

CABINET – 2 SEPTEMBER 2015

Leisure Facilities Contract – Procurement Strategy and Authority to Tender

Report of the Community and Leisure Portfolio Holder

Recommended:

- 1. That procurement of a new leisure facilities contract commences from September 2015 by way of a competitive dialogue process.**
- 2. That the Head of Community and Leisure, in consultation with the Community and Leisure Portfolio Holder, be authorised to prepare contract documentation and publish an OJEU notice seeking expressions of interest from suitably qualified and experienced organisations to tender for this contract.**
- 3. That the Head of Finance, in consultation with the Economic Portfolio Holder, be authorised to initiate discussions with Valley Leisure Ltd (VL) and the Hampshire Pension Fund Service for the reasons set out in paragraph 7.5.**
- 4. That future reports relating to progress of this contract be presented to Cabinet as necessary.**

SUMMARY:

- This report seeks authority to commence with the procurement of a new leisure facilities contract starting with the publication of an OJEU notice to seek expressions of interest from suitable organisations. This will start the process for enabling the preparation and evaluation of an approved shortlist for invitation to tender.
- Progress reports will be presented to Cabinet as necessary. In terms of the timescales for the necessary work and due diligence, it is anticipated that the council will be in a position to award the contract by November 2016, in readiness for the contract to start from April 2017.

1 Introduction

- 1.1 Cabinet have received regular reports regarding preparatory work for the procurement of this contract – most recently in 01 October 2014 and 11 March 2015 (minute 144 and 299 respectively refers).
- 1.2 Following an open tendering exercise, RPT Consulting were appointed to advise and support the council throughout the process to scope, procure, evaluate and award the next leisure facilities contract. This report seeks authority to commence with the process and seek to alert the market of the opportunity to bid, and submit an expression of interest.

- 1.3 It is proposed that the Council proceed via a Competitive Dialogue process which in particular will seek:
- (a) a long term contract (up to 30 years)
 - (b) Reduced costs and risk transfer to the operator
 - (c) Capital investment across the portfolio, and in particular at Andover Leisure Centre (ALC)
 - (d) On-going service development in line with corporate priorities and community need

2 Corporate Objectives and Priorities

- 2.1 Improving and delivering new leisure facilities for the borough is a primary objective within the new corporate plan (Investing in Test Valley) – this includes a commitment to redevelop ALC and investment in the leisure portfolio generally.

3 Consultations/Communications

- 3.1 Early feasibility work has included seeking independent market, procurement and legal advice regarding leisure facilities contracts. It has also included engagement with National Governing Bodies (NGB's) regarding current and future demands for facilities for their respective sports in line with trends and regional strategic priorities.
- 3.2 RPT consulting – commissioned to support on all aspects of the project.
- 3.3 Hampshire County Council (HCC) – in connection with securing the freehold to the ALC site and future service provision.
- 3.4 Informal engagement with neighbouring local authorities in reviewing best practise.
- 3.5 Sport England – informal consultation about their toolkit, funding and sector specific procurement advice and support.
- 3.6 VL (as the incumbent operator) regarding appropriate information sharing and the impact to day-to-day business of this procurement process between now and March 2017.

4 Options

- 4.1 Support proposed approach and authorise officers to alert the market and advertise for expressions of interest.
- 4.2 Seek to suspend the current process and propose an alternate approach.

5 Options Appraisal

- 5.1 **Support proposed approach and authorise officers to alert the market and advertise for expressions of interest.**
- 5.1.1 The competitive dialogue process is a public sector tendering option that will allow bidders to develop alternative proposals in response to the key contract outcomes shown in paragraph 1.3. This is the preferred and recommended

option following a thorough and robust review of current market intelligence and likely market interest, undertaken with independent support. It is believed to be both a means of securing a 'better contract' for Test Valley and its residents, whilst still being attractive to the market commercially.

- 5.1.2 It is proposed that it will be a DBOM (Design, Build, Operate and Maintain) contract, as this transfers most of the risk to the operator. It also ensures that any interface issues between capital build and operation are the responsibility of the operator – this is consistent with the approach taken for a number of recent new contracts let by other authorities around the UK (leading to 'better contracts' going forward) and is fast becoming a more mainstream approach.
- 5.1.3 It is recommended that the Head of Community and Leisure in consultation with the Community and Leisure Portfolio Holder be authorised to advertise the opportunity, in order to commence the process and seek expressions of interest.

5.2 Seek to suspend the current process and propose an alternate approach

- 5.3 The Council could choose to undertake any capital investment project itself and seek to appoint a leisure operator entirely separately. Whilst this might be considered to be a more traditional approach, given the inherent link and immense dependency that any capital build will have on operations, it is likely that this approach would lead to increased costs and risks that would remain with the Council compared to the more innovative approach proposed.
- 5.4 It is also likely that any 'rethink' will lead to delays in commencing with the letting of the contract.

6 Risk Management

- 6.1 A risk assessment has been completed in accordance with the Council's Risk management process and the existing risk controls in place mean that no significant risks (Red or Amber) have been identified.

7 Resource Implications

- 7.1 There are no direct resource implications to commence the process other than officer time.
- 7.2 The current management fee payable to VL is £445,000 p.a. In addition to this, an average of £227,000 p.a. has been spent across the Leisure Facilities portfolio for the last 5 years (through the asset management plan). It is anticipated that this revenue position will be improved upon as a consequence of the contract and procurement method proposed.
- 7.3 Future asset management costs (across the leisure facilities portfolio) are estimated to be £2.8M for the next 5 years (albeit if needed, it is intended for the vast majority of responsibility for this to be passed to the operator under the proposed new contract arrangements).
- 7.4 Costs will be incurred when legal and financial advisors are appointed (this will be reported separately and in due course).

- 7.5 Currently, VL is carrying a significant pension liability in its balance sheet, but has also prudently set aside cash reserves to offset this liability. The Head of Finance has requested an up-to-date actuarial assessment from the Hampshire Pension Fund Service to establish the current level of shortfall or surplus in the net position with a view to removing this variable from the tendering process at the request of VL. A separate report will also come forward to agree terms for dealing with this matter later in the year.

8 Legal Implications

- 8.1 OJEU notice to be prepared and legal support required throughout process.
- 8.2 Appointment of independent legal advisors to be agreed.
- 8.3 Preparation of a suite of contract documentation to be prepared and approved before commencement of invitation to submit detailed solutions (from bidders) – this includes contract, specification and a list of schedules (all of which are based upon the Sport England toolkit).

9 Equality Issues

- 9.1 No equality issues have been identified at this point. As a result, a full Equality Impact Assessment has not been completed in accordance with the Council's EQIA methodology as a result.

10 Other Issues

- 10.1 Wards / communities affected - All Wards.
- 10.2 Property issues – preparation of long term leases will be required, along with other agreements relating to regular bookings / subletting.

11 Conclusion and reasons for recommendation

- 11.1 In order to secure good quality and accessible leisure facilities for the community for the long term future, it is recommended that the Head of Community and Leisure, in consultation with the Community and Leisure Portfolio Holder be authorised to commence with the procurement for the 2017 Leisure Facilities Contract and alert the market of the opportunity by publishing an OJEU notice seeking expressions of interest.

Background Papers (Local Government Act 1972 Section 100D)

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

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| No of Annexes: | none | File Ref: | N/A |
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| Report to: | Cabinet | Date: | 02 September 2015 |