting on behalf of the Swansea Bay City Region City Deal (SBCRCD). As the Accountable Body you are responsible for managing all financial risks, including without limit any Portfolio, Programme or Project costs over and above those identified in the relevant business case;

'Accounting Officer Review' or 'AOR' is to the review completed in September 2020 of the Portfolio Business Case submitted by SBCRCD in July 2020.

'City Deal Programme' or 'Programme' or 'Portfolio' is to the Portfolio or Programme of nine constituent Projects which form the SBCRCD;

'Conditions' is to the terms and conditions set out in this letter and the Schedules;

'Costs Incurred' is to the cost of goods and services you have received regardless of whether you have paid for them by the date of your claim;

'Heads of Terms' is to the document entitled 'Swansea Bay City Region City Deal' signed in March 2017 by the Welsh Government, UK Government, City and County

of Swansea, Neath Port Talbot Council, Carmarthenshire County Council and Pembrokeshire County Council;

'Implementation Plan' is to the implementation plan referred to in the Heads of Terms;

'Monitoring and Evaluation Plan' is to the monitoring and evaluation plan referred to in the Heads of Terms;

'Notification Event' is to any of the events listed in Schedule 3;

'Personnel' is to your management/employees and suppliers or any other person appointed or engaged by you in relation to the Purposes;

'Portfolio Business Case' is to the Portfolio Business Case submitted by SBCRCD on 20 August 2020 setting out the business case for the Portfolio of nine Projects which form the SBCRCD at that date.

'Project' is to one of the nine constituent projects which form the SBCRCD Programme;

'SBCRCD' is to the Swansea Bay City Region City Deal;

'Schedule' is to the schedules attached to this letter;

'State Aid Rules' is to the rules set out in Articles 107 to 109 of the Treaty on the Functioning of the European Union (or in those Articles that may succeed Articles 107 to 109), secondary legislation including frameworks, guidelines and block exemptions produced by the European Commission derived from Articles 107 to 109, case law of the European Courts and decisions of the European Commission regarding the application of Articles 107 to 109; and

any reference to any legislation whether domestic, EU or international law will include all amendments to and substitutions and re-enactments of that legislation in force from time to time.

4. Use of the Funding

- (a) You must use the Funding solely for the purposes set out in Schedule 1 (the **'Purposes'**).
- (b) You must achieve the targets and outcomes set out in Schedule 2 (the **'Targets'**).
- (c) Any change to the Purposes or Targets will require our written consent which must be obtained from us in advance of implementing any change. Please note that we are not obliged to give our consent but we will consider all reasonable written requests.
- (d) You must not use any part of the Funding for: (1) party political purposes; (2) the promotion of particular secular, religious or political views; (3) gambling; (4) pornography; (5) offering sexual services; (6) purchasing capital equipment

(other than as specified in the Purposes); (7) your legal fees in relation to this letter; (8) Costs Incurred or costs incurred and defrayed by you in the delivery of the Purposes prior to the period referred to in Condition 1 (b); (9) any kind of illegal activities; or (10) any other kind of activity which in our opinion could bring us into disrepute.

5. Funding pre-conditions

- (a) We will not pay the Funding to you until you have provided us with the following information and documentation:
 - (i) this letter signed by you.
- (b) Where you are required to provide information and documentation to us as evidence that you have satisfied a particular pre-condition, Condition or in support of a claim, the information and documentation must be in all respects acceptable to us. We reserve the right to reject any information and documentation which is for any reason not acceptable to us.

6. How to claim the Funding

- (a) You must claim the first instalment of Funding by 31 December 2020 and the second instalment by 28 February 2021.
- (b) You must use our claim proforma (which is available from the Welsh Government Officials) and confirm that you have appropriate financial, risk and control systems in place before utilising any part of the Funding to provide a grant to or procure any goods or services from third parties.
- (c) We will aim to pay the first instalment of Funding to you by 15 February 2021.
- (d) Subject to your meeting the Targets in Schedule 2, we will aim to pay the second instalment of Funding to you by 31 March 2021.

7. Your general obligations to us

You must:

- (a) safeguard the Funding against fraud generally and, in particular, fraud on the part of your Personnel and notify us immediately if you have reason to suspect that any fraud within your organisation has occurred or is occurring or is likely to occur whether or not it relates to the Funding. You must also participate in such fraud prevention initiatives as we may require from time to time.
- (b) comply with all applicable domestic, EU or international laws or regulations or official directives;
- (c) maintain adequate insurances to cover against the risks which may arise in connection with any property or any activity undertaken in delivery of the Purposes. We reserve the right to require you to provide proof of your insurance;

- (d) maintain appropriate financial, risk and control systems before utilising any part of the Funding to provide a grant to or procure any goods or services from third parties;
- (e) cooperate fully with the Welsh Government Officials and with any other employee of the Welsh Government or consultant appointed by us to monitor your use of the Funding and your compliance with the Conditions;
- (f) inform us immediately if any of the declarations made in Condition 8 is incorrect in any respect or, if repeated at any time with reference to the facts and circumstances then existing, would be incorrect.

8. Declarations

You declare that:

- (a) you have the power to enter into and to perform the obligations set out in the Conditions and you have taken all necessary action to authorise the entry into and performance of the obligations under the Conditions;
- (b) no litigation or arbitration is current or pending or, so far as you are aware, threatened, which has or could have an adverse effect on your ability to perform and comply with any of the Conditions;
- (c) you have disclosed to us all material facts or circumstances which need to be disclosed to enable us to obtain a true and correct view of your business and affairs (both current and prospective) or which ought to be provided to any person who is considering providing funding to you;
- (d) you have agreed the Targets and you are confident that they are realistic and achievable;
- (e) the information you have provided us in respect of the SBCRCD is complete, true and accurate.

9. Notification Events and their consequences

- (a) You must notify us immediately if a Notification Event has occurred or is likely to occur but we also reserve the right to notify you where we believe a Notification Event has occurred or is likely to occur.
- (b) We will either (i) notify you that we consider the Notification Event is not capable of remedy or (ii) if we consider the Notification Event is capable of being remedied, seek to discuss the Notification Event with you with a view to agreeing a course of action to be taken to address the Notification Event.
- (c) We will be entitled to take any of the actions listed in Condition 9(d) if:
 - (i) despite our reasonable efforts we have been unable to discuss the Notification Event with you; or
 - (ii) we notify you that the Notification Event is not capable of remedy; or

- (iii) a course of action to address the Notification Event is not agreed with you;
or
 - (iv) a course of action to address the Notification Event is agreed with you but you fail to follow it, or any conditions attached to it are not met (including without limitation the timescale for such course of action); or
 - (v) the course of action fails to remedy the Notification Event to our satisfaction.
- (d) If any of the circumstances set out in Condition 9(c) occurs we may by notice to you:
- (i) withdraw the award of Funding; and/or
 - (ii) require you to repay all or part of the Funding; and/or
 - (iii) suspend or cease all further payment of Funding; and/or
 - (iv) make all further payments of Funding subject to such conditions as we may specify; and/or
 - (v) deduct all amounts owed to us under the Conditions from any other funding that we have awarded or may award to you, including without limit your General Capital Funding; and/or
 - (vi) exercise any other rights against you which we may have in respect of the Funding.
- (e) All repayments of Funding must be made to us within 28 days of the date of our demand. If applicable, you must pay interest on any overdue repayments (on a compound basis) in accordance with the State Aid Rules.

10. Monitoring requirements

- (a) You must provide us with such documents, information and reports which we may reasonably require from time to time in order for us to monitor your compliance with the Conditions including quarterly reports on progress in implementing the Purposes and achieving the Targets.
- (b) You must maintain and update the Portfolio Business Case to reflect key developments, for example after the completion of procurement, when financial profiles change, when additional information becomes available.
- (c) You must notify the Welsh Government Official(s) in writing as soon as practicable if there is a change to the financial case for the Portfolio Business Case or constituent Project, eg. financial viability, affordability.
- (d) You must meet with the Welsh Government Officials and such other of our representatives as we may from time to time reasonably require. This will include regular progress meetings as required under the Implementation Plan and the Monitoring and Evaluation Plan.
- (e) You must ensure that the Programme Manager (or such other person as we may agree) together with any other person we may require attends all meetings with the Welsh Government Officials.
- (f) The Welsh Government and the UK Government will carry out periodic reviews of progress to assess whether the SBCRCD is progressing as planned. Reviews will be conducted by the Welsh Cities and Growth Implementation

Board (the joint board of officials of the Welsh Government and the UK Government established to oversee the delivery of city and growth deals in Wales), or other mechanisms, as necessary.

11. Audit Requirements

- (a) You must:
 - (i) maintain complete and accurate accounting records identifying all income and expenditure in relation to the Purposes;
 - (ii) without charge, permit any officer or officers of the Welsh Government, Wales Audit Office or European Commission at any reasonable time and on reasonable notice (in exceptional circumstances, such as the prevention or detection of fraud, it may not be practicable to provide you with reasonable notice) being given to you to visit your premises and/or to inspect any of your activities and/or to examine and take copies of your books of account and such other documents or records howsoever stored as in such officer's reasonable view may relate in any way to your use of the Funding. This undertaking is without prejudice and subject to any other statutory rights and powers exercisable by the Welsh Government, Wales Audit Office or the European Commission or any officer, servant or agent of any of the above;
 - (iii) retain this letter and all original documents relating to the Funding until we inform you in writing that it is safe to destroy them.

- (b) Under paragraph 17 of Schedule 8 to the Government of Wales Act 2006, the Auditor General for Wales has extensive rights of access to documents and information relating to monies provided by the Welsh Government. He and his officials have the power to require relevant persons who control or hold documents to give any assistance, information and explanation that they may require; and to require those persons to attend before them for such a purpose. The Auditor General and his staff may exercise this right at all reasonable times.

12. Third party obligations

- (a) Nothing in the Conditions imposes any liability on us in respect of any liability incurred by you to any third party (including, without limit, employees and contractors).

- (b) You must indemnify us against any liabilities, claims, proceedings, demands, losses, costs and expenses suffered or incurred by us directly or indirectly arising as a result of or in connection with any failure by you to perform fully or in part any obligation you may have to a third party.

13. Intellectual property rights and publicity

- (a) Nothing in the Conditions transfers to us any rights in any intellectual property created by you as a result of the Purposes.

- (b) You must acknowledge our support in relation to the Purposes. Such acknowledgement(s) must be in a form approved by us and must comply with the Welsh Government's branding guidelines.
- (c) You must provide the Welsh Government Officials with details of all the acknowledgement(s) referred to in Condition 13(b) for our approval before any such acknowledgements are used and you may not use such acknowledgments without our prior written approval. We will endeavour to respond to all written requests for approval within five working days.
- (d) You agree that from the date of this letter until five years from the date of the final payment of Funding we may include details about your organisation and business, the Funding and the Purposes in Welsh Government promotional materials and you further agree to cooperate with our reasonable requests to achieve the production of such materials.

14. Information

- (a) You acknowledge that we are subject to the requirements of the Freedom of Information Act 2000 (the 'FOIA'), the Environmental Information Regulations 2004 (the 'EIR'), the Data Protection Act 2018 (the 'DPA') and the General Data Protection Regulation (Regulation (EU) 2016/679) (the 'GDPR').
- (b) You acknowledge that we are responsible for determining in our absolute discretion whether:
 - (i) to disclose any information which we have obtained under or in connection with the Funding to the extent that we are required to disclose such information to a person making a disclosure request under the FOIA or the EIR; and/or
 - (ii) any information is exempt from disclosure under the FOIA or the EIR.
- (c) You acknowledge that we may share any data you provide to us with fraud prevention agencies and third parties for the purposes of preventing and detecting fraud. Any personal data we collect will be managed in accordance with our Privacy Notice which is available to view here:
<https://gov.wales/privacy-notice-welsh-government-grants>

15. Buying goods and services

If you decide to buy any goods and/or services to deliver the Purposes, they must be purchased in a competitive and sustainable way so as to demonstrate that you have achieved best value in the use of public funds.

16. Giving notice

- (a) Where notice is required to be given under the Conditions, it must be in writing (this does not include email but may include a letter attached to an email) and must prominently display the following heading:

'Notice in Relation to the Swansea Bay City Region City Deal in 2020-21'

- (b) The address and contact details for the purposes of serving notice under the Conditions are as follows:

You: the Programme Manager(s) at the address stated in Condition 3.

Us: the Welsh Government Official(s) at the address stated in Condition 3.

- (c) A notice will be deemed to have been properly given as follows:

Prepaid first class post: on the second working day after the date of posting.

By hand: upon delivery to the address or the next working day if after 4pm or on a weekend or public holiday

By email attachment: upon transmission or the next working day if after 4pm or on a weekend or public holiday.

17. Equal opportunities

You must apply a policy of equal opportunities as employers, as users of volunteers, and as providers of services, regardless of race, gender/gender identification, sexual orientation, religion and belief, age or any disability.

18. Welsh language

- (a) Where the Purposes include or relate to the provision of services in Wales they must be provided in Welsh and English unless it would be unreasonable or disproportionate to do so. Where they are provided in both Welsh and English they must be provided in such a way as to not treat the Welsh language less favourably than English, in accordance with the Welsh Language (Wales) Measure 2011.
- (b) For advice on providing services bilingually and in accordance with the Conditions, please contact the Welsh Language Commissioner's Hybu team: <http://www.comisiynyddygybraeg.cymru/hybu/en/home/Pages/home.aspx>

19. Sustainable development

Your use of the Funding must contribute to the achievement of the Welsh Government's wellbeing objectives contained in the Welsh Government's Programme for Government. You must work in a sustainable way (sustainable development principle) in delivering the Purposes so as to ensure you are working in a preventative, integrated, long-term and collaborative way that involves people that reflect the diversity of Wales. Please refer to Schedule 1 for further information.

20. Welsh Ministers' functions

You acknowledge that the Welsh Ministers have a range of functions which will continue to accrue and be amended and that decisions in relation to each such function are obliged to be taken in the light of all relevant and to the exclusion of all irrelevant

considerations. You agree that nothing contained or implied in, or arising under or in connection with, the Conditions will in any way prejudice, fetter or affect the functions of the Welsh Ministers or any of them nor oblige the Welsh Ministers or any of them to exercise, or refrain from exercising, any of their functions in any particular way.

21. General

- (a) If at any time any of the Conditions are deemed to be or become invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired.
- (b) No failure or delay on our part to exercise any power, right or remedy under the Conditions will operate as a waiver of any such power, right or remedy or preclude its further exercise or the exercise of any other power, right or remedy. The powers, rights or remedies hereby provided are cumulative and not exclusive of any powers, rights or remedies provided by law.
- (c) Any amendment or variation to the Conditions must be in writing and signed by us and you in the same manner as this letter.
- (d) You may not assign or otherwise dispose of in any way your rights, benefits, obligations or duties under the Conditions.
- (e) Conditions 7, 9, 11, 13, 14, and 21(e) and such other Conditions which by implication need to continue in force beyond the final payment of Funding will so continue in full force and effect.
- (f) The award of the Funding is to you alone and no one else is entitled to make any claim in respect of the Funding or seek to rely on or enforce any of the Conditions.
- (g) The Conditions are to be governed by and construed in accordance with the laws of Wales and England as applied in Wales and the parties hereto submit to the exclusive jurisdiction of the courts of Wales and England.

22. How to accept this award of Funding

- (a) To accept this award of Funding you must sign and return a copy of this letter to the Welsh Government Officials. None of the Funding will be paid to you until we have received your signed letter.
- (b) We must receive your signed letter within 28 days of the date of this letter or by 31 December 2020 (whichever is the sooner), or this award of Funding will automatically be withdrawn.

Yours faithfully

Signed by Debra Carter

Deputy Director, Local Government Strategic Finance

Dirprwy Gyfarwyddwr, Cyllid Strategol Llywodraeth Leol

Under authority of the Minister for Housing and Local Government, one of the Welsh Ministers

SCHEDULE 1 The Purposes

- 1 This award of Funding is to be used only for the purposes of delivering the SBCRCD Programme as set out in the Heads of Terms signed in March 2017 and updated in the Portfolio Business Case dated August 2020.
- 2 The Funding must be used to support expenditure on the projects which form the Programme.
- 3 The Funding may only be used to progress the delivery of the Programme as set out in the Portfolio Business Case dated August 2020. You may apportion the Funding between the Programme and the Projects as you deem fit in accordance with the Conditions.
- 4 In the Heads of Terms, the Welsh Government and the UK Government undertook to provide capital grant funding for the SBCRCD to support the delivery of an approved Programme of 11 constituent Projects (now nine Projects as set out in the Portfolio Business Case dated August 2020) over the 15-year lifespan of the Programme.

Programme Management of the City Deal

- 5 You must implement all the actions allocated to you in the recommendations of the Accounting Officer Review undertaken in September 2020 as set out in Schedule 2.
- 6 All Programme and Project documentation must be kept up-to-date following approval.
- 7 Where any borrowing has been undertaken in respect of the Purposes, the Funding may be used to pay off the debt principal.

SCHEDULE 2
The Targets

Description	Date by when it should be achieved
Swansea Bay City Region Programme Office to provide a report outlining progress in meeting the recommendations in the Accounting Officer Review dated September 2020.	31 December 2020

For clarity, the relevant recommendations from the AOR are as follows:

- That subsequent iterations of the PoBC present the current/latest position of the portfolio
- That the release of annual C&GD funding is linked to an annual submission of an updated PoBC
- That the PoBC be developed to include a section on strategic alignment of UKG & WG policy objectives, at a project level
- That the PoMO fully 'SMARTens' and clearly baselines PoBC Spending Objectives
- That the PoMO includes project-level Spending Objectives at portfolio level, and quantifies the contribution the portfolio will make to the SBCR strategy
- That the PoMO ensures benefits are quantified wherever possible at project level, and presents the main quantified benefits in the PoBC
- That appropriate WG & UKG officials work with the PoMO to develop a standardised economic appraisal template for use by projects
- That the WCGIB seeks assurance from the PoMO that - going forward - appropriate business case documentation, and governance and assurance arrangements are developed and installed respectively, for the constituent parts of the portfolio
- That the PoMO adopts standardised definitions for programmes and projects, as defined by the respective best practice methodologies
- That the next iteration of the PoBC is updated to include the identification of project level community benefits, and identified opportunities for collaborative project-level procurements
- That appropriate WG & UKG officials work with the PoMO to develop a standardised financial appraisal template

OFFICIAL SENSITIVE

- That the PoMO sets out the relationship between portfolio investment funding and capital financing in more detail in the next iteration of the PoBC
- That updated governance and assurance processes are provided by WCGIB to the PoMO for incorporation into their assurance and approval process
- That the WCGIB set out its expectations for monitoring progress, and confirms the reporting frequency it is seeking

SCHEDULE 3

Notification Events

The Notification Events referred to in Condition 9 are listed below:

1. repayment of any part of the Funding is required under European Law (whether under State Aid Rules or otherwise);
2. repayment of any part of the Funding is required by HM Treasury;
3. you fail to comply with any of the Conditions;
4. the Funding, in full or in part, is not being used for the Purposes;
5. you fail to achieve any or all of the Targets;
6. there is unsatisfactory progress towards completing the Purposes, including meeting the Targets;
7. you fail to provide information about the Purposes requested by us, the European Commission or the European Court of Auditors, or any of their auditors, agents or representatives;
8. we have reason to believe that you and/or any of your Personnel are involved in fraudulent activity or have been involved in fraudulent activity whilst the Purposes are/were being carried out;
9. we have made an overpayment of Funding to you;
10. any declaration made in Condition 8 is incorrect in any respect or, if repeated at any time with reference to the facts and circumstances then existing, would be incorrect;
11. there has been a modification (qualification, adverse or disclaimer) to the auditor's opinion on your financial statements;
12. any event occurs or circumstances arise which in our opinion gives reasonable grounds for believing that you may not, or may be unable, to perform or comply with any of your obligations under the Conditions.

TWO SIGNATORIES ARE REQUIRED

We declare we are duly authorised to accept the award of Funding in relation to the Swansea Bay City Region City Deal and the Conditions relating to the Funding.

.....
Signature

An authorised signatory of Carmarthenshire County Council as the Accountable Body for the SBCRCD

.....
Name

.....
Job Title

.....
Date

.....
Signature

An authorised signatory of Carmarthenshire County Council as the Accountable Body for the SBCRCD

.....
Name

.....
Job Title

.....
Date

Please sign and return this letter to:

Nick McNeill
Local Government Strategic Finance Division
Welsh Government
Cathays Park
CF10 3NQ
Email: nick.mcneill@gov.wales