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Aviation, Maritime, Freight & Canals

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Erik Østergaard
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Fore Street
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PA14 5EQ

Your ref:

Our ref:

Date:
15 May 2017

Dear Erik

Contracts for the construction of two 100m dual fuel passenger ferries

The purpose of this letter is to set out Scottish Ministers' position in relation to recent developments in respect of the above contracts between CMAL and Ferguson Marine Engineering Ltd (FMEL).

Scottish Ministers are aware that FMEL has requested acceleration of some of the contracted milestone payments to address cash flow issues so that construction of the vessels is not unduly delayed. Scottish Ministers are the sole shareholders of CMAL and responsible for CMAL's funding through voted loans. The acceleration of cash flow is thus a matter in which Scottish Ministers have an interest.

Transport Scotland has worked closely with CMAL over recent weeks in order to identify measures to address the cash flow issues being faced by FMEL whilst at the same time ensuring that Scottish Ministers' interests are protected. In this regard, we note that FMEL had originally requested that the delivery payments payable under the contract in May and July 2018 should be brought forward to launch dates (August and November 2017), and that the Surety Bond should be replaced by a Scottish Government guarantee. On advice from CMAL, Scottish Ministers could not agree to either element of the original FMEL proposal on the basis that to do so would have changed the economic balance of the contract.

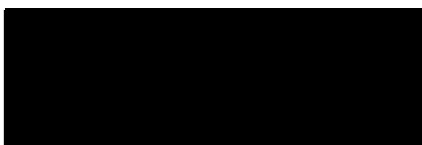
In consultation with CMAL, Scottish Ministers have instead agreed that the final delivery payment may be reduced from 25% (£24.25m) to 10% (£9.70m), allowing for the bringing forward of payments up to £14.55m from financial year 2018/19 to 2017/18, and that the Surety Bond should remain in place. Following careful consideration of the legal, procurement and financial issues, Scottish Ministers are satisfied that under this arrangement the economic balance of the contract is not altered to the extent that the risk of challenge is heightened. We note that CMAL has put in place with FMEL measures to ensure that there is full transparency on how FMEL will use the accelerated payments, so that this will relate only to incurred cost directly attributable to the vessel construction.

Accordingly, additional loan support of up to £14.55m will be made available to CMAL to enable payment to FMEL of contractual sums due, subject to the conclusion of a detailed contract variation between CMAL and FMEL. We will issue a revised funding letter to CMAL for this purpose.

In parallel with the above arrangements, the Scottish Government is considering whether it may be possible to provide support to FMEL in other ways outwith the contracts for the construction of the vessels. Those considerations involve colleagues across Scottish Government and are unlikely to impact directly on CMAL's relationship with FMEL.

I can confirm that the contents of this letter do not change the contents of my letter of 9 October 2015 in relation to the contracts (letter enclosed for ease of reference).

Regards



John Nicholls