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Council

9 December 2014

**Matter for
Information**

Title: **LEISURE MANAGEMENT CONTRACT UPDATE**

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1. Introduction

This report updates members on the progress with the new Leisure Contract following the award of the 20 year contract to SLM Ltd earlier this year. The design, build and operate contract will deliver two new "state of the art" 25 metre 6 lane swimming pools within the Borough, with the re-location of the Oadby pool to Parklands Leisure Centre (Parklands) and a new build on the existing Wigston site. There will also be significant refurbishment to the existing facilities including the gym and Cedar Suite at Parklands and the addition of a gym facility at the Wigston site.

Members have been kept updated of the progress through reports to the Policy, Finance and Development Committee and regular bulletins. In particular this report is to inform members of the progress made with delivering the contract to date, the outcome of contract negotiations and the future plans.

2. Recommendations

That Members note the progress set out in this report.

3. Information

The report of 22 January 2014 awarding the contract to SLM set out that the next stage involved two parallel work streams these being the applications for planning permissions and the close of contract negotiations.

Planning permission was granted for the two new pools by the Development Control Committee on 29 May 2014.

Detailed contract negotiations could only take place once the contract had been awarded and these commenced virtually immediately upon contract award. These negotiations not only involved those between the Council and SLM as the operator, but also the contracts between SLM and their appointed building contractors. Whilst there has been willing on all sides to conclude negotiations as soon as possible, as it is clearly in everyone's interest for the works to be completed as soon as possible, the negotiations became far more protracted than was envisaged would be the case. In particular this can mainly be contributed to two factors. The first being that, by having two separate building developments has effectively meant that there are two projects. The two projects are quite distinct from each other, one a complete new build at Wigston and the other, a split between new build and refurbishment at Parklands; this has meant that the projects have progressed at different speeds as they have had different issues to resolve. However the final contract signing had to incorporate both projects together. In hindsight, the appointment by SLM of two separate building contractors has made the contract negotiations more complex with having to deal with two separate developers and their individual legal teams. The purpose of this approach

was founded on financially prudent measures and to counteract the potential for a sole building contractor being unable to deliver the two projects running side by side.

The other factor has been the negotiation of the costs of unforeseen additional works as the tender price was subject to detailed surveys being undertaken. This meant that at the time of tendering, assumptions had to be made as to, for example, ground conditions, from visual inspections and other information available. This is a standard approach in procurement, in that further intrusive surveys are undertaken at contract award principally because the Council is reliant on the warranties coming from any bidder and these will be reliant on the intrusive surveys (particularly for ground conditions), as a result it is important that the bidders undertake the survey. If bidders are asked to undertake surveys prior to award then this has led to difficulties in bidders withdrawing or lack of responses because of the additional cost. Any additional works identified are subject to testing and ensuring that they are fully justified as below.

A number of additional works were proposed as a result of the intrusive surveys which contributed to a delay in proceeding with the projects as SLM's professional team had to revisit the designs of the original build specification to overcome the issues identified in the intrusive surveys and consequently a costing exercise of these additional works had to be undertaken.

The Policy, Finance and Development committee in a report of 22 July 2014 was made aware that the funding of additional works was being sought. At that time the risk clarification of the intrusive surveys had only just been made available so the costings were still very much provisional. An independent review of the survey results and provisional costing was commissioned on behalf of this Council to ensure for audit purposes that any additional works could validly be considered variations and if so that the costs of those works were reasonable and value for money in the current market place. A rigorous review has been ongoing. In summary the additional works identified for each site and the conclusions of the Council's independent consultants are that the additional works can be considered to be variations and the rates are reasonable, as follows:-

Wigston

- Topographical survey revealed uneven, poor quality ground, with the existing slope greater than assumed at tender stage necessitating the construction of a retaining wall. The Ground investigations included the need for piled foundations across the whole site. After careful consideration of the proposals and costings it has been confirmed that these grounds works amount to a variation on the basis that the extent of the proposed retaining wall is essential to support the structure of the building. The initial view of a structural engineer is that it is a proportionate solution to pile foundation a whole area where there are a number of areas on the site that need deep foundations. The alternative would be that the Council take the risk for only partial piling. It is not considered proportion for the Council to take this risk in terms of the costs of the piling compared to the overall contract sum. The Council's consultants have confirmed that in the circumstances the solution is reasonable as are the rates.
- Utilities - this related to the identification of a required increase to the internal/external drainage capacity to enable peak capacity functionality. Where incoming services require upgrading the consultants confirmed that this would

be considered a variation. The timing of the works and the costs are dictated by the utility companies however fixed prices have been obtained.

- Potential Asbestos removal – this has always been accepted as the Council's risk
- Demolition costs – SLM have met the additional demolition costs of £10,000

Parklands

- The outcome of ground investigations showed a need for piled foundations. After full consideration of this the Council's consultants confirm that ultimately this is the most cost effective method for the deep foundations needed for a pool tank and rates have been confirmed as reasonable.
- Utilities – there is a significant amount of diversion of utilities needed as the incoming services run directly across the site of the new pool. Again, this has been concluded to be a variation and the works and costs dictated by the statutory undertakers. Firm costs have now been obtained.
- For both sites, the relocating of utilities and additional foundation work will affect the build programme and incur preliminary costings which the consultants have advised that close monitoring of this be undertaken to minimise these costs.

The final costs of the above works amount to just under £722,000. Following robust negotiations, the Director of Services, in accordance with the resolution of the Policy, Finance and Development Committee of 22 July 2014 has secured the extent of the Council's contribution to be limited to £571,000. SLM will incur the additional costs of above this limit. This demonstrates the commitment of SLM to the project and their willingness to work with the Council to deliver a successful scheme.

The costs of these additional works can be met through the already approved maximum level of borrowing of £10 million. The capital cost submitted by SLM in their bid was £9.02 million with the additional works the total amounts to just short of £9.6 million. This is still significantly less than the alternative bidder's submission even without any costs they would potentially have put forward for additional works. The submission of SLM delivers savings on the previous Contractor's costs of just under £200,000 per annum over the life of the contract.

On this basis, with contract negotiations being completed, the numerous contracts, warranties etc were signed by the parties on Friday 28 November. With clarification of the schedule for borrowing required from the Public Works Loan Board (PWLB) now confirmed, consultation with the Council's treasury management advisors (Sector) on which type of PWLB loans are appropriate can be concluded.

The only remaining potential costs that remain unknown arising from the risk clarification of Additional Works are those that would in accordance with standard practice amount to being Compensation Events under the Contract. This relates to the potential for costs for off site disposal of any contaminated soil found in the excavations and the potential for disposal of soil excessive to that which can be disposed of on-site. All steps to mitigate the costs of disposal off site will be considered. Any further additional costs will be reported to the Policy Finance and Development committee.

The above factors have impacted upon the original indicative timescales given by SLM which at the time of submitting the tender were considered to be realistic. The initial timescales for each project and the revised timescales are set out below:-

Wigston Pool – originally this was due to be completed by May 2015. Whilst by this time the outer shell of the building will have been erected, the overall completion is now programmed for November 2015

Parklands – originally the pool was due to be completed by February 2015. Whilst this has now been reprogrammed for Sept 2015 the refurbishment of the gym will be completed in December 2014 and the Cedar Suite in February 2015. The further refurbishing of the reception area etc will be carried out alongside the pool build during 2015.

Despite the new build programmes being delayed there has been progress to date as follows:-

Wigston - the pool was demolished by 24 October by way of an Early Works arrangement prior to the finalisation of the contracts. This was expedited to reduce the health and safety risks that could arise from the closed site particularly following an arson attack in the summer. SLM funded the additional demolition costs to facilitate this. In addition, SLM paid for on-site security pending the demolition. Now that the demolition has been completed this means that the Contractor can mobilise on site, subject to the completion of utility works, immediately in the New Year. The site was closed in April 2014 in anticipation of the above timetable. To counteract the loss of swimming facilities in Wigston/South Wigston during this time, SLM at their cost arranged a number of activities for children during the summer holidays and half term breaks at Bushloe High School. This has been a successful programme attracting a total attendance of 290 visits from 60 participants taking up these free activities. SLM fully acknowledge that the contract delays will result in their being no swimming facilities in Wigston/South Wigston for a second summer and to compensate for this they will be putting in place an innovative Festival of Sport throughout the summer for children which will include:-

A themed sports activity programme spanning the main part of the school summer holidays. Each week will have a different sports or activity theme, with skills learning during the week culminating in a fun tournament to round each week of the holiday off. This will be led by qualified coaches, sports leaders and a local celebrity to present the medals.

Parklands– the refurbishment of the dry side changing, the cedar suite toilets, two new studios and the gym commenced at the end of September 2014 to ensure the refurbished gym is open January 2015 following the Christmas and New Year period. Again this was expedited through an Early Works Agreement prior to the close of contract negotiations. SLM have purchased the new “state of the art” gym equipment at their own risk to demonstrate their commitment to deliver the enhanced facilities. Since SLM took over the leisure contract in April 2014, gym membership has increased by 250 members. Whilst the refurbishment is underway, temporary gym arrangements are in place. The refurbished gym will include the latest cardiovascular and resistance equipment, internet linked personal viewing screens, virtual reality exercise classes and the latest outdoor training equipment.

Members are invited to a preview of the refurbished gym and a demonstration of the high tech equipment on 22nd December 2014 at 6 pm at Parklands.

In addition to mitigate delays SLM have placed the order for the significant utilities work at Parklands at their own risk in the absence of a signed contract. The utilities works will take place in late January 2015 and thereafter mobilisation on site will commence.

Pending the new build pool at Parklands, SLM will continue to operate the existing Oadby Pool and continue with running repairs as necessary. There has been a significant reduction in the number of complaints since SLM have taken on the management of the Oadby pool and an increased participation in the Swim Scheme from 664 to 1000 participants.

SLM are also supporting the Pride of the Borough Loyalty Card scheme. Members of the scheme can receive a 10% discount off café purchases. In addition, SLM have donated 3 x free 3 month gym/swim leisure memberships to encourage participants in the Loyalty Card scheme.

SLM have also supported other local organisations by giving out hundreds of free activity guest passes and numerous 3 month/annual memberships to be used in prize draws for competitions.

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Background Papers:- reports to Policy Finance and Development Committee of 22 January 2014 and 22 July 2014

Implications	
Financial (JD)	The Policy Finance and Development Committee on 23 July approved a borrowing limit of £10 million. If borrowing exceeds this limit then relevant prudential indicators would need amending to be approved by that Committee. The independent consultants' review of the additional works have confirmed that the Council's costs towards these are reasonable.
Risk (AC)	CR2 Key Supplier/Partnership failure; CR5 effective utilisation of assets
Equalities (AC)	The Council's facilities are accessible to all
Legal (AC)	The design, build and operate contract needs to be monitored for adherence to the terms and conditions