

# ITEM NO: 6 Appendix C

## ITEM NO: 19

<b>DECISION-MAKER:</b>	CABINET			
<b>SUBJECT:</b>	SELECTION OF PARTNERS FOR SPORT AND RECREATION PARTNERSHIPS			
<b>DATE OF DECISION:</b>	15 FEBRUARY 2010			
<b>REPORT OF:</b>	CABINET MEMBER FOR LEISURE, CULTURE AND HERITAGE			
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### STATEMENT OF CONFIDENTIALITY

Appendices 2, 3 and 4 of this report are not for publication by virtue of Categories 3 and 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules as contained in the Council's Constitution.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 Appendices contain 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

This paper updates Cabinet on the progress of the Council's proposed Sport and Recreation Partnerships and requests that a number of recommendations are considered.

The Council has undertaken two procurement processes to identify partners for two separate Partnership packages:

- Package 1 relates to the Municipal Golf Course
- Package 2 includes the Quays 'Eddie Read' Swimming and Diving Complex, Bitterne Leisure Centre, Chamberlayne Leisure Centre, Woodmill Activities Centre, Southampton Water Activities Centre, the Outdoor Sports Centre (including outlying pitches and the Paddling Pool on Southampton Common) and Southampton Alpine Centre.

The Cabinet report of 28 July 2008 identified three key outcomes as the aspirations for this project which are:

- Increased participation and widening of access for the Council's Leisure facilities
- Improved quality and customer satisfaction
- Reduced net cost

A competitive dialogue process is being undertaken to secure a partner to manage and operate the Southampton Municipal Golf Course (Package 1). Shortlisted bidders are currently preparing their final tenders in respect of this proposed contract. Approval is sought from Cabinet to delegate authority to officers, following appropriate consultation with members, to proceed with the selection of a preferred bidder for the management

and operation of Southampton Municipal Golf Course, as detailed below, to enable adherence to the project timeline.

For package 2 a competitive dialogue procurement was also undertaken which enabled the delivery of short listing bidders, intense dialogue period, receipt and evaluation of final tenders and this paper is being brought to Cabinet to report on the outcomes of the competitive dialogue process and seek approvals as set out in the recommendations below.

In seeking approval to secure a new partner to operate and manage the facilities outlined in package 2 this paper also seeks approval to spend section 106 monies to improve the Sport Centre provision by undertaking major replacement and rejuvenation for the Athletics track and synthetic turf pitches. This positive commitment by the Council will create a platform of opportunity for growth for both the proposed preferred bidder and the Council.

### **RECOMMENDATIONS:**

- (i) To consider the objections received and to authorise the disposal to the preferred bidder by way of a 15 year lease for Package 2 and an agreed lease for Package 1, the list of properties set out in appendix 1, in order to facilitate the contract awards.
- (ii) 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,, to appoint a preferred partner for the management and operation of Package 1 (Southampton Municipal Golf Course) in accordance with the framework as set out in confidential appendix 2.
- (iii) To appoint the preferred partner (identified at confidential appendix 3) to manage and operate the leisure facilities identified in package 2 (excluding the grounds maintenance for outlying sports pitches), for a contractual period of 15 years, at or below the level of annual management fee set out in section 9 of confidential appendix 3, and delivering an average net annual saving equal to or greater than the savings figure set out in section 10 of confidential appendix 4.
- (iv) To delegate authority to the Solicitor to the Council, following consultation with the Executive Director of Neighbourhoods and Executive Director of Resources to finalise and enter into contractual arrangements with preferred partners for both package 1 and 2 with contracts commencing on 1<sup>st</sup> September 2010, subject to the preferred partner for Package 1 fully meeting the criteria set out in confidential appendix 2.
- (v) To approve, in accordance with finance procedure rules, capital expenditure of £198,000 on Improvements to the Athletics Track at the sports centre and £48,000 on Improvements to synthetic turf pitches at the sports centre, provision for which exists in the Leisure, Culture and Heritage capital programme for 2010/11.
- (vi) To approve the preferred way forward for the development of PE and Sport facilities at Chamberlayne Park College and the ongoing relationship with Chamberlayne Leisure Centre.

- (vii) 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, further advertisement of any property matters and such other matters as are ancillary to or expedient for the completion of the project.

## **REASONS FOR REPORT RECOMMENDATIONS**

### **1 Package 1**

The Council proposes to let a 12 year contract for the management and operation of the Municipal Golf Course. Following issue of an OJEU notice advertising this opportunity in August 2009, the Council is near completing a short and focussed Competitive Dialogue procurement process. The Pre Qualification and Detailed Solutions stages of this procurement have now been completed.

The Council is continuing to engage in Dialogue with 3 bidders with a view to inviting Final Tenders at the end of February 2010. Following evaluation of these tenders, the Council proposes to identify a preferred bidder who is best able to meet the objectives of the project in their Final Tender. Through the recommended delegated authorities (subject to the framework set out in confidential appendix 2), the Council will ensure that a contract handover date of 1 September 2010 can be achieved.

### **2 Package 2**

The Dialogue undertaken with bidders has identified that there are a range of benefits to the Council in securing a 15 year partnership for package 2. By securing a partner the project will contribute to meeting the Council's three main outcomes for its Sport and Recreation Services by:

- Increasing participation;
- Providing a sustainable platform of investment that develops the services which includes addressing the repairs, maintenance and major equipment and replacement issues for the life of the contract;
- Creating opportunities to contribute to the City health issues;
- Improving choice for customers by offering for example on line bookings and payment;
- Providing a dedicated resource to develop partnerships and funding for the services;
- Reducing the net subsidy to the Council;
- The Council creating a partnership that will work together to improve and develop its existing leisure facility provision but also explore the opportunity for new provision.

- 3 To allow the Council to appoint a preferred bidder and subsequently finalise the contract through a fine tuning stage from late February to the end of April 2010. The purpose of this phase would be to undertake any fine tuning necessary to allow contract completion and meet the handover date target of the 1 September 2010.

## **CONSULTATION**

### **Trade Unions**

- 4 This report has been shared with the Trade Unions. Any comments that they make upon the report shall be submitted under separate cover to Cabinet members at the meeting. Trade unions who have signed a confidentiality agreement have also seen details of the shortlisted bidders and their final tenders. Regular consultation meetings have taken place with the unions throughout both package 1 and 2 procurement processes.

### **Sport and Recreation Staff**

- 5 Staff at Sport and Recreation facilities have been kept informed via regular meetings at the various facilities throughout the procurement, newsletters and dedicated intranet pages. A dedicated email address is available for all staff to contact the project team.

### **Customers and Stakeholders**

- 6 Customers and other stakeholders have received regular newsletters about the proposals and previous investors in the facilities such as Sport England have been kept informed. All residents have been consulted about the Council's plans by way of advertisements placed informing residents about the Council's intention to grant leases on open spaces relating to both packages. As a major stakeholder, NHS Southampton City has been involved in the evaluation of proposals for addressing the City's Health and Well Being.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

- 7 The Council has used Public Sector Comparators (PSC) developed for both packages and refined since the Cabinet report of 28 July 2008 in assessing the suitability of bids against the current financial performance of the Council.
- 8 Bidders for Package 2 were initially asked to make proposals to carry out the grounds maintenance of facilities at the Sports Centre and outlying sports pitches. Proposals were judged to provide no additional value to the Council and therefore this responsibility will remain with the Council's Neighbourhood Services team.
- 9 Initially in July 2008 it was proposed to include St Mary's Leisure Centre and Oaklands Swimming Pool in the facilities offered in Package 2. However, these were withdrawn from the package advertised to enable other options to be explored and developed in the future in relation to those sites.
- 10 A final option is not to pursue the letting of contracts for Package 1 and Package 2. It is felt that not entering into a partnership with partners will fail to contribute to the Council's 3 key objectives for Sport and Recreation. The financial, quality and increased participation benefits outlined in this paper will not be fully achieved by maintaining the current operation model for Sport and Recreation.

## **DETAIL**

### **Procurement and Tender Process Package 2**

- 11 The Council established a project governance structure for this project commensurate with procurement projects of this size and value. This included

initial planning advice from Capita Symonds, procurement advice from Max Associates and legal advice and support from Sharpe Pritchard. The process has been guided by a Project Manager and project team reporting to a Project Board, Capital Project Board and the Cabinet Member for Leisure Culture and Heritage.

- 12 The project has been subject to a detailed inspection and report (published 26 June 2009) by the City Council's internal audit department who concluded that substantial assurance could be placed on the effectiveness of the framework of risk management, control and governance designed to support the achievement of management's objectives.

### **Procurement and Evaluation Process**

- 13 A full breakdown of this activity is detailed at Appendix 3. The Council established prior to Detailed Solutions stage Evaluation Criteria and bidders were required to submit method statements together with income and expenditure projections relating to various aspects of the contract at both detailed solutions and final tender stage.

### **Meeting the Council's Objectives**

- 14 The Cabinet set three key outcomes for this procurement process in July 2008. Below is a summary of the preferred bidder performance against these outcomes.

#### **a) Increasing Participation in Sport and Physical Activity**

The preferred bidder has produced a range of ideas and commitments which contribute to this Council aim, which is measured through the City's Local Area Agreement (2008-11). The preferred bidder made a commitment to increase participation and has proposed to introduce or develop such initiatives as:

- Developing partnerships with all Active Southampton member organisations.
- Increasing the intensity of marketing and promotion of all facilities, particularly outdoor venues
- In partnership with the Council, invest in facilities throughout the course of the contract.
- Making facilities more accessible through the development of revised membership schemes and flexible pricing structures.

In addition the preferred bidder has agreed to meet a key performance target of increasing participation by 3% per year for the first five years. Future increases in participation will be targeted throughout the life of the contract.

The preferred bidder will be taking the risk on securing income and will also be required to increase the expenditure into the service to drive and deliver the increased participation targets. In addition, if surpluses are realised during the contract, The Council will retain a percentage of these surpluses for the indoor and outdoor centres (the percentages have been proposed by the bidders as part of their financial proposals and are detailed at Appendix 3).

The evaluation panel has concluded that the bid meets the Council's requirements but has some concerns that a clear strategy for increased usage is not fully evidenced in the bid; however minor concerns will be further addressed at 'fine tuning stage'

**b) Improved Quality and Customer Satisfaction**

The preferred bidder has demonstrated extensive experience of managing contracts of similar size and duration. The preferred bidder broadly meets the Council's expectations in this area but is not able to demonstrate substantial evidence of higher quality provision and increased customer satisfaction through either its method statements or evidence through existing contracts. The preferred bidder will be expected to improve on the Council's performance through the Quest accreditation scheme incrementally over the course of the contract and customer satisfaction will be measured twice a year and the preferred bidder is committed to meeting the Council targets which are:

- Achieving a minimum 1% per assessment cycle increase in Quest scores, and achieving Quest for non-accredited facilities within 1<sup>st</sup> year of contract.
- Increase in usage of concessionary card by 1% per annum over first five years of contract.
- Adherence to published programming and pricing strategies agreed with the Council
- Reductions in accidents and staff turnover
- Achievement of energy saving plans and targets.
- Achieving target scores agreed with the Council in respect of customer satisfaction
- All customer feedback analysed and necessary action taken

The Client function of the Council will be responsible for monitoring the Contractor's performance against these targets

**c) Reduced Net Subsidy**

Both bidders are able to offer Non Domestic Rates savings through their organisational structures. Bids have been evaluated against the Council's Public Sector Comparator and the estimated savings are detailed in Appendix 3. The immediate budgetary saving is set out in paragraph 19 below. It must be noted that bidders have been asked to factor in significant repairs, replacement and maintenance responsibilities in to their management fees which would otherwise have required council funding at some point in the future. This is due to the need to deal with these matters within a contractual framework. The facilities concerned will also be subject to a much higher standard repairs and maintenance regime than the Council has typically implemented in the past.

Other key drivers of this procurement process were to encourage the bidders to develop and or contribute to:

- Investment in the facilities

- Investment in additional facilities and services
- Support for the community sports programme including Active Southampton, the City's Health and Well Being agenda and contribution to reducing the environmental impact of the facilities.

Details of how the preferred bidder has contributed to these are contained in Appendix 3.

### **Chamberlayne Leisure Centre**

- 14 The development of new facilities at Chamberlayne College for the Arts through Building Schools for the Future (BSF) is being planned concurrently with the Package 2 procurement process. As the school is entitled to and is considering new PE and Sport facilities through BSF, the Council needs to ensure that any new provision is complementary to the existing facilities at Chamberlayne Leisure Centre.
- 15 To ensure that a potential duplication is avoided, officers from Leisure and Culture and the BSF team have been working together to plan new provision that will create additional, complementary opportunities for community sport. The risk of agreeing investment in duplicate indoor provision at the school is that the Council's preferred partner may lodge a loss of income claim should existing Leisure Centre users be displaced to the new facility. Bidders have received clarification on this latest position

## **FINANCIAL/RESOURCE IMPLICATIONS**

### **Capital**

- 16 The preferred bidder has included a range of capital investment proposals over the duration of the contract funded through a range of sources. In addition, there is the opportunity for the Council to work with the preferred bidder on a number of other projects. This does not commit the council to any expenditure and whether these opportunities are taken forward will depend on the availability of funding at the time.

### **Expenditure at the Sports Centre**

- 17 Cabinet is asked to approve expenditure on two projects at the Outdoor Sports Centre. Both projects, which are funded from section 106 contributions, are envisaged to be delivered in the months prior to handover to a preferred bidder on 1 September 2010. The facilities require immediate investment to ensure they meet a required standard of playing surface for the activities they are currently utilised for. Details of the projects are shown below:
- a) Rejuvenation of two Sand Filled Synthetic Turf Pitches – the surfaces of these pitches was last improved in 1999 prior to Southampton's hosting of the Millennium Youth Games. The surfaces have now reached the end of their expected life and are showing signs of significant wear and tear. Independent appraisal of the options available to the Council for their rejuvenation has suggested that a rejuvenation and repair project will extend the life of the surfaces by approximately 5 years. The cost of this project is £48,000.

- b) The current Athletics Track surface was laid in 1999 and now falls below the standards required for full certification by UK Athletics which enables it to host key athletics meets and the activities of Team Southampton (the club based at the track). Re-laying of the track will need to take place in the spring and summer months when average temperatures are suitable for the track bonding and surface layers to set. The cost of this new surface is £198,000.

## **Revenue**

- 18 Checks have been undertaken to establish the preferred bidder's ability to deliver the contract as per the Council's requirements and within the context of their proposed management fee.
- 19 The saving expected after evaluation of bidders' proposals is set out in Appendix 4. These savings are assessed over the full 15 year contract period.
- 20 In budgetary terms, the budget papers considered at Cabinet on 1 February 2010, showed that savings of £111,000 in 2010/11 (increasing to £407,000 in 2011/12) could be expected. This takes account of savings on central repairs and maintenance budgets as well as savings on operational budgets in the Leisure, Culture and Heritage portfolio.
- 21 It should be noted that the council is still left with taking the financial responsibility for certain risks in relation to repairs and maintenance, utilities and pensions. These issues are examined in the paragraphs below and the financial implications included in appendices 3 and 4.

## **Property**

### **Leases**

- 22 The Council has been obliged to advertise its intention to grant leases on areas of Open Space contained within both Package 1 and 2, compliant with Section 123 of the Local Government Act (1972). The intention to grant an overriding lease on some of the sites was advertised in the Southampton Daily Echo for two consecutive weeks being 30 November 2009 and 7 December 2009 and following these advertisements the general public had until 7 January 2010 to lodge an objection to the proposals. The Solicitor to the Council has received written objections following the advertisement process which are located at Appendix 1 for formal consideration by Cabinet.
- 23 The Council will be agreeing to grant overriding leases on the various facilities which outline the repairs and maintenance responsibilities of the preferred bidder. The preferred bidder will also be responsible for managing existing leases within the facilities in Package 2 including the Sporting View public house and Sports Centre Pleasure Park.

### **Repairs and Maintenance**

- 24 The preferred bidder will take responsibility for most aspects for repairs and maintenance and in addition will be responsible for major replacement of most equipment and plant (as defined in an agreed schedule). The Council will retain responsibility solely for the structure and latent defects of the buildings and the boiler at Chamberlayne Leisure Centre (which has an estimated remaining lifespan that extends beyond the proposed life of the contract). This

will be limited in extent by an agreed, detailed Schedule of Condition for each property including plant and machinery. In addition an annual inspection will be undertaken to ensure compliance with the repairing obligations contained in the leases. The expected benefits to the Council in respect of repairs, replacement and maintenance can be found in confidential appendix 3, together with information on how the risks would be funded if this was necessary.

### **Utilities**

- 25 Through dialogue, the Council has agreed that the preferred bidder will take risk and responsibility for the consumption of utilities but the Council will retain risk on the cost of utilities (Gas, Water, Electricity and Geothermal power). This allows the Council to include Sport and Recreation facilities within its negotiated contracts through the Kent Laser Agreement. The preferred bidder will be responsible for all utility costs which occur due to any increases in consumption above the baseline agreed at handover. This approach is consistent with that adopted for the Council's Street Lighting PFI. The estimated risk that that the Council may wish to plan for on an annual basis through the central risk fund can be identified in appendix 3.

### **The Quays and Watermark West Quay Development**

- 26 The proposed Watermark West Quay development has the potential to impact on the operation and use of the Quays 'Eddie Read' Swimming and Diving Centre. Bidders have been requested to treat this as a market condition and show any impact of potential development in forthcoming years in their overall management fees. Bidders have also been informed that as part of the development agreement for the Watermark West Quay project, the developer will compensate the Quays operator for the loss of car parking for the duration of the development period and lease. The existing North Quays car park is 134 spaces and as part of the completed development the developer is to provide not less than 224 spaces in the WWQ development and South Quays car parks. It is envisaged (though not yet agreed) that an additional 61 spaces will be allocated from the existing Harbour Parade car park which will allow reconfiguration with the remaining South Quays car park. The additional spaces referenced above will create approximately 140 spaces of surface parking for use by Quays customers. Income from the car park at the Quays will be retained by the partner.

## **Other**

### **Council's Residual Role and Structure**

- 27 Both the preferred bidder and the Council see the Sport and Recreation Partnership as an ongoing relationship and the development of this will be key to the success of the contract. As such, the Council has agreed a residual client structure which includes contract management and sports development functions. Details of the costs and structure of the client function are included at paragraph 9 of the confidential appendix 4.

### **Transfer of Staff and Terms and Conditions**

- 28 The preferred bidder has confirmed their understanding that TUPE applies to this contract and that they have a responsibility with regard to the Workforce

Code of Practice. In addition the preferred bidder will be seeking admission to the Local Government Pension Scheme (LGPS) but if this is refused they will provide a broadly comparable scheme as approved by the Government Actuary's Department (GAD). The quantification of risk and funding arrangements in this area is set out in appendices 3 and 4.

## **LEGAL IMPLICATIONS**

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

- 29 The legal powers to pursue the procurement as outlined in this report are contained in the Local Government Acts 1972, 1999 and 2000. The power to provide leisure facilities derives from the Local Government (Miscellaneous Provisions) Act 1976. The procurement process itself is governed by the EU procurement Rules (as embodied in UK law by the Public Contracts Regulations 2006). The Council's Policy Framework and Budget are silent on the issue of a Sport and Recreation Partnership. 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:**

- 30 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. Prior to doing so, the Solicitor of the Council may need to seek Counsel's opinion that the Council is exercising requisite powers.

## **POLICY FRAMEWORK IMPLICATIONS**

- 31 The 2008/09 Corporate Improvement Plan identified "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" as one of the key actions for the Leisure and Culture Portfolio. This paper proposed the long term strategy referred to in the Corporate Improvement Plan.

**SUPPORTING DOCUMENTATION**

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

**Appendices**

1.	Appendix 1 – Details of objections received relating to leasing of Open Space within Partnership
2.	Appendix 2 – Scheme of proposed officer delegation for Package 1 (Confidential)
3.	Appendix 3 – Information on Final Tenders Received (Confidential)
4.	Appendix 4 – Key Financial Information and Implications (Confidential)

**Documents In Members' Rooms**

1.	None
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**Background Documents**

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	Cabinet Report A13 28 July 2008	
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**Background documents available for inspection at:** online

**FORWARD PLAN No:** LH03767      **KEY DECISION?** YES

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