

Confidential Appendix A is considered as an exempt/confidential matter and that the press and public are excluded under the provisions of Section 100A of the Local Government Act, 1972 as amended by the Local Government (Access to Information) Act, 1985 for the following reasons:

- Exempt information is defined in section 101 and, by reference, Schedule 12A of the Local Government Act 1972. To be exempt, information must fall within one of the categories listed in paragraphs 1 to 7 of Schedule 12A, must not fall within one of the excluded categories in paragraphs 8 and 9 and the public interest in maintaining the exemption must outweigh the public interest in disclosing the information.
- Confidential Appendix A contains information relating to the financial or business affairs of the Council and those of a commercial operator which therefore falls into paragraph 3 of the categories listed in Schedule 12A.

Although there is a public interest favouring public access to local authority meetings, given the legally and commercially sensitive information contained in Confidential Appendix A the public interest in maintaining the exemption outweighs the public interest in disclosing the (exempt) information.

Copies of Appendix A will be provided in the meeting to Cabinet Members and Group Leaders and Deputies.

Agenda item:

Title of meeting:	Cabinet
Date of meeting:	10 th June 2013
Subject:	Pyramids Procurement and Consideration of Options
Report by:	Head of City Development & Cultural Services
Wards affected:	St Jude, Eastney and Craneswater
Key decision:	Yes
Full Council decision:	No

1. Purpose of report

- 1.1 To inform Members of the outcome of the procurement process which has been undertaken in relation to future delivery within the Pyramids centre, and the options now available. The procurement process has produced a preferred bid which enables the Pyramids to be retained within the allocated budget, the alternative being to close the facility.

2. Recommendations

That:

- 2.1 Members note the comprehensive procurement process that has been undertaken which was designed to encourage bids against as wide a range of options as possible.
- 2.2 Members note that the only market interest expressed through the procurement process is to continue to operate the building on a contract for services basis.

2.3 Members consider whether to:

- i. Let a management contract for the continued operation of the Pyramids to the most advantageous bidder, or
- ii. Close, demolish and landscape the Pyramids site pending consideration of alternative uses of the site.

2.4 If Members decide to let a management contract, then;

- i. they approve acceptance of Bid B as this represents the most advantageous bid as it represents a saving to the Council over 5 years of £800,000 compared to the approved budget and the bid also received the highest score in terms of quality.
- ii. the City Solicitor and Section 151 Officer be authorised to conclude the procurement process with preferred Bidder B subject to the completion of further due diligence prior to contract award and in the event that financial terms cannot be agreed to the satisfaction of the Section 151 Officer further consideration of the available options be referred back to Cabinet.

3. Background

3.1 Members have agreed and set out their strategy for the Southsea Seafront, and this includes a desire to improve its attractiveness to residents and visitors, including enhancing and improving buildings and offers along the seafront. The Pyramids, whilst making an important contribution to the range of facilities on offer to residents and tourists, has struggled over the years to be a viable venue and many different management and subsidy arrangements have been applied. Over the last 6 years management and maintenance of the Pyramids has cost a total of £5.8m. On 16th October 2012 the City Council resolved that a new operator/concessionaire be appointed, by way of a competitive process for the delivery of services at the Pyramids.

3.2 The on-going costs of the operation have been met from the Council's corporate contingency during 2012/13 and on 12th February 2013, as part of the Budget Report, the City Council approved the following provisions relating to the operation and maintenance of the Pyramids Centre:

2013/14	2014/15	2015/16	2016/17	2017/18	Total
£701,000	£606,000	£541,000	£541,000	£541,000	£2,930,000

4. Procurement Process

4.1 The formal Prior Information Notice (PIN) was published in the Official Journal of the European Union (OJEU) on 20th December 2012 inviting organisations to express interest in participating in a market engagement exercise for provision of recreational services at the Pyramids.

- 4.2 Council strategy and policy places the building in the context of a range of future improvements/development at the Seafront. This includes the Seafront Strategy which sets out a long-term vision for positioning the Seafront as an international visitor destination, and improving its offer for city residents, and the Seafront Masterplan (supplementary planning document) which identifies a number of development opportunities in the area that could contribute to achieving this vision.
- 4.3 Main activity usage data provided to the Council for the calendar years 2011 and 2012 is as follows:

Activity	2011	2012
Swimming	121,500	126,400
Health & Fitness	52,300	58,020
Indoor Activities	3,010	13,080
Block Bookings	35,530	36,480

These users come from a range of postcodes across Portsmouth as well as visitors to the city.

- 4.4 A Bidders Open Day was held on 14th January where the 12 organisations who registered interest in participating in the market engagement exercise were provided with further guidance.
- 4.5 Following the bidders day six organisations attended further meetings, the average duration of which was 2 hours per meeting. This enabled the Council to obtain a clear understanding of the market and develop the subsequent procurement strategy and associated documentation in order to obtain the optimum response from the market.
- 4.6 The Invitation to Tender (ITT), Specification document and full guidance notes were published on March 27th with a closing date for bids of 3rd May 2013.
- 4.7 A contract notice was published in the OJEU allowing for participation from the entirety of the market and not just those organisations who participated in the market engagement exercise.

5. Securing Innovation in the Bids

- 5.1 In order to obtain the optimum innovation the Council invited bids against the following Lot options, all of which could, after the initial term of five years, be extended (by the Council) to 7 years. Thereafter, the Council could offer a pure concession arrangement (no management fee) to the appointee, on a full repair and insure lease:

Full repair & Lease Options

- Lot 1 - Operator takes on full repair & insure lease of the facility on a concessions basis with income share to the Council subject to performance

- Lot 2 - Operator takes on full repair & insure lease of the facility subject to payment of a fixed management fee by the Council with provision for future mandated income share
- Lot 3 - Operator takes on full repair & insure lease of the facility on a concession basis with mandated income share to the Council subject to provision of capital investment from the Council
- Lot 4 - Operator takes on full repair & insure lease of the facility subject to payment of a fixed management fee by the Council but subject to future mandated income share and subject to provision of capital investment from the Council

General routine & reaction maintenance only options

- Lot 5 - Operator takes on facility general routine & reactive maintenance whilst the Council takes on facility major refurbishment & replacement on a concession basis with mandated income share to the Council
- Lot 6 - Operator takes on facility general routine & reactive maintenance whilst the Council takes on facility major refurbishment & replacement subject to payment of a fixed management fee by the Council with provision for future mandated income share
- Lot 7 - Operator takes on facility general routine & reactive maintenance whilst the Council takes on facility major refurbishment & replacement on a concession basis with mandated income share to the Council subject to provision of capital investment from the Council
- Lot 8 - Operator takes on facility general routine & reactive maintenance whilst the Council takes on facility major refurbishment & replacement subject to payment of a fixed management fee by the Council but subject to mandated future income share and subject to provision of capital investment from the Council.

5.2 The bidders were able to bid on the basis of one, all or any combination of the lots outlined above. However they were not allowed to submit a single bid which contained aspects of different individual lots. This was to maintain clear bids against set specifications - necessary in order to achieve the requirements of the set timetable.

5.3 It was acknowledged that over the term of the contract, the nature of the relationship with the successful Operator may change - for instance moving from a Lot 6 type arrangement to a Lot 5 type arrangement. However bidders had to classify their bid into the relevant lot relationship at the start of the contract.

5.4 Mandatory requirements included:

- Provide for public access, for all, to leisure activities, including access to water.

- Be in line with the current licencing agreements for the site, unless proof can be given of agreed deviations outside of this for the proposal being put forward
- Have a named designated Premises Supervisor
- Comply with all current & future laws, legislation and regulation relevant to the proposal
- Answer all the questions within the 'ITT' document
- Provide the Council with adequate and substantiated guarantees
- Provide for Open book accounting, defined as:

The appointed operator will be required to share, upon request by the Council, financial information on an Open Book Accounting basis. This will include making available operational financial accounts and underlying financial transactions and summaries with sufficient explanatory narrative to enable the council to monitor transparently performance or benefits arising.

5.5 In addition to the above lot options, bidders were also given the opportunity to submit variant bids. This allowed for bidders to submit bids which did not necessarily have to include swimming.

5.6 A full set of building condition surveys were made available to the interested bidders along with the most up to date and complete management information that the Council was able to release.

6. Evaluation of the Bids

6.1 In total the Council received 7 bids against a number of Lot options and these are summarised in confidential appendix A. In order to demonstrate the integrity of the process the names have been anonymised. The ITT expressly reserved the right for the Council to choose between Lots and these have been evaluated against the published Tender Evaluation Criteria so that the Whole Life cost of each bid can be compared and awarded based on best value for money.

6.2 In accordance with accepted procurement practice, the Council stated that where a tenderer fails to achieve a specified minimum score in regards of certain highlighted criteria the Council reserved the right to set the tender aside and not assess it further. However, in accordance with Members' wishes, this report presents the full information on all of the bids received.

6.3 Bids were received against the following lots:

Tenderer	Lot 1	Lot 2	Lot 3	Lot 4	Lot 5	Lot 6	Lot 7	Lot 8
Bidder A								X
Bidder B								X
Bidder C						X		

Bidder D								X
Bidder E						X		
Bidder F								X
Bidder G				X				

- 6.4 Bids were evaluated with a Cost Quality Split of 70:30. Confidential Appendix A shows the scores achieved for cost, for quality and the combined cost & quality weighted score.
- 6.5 The quality of the bidders' submissions were tested by the Company status questionnaire which set minimum Pass/Fail standards and in the ITT.
- 6.6 The viability of their offers was tested by looking at three main areas: 1) Service Proposal (worth 15%), 2) Service Resourcing and Management (worth 10%) and 3) Mobilisation and Delivery (worth 5%). Minimum pass marks were applied to critical quality elements.
- 6.7 Experience, financial stability, insurances and H&S were checked by the Company status questionnaire. This confirmed in respect of Bidder B that:
- They provide leisure services to another council and that since taking over those services they have increased leisure facility attendances, increased cultural and artistic income and also managed the catering in those establishments.
 - Their audited accounts for the last two years were examined and found to be of acceptable financial standing in terms of cashflow, surplus from trading activities and gearing. A guarantee will be sought from the bidder as further reassurance.
 - They were able to demonstrate they already had premiums in place to cover Employer's Liability to £5 million per claim and Public Liability to £20 million per claim.
 - That they had no Health and Safety enforcement notices served on them and that they had not been prosecuted for management failings within the last three years.
- 6.8 Bidder B was the top scorer on quality overall and scored the highest mark for the Service Proposal and the Service Resourcing (e.g. facilities management proposals) and Management (e.g. team experience) related questions. Bidder B was the second highest scorer in relation to implementation of proposals and business continuity.
- 6.9 The Service Proposal section assessed the bids' adherence to specified parameters of acceptability as well as the rationale and past experience which supported their demand forecast. The preferred bidder's proposed activities, access, pricing, programming & booking; links to Council aspirations and community inclusion and social value were also assessed in this section. Bidder B was the top scorer in this section.
- 6.10 The Service Resourcing & Management section reviewed the bids' Business & financial model (including profit & loss account, balance sheet, cash flow statements, costings for all types of income & expenditure, financing schedule, long term viability, rationale and guarantees), Management team experience and

Facilities Management (including maintenance and servicing). Bidder B was also the top scorer in this section.

- 6.11 Bidder B also has a number of high profile quality assurances including: holding the Hospitality Assured quality standard created by the Institute of Hospitality specifically for customer-facing businesses and membership of the International Association of Conference Centres which has a minimum entry criteria.

7 Further Information about Bidder B

- 7.1 Bidder B is a not-for-profit organisation. It has bid on the basis of Lot 8, putting forward a 70% reduction in their management fee from year 1 to year 5. Bidder B operates a group-wide marketing department so the contract would benefit from their economies of scale and expertise in the operation of leisure for other local authorities, track record in events and catering venues.

- 7.2 The vision of Bidder B is, "creating opportunities, inspiring people and enriching lives" and they strive towards this vision by generating:

- More participation through the provision of leisure facilities to encourage active communities, improved health and well-being
- Higher audiences through the provision of a diverse range of cultural and artistic events that appeal to a wide audience
- Greater economic benefit through hosting major conferences, exhibitions and events for the benefit of the local, regional and national economy
- Build profitable growth and reinvestment for a sustainable organisation
- To develop existing and establish new strategic partnerships by sharing resources and expertise to make them stronger
- To enable their people to reach their full potential by investing in the future

- 7.3 Amongst the Social aspects of their bid, bidder B states:

- They will conduct a robust needs assessment of local people to meet the needs of Portsmouth residents regardless of age, ability levels or background.
- Will ensure there is a balance between commercial activity and socially-driven objectives.
- Mainstream and concessionary pricing will be used to encourage participation, including lower-income families, and they will promote the Portsmouth Leisure Card.
- Elsewhere they have participated in numerous local health programmes.
- They provide work placements for local students.

- 7.4 Bidder B's Capital Investment

- £50k investment to introduce a power-assisted exercise fitness suite run on a set 30 minute pattern, via an appointment-based system. This can be used by everyone including residents over the age of 60, people with conditions such as MS, Fibromyalgia, Stroke, Back pain, ME, Arthritis, joint replacements and no special gym clothing is required.

- £30k Investment in the Health and Fitness studio including replacement of health & fitness equipment and the development of a new studio offering fitness classes such as Spinning, Pilates and Yoga.
- Introduction of a family roller skating rink to enhance provision throughout the year for children and families
- New water features introduced to the pool to encourage greater use by families including a new Pool Inflatable.
- Introduction of a seasonal Ice Rink in partnership with a local provider
- Full re-branding and refurbishment of existing catering facilities.

8 Closure, Demolition & Landscaping of Pyramids Site

- 8.1 In the event that the cost of continuing to operate and maintain the Pyramids Centre over the medium term is viewed as too high, when considered in relation to the overall level of on-going savings the Council is required to make over the next three years, at this stage the Council could choose to halt the procurement process and close, demolish and landscape the site either as a permanent solution or as an interim solution while alternative uses for the site are investigated and developed.
- 8.2 The estimated “one-off” cost of demolition and re-landscaping is £425,700. On-going annual grounds maintenance costs of the landscaped area are estimated to be £20,000 per annum. This includes the cost of fencing but in the event that additional on-site security was necessary this is estimated to cost £10,000 per month. In addition Non Domestic Rates would become payable after 3 months at a cost of £19,000 per month.
- 8.3 If the Council received a sum of money in consideration for the disposal of the site the first £2.49m would be repayable to Sport England. However neither the options being considered would result in the requirement to repay the grant to Sport England.
- 8.4 Closure, demolition and landscaping is a lower cost option compared to operating and maintaining the Centre under a management contract with any of the bidders.
- 8.5 It is understood that Southsea Community Leisure have 140 employees on their staff roster and closure of the facility would result in these jobs being lost.

9. Equality impact assessment (EIA)

- 9.1 An EIA has not been carried out for this report as it is not a change of policy or provision, within the provisions of equalities legislation.

10. Legal comments

The existing equipment will remain in the ownership of the Council and will be available for use by Bidder B.

- 10.1 Legal comments are contained within the body of the report.

11. Head of Finance's comments

- 11.1 The Council's financial position is extremely challenging and in February an overall future savings requirement of £26.0m over the financial years 2014/15 to 2016/17 was approved. Between 2012/13 to 2016/17, the City Council will have reduced its budget by £55m in order to address the savings that the Council is required to make, largely as a consequence of funding reductions from central government. Over that same period, Government funding has reduced by £36m in cash terms. In real terms the Council has had to manage a range of other pressures also including Council Tax freezes, inflationary pressures and other burdens. In context, this represents a reduction in the Council's controllable budget of over a third. For this reason, it is essential that the procurement process for the Pyramids was carefully designed to secure best value for money from the market and give members a real choice about whether to continue the Pyramids operation.
- 11.2 As with all spending decisions in the current financial climate, the Council is faced with the difficult choice of whether the continued operation of the Pyramids is of greater benefit to residents than avoiding £0.5m cuts elsewhere across the Council's services.
- 11.3 Over a 5 year period the costs associated with the options contained within this report are set out below.

Continued Operation With Preferred Bid	
	Year 1 to 5
Management Fee, Investment Costs & Maintenance	2,124,925
Loan Guarantee	2,859,617
Continued Operation Total Cost	<u>4,984,542</u>

Demolition & Reinstatement to Grass	
	Year 1 to 5
Demolition	340,700
Reinstatement Works	85,000
Grounds Maintenance	86,667
Loan Guarantee	2,859,617
Demolition & Reinstatement to Grass Total Cost	<u>3,371,984</u>

- 11.4 The loan guarantee costs of £2.86m are the principal and interest payments that the Council would be required to make to the lender who financed the initial £2.2m improvement works to the Pyramids Centre undertaken during 2010 by the current lease holder and for which the Council is guarantor. When this guarantee was first entered into by the Council it made full provision within its accounts for the repayment of the obligations that would arise if this guarantee were to be called upon. Under both of the scenarios above the guarantee would be payable and the Council would therefore be required to release this provision in order to meet its guarantee obligations within the first 5 years. As the Council has already made full provision for this obligation there are no additional budget implications arising from the guarantee becoming payable.
- 11.5 Over a 5 year period the cost of continuing to operate the Pyramids is expected to be £5.0m as shown in the table above. This assumes that no major repair incidents arise within the first 5 years.
- 11.6 Whilst the preferred bid remains within the budget provision approved by the City Council, that option remains a substantially higher cost option than the alternative.
- 11.7 In the event that members choose to continue with the procurement, the main risks associated with continuing with the procurement include:
- a. Any assets which were acquired as a result of the loan guarantee will pass into the Council's ownership.
 - b. Failure of the Pyramids condition survey to identify all repairs and maintenance requirements whilst being "locked into" a 5 year contract. Should major repairs be required to be undertaken, the City Council would be liable for those costs.
 - c. Non-performance of the Council to meet its maintenance obligations due to other financial pressures leading to claims for compensation by the operator.
 - d. Commercial failure of bidders' proposals resulting in increased cost to the Council
 - e. High costs associated with transitioning the operation to the preferred bidder
 - f. Failure to agree contract terms with the preferred bidder
- 11.8 Should Members consider that the value of the continued operation of the Pyramids with the associated positive impact for the seafront and wider community be the driving consideration then it is recommended that Bidder B is selected as the preferred bidder as this represents the most advantageous bid for the Council overall, scoring highest on both financial criteria and quality.

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Signed by: David Williams

Appendices:

Confidential Appendix A: Evaluation Quality scores and outline narrative

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location