

POLICY AND RESOURCE COMMITTEE – 4 SEPTEMBER 2017

LEISURE, WELLBEING AND HEALTH COMMITTEE - 6 SEPTEMBER 2017

PART II – PART DELEGATED

1. LEISURE FACILITIES MANAGEMENT CONTRACT AND REDEVELOPMENT OF THE CENTRE, SOUTH OXHEY

1. Summary

1.1 The purpose of this report is to update the Committee on the evaluation of the Invitation to Submit Final Tender (ISFT) outcome for the procurement of the new Leisure Facilities Management Contract (LFMC).

2. Details

Background

2.1 The current LFMC with Hertsmere Leisure Trust (HLT) ends on 31 March 2018. This consists of The Centre, Sir James Altham Swimming Pool (SJA), William Penn Leisure Centre and Rickmansworth Golf Course incorporating the Fairway Inn.

2.2 The Leisure, Wellbeing and Health Committee in January 2017 resolved the following;

- to shortlist three bidders i.e. Hertsmere Leisure, SLM and Fusion to the Invitation to Submit Final Tender (ISFT) of the procurement of the new Leisure Management Contract;
- to progress to the ISFT Stage with Lot 1 only, which includes all the facilities under one contract, namely, The Centre via the DBOM route, William Penn Leisure Centre and Rickmansworth Golf Course;
- to allow bidders to present options at the Invitation to Submit Final Tender (ISFT).

2.3 In addition, a condition of the LFM contract is that the existing Sir James Altham Pool would only close once the new facility is open. Dialogue has commenced with Hertfordshire County Council over the long term future of this site and Members will be kept informed of any developments.

2.4 The Council does not have to accept any bid and could pull out of the process at any time, right up until the signing of the contract.

3. Procurement Process

3.1 The table below outlines the status of the procurement process.

Table 1 – Procurement Process

Key Actions – Decision Required	Implications	Timetable	Status
Procurement Preparation: <ul style="list-style-type: none">• Bids/Affordability/Evaluation Criteria• Business Case Review• Draft Documentation	No financial commitment	June – October 2015	Completed

Members' Approval – evaluation criteria/affordability/detailed business case	No financial commitment Commencement of Procurement Formal Funding Applications	November 2015	Completed
Advertise Opportunity & Bidders Open Day	No financial commitment	January 2016	Completed
Pre-Qualification (PQQ)	No financial commitment Shortlist 5 /6 bidders	Feb – May 2016	Completed
ISDS Shortlist	No financial commitment Shortlist 3 bidders Select Option to proceed Firm financial offers	June – Jan 2017	Completed
ISFT – Preferred Bidder	Select Preferred Bidder(s) Firm Financial Offers and Funding	September 2017	In Progress
New Contract Start		April 2018	

3.2 Hertsmere Leisure who was selected for the Invitation to Submit Final Tender (ISFT) stage, dropped out of the process. The remaining two bidders submitted mandatory bids and one of them also submitted an optional variant bid.

4. Evaluation of Invitation to Submit Final Tender (ISFT)

4.1 The Final Tenders have been evaluated by an internal team of Leisure, Major Projects, Accountancy and Legal officers, supported by external legal advisers (Bond Dickinson) and Robin Thompson, (Independent Leisure Consultant). See Appendix A – ISFT Evaluation Summary Report.

4.2 The table below shows the evaluation model structure.

Table 2 – Evaluation Criteria

Level 1 Criteria	%	Level 2 Sub Criteria	Level 3 Sub Criteria
Services	40%	<ul style="list-style-type: none"> Outcomes Quality/Customer Care Operational Delivery 	<ul style="list-style-type: none"> Specific areas, such as Sports Development, Staffing, Health & Safety
Technical	10%	<ul style="list-style-type: none"> Development/ Design Planning Risk Maintenance 	<ul style="list-style-type: none"> Design and maintenance proposals Environmental Approach
Commercial	50%	<ul style="list-style-type: none"> Usage, Expenditure & Revenue Affordability Contract Acceptance Capital Costs Delivery & Risk 	<ul style="list-style-type: none"> Deliverability of financials, financial, risk

4.3 The table below shows the Evaluation Summary. The detail underpinning these scores is presented in Appendices B – D.

Table 3 – Evaluation Summary

ISFT	Fusion	SLM
Services (40%)	28.8%	30.2%
Technical (10%)	6.0%	6.8%
Commercial (50%)	36.9%	24.6%
Total	71.7%	61.5%
Rank	1	2

4.4 As can be seen from the table Fusion scores 71.7% and is the top ranked bid with SLM ranked 2.

4.5 Each of the bidders presented their financial submissions which included the management fee they were seeking to either pay to or receive from the Council and in addition the cost of financing the capital that they required. For the purposes of evaluation, a cost of £60,000 per annum per £1 million was used for the cost of borrowing. The affordability level identified was a nil cost to the Council.

4.6 Both bidders have bid on the basis that the Council provide the capital identified above and the costs of capital identified above will be the Council's costs.

4.7 These financial proposals have been factored into the evaluation scoring.

4.8 Fusion has offered two options to pay the Council the annual management fee either on a:

- profiled basis
- average basis.

4.9 Appendix E demonstrates the financial payback under each of these options, when set against the cost to the Council of borrowing the capital outlay (circa £8.6 million) for the redevelopment of the leisure centre and the budgeted provision in the Council's Medium Term Financial Plan of an annual fee of £130,000. The appendix shows that either option will pay back both the capital outlay and the amount in the revenue budget and in addition both will return extra revenue income over the life of the contract.

- 4.10 Whilst the average fee does provide certain advantages, namely it offers a stable cash-flow which will give a smooth profile providing a positive return (circa £200,000) across all years; the profiled budget will see a cost to the Council in years 2 and 3 but will generate in total £1.6 million of extra management fee income over the life of the contract.
- 4.11 In addition to the two standard bids presented, SLM also submitted a variant bid, namely, replacement of 2 badminton courts in the Sports Hall at William Penn with a climbing facility and soft play. This showed a better financial position of £63,000 per annum to the Council when compared to their standard bid.
- 4.12 Analysis of Sports Hall is shown in Appendix F. Hertsmere Leisure has confirmed that there 'would be limited impact' if the present four-court hall at William Penn was reduced by half 'as many of the bookings can be relocated or accommodated within 2 courts'. They have also confirmed that the present bookings with more than two courts, namely; both Active Life and Trampolining sessions can fit into 2 courts; Mill End Youth can be accommodated within 2 courts and squash courts; and the 3 football bookings of 1 hour each could be transferred to the upgraded Multi-Use Games Area.

5. Summary

- 5.1 The Council have had two bids in which both deliver on the Council's outcomes and deliver to the Council's affordability levels.
- 5.2 The evaluation process has robustly scored the bids and in particular reviewed the bids against the evaluation matrix. Some of the key points from the bids include
- All of the bidders have met the Council's affordability limits
 - The bidders have presented a development scheme for South Oxhey which seeks to add the pool to the existing building (The Centre) and remodel the existing building to create additional commerciality including increased health and fitness and climbing
 - All of the bidders presented a good approach to service delivery.
- 5.3 It should be noted that with the Fusion submission there are a couple of opportunities and risks which may impact on the management fee, as set out below
- Currently Fusion's submission is based on commencing their programme on January 2018, but there is an opportunity for this to be brought forward and deliver savings on the management fee
 - Current external legal advice is that TUPE does not apply to Rickmansworth Golf Course sub-contracted staff for the grounds maintenance. If it does, there is a risk that this could add additional costs to the management fee.

6. Next Steps

- 6.1 The next stage of the project will be for the finalisation of the contract and development of the planning application for South Oxhey Leisure Centre.
- 6.2 A mobilisation will take place with a new contract commencement of 1 April 2018.

7. Options/Reasons for Recommendation

- 7.1 The purpose of this report is to update the Committee on the evaluation of the Invitation to Submit Final Tender (ISFT) outcome for the procurement of the new Leisure Facilities Management Contract (LFMC). Officers are recommending to Committee the preferred bidder for the new LFMC.

8. Policy/Budget Reference and Implications

- 8.1 The recommendations in this report are within the Council's agreed policy but outside budget i.e. capital expenditure so going to Council for approval on that aspect. The relevant policy is entitled:

Community Strategy 2012 - 2018:

Priority 1: Children and Young People's Wellbeing

Priority 2: Health and Disability

Priority 3: Adult Skills and Employment

Priority 5: Crime and Anti-Social Behaviour

8.2 Three Rivers District Council Strategic Plan 2017 – 2020:

1.1.2: Maintain the number of accredited open spaces, parks and woodland areas

2.3.1: Reduce anti-social behaviour and crime

2.3.2: Support vulnerable people

2.4.1: Ensure the safety of people in the district

2.5.1: Improve and facilitate access to leisure and recreational activities for adults

2.5.2: Contribute to partnership working to reduce health inequalities

2.5.3: Provide a range of supervised leisure activities and facilities for young people

2.5.4: Work with the Community and Voluntary sector to meet the needs of local communities

8.3 Leisure and Community Services Service Plan 2017 – 2020

9. Financial Implications

- 9.1 It is assumed that the Council will need to borrow the capital funds required for the redevelopment of the leisure centre at South Oxhey. The Fusion bid (as demonstrated at Appendix E) will provide a management fee that covers the cost of borrowing, the principal repayment and budgeted £130,000 revenue target, whilst generating surplus income. Borrowing is assessed as being over the life of the contract, but a decision will be taken on the amount and term of any loan as and when it becomes required. The amount of surplus income received over the lifetime of the contract will depend on the decision taken on whether the Council requires a profiled or average management fee. Profiled fee will pay back in excess of £1.6 million over the life of the contract; the management fee will cost the Council in years 2 and 3 (£291,621 and £65,270 respectively) but will contribute £56,517 in year 4 rising to £550,983 by the end of the contract. The average fee will be £201,122 additional income each year (from year 2 of the contract). All figures above are net of the £130,000 budgeted requirement and estimated capital and financing costs.
- 9.2 If agreed to proceed with the capital scheme and the management fee is also agreed then the impact of these two decisions will be factored into the 2018/19–2020/21 Medium Term Financial Plan (MTFP) during the budget setting process that commences in October.
- 9.3 Finance has identified the following uncertainty and potential income/cost risks around the contract:
- 9.3.1 The financial projections in the successful bid could be over optimistic. The Council has reviewed these projections and the retained consultant confirms that the comparisons shown in Table 4 illustrate that the projections provided by both Fusion and SLM are in line with the market and delivering similar levels to other facilities in the market.

These projections are also being reviewed by an independent leisure financial analyst; initial indications are that these are realistic projections.

Table 4 – Facilities Comparison

Key Areas	Facility 1	Facility 2	Facility 3	Facility 4
Key Facilities	<ul style="list-style-type: none"> • Pool (6 lane) • Sports Hall • Fitness (100) • Soft Play • Clip n Climb 	<ul style="list-style-type: none"> • Pool (8 lane) • Sports Hall • Fitness (120) • Soft Play 	<ul style="list-style-type: none"> • Pool (6 lane, no learner) • Sports Hall • Fitness (60) 	<ul style="list-style-type: none"> • Pool (4 lane, learner) • Sports Hall • Fitness (50)
Location	South East	Midlands	Midlands	South West
Income (£'000's)	3,000	3,564	2,190	2,081
Costs (£'000's)	2,200	2,522	1,793	1,582
Net (Surplus) /Deficit (£'000's)	(800)	(1,042)	(397)	(499)

- 9.3.2 Linked to the uncertainty above, there is risk that if the projections are not realistic, then the contractor may default on the management fee. This has been investigated and the retained legal advisors, Bond Dickinson, confirm that once entered into, the contract (and therefore the management fee) is legally binding on the contractor and they would be liable for the payments as per the agreed schedule.
- 9.3.3 If the contractor were to default and seek to extricate themselves from the contract, then Bond Dickinson have also confirmed that the contractor would be liable for direct losses which the Council suffers or incurs, including any subsequent cost of retendering the contract. There is potential for the contractor to run the contract through a standalone limited liability entity, in which scenario the Council would seek a parent company guarantee.
- 9.3.4 Capital costs are capped at the amount in the contractor's bid, but the Council must be wary of not introducing 'contract creep' into the development as this could increase the Council's liability for capital funding.
- 9.3.5 If the project overruns in time, then there may be a delay in realising the required participation targets and therefore the projected management fee. As per the Bond Dickinson advice this risks rests solely with the contractor.
- 9.3.6 Fusion's submission and evaluation have been based on the management fee and costs of finance submitted. There is the potential that this could vary if TUPE were to apply to Golf Course maintenance staff. It should be noted that the impact on the management fee would be a maximum of £46,000 per annum if this were the case. Fusion's submission over the life of the contract is on average £285,000 better than the budget position.
- 9.3.7 The Council will work with Fusion to mitigate the TUPE position early in the preferred bidder and contract finalisation and seek to confirm the external legal advice from the Council that TUPE doesn't apply. It is expected that a satisfactory solution can be found which mitigates this cost. However at this stage it is suggested that for budgeting purposes this is highlighted as a risk, albeit if the cost was realised Fusion would still be circa £239,000 below the budget per annum.

10. **Legal Implications**

10.1 Bond Dickinson has and will continue to offer advice and guidance on the procurement of the new Leisure Facilities Management Contract (LFMC).

11. **Equal Opportunities Implications**

11.1 **Relevance Test**

Has a relevance test been completed for Equality Impact?	Yes
Did the relevance test conclude a full impact assessment was required?	No

12. **Staffing Implications**

12.1 The Leisure Management Contract including the redevelopment of The Centre will require the time of Project Manager (Major Projects) and Head of Community Services to oversee project management, consultation, and procurement. Input from Senior Management, Project Team, Finance, Planning, Legal, Property and Leisure will be required throughout the project.

13. **Community Safety Implications**

13.1 The local Police Community Safety Officers, Crime Prevention Liaison Officer and the Grounds Maintenance team will be consulted on the final design options for the redevelopment of The Centre.

14. **Public Health Implications**

14.1 The Leisure Management Contract including the redevelopment of The Centre will enhance leisure facilities to provide opportunities to improve the health and wellbeing of the local community.

15. **Customer Services Centre Implications, Communications and Website Implications and Environmental Implications**

15.1 The website will be kept updated with progress on the project.

16. **Risk Management and Health & Safety Implications**

16.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

16.2 The subject of this report is covered by the Leisure and Landscape and Environmental Protection service plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within these plans.

16.3 The following table gives the risks if the recommendations are agreed, together with a scored assessment of their impact and likelihood:

Description of Risk	Impact	Likelihood
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1	That the future of the Sir James Altham pool will ultimately be determined as a result of the age of the pool and the ongoing issues with the pool plant. If this occurs during the contract with Hertsmere Leisure this will have significant cost implications	IV	C
2	Scope of The Centre development needs final definition	II	E
3	Council delay decisions on Leisure Contract	III	D
4	Insufficient Capital available for new leisure facilities	IV	D
5	New contract does not provide value for money	III	E

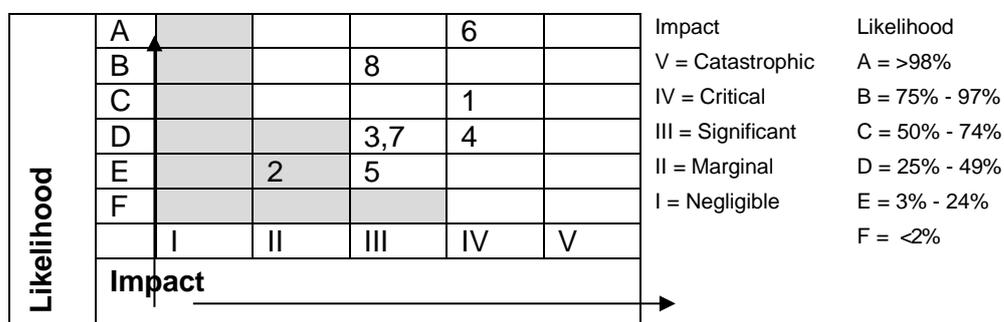
16.4 The following table gives the risks that would exist if the recommendation is rejected, together with a scored assessment of their impact and likelihood:

Description of Risk		Impact	Likelihood
6	That the future of the Sir James Altham pool will ultimately be determined as a result of the age of the pool together with the ageing of the pool plant. If this occurs during the contract with Hertsmere Leisure this will have significant cost implications	IV	A
7	Less opportunity for Primary School aged children to attend swimming lessons in South Oxhey	III	D
8	Increase in anti-social behaviour and crime.	III	B

16.5 Of the risks above the following are already included in service plans:

Description of Risk		Service Plan
No	1, 6	Leisure and Landscape

16.6 The above risks are plotted on the matrix below depending on the scored assessments of impact and likelihood, detailed definitions of which are included in the risk management strategy. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood are plotted in the shaded area of the matrix. The remaining risks require a treatment plan.



16.7 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of treatment plans are reviewed by the Audit Committee annually.

17. Recommendation

That the Policy and Resource Committee approves:

- 17.1 to recommend to Council on 17 October to fund the £8.6 million capital required by the Preferred Bidder for the South Oxhey Design, Build, Operate and Maintain (DBOM) plus leisure management for William Penn and Rickmansworth Golf Course;
- 17.2 to recommend to Council on 17 October for the management fee to be profiled over the life of the Contract.

That the Leisure, Wellbeing and Health Committee approves subject to Council approving the capital funding as set out in recommendation 17.1:

- 17.3 to appoint Fusion as the Preferred Bidder of the Leisure Facilities Management Contract from 1 April 2018;
- 17.4 to appoint Sports and Leisure Management (SLM) as the Reserve Bidder of the Leisure Facilities Management Contract from 1 April 2018, in respect of their variant bid;
- 17.5 to award the Leisure Facilities Management Contract from 1 April 2018 to the Preferred Bidder, subject to final documentation being concluded with them;
- 17.6 in the event of being unable to conclude final documentation with the Preferred Bidder, award the Leisure Facilities Management Contract from 1 April 2018 to the reserve bidder, subject to final documentation being concluded with them;
- 17.7 that public access to the decision be made once the bidders have been informed;
- 17.8 that public access to the report and appendices is denied until the contract is awarded.

Report prepared by: Ray Figg, Head of Community Services

Data Quality

Data sources:

Data checked by: Kelly Barnard – Leisure Contracts Officer

Data rating:

1	Poor	
2	Sufficient	✓
3	High	

Background Papers

Reports to the June 2012 and September 2013 South Oxley Initiative Steering Group;
Reports to the June 2012 and December 2013 Executive Committee;
Reports to the September 2015, November 2015 and January 2017 Leisure, Wellbeing and Health Committee.

APPENDICES / ATTACHMENTS

Appendix A – ISFT Evaluation Summary Report

Appendix B - Tender Evaluation Summary Matrix

Appendix C – Reporting and Contract Acceptance Score

Appendix D – ISFT Financial Analysis

Appendix E – DBOM costing and payback

Appendix F – Analysis of Sports Hall provision