

**CABINET: 6 JUNE 2007**

### **NEW PUBLIC CONVENIENCE – LIBRARY ROAD, TOTTON**

#### **1. Introduction**

- 1.1 In September 1999 Members approved a ten-year programme to replace or refurbish the majority of the Council's public conveniences. (Environmental Services and Licensing Committee, Minute 28 of 2 September 1999).
- 1.2 The public convenience in Ringwood's Furlong car park was programmed to be rebuilt in 2007/08, but plans to redevelop the Furlong area could result in its relocation. Accordingly, the Environment Portfolio Holder, in consultation with the Director of Commercial Services, has given approval for the Furlong PC rebuild to be put back in the programme and replaced by the Library Road, Totton PC rebuild, which has been brought forward from 2008/09.

#### **2. Purpose of this report**

- 2.1 To report the actions taken by the Director of Commercial Services, in relation to Library Road PC, to:
  - commission architectural services from John Pardey Architects at the reduced fee rate of 4.75%, and
  - negotiate a contract with F.S. Noble Ltd. for the construction of the new PC building.

#### **3. Procuring Architectural Services**

- 3.1 Over the last five years a sound working relationship has developed between the Council and John Pardey Architects (JPA), who have been responsible for the design of new toilets at Lymington, Brockenhurst, Milford and Calshot. JPA have developed a modular design that meets all the Council's requirements with regard to safety, security, ease of maintenance and vandal resistance and that can be tailored to suit different localities and site conditions. JPA are on the Exor list of approved consultants, contractors and suppliers.

- 3.2 JPA last tendered for design and contract supervision in 2004, their price being based on 6% of the build cost. Because some elements of the design work have now become repetitive JPA have offered to reduce their fee to 4.75%. In addition, JPA have negotiated a reduction of £1,000 for structural engineering advice provided by Barton Engineering, which is additional to the fee for architectural services. Savings are summarised in the table below. The Director of Commercial Services, following consultation with the Environment Portfolio Holder and the Director of Resources, has accepted JPA's offer without tendering the architectural services for Library Road PC.

<b>Service</b>	<b>Old Rates</b>	<b>New Rates</b>	<b>Savings</b>
JPA (6%)	£14,400	-	-
JPA (4.75%)	-	£11,400	£3,000
Barton Eng. (sum)	£5,000	-	-
Barton Eng. (sum)	-	£4,000	£1,000
<b>Totals</b>	<b>£19,400</b>	<b>£15,400</b>	<b>£4,000</b>

#### **4. Tendering the Works**

- 4.1 In September last year F & S Noble Ltd. (FSN) won the contract to build new toilets in St Thomas Street Car Park in Lymington. FSN have just completed this work within the tender price and programme and to a very high standard. In recognition of this the Director of Commercial Services, following consultation with the Environment Portfolio Holder, the Chief Executive and Director of Resources, has taken the decision to negotiate a contract with FSN to build the new Library Road PC, rather than inviting tenders for the work. FSN are on the Exor list of approved consultants, contractors and suppliers.
- 4.2 Contract negotiations were undertaken by comparing the cost of the basic structure of the recently completed St. Thomas Street PC with the price offered by FSN for the Library Road PC, on the basis that the two buildings share exactly the same structure and specification up to roof height. The cost of roof construction was omitted because the roof designs will be different, making comparisons unrealistic.
- 4.3 Despite a substantial increase in overall construction costs over the last 12 months FSN have offered to build the basic Library Road structure to roof height for £171,843, which represents a small reduction (0.3%) in comparison with St. Thomas Street, due largely to experience of working on that project. However, taking into account wage inflation and rising materials costs this equates to a 3.4%, or £5,900, cost reduction in real terms. FSN will also endeavour to find suitable equivalent products to

those specified at a reduced cost and, if the products are approved, share this reduction 50/50 with NFDC.

4.4 The main price increases affecting the basic PC structure are summarised in the table below.

Item	Percentage cost rise*
Steel	9
Timber	40
Copper	20
Aggregate	5
Paving	2
Drainage Goods	4
Building Hardware	29
Landfill Tax	14
Electrical Subcontract work	33
Wage Increases	4

\* In round figures

- 4.5 NFDC's project engineers have carefully vetted FSN's offer and are satisfied that:-
- it represents a genuine reduction in real costs compared with the St. Thomas Street project, and
  - the claimed increases in materials and labour costs are realistic.

## 5. Contract Matters

- 5.1 Accepting a negotiated price for the building works does not affect contract requirements. Accordingly, FSN will submit to NFDC a fully priced specification drawn up by the architect, which will include all elements of the building structure and any proposals for improving the hard landscaping of the adjacent area.
- 5.2 A contract will then be drawn up between NFDC and FSN based on the Joint Contract Tribunal's (JCT) Minor Works Building Contract, a nationally accepted standard form of contract which will form the basis for managing the building works.

## 6. Standing Orders

- 6.1 Paragraph 6.4 of the Contract Standing Orders requires that:-
- for contracts between £5,001 and £25,000 - 'At least 3 quotes must be sought. Tenders can be sought instead but this is optional',

- for contracts between £101,000 and £3,611,319 - 'At least 6 tenders must be sought'.

6.2 However, clause 10.1 of the Contract Standing Orders states that 'Any Standing Order may be waived in accordance with the following rules so long as this does not lead to a breach of EC Regulations'.

<b>Value of Contract</b>	<b>Approval Required</b>
Below £100,000	<ul style="list-style-type: none"> <li>• Service Director</li> <li>• Director of Resources</li> </ul>
Over £100,000 but below EC thresholds	<ul style="list-style-type: none"> <li>• Chief Executive</li> <li>• Director of Resources</li> </ul>

6.3 Clause 10.2 of the Contract Standing Orders states that – 'An officer may request a waiver by completing the form provided in the User Guide identifying the reasons for the request. A copy of the authorised form should be sent to Audit Services for retention with the Council Register of Contracts'. A copy of the completed form is appended to this report.

6.4 Contract Standing Orders require that any waivers shall be the subject of a written report to the next meeting of Cabinet. This report fulfils that requirement.

## **7. Financial Implications**

7.1 Negotiations between NFDC and F&S Noble Ltd. have resulted in an offer to build the basic structure of the Library Road PC building up to roof level for £171,843, which represents a saving of 3.4%, or £5,900 in real terms compared to the same structure recently completed at St. Thomas Street car park in Lymington.

7.2 Negotiating the contract rather than inviting tenders is estimated to save 30 man-hours of JPA's and NFDC's staff time. This equates to approximately £2,000 in fees.

## **8. Risk Assessment**

8.1 The primary risk in appointing the existing architect and the successful contractor from the 2006 tendering exercise is that, by re-tendering both elements, the work could be procured at lower cost.

8.2 The architect's fee represents a relatively small proportion (6%) of the total contract sum and the negotiated fee reduces this still further to 4.75 %.

- 8.3 The resource required to re-tender the design and supervision element, together with subsequently establishing a sound understanding of all the Council's requirements with a different architect, set against any potential savings, is not considered worthwhile.
- 8.4 Having subjected the construction element to competitive tender in 2006, and subsequently negotiating a price reduction for the current project with the successful contractor, the likelihood of a further tender exercise delivering worthwhile savings is considered low.
- 8.5 Set against this low expectation of further savings, the resource required to tender the construction element is not considered a good investment on this occasion. Awarding the work to F & S Noble Ltd. will also reduce the risk associated with appointing a new contractor, particularly in relation to quality of workmanship and working to a tight time scale.

## **9. Environmental & Crime and Disorder Implications**

- 9.1 The main benefits arising from construction of new public conveniences in Library Road Totton are the replacement of old, dingy and unhygienic facilities with light and airy modern ones that incorporate easily cleaned and vandal-resistant sanitary fittings.

## **10. Equality and Diversity Implications**

There are none arising directly from this report.

## **11. Recommendations**

- 11.1 It is recommended that Members should note the decision taken by the Director of Commercial Services, in accordance with paragraph 10.1 of Contract Standing Orders, and in consultation with the Director of Resources and the Chief Executive, to:-
- commission architectural services from John Pardey Architects at the reduced fee rate of 4.75% without putting the work out to tender, and
  - negotiate a contract with F.S. Noble Ltd. for the construction of the new Library Road PC without putting the work out to tender.

### **Further Information:**

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### **Background Papers:**

Contract File  
Job No 104307

## APPLICATION FOR WAIVER OF STANDING ORDERS

To: Chief Executive and Director of Resources

From: Director of Commercial Services

Date: 14 May 2007

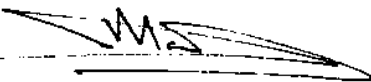
Contract: Library Road, Totton, PC rebuild

I wish to apply for a waiver of Standing Orders in relation to

1. Procuring architectural services without tendering
2. Negotiating a construction contract without tendering

and put forward the following in support of the application.

*See attached report.*

Signed 

Waiver granted

Signed 

Date 15/5/07

Signed 

Date 22/5/07

Copy of signed successful grant of waiver to be forwarded to Corporate Overview Panel and Audit Services.