

## ITEM NO:36

<b>DECISION-MAKER:</b>	CABINET		
<b>SUBJECT:</b>	St. MARY'S LEISURE CENTRE MANAGEMENT ARRANGEMENTS		
<b>DATE OF DECISION:</b>	15 MARCH 2010		
<b>REPORT OF:</b>	CABINET MEMBER FOR LEISURE, CULTURE AND HERITAGE		
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### STATEMENT OF CONFIDENTIALITY

Appendix 1 is not for publication by virtue of Categories 3 and 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules as contained in the Council's Constitution. It is not considered to be in the public interest to disclose this information because the Appendix contains confidential and commercially sensitive information which would impact on the integrity of a commercial procurement process and the Council's ability to achieve 'Best Value' in line with its statutory duties.

### SUMMARY

The Council's Sport and Recreation Partnership progressed with a significant milestone in February 2010, with the appointment of a preferred bidder for the main contract. St Mary's Leisure Centre was not part of that package, given the potential for alternative developments to provide a long term solution for provision in the locality. In the short term, Southampton Solent University have expressed an interest in pursuing a role in managing and operating the facility.

Approval is sought from Cabinet to delegate authority to officers, following appropriate consultation with members, to proceed with the granting of a Service Concession to Southampton Solent University for the management and operation of St Mary's Leisure Centre.

### RECOMMENDATIONS:

- (i) To delegate authority to the Executive Director of Neighbourhoods, in consultation with the Executive Director of Resources and the Solicitor to Council following consultation with the Cabinet Member for Leisure, Culture and Heritage, to grant a service concession to Southampton Solent University for the management and operation of St Mary's Leisure Centre as a publicly accessible facility.
- (ii) To authorise the Solicitor to the Council following consultation with the Executive Director of Neighbourhoods and the Executive Director of Resources to do anything necessary to give effect to the proposals contained within this report including, but not limited to, the entering into of agreements, bonds, leases, and such other matters as are ancillary to or expedient for the completion of the project.

## **REASONS FOR REPORT RECOMMENDATIONS**

1. To provide a solution to meet the Council's budgetary targets in relation to St Mary's Leisure Centre.
2. To retain the provision of important community facilities in the City Centre.

## **CONSULTATION**

### **Unions**

3. Trade Unions were consulted on 3<sup>rd</sup> March 2010 and have been advised of the decision timetable. Ongoing meetings will take place with the broader Sport and Recreation Partnership to advise Unions / staff of progress.

### **Sport and Recreation Staff**

4. Staff at the venue have been regularly updated and consulted on the overall Sport and Recreation partnership project and been advised that alternative options are being explored for St Mary's Leisure Centre. They have also been advised of the Council's budget decisions. A staff consultation took place on 8<sup>th</sup> March 2010 to provide information direct to staff.

### **Customers**

5. The principle of alternative management arrangements was contained in the Administrations budget proposals and subsequently part of a broader consultation exercise. No questions or comments were received from the public. Following the meeting with staff, customers were advised by information sheets about the proposals contained within this report.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

6. To continue managing in house. This has been rejected, given the need to meet the overall Council budget requirements and despite improvements in the financial performance of the Centre, they are unable to meet the targets set.
7. Closure. Rejected given the impact on the local community and the opportunities to explore and pursue alternative management options that could meet the Administration's objectives.
8. Include in the broader procurement package. Rejected given that the long term sustainable option to provide sport and recreation services in the locality is some form of joint project with Solent University. Including in the broader package would complicate and probably prejudice this aim.
9. Progress alternative partnership arrangements. Meetings have been held with another organisation who expressed interest in establishing a Social Enterprise to operate the facility and to subsequently support their role in supporting vulnerable young people. They were seeking a long term commitment to the building and a phased reduction in the revenue support the Council provides. These two factors in particular do not support the current thinking and strategy for the building or revenue commitments.

## DETAIL

10. St Mary's Leisure Centre was subject to significant repair work and reopened in early 2007. The work provided the Centre with approximately 5 years life before other substantial investment may be required (notwithstanding any catastrophic events). The long term future of provision in the local area has been tied in with proposals for a joint development with Southampton Solent University (SSU) for some time. These proposals have stalled over difficulties with land purchase issues for Solent University. These issues appear to have progressed recently, but the development, and ultimately provision, of a scheme that may involve the Council is still a number of years away.
11. In the meantime, it is appropriate to consider the short to medium term provision of a sports facility in the area in the context of the Council's budgetary position. The Council's budget for 2010/11 reflects the proposal to remove the current costs associated with subsidising the facility.
12. Officers have been engaged in informal dialogue with the University over their interest in managing the facility, and the response has been positive. It is proposed, subject to approval from Cabinet, to enter detailed and final discussions over the granting of a service concession to enable the University to manage the Leisure Centre for a minimum of two years.
13. The Authority believes that the Transfer of Undertakings, (Protection of Employment) Regulations 2006 (TUPE) will apply but will consider alternative tenders where there are genuine exceptional circumstances. Where TUPE applies, the Contractor is required to protect the terms and conditions of transferred staff including pensions.
14. The Contractor is strongly encouraged to seek admission to the Local Government Pension Scheme but if this is refused / impractical must provide a broadly comparable scheme as approved by the Government Actuary's Department (GAD).
15. The Contractor is required to employ new joiners on terms that are overall no less favourable than those of transferred employees.
16. The Council recognises the Best Value Code of Practice on Workforce matters and intends to enter discussions on the avoidance of two-tier working.
17. A significant risk, should this proposal be progressed, is the failure to develop and deliver the replacement facility (in an appropriate timescale). This would leave the Council facing a number of challenging issues, including whether to invest further in the building and equipment to secure a longer lifespan and subsequently service delivery.
18. A service concession is a quick and efficient procurement route, but is more limited in the controls the Council can exert through a service specification in a conventional services contract. Lease terms can specify permitted use for example but there would be no direct control over pricing or programming for instance. SSU has responded with a firm commitment to maintaining significant public access to the facility.

19. The award of a service concession is exempted from the Contract Procedure Rules unlike a services contract. The reasoning for this is the Council will not be spending money on services nor will it be specifying exactly what the provider must do in operating the Centre. Although going to the market with this opportunity may assist the Council in ensuring it achieves best value, proceeding only with SSU on the basis of a service concession has the following advantages:
- The University is the single largest user of the Centre – in any future management arrangements, it plays a critical role.
  - Our long term plans are for a joint project, with the possibility of some SCC investment in a University operated facility; this is the first step in that journey
  - The proposal without a management fee is not attractive to the commercial sector, unless we are happy to have a partner that is not prepared to commit to continued public access at a reasonable level. The University are committed to continued public access
  - The partner will need to TUPE staff and be able to provide an LGPS or GAD approved pension; SSU have the staffing and governance arrangements to meet this need.
  - The University can move quickly enough to meet the financial needs as established by the 2010/11 budget approved by Full Council in February 2010.
20. The University is a significant and robust organisation. It employs approximately 1,500 people and in 2007/08 had a turnover of £81,000,000. Its pension fund is managed through Hampshire County Council. Its mission is “The pursuit of inclusive and flexible forms of Higher Education which meet the needs of employers and prepare students to succeed in a fast-changing competitive world.” The University has a strong emphasis building its role and profile in the local community.

## **FINANCIAL/RESOURCE IMPLICATIONS**

### **Capital**

21. Not applicable.

### **Revenue**

22. The Council’s budget for 2010/11, approved in February 2010, shows a reduction in relation to St Mary’s Leisure Centre subsidy. The proposal provides a mechanism to deliver this saving. Any costs required to conclude contractual arrangements will be met from within the Sport and Recreation Partnership revenue budget.

## **Property**

23. The Council would be entering into a lease for the building. The Council will retain some liability for repairs and maintenance but further negotiations are required, should the proposal proceed, to determine the extent of those liabilities. Repairs are currently funded from the centralised repairs maintenance budget based on a prioritisation system within the whole property portfolio and this will continue to be the case.

## **Other**

24. In February 2010 Cabinet agreed a residual client structure which includes capacity to provide contract management.

## **LEGAL IMPLICATIONS**

### **Statutory power to undertake proposals in the report:**

25. The power to provide leisure facilities derives from the Local Government (Miscellaneous Provisions) Act 1976. The Cabinet will need to make their decisions in accordance with the Council's normal statutory duties, e.g. the duty to achieve best value in the manner in which it discharges its functions under the Local Government Act 1999 which requires all best value authorities, such as Southampton to: "...make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". [Local Government Act 1999 – Section 3]

### **Other Legal Implications:**

26. The Solicitor to the Council is also the City Council's Monitoring Officer and therefore needs to ensure that at all times the City Council is acting lawfully and within its powers.

## **POLICY FRAMEWORK IMPLICATIONS**

27. The 2009/10 Corporate Improvement Plan includes the following key action: "To develop a long term strategy to address the future management of and secure sustainable investment in the City Council's sports and recreation facilities".

**SUPPORTING DOCUMENTATION**

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

**Appendices**

1.	Confidential Appendix
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**Documents In Members' Rooms**

1.	None
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**Background Documents**

Title of Background Paper(s)

1.		
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**Background documents available for inspection at:** online

**KEY DECISION? YES**

<b>WARDS/COMMUNITIES AFFECTED:</b>	All
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