

[REDACTED]

From: [REDACTED] on behalf of Minister for Transport and the Islands
Sent: 22 February 2018 17:28
To: [REDACTED]
Cc: [REDACTED] Cabinet Secretary for the Rural Economy and Connectivity;
[REDACTED] Communications Economy; DG Economy; [REDACTED]
[REDACTED] Minister for Transport and the Islands; PS/Transport Scotland;
Transport Scotland Directors; Transport Scotland Media; [REDACTED]
[REDACTED]
(TRANS); [REDACTED] (MARLAB); [REDACTED]
[REDACTED] Minister for Transport and the Islands
Subject: Freight Facilities Grant - FFG - Montrose Port Authority - Ministerial Submission to Approve an Offer of Grant - 21 February 2018

[REDACTED]

Mr Yousaf has noted and agrees to the recommendation in para 10.

Many thanks

[REDACTED]

[REDACTED] Interim Private Secretary to the Minister for Transport and the Islands | 2N.11 | St Andrews House, Regent Road, Edinburgh EH1 3DG | T [REDACTED] Blackberry [REDACTED]

From: [REDACTED]
Sent: 21 February 2018 17:09
To: Minister for Transport and the Islands
Cc: [REDACTED] Cabinet Secretary for the Rural Economy and Connectivity; [REDACTED]
Communications Economy; DG Economy; [REDACTED] Minister for Transport and the
Islands; PS/Transport Scotland; Transport Scotland Directors; Transport Scotland Media; [REDACTED]
[REDACTED] (TRANS); [REDACTED] (MARLAB); [REDACTED]
Subject: Freight Facilities Grant - FFG - Montrose Port Authority - Ministerial Submission to Approve an Offer of Grant - 21 February 2018

PS/Minister

Please find attached a submission providing an update for the Minister along with a recommendation to approve an offer of mode shift grant.

<< File: Ministerial Submission - Offer of Grant - 21 February 2018.docx >>

Please let me know if you need anything else.

[REDACTED] Freight Grants Manager | Transport Scotland | Area 1D(N) Victoria Quay | Edinburgh | EH6 6QQ |
Note – Thursday is my non-working day
Webpages: [Freight Grants](#)

From: [REDACTED]
Transport Scotland - AMFC
21 February 2018

Minister for Transport and the Islands

MONTROSE PORT AUTHORITY - MODE SHIFT GRANT APPLICATION

Purpose

1. Following a visit to Montrose Port on 14 February, the Minister asked for a note updating him on their application for a Freight Facilities Grant (FFG). In addition, the Minister is asked to approve the recommendation to issue an offer of grant.

Priority

2. Routine

Grant application

3. On 7 November 2017, Montrose Port Authority (MPA) applied for an FFG. The proposal is to strengthen 2 existing berths and landing decks at the port, carry out some dredging and utilities servicing works to facilitate larger boats to berth and unload freight. MPA have applied for £1.5 million towards the total eligible costs of the project which are £7.9 million (19% grant intervention). TS Finance colleagues undertook a financial appraisal of the costs and confirm that financial need has been demonstrated and that the project qualifies for £1.5 million of grant.

4. Over the proposed 5 year monitoring period, it has been calculated that the grant would help deliver a minimum of £5.2 million Environmental Benefits (EBs) removing 1.26 million tonnes of freight from road and 86,000 HGV lorry trips. The EBs will be realised in Scotland and elsewhere in GB which is permissible within the rules of the scheme.

5. The work is being funded by a [REDACTED] loan, mode shift grant, and MPA making a contribution from their own funds. The initial ask was £1.25 million in grant. However, after the tendering process in December, the costs rose due to additional steel piling works being required and an increase in the cost of steel. MPA asked TS for a 20% increase in grant to £1.5 million which was agreed in principle without delay.

6. As the FFG scheme is currently undergoing re-notification to the EC, in January, following advice from state aid colleagues, we decided to register a new Ports Mode Shift Grant scheme with the EC under the General Block Exemption Regulations to allow us to award grants to ports in the interim period.

7. Application timeline

- Since 7 November we have been verifying 19 different traffic flows and routes to verify tonnage and calculate the mode shift benefits on each flow

- MPA have been obtaining letters of corroboration for each flow. The latest one was received on 12 January and 1 remains outstanding
- 8 December – Caledonian Maritime Assets Ltd (CMAL) were sent the project details in order to independently assess the engineering works
- 22 December – a Marine License for the proposed works was granted
- 9 February - Costs needed for the financial appraisal were finalised with MPA
- 16 February - State Aid Unit advised that the new GBER scheme has been registered and is now ready to use
- 19 February - CMAL report provided. MPA to clarify 3 points.

Budget provision

8. The FFG budget forms part of the wider Future Transport Fund (£60.2 million 2018/19) and there is sufficient budget allocation and flexibility to cover this.

9. **Next steps**

- MPA to clarify points raised by CMAL
- MPA to provide confirmation of [redacted] loan approval
- TS to agree spend profile with MPA
- Agree press release with TS Comms

Recommendation

10. That the Minister notes the update and is asked to agree an offer of grant of up to £1.5 million be made, subject to MPA clarifying points raised by CMAL and confirmation the [redacted] loan has been approved.

[redacted]
Transport Scotland - PSFC
[redacted]

21 February 2018

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Cabinet Secretary for the Rural Economy and Connectivity			X		
DG Economy PS Transport Scotland [redacted] Chief Executive, TS TS Ministerial Submission List TS Comms [redacted] [redacted] State Aid Unit [redacted] Marine Scotland					

[REDACTED]

From: [REDACTED]
Sent: 23 April 2018 09:43
To: [REDACTED]
Cc: [REDACTED]
Subject: Offer Letter - Mode Shift Grant - Montrose Port Authority - 23 April 2018

Follow Up Flag: Follow up
Flag Status: Flagged

[REDACTED]

Please find attached a copy of the formal offer of grant. I've put 2 signed copies in the post, one for you to retain and another for you to sign the grant acceptance and return.



Freight Facilities
Grant - FFG...

Thanks for your patience and I'll send you the draft press release for a quote from MPA once I have it. If you've any questions, please get in touch.

[REDACTED] Freight Grants Manager | Transport Scotland | Area 2F(N) Victoria Quay | Edinburgh | EH6 6QQ |
Note – Thursday is my non-working day

Webpages: [Freight Grants](#)

[REDACTED]

From: [REDACTED]
Sent: 23 April 2018 14:34
To: [REDACTED] (TRAN); [REDACTED] (TRANS)
Cc: Press Transport Scotland; Minister for Transport and the Islands; [REDACTED]
[REDACTED] (TRANS)
Subject: Mode Shift Grant - Montrose Port Authority - Press Release Required

Follow Up Flag: Follow up
Flag Status: Flagged

[REDACTED]

Please see attached the formal offer of grant sent to Montrose Port Authority this morning. I've asked MPA to return the signed acceptance, after which we can issue a press release. I've given them the heads up that we'll likely ask them for a quote.

The overall cost of the project is £7.4 million. We're contributing £1.5 million ports mode shift grant. Over the 5 year monitoring period, the £1.5 million grant will help deliver a minimum of £5.2 million Environmental Benefits (EBs) removing 1.26 million tonnes of freight from road and 86,000 HGV lorry trips.



Freight Facilities
Grant - FFG...

Thanks,

[REDACTED] | Freight Grants Manager | Transport Scotland | Area 2F(N) Victoria Quay | Edinburgh | EH6 6QQ |
[REDACTED] *Note – Thursday is my non-working day*
Webpages: [Freight Grants](#)

From: [REDACTED] (TRANS)
Sent: 19 March 2018 16:36
To: [REDACTED]

Cc: [REDACTED] (TRAN); Transport Scotland Directors; Press Transport Scotland; [REDACTED]

Subject: News desk / media relations: March and April

Hi everyone,

Quick email to let you know I'm on annual leave from 28 March until 24 April. (...☺)

For all your media relations requirements – business continues as usual.

I'm delighted to share that [REDACTED] has returned from the BIG Partnership to cover the desk in my absence. Please contact [REDACTED] copying media@transport.gov.scot should you require assistance.

[REDACTED] joins us temporarily from his role as Account Director at the BIG Partnership where he works in the strategic communications team. He has a wealth of experience having worked with clients such as Scottish Enterprise, Skills Development Scotland, BT and ExxonMobil Chemical.

Most recently, [REDACTED] was on secondment as a Strategic Communications Manager based within the MTRIPS directorate. His involvement was critical to the delivery of communications around some of our biggest construction projects. I'm certain he will be able to hit the ground running and provide you with trusted advice.

[REDACTED] is based in the east and will be splitting his time between SAH and the TSCC. He is able to attend meetings at VQ and BH as required – and is happy to take your calls on [REDACTED]

Until 28 March, please continue to send things my way as required.

In the meantime, very grateful if you could copy [REDACTED] in to anything so that he is fully up to speed.

Kind regards,

[REDACTED]
[REDACTED]
Communications Manager
Transport Scotland
Buchanan House
Glasgow
G4 0HF

Email [REDACTED]
News Desk: media@transport.gov.scot
Tel: [REDACTED]
Mobile: [REDACTED]

Ports, Shipping , Freight and Canals Branch
Aviation, Maritime, Freight & Canals

Victoria Quay, Edinburgh, EH6 6QQ

T: [REDACTED]
[REDACTED]@transport.gov.scot



[REDACTED]
Chief Executive
Montrose Port Authority
South Quay
Ferryden
MONTROSE
DD10 9SL

Our ref: A20289920

23 April 2018

Dear [REDACTED]

OFFER OF PORTS MODE SHIFT GRANT - SA.5021.1

This offer of grant funding is allowable under the cover granted through the European Commission General Block Exemption Regulation EU 2017/1084, Amending Regulation EU 651/2014. Under Article 56b.

Scottish Ministers, in exercise of their powers under the Transport (Scotland) Act 2001, Part 4, Section 71, hereby offer to give to Montrose Port Authority, having its Registered Office at South Quay, Ferryden, Montrose, DD10 9SL ("the Grantee") a Grant of up to ONE MILLION, FIVE HUNDRED THOUSAND POUNDS STERLING (£1,500,000), payable over the financial years 2018/19 to 2019/20 in connection with the capital costs of strengthening existing berths and landing decks 7W and 8 and associated dredging and utilities servicing works to facilitate larger boats to berth and unload freight at the port. To move various bulk commodities through the facility, enabling it to be taken by sea to and from Montrose for onward delivery to customers, which is more particularly described in Part 1 of Schedule 1 ("the Project") and subject to the following terms and conditions:

1. Definitions and Interpretation

- 1.1 In these Conditions, the words and expressions set out in Schedule 4 shall have the meanings ascribed to them in that Schedule.
- 1.2 In these Conditions unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders.
- 1.3 The headings in these Conditions are for convenience only and shall not be read as forming part of the Conditions or taken into account in their interpretation.
- 1.4 Except as otherwise provided in these Conditions, any reference to a clause, paragraph, subparagraph or schedule shall be a reference to a clause, paragraph, subparagraph or schedule of these Conditions. The schedules are intended to be contractual in nature. They form part of the Agreement and should be construed accordingly.
- 1.5 This Agreement shall not be varied except by an instrument in writing signed by both parties.

2. Purposes of the Grant

- 2.1 The Grant is made to enable the Grantee to carry out the Project.
- 2.2 The Grant shall only be used for the purposes of the Project and for no other purpose whatsoever.
- 2.3 No part of the Grant shall be used to fund any activity or material which is party political in intention, use, or presentation or appears to be designed to affect support for a political party.
- 2.4 The main objectives/expected outcomes of the Grant are:
- The reconstruction of berths 7W and 8 with the necessary capacity to move 1.26 million tonnes of various bulk commodities during the Operating Period;
 - The movement of various bulk commodities including; feed barley, oil seed rape, malting barley, ammonium nitrate, potash, lime, animal feed, cement, chains, composite pipes, fuel and waste wood within that period;
 - The generation of £5,174,864 of Mode Shift Benefits over the Operating Period by enabling the transfer of freight from road to sea (the movement of each tonne will be credited with generating Mode Shift Benefits specific to that commodity and will be itemised and explained in writing as part of the annual monitoring process.
- 2.5 The targets/milestones against which progress in achieving objectives/expected outcomes shall be monitored are:
- Complete reconstruction of berths 7W & 8 by 31 July 2019
 - The generation of £5,174,864 of Mode Shift Benefits over the Operating Period.
- 2.6 The eligible capital costs for which the Grant can be claimed are:

Budget Construction Costs

General items	Design fees
Site mobilisation	Provisional sums
Site de-mobilisation	Quay wall structure
Time related Items	Deck structure
Design fees	Drainage
Provisional sums – client contingencies	Ducting and trenches
Drainage, road signs, lighting, weighbridge relocation	Services
	Miscellaneous works (phase 1&2)
	Other items

The maximum Grant which can be claimed in respect of an eligible capital cost is 20.29% of the actual reasonable and proper costs incurred in connection with that item. For the avoidance of doubt, this is subject to:

- (i) the maximum Grant payable in each Financial Year as shown in the table below;
- (ii) the total Grant Payable (£1,500,000) which is calculated as 20.29% of the total estimated eligible capital costs (of £7,392,623) notified to the Ministers in the Grantee's application for Grant; and

No Grant will be payable in excess of the amounts specified in (i) and (ii) above.

Financial Year	Maximum Grant Payable
2018/19	£1,046,006
2019/20	£453,994
TOTAL	£1,500,000

2.7 The eligible capital costs exclude:

- Any Value Added Tax (VAT) reclaimable by the Grantee;

3. Payment of Grant

- 3.1 The Grant shall be paid by the Scottish Ministers to the Grantee in accordance with the terms of Part 2 of Schedule 1 attached.
- 3.2 The Grantee shall, within 4 weeks of the end of each accounting year in which Grant payments are made and within 4 weeks of receipt of the final payment of Grant, submit to the Scottish Ministers a statement of compliance with the Conditions of the Grant using the form of words provided in Schedule 3. The statement shall be signed by the Grantee's Director of Finance (or equivalent).
- 3.3 In the event that the amount of the Grant paid by the Scottish Ministers to the Grantee at any point in time is found to exceed the amount of the expenses reasonably and properly incurred by the Grantee in connection with the Project, the Grantee shall repay to the Scottish Ministers the amount of such excess within 14 days of receiving a written demand for it from or on behalf of the Scottish Ministers. In the event that the Grantee fails to pay such amount within the 14 day period, the Scottish Ministers shall be entitled to interest on the sum at the rate of 2 per cent per annum above the Bank of England base lending rate prevailing at the time of the written demand from the date of the written demand until payment in full of both the sum and the interest.
- 3.4 The Scottish Ministers shall not be bound to pay to the Grantee, and the Grantee shall have no claim against the Scottish Ministers in respect of, any instalment of the Grant which has not been claimed by the Grantee by 31 March of the applicable financial year as set out in Schedule 1, unless otherwise agreed in writing by the Scottish Ministers.

4. Inspection and Information

- 4.1 The Grantee shall keep the Scottish Ministers fully informed of the progress of the Project during the reconstruction in the form of quarterly reports. Details shall include actual expenditure to date compared with profiled expenditure and any change to estimated expenditure for the financial year and/or the Project as a whole, the reasons for any such changes and progress in achieving objectives/outcomes.
- 4.2 The Grantee shall notify the Scottish Ministers of the date on which the reconstructed berths (7W & 8) become fully operational.
- 4.3 Operation Reports

4.3.1 The Grantee shall provide the Scottish Ministers with an annual Operation Report in relation to the port, including the following information:

(i) details of the traffic which has used the facility (including the tonnage on each traffic flow) for the Project purposes during that Operating Year to date (corroborated by copies of invoices and Trinity House returns showing ship movements, or such other independent third party as the Grantee may, in writing, notify to the Scottish Ministers) giving reasons for any variations from the forecast provided in the Grant Application;

(ii) confirmation that the facility remains operational and continues to be based on the site described in the Application for Grant;

(iii) such other information about the facility as the Scottish Ministers may require.

4.3.2 The Operation Report must be submitted to Ministers on the last working day of April in each Operating Year.

4.3.3 Where the final Operating Year will end after the last working day of April, the Grantee shall produce a final Operation Report within 28 days of the end of that Operating Year.

4.3.4 Failure to provide an Operation Report will result in no Mode Shift Benefits being credited to the facilities for that Operating Year.

4.4 Revisions to targets/milestones against which progress in achieving objectives/outcomes are monitored shall be subject to the written agreement of the Scottish Ministers.

4.5 The Grantee shall, on completion of the Project, submit a report to the Scottish Ministers summarising the outcomes and performance of the Project. Such a report shall include such statistical and other information relating to the impact of the Project as shall be required by the Scottish Ministers.

4.6 The Grantee shall also provide any other information that the Scottish Ministers may reasonably require to satisfy themselves that the Project is consistent with the Agreement. The Grantee shall provide the Scottish Ministers with prompt access to any information they reasonably require to ensure compliance with these Conditions.

4.7 The Grantee shall ensure that it provides the Independent Accountant appointed to audit all claims for payment of Grant with a copy of this letter on appointment.

4.8 The Grantee shall keep and maintain for a period of 6 years after the expenditure occurs, adequate and proper records and books of account recording all receipts and expenditure of monies paid to it by the Scottish Ministers by way of the Grant. The Grantee shall afford the Scottish Ministers, their representatives, the Auditor General for Scotland, his/her representatives and such other persons as the Scottish Ministers may reasonably specify from time to time, such access to those records and books of account as may be required by them at any reasonable time in response to a written request for such access from the person seeking it. The Grantee shall provide such reasonable assistance and explanation as the person carrying out the inspection may from time to time require.

- 4.9 In the event of the Grantee becoming aware of or suspecting any irregular or fraudulent activity that may have any impact on the Project or on the use of the Grant, or any part of it, the Grantee shall immediately notify the Scottish Ministers of such activity and provide such other information as the Scottish Ministers may reasonably require in relation to the impact on the Project and the use of the Grant.
- 4.10 The Grantee shall immediately inform the Scottish Ministers of any change in its constitution for example, but not limited to, a change in status from one type of body corporate to another.

5. Confidentiality and Data Protection

- 5.1 The Grantee will respect the confidentiality of any commercially sensitive information that they have access to as a result of the Project.
- 5.2 Notwithstanding the above, the Grantee may disclose any information as required by law or judicial order. All information submitted to the Scottish Ministers may need to be disclosed and/or published by the Scottish Ministers. Without prejudice to the foregoing generality, the Scottish Ministers may disclose information in compliance with the Freedom of Information (Scotland) Act 2002, any other law, or, as a consequence of judicial order, or order by any court or tribunal with the authority to order disclosure. Further, the Scottish Ministers may also disclose all information submitted to them to the Scottish or United Kingdom Parliament or any other department, office or agency of Her Majesty's Government in Scotland, in right of the Scottish Administration or the United Kingdom, and their servants or agents. When disclosing such information to either the Scottish Parliament or the United Kingdom Parliament it is recognised and agreed by both parties that the Scottish Ministers shall if they see fit disclose such information but are unable to impose any restriction upon the information that it provides to Members of the Scottish Parliament, or Members of the United Kingdom Parliament; such disclosure shall not be treated as a breach of this agreement.
- 5.3 The Grantee shall ensure that all requirements of the Data Protection Act 1998 are fulfilled in relation to the Project.
- 5.4 To comply with section 31(3) of the Public Services Reform (Scotland) Act 2010, the Scottish Ministers publish an annual statement of all payments over £25,000. In addition, in line with openness and transparency, the Scottish Government publishes a monthly report of all payments over £25,000. The Grantee should note that where a payment is made in excess of £25,000 there will be disclosure (in the form of the name of the payee, the date of the payment, the subject matter and the amount of Grant) in the both the monthly report and the annual Public Services Reform (Scotland) Act 2010 statement.

6. Disposal of Assets

The Grantee shall not, without prior written consent of the Scottish Ministers, dispose of any asset funded, in part or in whole, with Grant funds at any time during the Operating Period. During that period the Scottish Ministers shall be entitled to the relevant proportion of the proceeds of the disposal based on the percentage of Grant funding used in connection with the acquisition or improvement of the asset against the whole proceeds. The Scottish Ministers shall also be entitled to the relevant proportion of any proceeds resulting from any provision included as a condition of sale. Recovery by the Scottish Ministers shall not be required where the value of the asset is less than £10,000.

7. Publicity

- 7.1 The Grantee shall where reasonably practicable acknowledge in all publicity material relating to the Project the contribution of the Scottish Ministers to its costs. The Scottish Ministers may require to approve the form of such acknowledgement prior to its first publication.
- 7.2 The Grantee shall procure, and secure in a prominent position at the Grant-aided facility, a brass plaque measuring not less than 12"x9"x1/4". This plaque shall be inscribed as follows:-

"Montrose Port - Berths 7W and 8 were reconstructed with the assistance of a Mode Shift Grant awarded by the Scottish Government in 2018".

8. Intellectual Property Rights

- 8.1 All Intellectual Property Rights are hereby assigned to and shall vest in the Crown or its assignees.
- 8.2 The Grantee shall ensure that nothing contained in any materials produced or submitted to the Scottish Ministers by the Grantee or anyone acting on its behalf nor the reproduction of such materials, shall constitute an infringement of any third party copyright or intellectual property right and shall indemnify the Scottish Ministers against all actions, proceedings, claims and demands made by reason of any such infringement.

9. Default and Recovery etc. of Grant

- 9.1 The Scottish Ministers may re-assess, vary, make a deduction from, withhold, or require immediate repayment of the Grant or any part of it in the event that:
- 9.1.1 The Grantee commits a Default;
- 9.1.2 The Scottish Ministers consider that any change or departure from the purposes for which the Grant was awarded warrants an alteration in the amount of the Grant;
- 9.1.3 The Grantee fails to carry out the Project;
- 9.1.4 In the Scottish Ministers' opinion, the progress on the Project is not satisfactory; or
- 9.1.5 In the Scottish Ministers' opinion, the future of the Project is in jeopardy.
- 9.2 If, in the Scottish Ministers' opinion, the Grant or any part of it is state aid and they consider that they are required to recover such sum in order to ensure compliance with their obligations under EU law, Scottish Ministers may require immediate repayment of the Grant or any part of it together with interest at such rate and on such basis as may be determined from time to time by the Commission of the European Union.
- 9.3 The Scottish Ministers may withhold the payment of the Grant if at any time within the duration of the Agreement:

- 9.3.1 The Grantee passes a resolution that it be wound up, or a court makes an order that the Grantee be wound up, in either case otherwise than for the purposes of reconstruction or amalgamation, or circumstances arise which would enable a court to make such an order or the Grantee is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- 9.3.2 Where the Grantee is an individual, if a petition is presented for the Grantee's bankruptcy or the sequestration of his estate or a criminal bankruptcy order is made against the Grantee; or the Grantee makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignation for the benefit of creditors, or if an administrator or trustee is appointed to manage his affairs; or
- 9.3.3 A receiver, manager, administrator or administrative receiver is appointed to the Grantee, or over all or any part of the Grantee's property, or circumstances arise which would entitle a court or a creditor to appoint such a receiver, manager, administrator or administrative receiver.
- 9.4 In the event that the Grantee becomes bound to pay any sum to the Scottish Ministers in terms of clause 9.1, the Grantee shall pay the Scottish Ministers the appropriate sum within 14 days of a written demand for it being given by or on behalf of the Scottish Ministers to the Grantee. In the event that the Grantee fails to pay the sum within the 14 day period, the Scottish Ministers shall be entitled to interest on the sum at the rate of 2 per cent per annum above the Bank of England base lending rate prevailing at the time of the written demand, from the date of the written demand until payment in full of both the sum and interest.
- 9.5 Notwithstanding the provisions of this clause 9, in the event that the Grantee is in breach of any of the Conditions, the Scottish Ministers may, provided that the breach is capable of a remedy, postpone the exercise of their rights to recover any sum from the Grantee in terms of Condition 9 for such period as they see fit, and may give written notice to the Grantee requiring it to remedy the breach within such period as may be specified in the notice. In the event of the Grantee failing to remedy the breach within the period specified, the Grantee shall be bound to pay the sum to the Scottish Ministers in accordance with the foregoing provisions.
- 9.6 Any failure, omission or delay by the Scottish Ministers in exercising any right or remedy to which they are entitled by virtue of clauses 9.1 to 9.3 shall not be construed as a waiver of such right or remedy.

10. Assignation

The Grantee shall not be entitled to assign, sub-contract or otherwise transfer its rights or obligations under the Agreement without the prior written consent of the Scottish Ministers.

11. Termination

- 11.1 If any of the provisions of clause 9.3 apply, the Scottish Ministers may terminate this agreement with immediate effect in writing.
- 11.2 If the Grantee commits a Default, the Scottish Ministers may terminate this agreement giving not less than 3 months' notice in writing from the date of the notice being sent.

12. Corrupt Gifts and Payments of Commission

The Grantee shall ensure that its employees shall not breach the terms of the Bribery Act 2010 in relation to this or any other grant. The Grantee shall ensure that adequate controls are in place to prevent bribery.

13. Continuation of Conditions

13.1 These Conditions, except from Condition 4.8, shall continue to apply for the duration of the Operating Period.

13.2 Condition 4.8 shall continue to apply until the end of the period referred to in that Condition.

14. Compliance with the Law


The Grantee shall ensure that in relation to the Project, they and anyone acting on their behalf in relation to the Project shall comply with the relevant law, for the time being in force in Scotland.

15. Governing Law

This contract is governed by the Law of Scotland and the parties hereby prorogate to the exclusive jurisdiction of the Scottish Courts

If you wish to accept the offer of this Grant on the whole terms and conditions as set out in the letter and annexed Schedules, you should sign and date both copies of the Grant Acceptance below and return one copy of the offer of Grant and Schedules to me at Transport Scotland, Freight Grants Team, Area 2-D North, Victoria Quay, Edinburgh, EH6 6QQ. You should retain the second copy of the offer of Grant and Schedules for your own records.

Yours sincerely,


Freight Grants Manager
23 April 2018

GRANT ACCEPTANCE

On behalf of Montrose Port Authority, I accept the foregoing offer of Grant by the Scottish Ministers dated 23 April 2018 on the whole terms and conditions as set out in the letter and annexed Schedules. I confirm that I hold the relevant signing authority.

Signed:

Print Name:

Position in Organisation of Person Signing:

Date:

Place of Signing:

WITNESS

Signed:

Witness Name:

Address:

Date:

Place of Signing:

SCHEDULE 1

PART 1: THE PROJECT

The project consists of:

1. strengthening existing berths and landing decks 7W and 8 along with associated dredging and utilities servicing works
2. modal shift from road to sea of various bulk commodities including; feed barley, oil seed rape, malting barley, ammonium nitrate, potash, lime, animal feed, cement, chains, composite pipes, fuel and waste wood within that period
3. the movement of 1.26 million tonnes of various bulk commodities through the port, generating £5,174,864 in Mode Shift Benefits over the Operating Period

The facility will enable the transport of bulk commodities by sea to and from Montrose. The products will then be delivered to the final end customer by road. This will achieve the Scottish Government objective of encouraging modal shift of freight from road to sea and will secure significant environmental benefits.

The level of Grant awarded is based on the financial need of this project, assessed by undertaking an appraisal of the cost of the road based operation and the costs of using rail, including the necessary capital expenditure, the final delivery costs and the cost involved in operating the port at Montrose.

PART 2: PAYMENT OF GRANT

1. The maximum Grant which can be claimed in respect of an eligible capital cost is 20.29% of the actual reasonable and proper costs incurred in connection with that item. For the avoidance of doubt, this is subject to:

(i) the maximum Grant payable in each Financial Year, as shown in the table below; and

(ii) the total Grant payable (ie £1,500,000) which is calculated as 20.29% of the total estimated eligible capital costs notified to Ministers in the Grantee's application for Grant

No Grant will be payable in excess of the amounts specified in (i) and (ii) above.

Financial Year	Maximum Grant Payable
2018/19	£1,046,006
2019/20	£453,994
TOTAL	£1,500,000

2. The total Grant of up to £1,500,000 shall be payable by the Scottish Ministers to the Grantee, in arrears, on receipt of a completed claim for Grant in the form set out in Schedule 2 (which must be audited and submitted by an Independent Accountant) together with the following information:

(i) copies of all appropriate receipted invoices;

(ii) an assurance report on the Independent Accountant's headed paper specifying the amount of expenditure on which the Grant claim is based, the amount of the Grant being claimed and incorporating the Independent Accountant's opinion as to whether the claim represents an accurate view of monies expended by the Grantee;

(iii) copies of all necessary permissions and consents for the Project (this will only be required for the first Grant claim);

(iv) such other information as the Scottish Ministers may require whether before or after submission of the claim.

3. Ten per cent of each Grant payment will be retained by Scottish Ministers until the reconstructed berths 7W & 8 are fully operational. Once all claims have been lodged and the facility is fully operational, a site audit visit will be arranged to inspect the facility. The Scottish Ministers will endeavour (but will be under no obligation or duty) to carry out the site audit visit within 30 days of date on which the facility becomes fully operational, as notified to them in terms of Condition 4.2. At this time a sample selection of original invoices will be checked against the copies provided with the audited claims. On completion of a satisfactory audit visit the retained ten per cent will be released to the Grantee.

4. The Scottish Ministers shall not be bound to pay any instalment of the Grant which has not been claimed by the Grantee by 31 March of the applicable financial year, unless otherwise agreed in writing by the Scottish Ministers.

5. The Grantee shall provide a monthly profile of expenditure of the Grant within 14 days of accepting the offer of Grant and thereafter before the start of each subsequent financial year in which Grant is payable. Any change to the profile or to the overall costs of the Project shall be notified to the Scottish Ministers at the earliest opportunity. For the avoidance of doubt, no grant will be payable in excess of the amounts specified in paragraph 1 (i) and (ii) above.

6. On receipt of each claim and the required documentation, the Scottish Ministers shall determine the amount of expenditure which they consider the Grantee has reasonably and properly incurred in connection with the Project having regard to that claim. The determination shall be based on the information provided by the Grantee in accordance with this Schedule. The Scottish Ministers shall use their best endeavours (but shall be under no obligation or duty) to pay the amount determined to the Grantee (less the 10% retention referred to in paragraph 3 above) within 5 working days of receiving a claim and any required documentation and information relevant to the claim.

7. In order to facilitate the accrual of expenditure of the Grant for the financial year, the Grantee shall, where appropriate, advise the Scottish Ministers in writing by 14 April the amount of the Grant actually expended up to and including 31 March.

SCHEDULE 2 - GRANT CLAIM FORM

Organisation: Montrose Port Authority, South Quay, Ferryden, Montrose, DD10 9SL

Bank details: «Name and address, sort code, account number»

Project: Montrose Port, reconstruction of berths 7W & 8

Maximum Grant payable in Financial Year :

Latest forecast of expenditure of Grant for: [Financial year]

Grant claimed from commencement to date: [Amount]

Claim for Grant for the period from [Date] **to** [Date]

Actual eligible costs incurred during period [Amount]

Amount of Grant claimed [Amount]

Less 10% retention [Amount]

We hereby claim Grant of £_____ in respect of the above period in accordance with the terms and conditions of the offer of Grant dated 24 April 2018 and the attached Schedules.

Completed by:

Position:

Contact Details:

Date: Click here to enter a date.

Eligible Costs

A	B	C	D	
Item	Estimated Amount(£)	Actual cost incurred to date(£)	Amount of Grant being claimed - up to a maximum of 20.29% of figure in column C (£)	
General items				
Site mobilisation - general items				
Site de-mobilisation – general items				
Time related Items				
Design fees				
Provisional sums – client contingencies				
Drainage, road signs, lighting, weighbridge relocation				
Quay wall structure				
Deck structure				
Drainage				
Ducting and trenches				
Services				
Miscellaneous works (phase 1 &2)				
Other items				
TOTAL		7,392,623		