

## **Cabinet – 11 May 2005**

### **Approval of Tender New Opportunities Fund (NOF 3) – Frank F Harrison Project for Physical Education and Community Sport**

**Portfolio:** Councillor Garry Perry – Culture and Leisure

**Service Area:** Lifelong Learning & Community

**Wards:** All wards

**Forward Plan:** Yes

#### **Summary**

The report seeks Cabinet's approval for the acceptance of a tender, value £322,000, for the project funded by a New Opportunity Fund grant for Frank F Harrison School and agreement that a formal contract be entered into under the council's seal. The tenders received are in respect of fitness gym and changing room facilities.

Under contract procedure rule 25, tenders whose value exceeds £100,000 should only be accepted by a Director and those above £250,000 by the Cabinet.

In April 2005, tenders for the Frank F Harrison project were received by the Council and negotiations with the lowest priced tender were concluded to ensure that the project would be constructed within the total grant award level. Therefore, Cabinet is asked to accept the tender and provide authority to appropriate officers to enter into a contract with the respective construction organisation.

This report also provides an update to Cabinet regarding the progress of the New Opportunities Fund 3 project, which will increase sports facilities and enhance physical activity, education and community sport opportunities within the borough.

#### **Recommendations**

Cabinet is recommended to:

- 1) accept the tender from Piper Construction (Midlands) Ltd and to request officers to create and execute a contract under the Council's seal.
- 2) accept the grant conditions as required by the New Opportunities Fund for the project.

## Resource and legal considerations

Although the council will be responsible for making payments to the contractor, the capital cost of the project is to be borne entirely from grants received from New Opportunities Fund 3 (NOF 3) and will have no financial impact upon the council's capital budget.

As stipulated within the NOF 3 programme conditions, revenue and operational costs will be the responsibility of the school, in this case Frank F Harrison School. The school has agreed a revenue plan and is aware of its obligations and future liabilities, to sustain the project and adhere to grant conditions from the funding provider.

In accordance with the grant conditions, there is an asset liability period of 21 years and therefore the school is required to operate the facility or make alternative arrangements for activities for this time period unless previously agreed with the New Opportunities Fund.

Failure to comply with this condition could allow the New Opportunities Fund to recover funding from the council. To address the potential for this position, the council has entered into a contract with the school, as prepared by Legal Services, which would allow for the simultaneous recovery of funding from the school.

Considerations are based on the following:-

- (1) The grant provider could request that a legal charge/restriction with H.M. Land Registry be made, this allows the grant provider to recover the cost of the land, against the council's Title on the Land, this will remain in force for the Asset Liability period, which dependent upon the facility will be between 15 - 20 years, the restriction will only apply to the area of land upon which the new facility is due to be constructed.

Therefore if the grant provider deems that the facility is not being operated in accordance with the terms and conditions of the grant, or the land on which the new facility is built is to be disposed of in the future, the grant provider can recoup its investment via the sale of the land via the restriction placed on the H.M. Land Registry.

Cabinet are requested to consider approval of this burden on the council's assets via acceptance of the grant conditions against improved sports facilities, plus the future restrictions placed upon the land will bind the council and school in future disposal decisions.

- (2) The council/school cannot sell, transfer, lease or dispose of any assets funded by the grant provider, without the permission of the grant provider (and possibility of financial recovery arrangements); additionally the facilities built cannot have their purpose changed without prior approval of the grant provider and which places obligations on the council's assets, titles and financial liabilities.
- (3) The council/school must account for the assets provided by the grant provider for the duration of the Assets Liability period or of which, unless approved alternative arrangements are established with the grant provider.

## **Citizen impact**

The New Opportunities Fund is an initiative which focuses upon the physical development of opportunities for young people to participate in sport and physical education in school, for learning and curriculum development opportunities and for after school and community activities. The refurbishment of existing and the building of new sports facilities will provide for benefits within areas of education, health, community regeneration and social inclusion.

These benefits will contribute to the successful delivery of key strategies within the borough, and will provide for the attainment of performance targets within the remit of sport, physical activity, health and lifelong learning.

## **Community safety**

The facilities will provide a focus for self enhancing activities, for the development of skills and vocational training, either directly provided for by services of the council or through agencies such as Connexions, Walsall Safer Borough Partnership and NACRO.

## **Environmental impact**

New facilities and modifications to the existing school site will be required and which, in accordance with grant conditions, have received appropriate planning permission. Anticipated outcomes of the projects include provision of new sports facilities and ancillary areas that will support the sustainability and maintenance of land for recreational use.

## **Performance and risk management issues**

The New Opportunities Fund 3 project is a time based grant programme which requires the scheduling and allocation of funds to projects. Subsequently, the tender process and efficiency of the appointment of contractors is required to support the delivery of the project within agreed funding allocation.

The Frank F Harrison School project will contribute positively to the performance of the school and will assist in providing for opportunities for improved educational performance and physical activity participation.

The project will subsequently contribute to the council's Vision by providing for new and innovative facilities and services to citizens and schools. It will also contribute to the future attainment of national targets as required by the Department of Culture Media and Sport and Department for Education and Skills that pupils participate in two hours of high quality physical education within and beyond the national curriculum.

## **Equality implications**

All facilities within the programme are built and designed to be fully compliant with Disability Discrimination Act (2005) requirements and the project, when delivered, will widen access to services, enhance standards of facilities and tuition, create opportunities for participation, promote inclusion and facilitate development opportunities for groups, including young people and the community.

## Consultation

The school concerned has undertaken consultation exercises with the support of officers of the council's Lifelong Learning and Community directorate to ensure effective community and stakeholder consultation and project development.

Officers from Education Walsall have been consulted regarding development and deployment of project funding. Other agencies consulted include Sport England, New Opportunities Fund, specialist sports colleges and the School Sports Partnership.

## Vision 2008

Completion of this grant funded scheme will assist the council in its bid to provide excellent facilities to its residents and, by doing so, assist Walsall towards becoming an excellent authority.

- Make our schools great.
- Make Walsall a healthy and caring place.
- Make it easier to access local services.

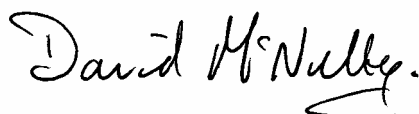
## Background papers

- Tender evaluation reports and independent quantity surveyor recommendations
- Cabinet Report – 8<sup>th</sup> September 2004 – New Opportunities Fund 3 Project Tenders
- Cabinet Report – 26<sup>th</sup> November 2003 – New Opportunities Fund 3 – PE and School Sport
- Submission for project to New Opportunities Fund
- Grant award approval for Frank F Harrison School from the Big Lottery Fund

## Contact officer:

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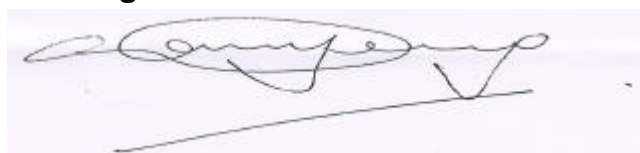
## Signed:



**David McNulty**  
Executive Director

**Date: 28.04.05**

## Signed:



**Councillor Garry Perry**  
Portfolio Holder

**Date: 28.04.05**

## Context

1. In December of 2002 the council was awarded £3,950,000 by the New Opportunities Fund (NOF) for projects to improve physical education and sports facilities for schools' and communities' use. The Frank F Harrison School project is one of seven projects participating in the programme within the Walsall borough, as advised to Cabinet in September 2003. These projects will increase the amount and variety of sports facilities and will include refurbishment of existing premises as well as the creation of new indoor and outdoor sporting facilities and ancillary provisions.
2. Grant conditions require each project to receive full NOF approval in which a letter of award is supplied with necessary grant conditions attached. Once these conditions have been approved a letter of Permission to Proceed is issued. Only following such approval can works go ahead.
3. In April 2005, tenders were received by the council's Building Design unit for the provision of a fitness gym for the school and community and with associated changing facilities.
4. Submissions were received from construction companies and the total prices are shown in ascending order :

Companies	Tender Sum
Robert Bruce Construction Ltd	£446,288.00
George Law Ltd	£430,162.51
IB Construction Ltd	£389,582.00
Piper Construction ( Midlands ) Ltd	£356,941.00

5. Following assessment of the tenders by the council's Building Design unit and an independent quantity surveyor, the tender supplied by Piper Construction (Midlands) Ltd, for Frank F .Harrison School, was believed to offer best value. The tender received was outside of the original grant award level and negotiations between the Building Design unit and the contractor have agreed omissions and revised specifications in order to reduce the tender sum to the value agreed as £322,000.
6. Cabinet is requested to approve the acceptance of the tender provided by Piper Construction (Midlands) Ltd for the revised tender sum of £322,000 to include all elements of the construction of the fitness gym and changing room facilities.
7. Cabinet is requested to agree that a formal contract be created under the council's seal .This will enable compliance with the council's contract procedure rules, in respect of its constitution, and also provide an increased degree of security to both the council's officers and its resources.
8. Cabinet is requested to accept the grant conditions of the project, including the asset liability period for the project as detailed previously within the report.