

PART II – INDIVIDUAL CABINET MEMBER’S DECISION

LEADERS PORTFOLIO 7 SEPTEMBER 2009

REPORT OF THE HEAD OF LEGAL AND SUPPORT SERVICES – 09/542 on OPEN AIR THEATRE

DECISION

To approve the following decision:

the payment of up to £120,000 from the Balance Sum held by the Council under the terms of the Sands Development Agreement to Benchmark Leisure Limited (“Benchmark”) as and when such sums are accrued to recompense Benchmark for expenditure of £120,000 on preliminary works comprising terrace removal and contractors design which is required to prepare the Open Air Theatre site in sufficient time to allow main construction work to commence in October 2009.

REASONS FOR DECISION

The Council are due to consider whether to authorise construction of an Open Air Theatre in the North Bay at a meeting in October 2009.

The Open Air Theatre is ultimately to be funded from monies received into the balance sum account established for receipt of profits from the Sands development. At present insufficient monies from the development have been realised and Council is to be invited to borrow monies to enable the construction of the Open Air Theatre to take place. The proposed expenditure upon preliminary works will be a commitment against the balance sum account.

Under the terms of the Supplemental Agreement, Benchmark had agreed to fund the first £200,000 of expenditure on the development of the project at their risk.

Benchmark have advised the Council that the amount now due for payment by them for these preliminary works is £245,000. To maintain the momentum of the project, under cover of his letter dated 21 August 2009, the Strategic Director authorised that expenditure of a further £50,000 which if the project did not come to fruition, Benchmark will be allowed to reclaim from the Balance Sum.

To enable the development of the Theatre to be completed in time for use in Summer 2010 preliminary works now need to be undertaken to demolish the existing seating (£40,000) and initiate the preparation of the design (£30,000), requiring the expenditure of a further £70,000. It is proposed to authorise this further expenditure of a further £70,000 (total £120,000 over and above the initial £200,000 which is at Benchmark’s risk) which if the project does not come to fruition, Benchmark will be allowed to reclaim from the Balance Sum.

Were Council to determine not to proceed with the Open Air Theatre in October monies spent on commissioning works at this stage may prove to have limited merit, however, if preliminary works are not commissioned at this stage completion of the works in time to allow for the opening of the Theatre in Summer 2010 would be placed in severe jeopardy. Albeit that there exists a risk of wasted expenditure upon

the preliminary works, a greater risk would arise that the Council would not be able to proceed with the main construction contract in a timely fashion should full Council decided to proceed with the project in October.

The Chair of Overview and Scrutiny Committee accepts that if authority to enter this agreement is delayed this would seriously prejudice the interests of the Council in that officers would be unable to deliver the project within the requisite timescales.

ANY RELEVANT INTERESTS DECLARED BY CABINET MEMBER AND ANY DISPENSATIONS GRANTED

None.

DATE OF DECISION: Monday, 7 September 2009

AGREEMENT OF CHAIR OF OVERVIEW AND SCRUTINY COMMITTEE: Monday, 7 September 2009

IMPLEMENTATION DATE 7 September 2009

Signed



Leader of the Council

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Date of signature
7 September 2009
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Signed



**Councillor G W Allanson
Chairman of Projects and
Partnerships Overview and
Scrutiny Committee**
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Date of signature
7 September 2009
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