

CABINET

16 January 2008

PRIMARY CARE FACILITIES (SOUTH WEST HANTS LIFT)

REPORT OF CORPORATE DIRECTORS (POLICY & GOVERNANCE)

Contact Officer: Bob Merrett/Howard Bone Tel No: 01962 848292/848552

RECENT REFERENCES:

CAB909 – 5 July 2004 East Hampshire Lift report.

EXECUTIVE SUMMARY:

The purpose of the report is to seek approval for involvement by the Council in the South West Hampshire NHS LIFT project, a funding mechanism available to public bodies to deliver infrastructure developments.

Although predominately an NHS-led project to provide future health facilities, being part of a LIFT partnership could enable the Council to use the mechanism for its own or joint projects which could be shown to demonstrate benefits to the health and well-being of the community, and are not limited to health and social care facilities. As the LIFT is a public private partnership financing arrangement and is tendered in accordance with EU tendering requirements, as a partner, it provides the Council with an alternative procurement route which could streamline the procurement process. The project in SW Hampshire is similar to the one undertaken in East Hampshire NHS areas in 2004 (CAB909 refers) and this report seeks approval to become co-signatories to the LIFT proposals.

Due to the requirements of the financial institutions involved in the LIFT project this report is set out in a format based on LIFT standard documentation which has been agreed by all participating authorities. In particular the recommendation takes a more detailed and prescriptive form than normal.

The Project has been established by the Primary Care Trusts in Southampton and Hampshire, and four local authorities in the PCT areas – Eastleigh BC, Basingstoke & Deane BC, Southampton CC and the City Council have been taking part. There is no obligation under the arrangement for any of the Councils to join in such projects – and this would be a matter for decision at the time.

RECOMMENDATIONS:

That

- 1 The Council agrees to participating in the project at level 2 (as referred to in the report);
- 2 The terms of the transactions contemplated by the Transaction Document are approved in accordance with the Council's Constitution and the Additional Documents and any ancillary or related documents to which the Council is expressed to be a party are resolved to be approved under section 4 in accordance with the Council's Constitution and that all such documents (with such amendments as may be made and agreed and approved by the action of execution in accordance with these resolutions) and all such ancillary or related documents be executed, delivered and performed on behalf of the Council;
- 3 Authority be given to any one or more of the following officers
 - Stephen Whetnall, Corporate Director (Governance)
 - Howard Bone, Head of Legal Services
 - Bob Merrett, Corporate Director (Policy)
 - Simon Eden, Chief Executiveto approve sign and/or dispatch and/or deliver the Transaction Document, the Additional Documents, all other documents and/or notices to be approved, signed and/or dispatched or delivered by the Council under/or in connection with the documents listed above and, by the act of so doing, to agree and approve any amendments made to such document; and
- 4 The Corporate Director (Governance) be authorised to certify the names and signatures of the authorised signatories set out in paragraph 2 above;
- 5 The Chairman be authorised to sign the minutes as a correct record of this meeting in advance of the next Cabinet meeting on 13 February 2008.

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DETAIL:

1 Introduction

- 1.1 LIFT (Local Improvement Finance Trust) is a procurement initiative launched by the Government in 2000. It is a type of public private partnership designed to inject capital finance to provide new (or upgraded) primary health and social care facilities such as GP surgeries and health clinics. The advantage it provides local authorities who are part of the preliminary processes and named in the EU advertisements, is that they can choose to use this model for procuring facilities for the benefit of the community and these are not limited to just health and social care facilities.
- 1.2 Under the LIFT arrangements primary care trusts select a long term private sector partner through a formal bidding process under European Community procedures. Once selected the private partner provides the capital finance to develop new primary care facilities.
- 1.3 This project was being promoted by South West Hampshire NHS Trust which, because of recent reorganisations is now being developed by Southampton City PCT, Hampshire PCT and Hampshire Partnership Trust. Eastleigh Borough Council, Southampton City Council, Basingstoke & Deane Borough Council and Winchester City Council have been involved in the development of the LIFT project.

2 South West Hampshire LIFT

- 2.1 The South West Hampshire LIFT has focused in initial development on the delivery of two primary sector health projects in Southampton and has chosen a private sector LIFT partner – GB Primary Care.
- 2.2 The LIFT model has been developed to inject private finance to provide the capital (which is limited in the NHS) to fund new buildings and the refurbishment of existing primary care and other facilities. The focus is on the provision of health, social care and other benefits to the community. This can include health centres, clinics, GP practices, community hospitals, social services provision, housing, leisure facilities and some education schemes.
- 2.3 The LIFT project team are continuing to work up the contractual information for the creation of the LIFT joint venture company and the purpose of this report is to determine the level of partnership the Council wishes to be involved in.
- 2.4 The options the Council has are
 - a) No involvement at all;

- b) To take up Lease Plus Agreements without signing the Strategic Partnering Agreement (SPA);
- c) To become a participant in the SPA but reserving the right not to include any project in the LIFT arrangement;
- d) To become a participant in the SPA with 'exclusivity'. This would commit the Council to the terms of the SPA and would mean that any new build and capital project for the enhancement of facilities for community based health and social care, subject to any exclusions that were agreed, would have to be procured through LIFT;
- e) To become a shareholder in the joint venture company established to take forward the LIFT.

2.5 The commitment and risk for the Council increases from a) to e) and although all options are open, it was always envisaged that the level of involvement would be limited to Level 2 which is c) above.

2.6 Under a Level 2 agreement the Council would largely reserve its right to include any future arrangements for social care and related development in the LIFT but without any obligation to do so. The Council would participate in the Strategic Partnering Board (SPB) but as there would be no obligation to take part there is a risk of time elapse in later years which could make any scheme coming up vulnerable to a claim that the original procurement was time expired. However, signing up at Level 3 which is d) above would mean committing the Council to the SPA and being obliged, unless exemptions were agreed, to putting new proposals to the LIFT for procurement. This would go beyond the level of Council involvement in the East Hampshire LIFT and is beyond what was envisaged for this project.

3 How Does the Lift Work?

3.1 The joint venture company known as the LIFTCo raises the capital for projects through the normal money markets. The NHS pay a rent (set in advance) over a period of 25 years that in effect meets the capital repayment of the loan plus a small profit. The LIFTCo owns the premises and the NHS is merely a tenant. The LIFTCo is responsible for the future repairs and maintenance of the buildings, not the NHS. After 25 years the NHS would have the option to renew the lease or find alternative premises.

3.2 The Strategic Partnering Board (SPB) is responsible for monitoring the performance of LIFTCo, the LIFT joint venture company, and for producing the annual Strategic Service Development Plan. Formal membership of the SPB is achieved by signing the SPA. This sets out the framework for all the agencies working together over a 25 year period.

3.3 If the City Council participates in LIFT at Level 2, its representative will sit on the Strategic Partnering Board and have voting rights but the Council will have no financial involvement unless it chooses to use LIFT as the vehicle for delivering capital projects. Through membership of the Strategic Partnering Board the City Council can help determine future health and social care strategy.

- 3.4 The financial aspects of the contractual arrangements are scheduled to be completed by February 2008 and the Council agreement to continue to be involved and at what level will need to be made before this financial close.

4 Strategic Partnering Agreement

- 4.1 The Council's representative on the LIFT Project Board, the Corporate Director (Policy), has participated in the decision to select the preferred partner for the South West Hampshire NHS LIFT scheme to establish a long term partnership with the Southampton City PCT, Hampshire PCT, Hampshire Partnership Trust, Eastleigh Borough Council and Southampton City Council.
- 4.2 LIFTCo may provide and/or procure partnering services and new and improved facilities and accommodation to the Council and/or the other participants if, and to the extent, requested by the Council and others involved in providing health and social care in the area within the County of Hampshire, the Southampton City Council area and the Districts of Winchester and Eastleigh.
- 4.3 The Strategic Partnering Agreement (referred to henceforth as the "Transaction Document") sets out the contractual relationship between the participating authorities and LIFTCo. The Transaction Document provides a framework within which LIFTCo would provide partnering services to the Council should it be requested to do so. The Council should note that entering into the Transaction Document does not oblige the Council to employ LIFTCo to provide any partnering services. Should the Council at any future time require LIFTCo to provide any partnering services, such a decision would be subject to the normal procurement requirements of the Council and to the Council entering into further agreement.
- 4.4 The latest version of the Transaction Document has been reviewed and agreed by officers who are recommending that the Council can now approve it in its current form. However negotiations will continue through to the financial elements being agreed on the final wording of the Transaction Document and delegated authority is required to enable officers to agree changes.
- 4.5 Cabinet should note the position in relation to other agreements, deeds, notices, forms, letters or other documents ("the Additional Documents") which might require signature on behalf of the Council in order for the Project to reach completion but which have not yet been drafted.

5 Powers to Enter into the Project and Transaction Documents

- 5.1 The Council has general powers specified in Section 2 of the Local Government Act 2000 to promote the economic, social and environmental well being of its area.
- 5.2 Section 1 of the Local Government (Contracts) Act 1997 empowers the Council to enter into contracts for the provision or making available of services and/assets (such as the Strategic Partnering Agreement) with other persons for the purposes of the discharge of its functions imposed or conferred upon it by statutory provisions such as those referred to in the foregoing paragraphs.
- 5.3 Section 111 of the Local Government Act 1972 gives the Council the power to do anything calculated to facilitate, or that is conducive or incidental to the discharge of any of its functions.

- 5.4 The Council has an obligation to carry out its functions effectively, efficiently and economically;
- 5.5 The Council has an obligation to comply with its statutory duties.
- 5.6 Officers have concluded (having considered, inter alia, the type and nature of the Council's own funding arrangements) that:
- 5.6.1 entering into the Transaction Document will facilitate the Council in discharging its functions, in particular to providing an opportunity to
- promote the economic, social and environmental well being of its area; and
 - carry out its functions effectively, efficiently and economically; and that:
- 5.6.2 it is within the powers and in the best interests of the Council to enter into:
- the proposed Project;
 - the Transaction Document (on the terms currently set out in the Transaction Document produced to the Cabinet; subject to such amendments as may be approved in accordance with the report recommendation); and
 - such Additional Documents as to be negotiated and agreed by the authorised officers of the Council for the time being (subject to such amendments as may be approved in accordance with the recommendation of this report).
- 6 The Council's Contract Procedure Rules require that contracts over £10,000 must be in writing and must be sealed (if so required by the Corporate Director (Governance)) or signed by two officers authorised for the purpose. As the extent of liability of the Council under the Transaction Document or any other Additional Documents will be less than £10,000, the Corporate Director (Governance) has therefore confirmed that the signature of a single authorised officer is sufficient for the Council to execute the Transaction Document, or any other Additional Documents (other than a deed, which would be sealed by the Council in accordance with the requirements of the Constitution).
- 7 Conclusions
- 7.1 The LIFTCo is an exciting project which offers significant opportunities to improve and develop primary health and social care facilities in the area. It is recommended that the Council is involved in the process and signs up to level 2 involvement. This gives the Council the right to sit on the strategic partnering board with full voting rights.
- 7.2 In order to meet the timescales of the project, it is suggested that the named officers set out in the recommendation be given delegated authority to sign any documentation required to commit to level 2 involvement and allow the LIFTCo to achieve financial close. If any changes to the extent of the Council's commitment are involved then the Leader of the Council will be consulted.

OTHER CONSIDERATIONS:8 CORPORATE STRATEGY (RELEVANCE TO):

- 8.1 The proposal relates to the Council being Efficient and Effective and in particular supports working with partner organisations to deliver improvements in quality of life across the district.

9 RESOURCE IMPLICATIONS:

- 9.1 Subject to clarification on the final terms of the draft Strategic Partnering Agreement, there are no direct capital implications for the Council at this stage. However, as with all partnership arrangements the accounting treatment would need to be considered, although only likely to impact on the Statement of Accounts, if a project was pursued under these arrangements.

BACKGROUND DOCUMENTS:

Options for Involvement of Local Authorities in NHS Lift: March 2005

APPENDICES:

None