

Date: 24th June 2005
Our Ref:L/DM/JB

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Without Prejudice

Leisure Management Contract - Epping Forest District Council

Dear Andy

Further to our meeting on Tuesday, I am writing to seek confirmation of your formal acceptance of the main points negotiated.

We will forward general notes covering the numerous other issues of confirmation, clarification etc, but in light of the timescale for the preparation of the Cabinet Report, felt it appropriate and for the avoidance of doubt, to reiterate the key considerations.

It is our belief that the following was agreed:

1. Contribution to Discretionary National Non Domestic Rate Relief

For the reasons set out by the Head of Finance, the Council will be minded to award Mandatory Relief, but will not be seeking an alteration to its current Policy on Discretionary Relief. The cost of this discretionary element, currently equates to £40,000 per annum. We reached agreement that SLM, for the duration of the Contract, will contribute 50% towards the cost of Discretionary Relief for the Leisure Centres managed under contract. It is accepted that the cost may fluctuate as a result of valuation appeals.

2. Risk of External Challenge to Rate Relief

You have confidence in your business model and as above, the Council are minded to Award Mandatory Relief. We have reached this conclusion based on your experience in other authorities and your Counsel's Legal Advice. However, we will require copies of the

Memorandum of Association of SLM Community Leisure Ltd and details of the proposed Licences to Occupy.

However, Members of the Council have consistently expressed concern about the loss of Rate Relief as a result of external challenge. In order to alleviate this concern we have agreed a model, which while sharing the risk equally over the period of the Contract, frontloads the risk on SLM in the early years. It is in this period that we believe the potential for challenge is greater. The mechanism agreed is to share the risk equally over the 7 year period, with SLM accepting 100% in Year 1, tapering equally to 0% in year 7, with the reverse effect for the Council's acceptance of risk (See Appendix 1). In the event of the Contract being extended by the optional 3 further years, this would be split 50/50 in each year. As any successful challenge would likely contain a retrospective element each party, would meet their cumulative share at any given time. Again on the taper basis agreed.

3. Management Fee Annual Uplift Indice

The Council has been seeking an all embracing indice to achieve future surety in the cost of the service thus assisting financial planning. SLM feel that some costs were outside of their direct control i.e. Utilities, (Water, Electricity, Gas), Pay Awards and Employer's Pension Contributions.

We agreed that for the duration of the Contract, SLM will bear all costs, including above inflationary increases for Utilities. However, the Council will meet the additional cost of salaries/wages of the average NJC Pay Award percentage settlement being in excess of RPI i.e. the difference (based on the total staff cost for those posts TUPE transferred at the start of the Contract) between the Average NJC Pay Award and RPI.

With respect to Employer's Pension Contributions, on the assumption that SLM achieve Admitted Body Status to be Local Government Superannuation Scheme, the Council will bear the cost of any increase in the Rate of Employer's Contribution in excess of RPI.

We would seek to satisfy ourselves of the real costs of staff engaged in delivering the service as we would not be prepared to meet the costs of any vacant posts etc. and would have to agree detailed calculations so that pay increases for other reasons were excluded.

4. Shaw Trust Employee Costs

SLM advised that they omitted by error, the cost of the part-time leisure attendant post which is jointly funded by the Shaw Trust. This is estimated in the region of £8,000 - £10,000 per annum. SLM agreed to absorb the cost of this post.

5. Management Fee

To recognise the movement by SLM on these issues, the Council will increase the management fee at the start of the Contract by £10,000. Thereafter this will form part of the annual uplift. This is in addition to the increase of £30,000 already agreed, to reflect increases in utilities costs.

Hopefully, this reflects the final negotiated position, which we felt was reached in a very positive manner. Could you please formally confirm your acceptance as soon as possible. You will appreciate that neither Cllrs. Knapman and Whitbread nor the Officers involved on Tuesday had the delegated authority to commit the Council to the final terms, but this will form the basis of our recommendations to the Cabinet.

Please feel free to seek any clarification.

Yours sincerely

Derek Macnab
Head of Leisure Services

cc: Cllr. Knapman, Leader of Council
Cllr. Chris Whitbread, Leisure Portfolio Holder
Bob Palmer – HOFS
Alison Mitchell – Legal Services
John Scott – Joint Chief Executive
Peter Haywood – Joint Chief Executive
Laura MacNeill – Asst. Head of Leisure

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Date: 27th June 05

Ref: lett(EFDC)NegotiationResponse)27)6)05

Dear Derek,

Subject: Leisure Management Contract.

Thank you for your time and the time of colleagues and Members at our meeting last Tuesday, which we found very positive. I write with reference to your letter to us dated 24th June (received by Fax on the 27th) regarding the points of clarification / negotiation as discussed at our meeting on the 22nd June.

I have responded directly to the points raised below:-

1. **Contribution to Discretionary NNDR.**

SLM confirms that it will contribute 50% of the discretionary element.

2. **Risk of External Challenge to Rate Relief.**

Copies of the Memorandum of Association of SLM Community Leisure Ltd will be forwarded to you forthwith, along with copies of the licenses to occupy.

In respect of the risks associated with the loss of rate relief, we confirm our acceptance of the principles as noted in your letter to us and as detailed in 'Appendix 1'.

3. **Management Fee Annual Uplift Indices.**

SLM confirm our acceptance of the terms noted in your letter.

4. **Shaw Trust Employee Cost.**

SLM confirm our acceptance of the treatment of this cost as detailed in your letter.

5. **Management Fee.**

SLM agree with your comments regarding the adjustments to the Management fee as noted.

We trust that this meets with your requirements and look forward to learning of the Councils decision imminently. If I can be of further assistance please call.

Yours sincerely,

Andy Haworth
Director: Group Development