

## Appendix E – Reporting and Contract Acceptance Scores

### THREE RIVERS LEISURE PROJECT

#### Scores – Reporting and Contract Acceptance

#### FUSION

Evaluation	Score	Comments/Justification for Score
<p>Degree of acceptance of the draft Contract and acceptance of risk position, taking into account any incentives offered where applicable.</p>	<p>5</p>	<p>Comments made by the Bidder demonstrate a basic appreciation of the issues and risks involved in the Project.</p> <p>The Bidder superficially accepts the broad principles of the draft contract, however, very few key aspects of the draft contract are actually substantially commented upon.</p> <p>In numerous instances, a comment has been included in the commentary that the approach is to be discussed or considered rather than proposing an alternative approach and including drafting to reflect this.</p> <p>It is noted that the Bidder will not be sub-contracting leisure services and will be wholly responsible for these services. The draft contract will need to be adapted to reflect the structure proposed by the Bidder.</p> <p>The Bidder provides comments in certain key areas which should be noted by the Council:</p> <ul style="list-style-type: none"> <li>• The Bidder proposes to amend clauses 31 (Staff) so that the Council’s right to instruct the Contractor to carry out disciplinary action against an employee is limited to the Council only being able to notify the Contractor of a concern regarding an employee. Although not a major issue, this is an unusual amendment, generally bidders accept this provision without any challenge.</li> <li>• The Bidder makes a financial offer under Clause 47.1 (Compensation on Termination for Contractor Default) which offers very little comfort to the Council. The level of financial cap is very low.</li> </ul> <p>It should be noted that the Bidder has accepted the position on milestone payments (the only Bidder that has).</p> <p>Overall, this is a satisfactory submission. The Bidder’s approach indicates a broad</p>

Evaluation	Score	Comments/Justification for Score
		acceptance of the principles of the draft Contract and provides some comments on key aspects of the draft Contract. In some places the solution offered does not offer a reasonable commercial position.
Robustness and completeness of legal submission, including approach to sub-contracting and security of performance.	5	<p>The Bidder generally accepts the broad principles of the draft contract, however very few substantial comments are made in relation to the provisions contained in the draft contract.</p> <p>The Bidder will not be sub-contracting FM or leisure services and will be wholly responsible for these services. This is arguably beneficial to the Authority and will mean that the process to financial close will be slightly less complex.</p> <p>Given that a refurbishment solution is being proposed, no substantial comments are made in relation to clause 18 (Site Matters), which is something of a surprise.</p> <p>Overall, this is a satisfactory submission. The Bidder generally appreciates the key aspects of the draft Contract</p>
Degree of acceptance of the draft Performance Monitoring System and payment provisions.	5	<p>The Bidder offers no comments on the draft Performance Monitoring System and payment provisions.</p> <p>The Bidder briefly notes the payment mechanism but offers no further comment.</p> <p>The Bidder provides no comments in relation to milestone payments or retention.</p> <p>The Bidder provides no commentary in relation to the Performance Monitoring System.</p> <p>The Bidder has provided a proposed percentage share in relation to clause 28.5 (Surplus Share).</p> <p>Overall, this is an satisfactory submission. The Bidder does not demonstrate an appreciation of the issues in relation to the PMS and payment provisions contained in the draft Contract.</p>

**SLM**

Evaluation	Score	Comments/Justification for Score
Degree of acceptance of the draft Contract and acceptance of risk position, taking into account any incentives offered where applicable.	7	<p>Comments made by the Bidder indicate a good appreciation of the issues and risks involved in the Project with some amendments showing a limited attempt to provide the Council with further benefits. SLM have generally offered sensible proposals where they have been invited to mark up or complete a gap in the DBOM drafting.</p> <p>The Bidder accepts the broad principles of the draft Contract, and where the Bidder wishes to amend aspects of the draft Contract, an alternative approach is proposed by the Bidder.</p> <p>The Bidder notes that it is comfortable with providing a parent company guarantee to the Council instead of a bond. The Bidder states that this will offer better value for money to the Council.</p> <p>The Bidder proposes to provide leisure service and FM services through its group companies and as such the draft Contract may need to be adapted to reflect this structure. The Bidder highlights that Schedule 7 (Collateral Warranty from Building Contractor) should be amended to reflect this.</p> <p>The Bidder provides comments in certain key areas which should be noted by the Council:</p> <ul style="list-style-type: none"><li>• The Bidder does not agree to clause 68 (Lock-In Period) and would prefer not to have a Lock-In Period (the reason for this being that the Bidder would be unable to undergo a change in ownership).</li><li>• The Bidder proposes an amendment to the risk position in clause 47.1.3 (Compensation on Termination for Contractor Default) of inserting a cap of two years for covering the increased annual payment. This is a reasonable suggestion.</li><li>• The Bidder proposes an amendment to clause 21 (Payment during the Works Period), and notes a preference for monthly payments rather than milestone payments.</li></ul> <p>Overall, this is a good submission. The Bidder's approach indicates broad acceptance of the principles of the draft Contract and provides some comments on key aspects of the draft Contract.</p>

Evaluation	Score	Comments/Justification for Score
Robustness and completeness of legal submission, including approach to sub-contracting and security of performance.	7	<p>The Bidder's approach generally indicates a broad acceptance of the principles in the draft Contract, though not a huge amount of detail has been provided through the legal submission.</p> <p>The Bidder will be sub-contracting FM services, leisure services and food and beverage services through its group companies and this approach is explained within the submission, and is an established way of working for SLM.</p> <p>The Bidder generally has provided suitable alternative solutions where appropriate when it does not agree with the Council's position in the draft Contract.</p> <p>Overall, this is a good submission. The Bidder generally appreciates the key aspects of the draft Contract and offers alternative drafting and suggestions where appropriate.</p>
Degree of acceptance of the draft Performance Monitoring System and payment provisions.	5	<p>The Bidder offers some comments on the draft Performance Monitoring System and payment provisions.</p> <p>The Bidder proposes that the performance Adjustment Cap referred to in Schedule 6 (Payment and Performance Monitoring System) does not exceed 10%.</p> <p>The Bidder proposes a figure of 50% in relation to Schedule 19 (Surplus Share).</p> <p>The Bidder comments on clause 21 (Payment during the Works Period) and states that it would prefer to adopt monthly payments (as per the 2016 Sport England template). It is noted that monthly payments are considered preferable, though it is arguable that with a refurbishment solution, this sits more neatly into linking payments to milestones as it is likely that there will be several defined stages in the refurbishment process.</p> <p>Overall, this is a satisfactory submission. The Bidder demonstrates a basic appreciation of the issues and risks involved in the Project.</p>

**PLACES FOR PEOPLE**

Evaluation	Score	Comments/Justification for Score
<p>Degree of acceptance of the draft Contract and acceptance of risk position, taking into account any incentives offered where applicable.</p>	<p>7</p>	<p>Comments made by the Bidder indicate a good appreciation of the issues and risks involved in the Project with some amendments showing an attempt to provide the Council with added benefits.</p> <p>The Bidder's approach shows an acceptance of key principles in the draft Contract.</p> <p>Comments made by the Bidder are sufficiently detailed and are generally designed to improve the deliverability of the Project. Some changes might be considered unnecessary. The 2016 Sport England document is an industry template, but there is no requirement to use it and certain risk positions taken in the Sport England contract do not necessarily reflect the best interests of an authority.</p> <p>The Bidder provides comments in certain key areas which should be noted by the Council:</p> <ul style="list-style-type: none"> <li>• The Bidder proposes an amendment to clause 21 (Payment during the Works Period), and specifies a preference for monthly payments rather than milestone payments (as per the 2016 Sport England template).</li> <li>• The Bidder does not accept the risk position in relation to clause (TUPE). The Bidder suggests incorporating some wording from the 2016 Sport England template in this regard.</li> <li>• The Bidder accepts the risk profile in clause 18.6.6 (Asbestos Liability), subject to how detailed the asbestos surveys are for the purposes of pricing the demolition works.</li> <li>• The Bidder has offered alternative drafting in relation to clause 18.2.7 (Site Matters) in relation to off-site contamination.</li> <li>• The Bidder largely accepts the Schedule 6 (Payment and Performance Monitoring System) wording.</li> <li>• Following clarification, the Bidder has provided sample drafting around refurbishment of William Penn and Rickmansworth which is helpful.</li> </ul> <p>Overall, this is a good submission. The Bidder's approach indicates acceptance of the principles of the draft Contract and the comments and information submitted are</p>

Evaluation	Score	Comments/Justification for Score
		sufficiently detailed in key areas.
Robustness and completeness of legal submission, including approach to sub-contracting and security of performance.	7	<p>The Bidder has provided sufficiently detailed comments in relation to the key aspects of the draft Contract.</p> <p>The Bidder attempts to provide suitable alternative solutions where appropriate and seeks to provide best value for the Council.</p> <p>Overall, this is a good submission. The Bidder demonstrates a good appreciation of the issues and risks in relation to sub-contracting and security of performance.</p>
Degree of acceptance of the draft Performance Monitoring System and payment provisions.	7	<p>The Bidder offers some detailed comments relating to the draft Performance Monitoring System and payment provisions.</p> <p>The Bidder comments that milestone payments are acceptable as per clause 21 of the draft Contract (Payment during the Works Period), however, the Bidder has suggested that the possibility of monthly payments ought to be explored at the next stage of the process.</p> <p>The Bidder generally accepts Schedule 6 (Payment and Performance Monitoring System) save for clarifying whether the Council would welcome the use of an Excusing Clause.</p> <p>Overall, this is a good submission. The Bidder's comments in relation to the payment provisions demonstrate a good appreciation of the issues involved and alternative proposals are put forward where appropriate.</p>

**HERTSMERE LEISURE**

Evaluation	Score	Comments/Justification for Score
<p>Degree of acceptance of the draft Contract and acceptance of risk position, taking into account any incentives offered where applicable.</p>	<p>3</p>	<p>Comments made by the Bidder show a basic appreciation of the issues and risks involved in the Project.</p> <p>The Bidder accepts the broad principles of the draft Contract, however, substantial comments are not provided in relation to the key aspects of the draft Contract.</p> <p>In many instances, a comment has been included in the commentary that the approach is to be considered rather than proposing an alternative approach for the Council to consider (for example, Schedule 7 Collateral Warranties).</p> <p>The Bidder has outlined that it has a proposed development partner (Alliance Leisure Services). The Bidder suggests that the draft DBOM Contract may need to be adapted to suit this structure in places. This is a concern and has not been alleviated by some of the clarification responses (for example, in relation to the clarification around Reviewable Design Data). The usual premise is that any Building Contractor will accept the Works provisions in the DBOM Contract, and this is generally understood by bidders.</p> <p>Overall, this is a poor submission. The Bidder's approach shows some acceptance of the principles contained in the draft Contract. The Bidder does not provide sufficiently detailed comments on key aspects of the draft Contract.</p>
<p>Robustness and completeness of legal submission, including approach to sub-contracting and security of performance.</p>	<p>3</p>	<p>The Bidder offers a basic analysis of the draft Contract.</p> <p>The Bidder does not provide detailed comments in relation to those aspects of the draft Contract dealing with security of performance or sub-contracting. The relationship with Alliance Leisure Services is not fully explained.</p> <p>Overall, this is a poor submission. The Bidder's commentary has identifiable shortcomings and further information should ideally have been provided by the Bidder in relation to its comments on the draft Contract.</p>
<p>Degree of acceptance of the draft Performance Monitoring System and payment provisions.</p>	<p>5</p>	<p>The Bidder offers some comments on the draft Performance Monitoring System and payment provisions, however these are not sufficiently detailed.</p> <p>The Bidder comments on clause 21 (Payment during the Works Period) and states that</p>

Evaluation	Score	Comments/Justification for Score
		<p>it would prefer to adopt monthly payments (as per the 2016 Sport England template). It is noted that monthly payments are considered preferable, though it is arguable that with a refurbishment solution, this sits more neatly into linking payments to milestones as it is likely that there will be several defined stages in the refurbishment process.</p> <p>The Bidder appears to accept Schedule 6 (Payment and Performance Monitoring System), however it is not abundantly clear as no detailed comments are provided in relation to the PMS other than the Bidder agreeing to discuss it at the next stage of the process.</p> <p>Overall, this is a satisfactory submission. The Bidder's approach indicates a basic appreciation of the issues involved in the Project.</p>