

**Committee: Cabinet**

**Date of meeting: 18 September 2019**

<b>Subject:</b>	Leisure Management Contract Procurement Update
<b>Lead Officer:</b>	Head of Leisure and Cultural Services
<b>Portfolio Holder:</b>	Portfolio Holder for Leisure and Culture
<b>Link to Council Priorities:</b>	Community Wellbeing – supporting communities to become healthier
<b>Exempt information:</b>	Appendix A – By virtue of paragraph 3 of Part 1 of Schedule 12 A of the Local Government Act 1972
<b>Delegated status:</b>	For recommendation to Council on 2 October 2019
<b>Key Decision:</b>	N/A

### **Executive Summary:**

This report provides an update of progress in the procurement of the Leisure Management Contract and provides details of the shortlisted companies who will be invited through to Invitation to Tender stage in September.

The report also highlights additional asset survey work which has had to be undertaken to ensure that bidders can effectively price for all planned and reactive maintenance works of running the new contract for the 10/15 year contract period. The additional survey work will cost £45,000 including a contingency of £10,000. This is over and above the dilapidation survey work which will be required to review the condition of the building / asset at the end of the current contract in order for the property to be handed back in satisfactory condition as outlined in the lease/contract. This cost is estimated to be £30,000.

### **Recommended: that**

- (a) the information set out in the report relating to the leisure management contract procurement process be noted, including the contract management proposal to retain operational control of concessionary pricing (any increases in such charges above CPI to be reported to Cabinet for approval as part of the annual budgetary process); and**
- (b) the increased professional costs are noted at an estimated cost of £75,000 to support the re-tendering process, and the Corporate Initiatives and Contingency budget for 2019/20 be used to fund these costs.**

### **Report:**

#### **1. Background**

- 1.1 The current Leisure Management contract includes the Xcel Leisure Complex, Hurst Pool and the four remaining public halls, namely King Georges Hall, Elm Grove Hall, the Cecil Hepworth Playhouse and Vines Hall. The contract commenced in 2006 and is due to end on 14 August 2021. There is no option within the contract to extend beyond 2021. This contract is

managed by Places Leisure. It was agreed at Cabinet that the public halls would not be included in any new leisure management contract going forward. A further report will be presented to Cabinet in due course on the future plans for the remaining halls.

- 1.2 The Synthetic Turf Pitch (STP) and pavilion contract commenced in 2009 and the Xcel Sports Hub Contract commenced in September 2017. Both are co-terminus with the Leisure Management Contract and are managed by Places Leisure.
- 1.3 At Cabinet in March 2019 it was agreed that the Xcel Leisure complex, Xcel Sports Hub, Synthetic Turf Pitch (STP) and pavilion, and Hurst Pool would be re-let as one Leisure Management Contract for a period of 10 years with the option to extend for an additional 5 years. This contract would commence in August 2021.
- 1.4 It was also agreed that the new contract would include a break clause to allow for a refurbishment or new build leisure facility to address the future of Hurst Pool, which is reaching the end of its useful life. This approach gives the Council (EBC) additional time to consider the future of Hurst Pool without delaying the re-procurement of the other leisure facilities. The new Local Plan is due to be consulted on this year and adopted in 2020. This would allow the Hurst Pool site options process to tie in better with the Local Plan timetabling.

## **2.0 Procurement Update**

- 2.1 Cabinet approval was given in September 2018 to appoint leisure and legal consultants to support the re-tendering of the Leisure Management Contract at an estimated cost of £100,000 to be paid for out of the Leisure and cultural Services budget. Strategic Leisure Ltd and Browne Jacobson LLP were appointed in March 2019 and commenced preparation of all tender documentation in consultation with the Council's Leisure Facilities Manager and Procurement Advisor.
- 2.2 Departments of the Council including Legal Services, Finance, Environmental Services, Leisure and Cultural Services and AMPs were also consulted with regarding key sections of the contract including insurance, profit share, building maintenance, leases, environmental and energy management, sport and health development.
- 2.3 EBC will be the first Local Authority in the country to use the new Sport England Leisure Procurement Templates which have been produced following lengthy and detailed consultation with a large number of Local Authorities, Leisure Operators, Leisure Consultants and Legal Advisors. It sets out to address the failings and anomalies of previous leisure contract documentation and better reflect the current leisure contract landscape and emerging priorities in relation to health and wellbeing etc. EBC has agreed to be used as a Sport England case study to assist other local authorities going through this process.

- 2.4 Following early discussions with AMPs, it became clear that the existing 5 year condition surveys for the leisure facilities, commissioned by the Council in 2017, would not be fit for purpose in terms of allowing bidders to cost on a like for like basis for a 10/15 year full repair/maintenance contract. Due to the short timescale available to complete new asset surveys prior to the contract going out to tender in September 2019, Corporate Management Board gave permission in May 2019 for AMPs to direct award the project to WSP. This company have a good working knowledge of the Council's leisure facilities, having undertaken previous surveys for the sites. This work will be completed by 26 August in time to feed in to later stages of the procurement. The cost of this work is £35,000 plus £10,000 contingency.
- 2.5 The OJEU (Official Journal of the European Union) Notice for the new Leisure Management contract was dispatched on 1 July and expressions of interest were received from 24 companies. All companies were invited to attend a tour of the sites on 17/18 July. Appendix A details those companies who attended the tour and went on to submit Selection Questionnaires (SQ) by the deadline of 5 August. Officers and Strategic Leisure then carried out a detailed evaluation of the due diligence and quality responses received. The companies listed in Appendix A have passed the SQ stage and will go through to the Invitation to Tender stage in September 2019.
- 2.6 The company details in Appendix A are commercially sensitive as could provide information to rival bidders which could compromise the procurement process and impact on the final returned bids.
- 2.7 Appendix B provides an updated Procurement Timetable. The timetable is on schedule and still allows a 12 month buffer period for any delays and mobilisation.

### **3.0 Leisure Facilities Member Reference Group**

- 3.1 At Cabinet in March 2019 it was agreed that a Leisure Facilities Member Reference Group be established to oversee proposals to inform the re-tendering of the Leisure Management Contract (2021). This will include:
- Consider the options available for the future of Hurst Pool, that best meets the recommendations from the Leisure Facilities Strategy and achieves best value for the Council;
  - Support officers in progressing the preferred option going forward and any associated contractual requirements;
  - To monitor & review progress in re-tendering of the contract to ensure openness and transparency and in turn guarantee the best result for the Council.
- 3.2 The Group met for the first time on 22 May 2019. Part of the discussion included an update on concessionary pricing. The Member Reference Group was reminded that the Council had introduced a More Card scheme a number of years ago, offering discounts on activities at the leisure centres and the Shout! holiday scheme.

- 3.3 Whilst the More Card has a loyal and steady membership of approximately 4,000, the scheme has not delivered on its original aspirations. To join the scheme, there is an annual fee which results in the member receiving a 20% discount off activities. Whilst concessionary groups can join for free, they are only entitled to the same 20% discount. The only concessionary priced activity available is swimming.
- 3.4 The Member Reference Group were advised that the Council's intention is to end the current More Card scheme and as part of the new contract, ask the contractor to provide a new 'pay and play' membership, offering a 20% discount off activities, but more importantly, provide a wider range of concessionary priced activities for concession groups. The new contract places greater emphasis on health and physical activity and there is a direct correlation between low activity levels and low income both nationally and within Elmbridge. Bidders will be submitting their proposals for concession activities as part of the tendering process. This pay and play membership will form an integral part of the contractor's membership offer. The aim is to have a card scheme that offers more benefits than the current More Card and is owned, managed and marketed by the contractor.
- 3.5 The existing leisure contract allows the contractor to increase fees and charges by RPIX each year. In December 2014, Council approved that for future years, the RPIX figure be automatically applied (with rounding) as an annual uplift for Leisure facility fees and charges and these be presented as an information bulletin to Members. Should the contractor wish to increase any pricing above RPIX then their proposal would be presented to Cabinet for approval together with good justification. As the leisure market is very competitive, leisure facilities constantly benchmark with local competition to charge a fair price. This gives them a greater understanding of the local marketplace, and has caused no issues since 2014.
- 3.6 As such, it is envisaged that, as part of the new contract, the Council should give greater commercial freedom to the contractor for setting fees and charges for sport and leisure activities based on market forces and that the Council should focus its attention on concessionary prices only and the control of these via the annual fees and charges reporting process. It is also proposed that any increases in concessionary charges be based on CPI rather than RPIX within the new contract to reduce the financial impact on the end user. Any increases in such charges above CPI to be reported to Cabinet for approval as part of the annual budgetary process. The Member Reference Group supported this proposal.
- 3.7 The Member Reference Group is due to meet again on 2 September 2019 and will be given the opportunity to consider this report before the meeting of the Cabinet.

### **Financial implications:**

Approval was given at Cabinet on 19 September 2018 for the appointment of legal and leisure consultants to support the re-tendering of the Leisure Management Contract at an estimated cost of £100,000 and that £50,000 be included in the Leisure and Cultural Services budget for 2019/20 and £50,000 from the same budget for 2020/21.

At Cabinet on 13 March 2019, Members were advised that an additional estimated £30,000 would be required to undertake dilapidation surveys in January 2020 and that costs could be higher if issues become protracted. The March report did not obtain approval for this spend. Clause 2.4 of this report identifies an additional £45,000 required to provide 10/15 year asset surveys for all sites to assist bidders in costing for a full repair/maintenance contract. Dilapidation surveys review the condition of the building/asset at the end of a contract in order for the property to be handed back in satisfactory condition as outlined in the lease/contract. Asset surveys are for the purpose of allowing bidders to price for all planned and reactive maintenance works associated with running the new leisure contract.

This report recommends that the budget shortfall of £75,000 be included in the Corporate Initiatives and Contingency budget for 2019/20.

### **Environmental/Sustainability Implications:**

Bidders have been made aware of EBC's pledge to take local action to contribute to national carbon neutral targets through the development of practices and policies, with the aim of making EBC carbon neutral by 2030. Bidders will be asked, as part of the Invitation to Tender stage, to outline how they will contribute towards EBC's pledge.

The provision of a replacement Hurst Pool will provide an opportunity to design an environmentally sustainable facility which uses less energy to operate and is cost effective to maintain.

### **Legal implications:**

Browne Jacobson has been providing external legal advice in drafting of OJEU and contract documentation. They will continue to provide advice through to contract start and throughout the Hurst Pool refurbishment/re-build process.

### **Equality Implications:**

None – Equality Impact Assessment completed.

### **Risk Implications:**

The risks associated with this project have been highlighted in the report on this project presented to Cabinet on 19 March.

Members will note that the information contained in Appendix A is exempt from public disclosure. Releasing this information outside the Council would risk prejudicing the procurement process and engage relevant Code of Conduct obligations (I.e. the duty of confidentiality and the separate obligation not to confer private advantages on any person).

**Community Safety Implications:**

None

**Principal Consultees:**

CMB

Head of Planning

Head of Asset Management and Property Services

Head of Legal Services

Head of Finance

Group Services Accountant

Procurement Advisor

**Background papers:**

None

**Enclosures/Appendices:**

Appendix A – Companies to be invited to ITT stage (Part II)

Appendix B – Procurement Timetable update

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