

CABINET 25 JULY 2017

*PART 1 – PUBLIC DOCUMENT	AGENDA ITEM No. 12
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TITLE OF REPORT: CAPITAL PROPOSAL TO PURCHASE CARDIO AND RESISTANCE FITNESS EQUIPMENT FOR THE COUNCIL'S HITCHIN AND ROYSTON LEISURE FACILITIES

REPORT OF THE HEAD OF LEISURE AND ENVIRONMENTAL SERVICES
EXECUTIVE MEMBER: COUNCILLOR JANE GRAY
COUNCIL PRIORITY: ATTRACTIVE AND THRIVING

1. EXECUTIVE SUMMARY

- 1.1. This report details and explains an investment proposal for the Council to purchase new cardio and resistance equipment for the Hitchin and Royston leisure facilities at an estimated cost of £520,000. The Council's Leisure Contractor (Stevenage Leisure Limited) would then pay back the Council in full over 5.5 years at an agreed interest rate of 3.5%. The repayment would be made through an increase in the annual management contract sum.

2. RECOMMENDATIONS

- 2.1 That Cabinet endorses the proposal and recommends to Council that the project, as detailed in this report, be added to the Council's Capital Programme for 2017/18 onwards.

3. REASONS FOR RECOMMENDATIONS

- 3.1 This project would help in achieving the Council's Attractive & Thriving corporate objective, through increasing health & wellbeing, and ensure customer satisfaction is maintained within the Council's Leisure Facilities.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 SLL has considered alternative providers of fitness equipment, however, the current system, known as Wellness, forms part of an integrated suite of fitness equipment all linked into a computer system that monitors user work outs and records user progress. This system is unique to Technogym.
- 4.2 SLL could purchase the equipment using their own money or borrow money from other means, however, the current arrangements have worked well in the past for both parties and are willing to continue.

- 4.3 The 'do nothing' option of leaving the current equipment in place and continuing to carry out necessary repairs as and when required could impact on customer satisfaction and increase the risk of members cancelling memberships.
- 5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**
- 5.1 Initial discussions around this proposal have been held with the Head of Leisure & Environment and Stevenage Leisure Limited (SLL).
- 6. FORWARD PLAN**
- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.
- 7. BACKGROUND**
- 7.1 Under previous leisure contracts, the leisure contractor purchased new fitness equipment for the gymnasiums at Royston Leisure Centre and Hitchin Swimming Centre. Title of the equipment passed to the Council on expiry of those contracts.
- 7.2 SLL was awarded the contract for Royston and Hitchin on 1 April 2010. As part of the agreed contract terms, SLL were required to replace and purchase new fitness equipment during the early stages of the contract period. In 2010 SLL approached the Council with a proposal requesting that the Council instead purchase the fitness equipment and the annual management contract price be adjusted to reflect this. This was agreed and the Council purchased the equipment directly from the manufacturer. SLL's management fee was amended in order that the cost of the equipment was repaid with interest over a five year period. The purchase of the equipment was approved by Full Council in February 2011 as part of the 2011/12 Capital Programme and the equipment was purchased later that year.
- 8. RELEVANT CONSIDERATIONS**
- 8.1 SLL has notified the Council that the cardio and resistance fitness equipment needs to be replaced to ensure customer satisfaction is maintained. Officers of the Council have inspected the equipment and support SLL's recommendation.
- 8.2 SLL has negotiated the purchase of the new fitness equipment and has approached the Council proposing the same arrangement as 2011 be followed again.
- 8.3 The fitness equipment to be purchased will cost a total of £520,000 and has an anticipated useful life of 5 years.
- 8.4 The replacement of some of the fitness equipment restricts the Council to purchasing the equipment from the original manufacturer because it forms part of an integrated suite of fitness equipment all linked into a computer system, known as Wellness, which monitors user workouts and records user progress, hence there is interoperability with existing and new equipment. As such, approval for a single tender would be required prior to purchasing the equipment from the manufacturer.
- 8.5 As SLL purchase a lot of equipment from Technogym they receive a larger discount than the Council would if it were to purchase the same equipment directly. SLL have agreed with Technogym that the quote they have obtained will be the cost that the Council pays.

- 8.6 As part of the Leisure Management contracts SLL are responsible for the repair and maintenance of equipment. The Council would therefore not have to meet any costs for the ongoing repairs and servicing of this equipment.

9. LEGAL IMPLICATIONS

- 9.1 A variation of contract will be undertaken for the Hitchin and Royston Leisure Management contracts to give effect to the proposal in this report.

- 9.2 The OJEU threshold for the purchase of goods is currently €209,000. Although the purchase price is above the OJEU threshold, section 72 (b) of the Public Contracts Regulations 2015 ("**Regulations**") confirms a contract can be modified to incur spend above the OJEU threshold provided the following criteria are met.

"for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor—

- (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or*
- (ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority,*

provided that any increase in price does not exceed 50% of the value of the original contract"

The proposal in this report in is connection with necessary additional supplies for equipment that must be purchased from Technogym in order to ensure interchangeability and interoperability with existing equipment. Furthermore, the purchase price does not exceed 50% of the value of the original contract. Therefore officers consider that the proposal in this report satisfies the requirements of section 72 (b) of the Regulations. Officers are also of the view that a procurement exercise would cause significant inconvenience.

- 9.3 The Council must publish details of this spend in accordance with section 51 of the Regulations and officers will liaise with legal and procurement in this respect.

- 9.4 Officers are satisfied that the rate of interest is comparable to rates obtainable on the open market and therefore Stevenage Leisure Limited is not receiving any advantage through public funds that would amount to state aid.

10. FINANCIAL IMPLICATIONS

- 10.1 The Hitchin and Royston Leisure Management contracts commenced from 1st April 2010 with a contract value at that time of £2.2m over the maximum length of the contract. The contract was recently extended to the full term of the contract and is due to expire in 2024. The Council currently receives annually £47,400 in income from the management contract.

- 10.2 The estimated total cost of purchasing the new fitness equipment is £520,000. SLL have indicated that if they were to seek to obtain this level of capital from the private sector they would expect to be offered an interest rate of 4%.

- 10.3 The loan to SLL would be at a fixed rate. The 4% that SLL can borrow at from the private sector is a fixed rate, and so the 3.5% loan from the Council is comparable to that. Both rates already price in expectations of increases in the Bank of England base rate (and interest rates in general) over the period of the loan. If a variable loan rate were to be agreed then it would need to be at a lower starting rate, which would then fluctuate with changes in a published interest rate. With a fixed rate, the Council will be better off if interest rate rises are lower than expected, but worse off if they are higher. As the loan is repaid over the 5 1/2 years, the impact of rate rises towards the end of the period is less significant. A fixed rate also reduces the administration involved in calculating the repayments to be made by SLL.
- 10.4 The proposal is therefore for SLL to repay this amount at a fixed interest rate of 3.5%. This has been calculated to generate a total of £52,410 in additional interest income to NHDC over the 5 year and 6 month period. The full repayment schedule is attached as appendix A. An up-front administration fee of £1,500 is also proposed to be charged to SLL. Including this admin fee, the total amount repayable by SLL would therefore be £573,910.
- 10.5 The Council would purchase the new fitness equipment and the annual management contract fee would be amended accordingly. The interest amounts detailed in appendix A and the administration fee would be charged as additional income to the General Fund. The loan principal repayment element of the proposed monthly payments, as shown in Appendix A, would be charged against the capital debtor created at the point of recognising the £520k capital contribution from SLL in the accounts.

11. RISK IMPLICATIONS

- 11.1 At present, the Public Contracts Regulations 2015 are too recent to benefit from sufficient case law to fully understand how the Courts will apply section 72 in practice. Although officers are confident that the application of section 72 is appropriate and justified, a voluntary transparency notice will be published in the Official Journal of the European Union. The effect of publishing this notice will materially reduce risk of challenge.
- 11.2 The fitness equipment will be the property of the Council. As the property will be under the ownership of the Council, events which impact on the operation of SLL will not affect the ownership of the equipment.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2 As this report outlines a key decision- i.e. over £50,000.00 as impact assessment has been completed. SLL are committed to delivery of a wide range of leisure and cultural activities and opportunities for all the community, improve physical and mental health and wellbeing and the provision of new fitness equipment will assist this aim.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and “go local” policy do not apply to this report.

14. HUMAN RESOURCE IMPLICATIONS

14.1 None have been identified.

15. APPENDICES

Appendix A – Proposed repayment schedule.

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17. BACKGROUND PAPERS

17.1 None.