

Public Document Pack

Officer Decision Making

Tuesday, 11th May 2010
at 12.45 pm

PLEASE NOTE TIME OF MEETING

The Office of the Executive Director of
Neighbourhoods

This meeting is not open to the public

Member

Executive Director of Neighbourhoods

Contacts

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AGENDA

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1 EXCLUSION OF PRESS AND PUBLIC FOR THE FOLLOWING ITEM

In accordance with the Council's Constitution, specifically the Access to Information procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of any consideration of the confidential appendix to Item No: 2

Appendix 1 is not for publication by virtue of Categories 3 and 4 of Paragraph 10.4 of the Council's Access to Information Procedure Rules as contained in the Council's Constitution.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

2 PARTNERSHIP ARRANGEMENTS FOR SOUTHAMPTON MUNICIPAL GOLF COURSE

Report of the Head of Leisure and Culture, seeking approval to appoint the preferred bidder for the Golf Course and approve the awarding of a 12 year contract for the preferred bidder to manage and operate the Golf Course, attached.

Friday, 30 April 2010

SOLICITOR TO THE COUNCIL

Agenda Item 2

DECISION-MAKER:	EXECUTIVE DIRECTOR OF NEIGHBOURHOODS		
SUBJECT:	PARTNERSHIP ARRANGEMENTS FOR SOUTHAMPTON MUNICIPAL GOLF COURSE		
DATE OF DECISION:	11 MAY 2010		
REPORT OF:	HEAD OF LEISURE AND CULTURE		
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STATEMENT OF CONFIDENTIALITY

Appendix 1 of this report is not for publication by virtue of Categories 3 and 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules as contained in the Council's Constitution.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 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 Officers on the progress of the Council's proposed Sport and Recreation Partnerships and requests that the recommendation to award preferred bidder status is 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; and
- reduced net cost.

Cabinet agreed preferred bidder status for Package 2 on 15 February 2010.

In addition, Cabinet agreed to delegate authority to the Executive Director of Neighbourhoods, in consultation with the Executive Director Resources and the Solicitor to the Council following consultation with 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 set out in confidential Appendix 2 (to the February report).

Golf – Package 1

A competitive dialogue procurement was undertaken for Package 1 which enabled the delivery of short listing bidders, intense dialogue period, receipt and evaluation of final tenders. This paper is being brought to Officers to report on the outcomes of the competitive dialogue process and seeks approval as set out in the recommendation below.

RECOMMENDATION:

- (i) To appoint the preferred partner (identified at confidential Appendix 1) to manage and operate the Municipal Golf Course , for a contractual period of 12 years, at or above the level of annual net savings when compared to the public sector comparator (PSC) set out in the Appendix.
- (ii) To authorise the Solicitor to the Council, following consultation with the Executive Director of Neighbourhoods, to agree and finalise all contract and associated documentation and to take any action necessary to effect the proposals in this report.

REASONS FOR REPORT RECOMMENDATION

- 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 has completed a short but focussed Competitive Dialogue procurement process. The Council has fully evaluated bidders' final proposals and is in a position to recommend a preferred bidder, as outlined in Appendix 1.
- 2 To appoint a preferred bidder and subsequently finalise the contract through a fine tuning stage from mid May to the end of June 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

- 3 This report has been shared with the Trade Unions. Any comments that they make upon the report shall be submitted under separate cover to Officers 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.

Golf Course Staff

- 4 Staff at the Municipal Golf Course has been kept informed via regular meetings throughout the procurement, newsletters and dedicated intranet pages. A dedicated email address continues to be available for all staff to contact the project team.

Customers and Stakeholders

- 5 Customers and other stakeholders have received regular newsletters about the proposals. All residents have been consulted about the Council's plans by way of advertisements placed informing residents about the Council's intention to grant a lease at the course.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 6 An alternative option is not to pursue the letting of contracts for Package 1. It is felt that not entering into a partnership with partners will fail to contribute to the Council's three 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 1

- 7 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 ad hoc legal advice 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. The contract is for a 12 year term with the possibility of an extension of up to a further three years.
- 8 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

- 9 A full breakdown of this activity is detailed at Appendix 1. The Council established Evaluation Criteria prior to the Invitation to Submit Detailed Solutions stage 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 stages.

Meeting the Council's Objectives

- 10 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.

(i) 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 at the Municipal Golf Course;
- in partnership with the Council, investing in the Municipal Golf Course throughout the course of the contract; and
- making the Municipal Golf Course more accessible through the development of junior, ladies and concessionary programmes.

The preferred bidder will be taking the risk on securing income and will also be required to increase expenditure into the service to drive and deliver the increased participation targets.

(ii) Improved Quality and Customer Satisfaction

The preferred bidder has demonstrated extensive experience of managing contracts of similar size and duration. 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;
- development of the current programme and continuation of discounts through the Get Active initiative;
- achievement of energy saving plans and targets;
- achieving target scores agreed with the Council in respect of customer satisfaction; and
- 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.

(iii) Reduced Net Subsidy

Bids have been evaluated against the Council's Public Sector Comparator and the estimated savings are detailed in Appendix 1. It must be noted that bidders have been asked to factor in all aspects of 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 additional facilities and services;
- improved quality of the Municipal Golf Course and in particular the tees and greens;
- increased junior golf development opportunities; and
- maximise use of off peak tee times, increase competitions and golf society days.

Details of how the preferred bidder has contributed to these are contained in Appendix 1.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

- 11 The preferred bidder has included a range of capital investment proposals over the duration of the contract. Some of these are an integral part of the bids and

the costs and benefits have been included in the financial evaluation. These proposals do not commit the Council to directly funding any of this expenditure.

- 12 There are other investment proposals that cannot be guaranteed at this time because of a number of issues that need to be resolved before a final decision can be taken on whether the investment can proceed. All the bidders have made it clear that there would be a further benefit to the Council if the Council funded the investments through prudential borrowing because of the cheaper rates that the Council can secure. Provisional analysis has confirmed that the additional income would more than offset the borrowing costs. The additional income would be contractually secured through a higher annual fee payment to the Council, but the Council would be liable to meet costs arising from increases in interest rates. These investments have not been included in the comparison of the bids to the PSC and each proposal will need to be evaluated on its merits once the preferred bidder has been confirmed. Any proposals for prudential borrowing would require separate Council approval.

Revenue

- 13 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 fee to be paid to the Council.
- 14 The saving expected after evaluation of bidders' proposals is set out in Appendix 1. These savings are assessed over the full 12 year contract period.
- 15 In budgetary terms, there are no immediate revenue savings for 2010/11 or 2011/12.
- 16 It should be noted that the Council is still left with taking the financial responsibility for certain risks in relation to the structure of buildings and latent defects and pensions. These issues are examined in the paragraphs below and the financial implications included in Appendix 1.

Property

Lease

- 17 The Council has been obliged to advertise its intention to grant leases on areas of Open Space contained within Package 1, 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 (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. No objections were received in relation to the Municipal Golf Course.
- 18 The Council will be agreeing to grant an overriding lease on the Municipal Golf Course which outlines the repairs and maintenance responsibilities of the preferred bidder. The preferred bidder will also be responsible for managing existing leases at the Municipal Golf Course.

Repairs and Maintenance

- 19 The preferred bidder will take responsibility for all 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 to the Contract). The Council will retain responsibility solely for the structure and latent defects of the

buildings. This will be limited in extent by an agreed, detailed Schedule of Condition for the buildings, including plant and machinery. It is expected that this will also form part of the contract documents. In addition, an annual inspection will be undertaken to ensure compliance with the repairing obligations contained in the lease.

20. The Council has not held an annual budget for rectifying structural or latent defects and does not propose to do so during the life of the proposed partnership. Any liabilities that arise will have to be funded from the general contingency or revenue reserves.

Utilities

- 21 Through dialogue, the Council has agreed that the preferred bidder will take risk and responsibility for both the consumption and tariff for utilities.

Other

Council's Residual Role and Structure

- 22 Both the preferred bidder and the Council see the arrangement 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 were reported to Cabinet in February 2010, as part of confidential Appendix 4 to report on the Sport and Recreation partnership – package 2.

Transfer of Staff and Terms and Conditions

- 23 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 **Appendix 1**.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

- 24 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. Officers 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:

25 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

26 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 – Final Tender Evaluation Report (Confidential)
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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	
2.	Cabinet Report 15 February 2010	

Background documents available for inspection at: online

FORWARD PLAN No: N/A **KEY DECISION?** YES

WARDS/COMMUNITIES AFFECTED:	All
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