

Report to Community Overview and Scrutiny Panel

Agenda
Item:

A.4

Meeting Date: 15TH October 2015
Portfolio: Culture, Health, Leisure and Young People
Key Decision: Yes
Within Policy and Budget Framework: No
Public / Private: Public

Title: LEISURE CONTRACT
Report of: DEPUTY CHIEF EXECUTIVE
Report Number: SD 23/15

Purpose / Summary:

Officers have been examining options for the procurement of a new contract for the operation of the Council's leisure centres and sports facilities. The existing contract with Greenwich Leisure Limited (GLL), following the merger with Carlisle Leisure Ltd (CLL), is due to expire on 30th November 2017. Decisions need to be taken as to how a new contract will be awarded. Any decisions related to the award of a new contract will have to take into account the Council's investment plans for leisure. The award of any new contract will need to follow a process which is fully compliant with new procurement law.

An options report was commissioned from specialist advisors V4 Services Ltd and approval given for a pre procurement phase (market engagement exercise) which was completed during September 2015.

Recommendations:

1. That Community Overview and Scrutiny Consider the proposals within this report and provide comment ahead of Executive consideration.

Tracking

| | |
|------------------------|-------------------------------|
| Executive: | 19 th October 2015 |
| Overview and Scrutiny: | 15 th October 2015 |
| Council: | |

1. BACKGROUND

1.1 Context

The existing leisure contract with GLL (formerly CLL) commenced on 29th November 2002 and covers the provision of leisure services and site operation across leisure facilities, including;

- Sands Centre;
- The Pools;
- Sheepmount Athletics Stadium;
- Swifts and Stonyholme Golf Course;
- Leisure and sports services in Bitts Park.

Under the existing contract, the Council currently pay a combined direct revenue subsidy of £732,000 per annum to GLL. GLL retain the operating revenues generated from fees and charges levied for the use of the facilities and services to further support their operations. Whilst the current contract will not expire until 30th November 2017, the Council recognises the benefits associated with addressing the options related to the contract as early as possible in order to secure the best possible outcome; which will also help to deliver the Councils' facility investment plans and savings requirements.

Initial discussions with GLL have confirmed that they are willing to terminate the contract early to allow the Council to benefit from new contractual arrangements, subject to agreement of how best to allocate any reasonable termination costs GLL may incur.

1.2 Investment plans

The Council is seeking to close the existing "Pools" site and build new swimming and leisure facilities at the Sands Leisure Centre (currently a "dry" site) while also delivering wider improvements on the same site. The indicative capital cost for the "core" development of new swimming pools is c.£6m (at 2013/14 prices). An extended scheme which includes further improvements and a wider range of facilities is estimated to cost c.£9m (at 2013/14 prices). Sport England have indicated that they may make a contribution of between £500k and £2m, depending on various factors and subject to further applications. However, even if Sport England provide the maximum level of contribution (£2m) this would leave the Council with a capital funding requirement of either c.£4m (core scheme) or c.£7m (extended scheme).

Provision has been made within the City Council's Medium Term Financial Plan to cover the cost of prudential borrowing for capital works up to £5m. The Business Case for

Prudential Borrowing is predicated on securing reductions in the net revenue subsidy provided to the Leisure Operator by the Council under a new contract. The Council is therefore considering how best to secure the reduction in net revenue subsidy sufficient to meet or exceed the annual cost of finance (prudential borrowing). A further saving of £329k is required from the service to meet the Council's identified savings requirements. The outcome of meeting the saving requirement and the cost of borrowing will be to extinguish the current subsidy provided.

1.3 Market engagement – pre-procurement process

A market engagement exercise was undertaken with interested community leisure operators during September 2015.

The market engagement process comprised of the preparation, publication and circulation to the market of a Prospectus which set out the nature of the opportunity for partnering / engaging with the Council and invited experienced Leisure Operators to identify how they felt the Council will be best able to secure the range of outcomes it seeks within an arrangement which is mutually viable and affordable.

V4 sought/received 13 enquiries from operators and received responses from seven operators who were subsequently invited to discuss their interest in the scheme and how they could assist the Council deliver its objectives:

- There is significant market interest in any opportunity to re-tender the leisure services contract and support for the Council's approach to investing in the Sands Centre
- Amongst the operators there was a widespread consensus that with sufficient investment in an extended and remodelled Sands Centre and transformed leisure services, there is potential to deliver a zero subsidy position over the term of a contract although it would be a significant challenge
- There is a clear preference for a longer term contract period to allow operators to transform the services and generate a return on their investment
- There was interest in improving the golf offer and removing the subsidy during any contract, either as part of a wider leisure service contract or as a standalone agreement
- A number of operators would be interested in project managing the design and build elements of the Sands Centre scheme, as they believe they could offer cost and time savings for the Council as they have extensive experience in this area.
- The proposed timetable is very tight and may need amending slightly to reflect the capacity of operators to submit quality bids in what is currently a very busy market for tender opportunities

It is important to note that the individual responses to the engagement exercise were not evaluated as the process as this stage is purely informal. The outcomes have helped to form the procurement strategy and define the process.

2. PROPOSALS

2.1 Legal compliance

The Council needs to ensure that the process it follows before awarding a new leisure management contract is compliant with UK and EU legislation.. Advice has been provided by V4 Services on various procurement route options for both the building of new facilities (Works) and the provision of management for the Sports and Leisure Facilities (Services). The advice from V4 Services is that the Works and Services would be better procured separately, with the leisure services procured as a concession contract. Concession contracts currently are exempt from the EU procurement regulations, although the Council needs to ensure that any process is fair, transparent and equitable and compliant with the Councils own standing orders.

For both the Works, and the Services, the Council will seek appropriate legal advice at each stage of the procurement process and for the subsequent award of contracts.

2.2 Timing

The report sets out the various stages in a tendering process which advisors recommend should be concluded as soon as possible.

The major benefits that would accrue from completing a process well in advance of the current contract extension date (following agreement with GLL) would include;

- Earlier delivery of savings from a reduction in the management fee
- Savings can be used to help fund the cost of borrowing for the Councils investment in the new leisure facilities
- The Council can go ahead with the project to build the replacement for the Pools, avoiding some of the escalating repair costs now being incurred, and providing service continuity for local people by making sure that the Pools are replaced before the risks of a major building or plant failure leading to a facility closure
- The Operator can be in place early enough to make valuable contributions in the final design and fit out for the new leisure facilities and may also be able to use their experience to assist the Council in the project management of the scheme

- Staff employed at the leisure centres will not have to suffer from further uncertainty about when the procurement will take place
- The Council will have time to deliver a process which is innovative and able to allow bidders to propose different ways to meet the Councils ambitious plans for the service.

2.3 Stages and indicative timeline in the tendering process culminating in the award of a new contract

The proposed procurement process that will lead to the award of a contract has been developed based on advice from legal and financial officers from V4 Services and the outcomes of the market engagement exercise. It is proposed that the contract is procured as a services concession involving the following key stages;

| Stage | Process element | Timeline |
|---------|---|-----------------------------------|
| Phase 1 | Council issues its requirements seeking outline proposals from interested parties | Late November 2015 |
| Phase 2 | Respondents are evaluated for technical ability and financial standing and their outline proposals | Early January 2016 |
| Phase 3 | Council issues its refined requirements and invites detailed proposals from 2-3 shortlisted bidders | Mid January 2016 |
| Phase 4 | Discussions with shortlisted bidders | Mid January to Late February 2016 |
| Phase 5 | Submission of detailed proposals | Early March 2016 |
| Phase 6 | Evaluation of detailed proposals | March 2016 |
| Phase 7 | Appoint Preferred Bidder | Early April 2016 |
| Phase 8 | Contract Award | Early May 2016 |
| Phase 9 | Completion and mobilisation | May – July 2016 |

The process will require various levels of approval at different stages. As a minimum, further Executive consideration will be sought in advance of Phase 8.

Further specialist legal and procurement advice may be required to complete the procurement exercise with the costs of this estimated at up to £125,000. Budgetary provision has been made via the Leisure Reserve and Executive will be asked to approval expenditure against this budget up to £125,000.

3. CONSULTATION

- 3.1 Internally via the Council's corporate structures and processes
- 3.2 Council Members have been notified of the proposals and afforded the opportunity to comment via prior Executive Reports and the Community Overview and Scrutiny Panel.
- 3.3 Further appropriate consultation will be undertaken as part of the process at suitable points in the procurement exercise.

4. CONCLUSION AND REASONS FOR RECOMMENDATIONS

- 4.1 The key recommendation coming out of the V4 Services report was that the Council should design a bespoke procurement process which will involve competitive dialogue with bidders, and that this process should commence following a pre procurement market engagement exercise. This exercise has identified extensive market interest in the opportunity and officers recommend that procurement should commence as soon as possible to enable the Council to benefit from the predicted revenue savings early in the 2016/17 financial year.

5. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES

- 5.1 "We will develop vibrant sports, arts and cultural facilities, showcasing the City of Carlisle."

Contact Officer: Darren Crossley

Ext: 7004

**Appendices
attached to report:**

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

- **None**

CORPORATE IMPLICATIONS/RISKS:

Chief Executive's -

Deputy Chief Executive –

Economic Development –

Governance – A number of legal agreements will need to be prepared, including with V4 for the next phase of advice and, ultimately, with the successful leisure partner. Any procurement process must be compliant with EU and UK Regulations as stated in the report. Consideration needs to be given as to whether to procure both Services and Works Contracts together or the Services Contract at this stage then to procure the Works Contract in partnership with the successful services provider after the Services Contract has commenced. The advice from V4 is that the latter approach would be preferable. It is important to note that, while a services concession contract is exempt from the full procurement regulations (although must still comply with European Treaty principles) a contract for works is not and must be OJEU compliant.

Local Environment –

Resources – The procurement of a new leisure contract will require the use of external advisors that can be provided via an established Framework agreement. The cost of procurement and legal advice can be met from the Leisure Reserve, which was established for this purpose and which use of is delegated to the Deputy Chief Executive, Director of Resources and Portfolio holder. The Procurement process itself will follow the requirements for a contract of this scale, i.e. be EU compliant.

The Medium Term Financial Plan assumes that the cost of borrowing for any capital investment required to develop new facilities will be met from a reduction in the level of subsidy provided to the operator. There is also a requirement to make a further £329,000 savings from 2018/19 as a result of the procurement of a new contract. It is likely that these will lead to a zero subsidy situation in any new contract.