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COUNCIL EXECUTIVE

WEST LOTHIAN LEISURE 2020/21 FUNDING AGREEMENT

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

This report seeks Council Executive approval for the 2020/21 Annual Funding Agreement between the council and West Lothian Leisure (WLL) and approval of the provisional funding amounts for the financial years 2021/22 and 2022/23.

B. RECOMMENDATION

It is recommended that Council Executive:

1. Approves the 2020/21 Annual Funding Agreement for WLL of £2.562 million.
2. Approves the provisional 2021/22 and 2022/23 Annual Funding amounts of £2.312 million and £2.053 million respectively.
3. Notes the terms and conditions set out in the agreement for all funding to be paid by the council to WLL.
4. Notes the updates made to the Annual Funding Agreement.
5. Notes the updates on WLL's Three Year Plan and 2019/20 financial performance.
6. Notes that the 2020/21 Funding Agreement will be reported to the West Lothian Leisure Advisory Committee on Thursday 30 April 2020 for information.

C. SUMMARY OF IMPLICATIONS

| | |
|---|---|
| I Council Values | Focusing on customers' needs, being honest, open and accountable, making best use of resources, working in partnership. |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | Local Government (Scotland) Act 1975, Section 90: Following the Public Pound. |
| III Implications for Scheme of Delegations to Officers | Authority for agreeing minor changes to the management fee for WLL is delegated to the Head of Finance and Property Services. |
| IV Impact on performance and performance Indicators | The council funding for WLL enables the provision of a range of cultural and leisure services. |
| V Relevance to Single Outcome Agreement | Effective prioritisation of resources will be essential to achieving the targets contained in the Single Outcome Agreement. |

| | |
|--|--|
| VI Resources - (Financial, Staffing and Property) | The council is providing WLL with core funding of £2.562 million in 2020/21. |
| VII Consideration at PDSP | None. |
| VIII Other consultations | Education Services. Ongoing discussions with West Lothian Leisure. |

D. TERMS OF REPORT

D.1 Introduction

The updated Annual Funding Agreement between the council and WLL sets out the agreed management fee to be paid to WLL by the council for 2020/21. The agreement is attached in appendix 1 with the 2020/21 Financial Reporting Arrangements with WLL detailed in appendix 2.

These detail the terms and conditions for payment of the management fee, including provision of services by WLL in accordance with the Service Agreement. The 2020/21 agreement outlines monitoring and scrutiny of the financial performance of WLL by the council and covers termination and disputes, insurance and indemnity and governance.

D.2 2020/21 WLL Management Fee

The 2020/21 WLL Management Fee is £2.562 million and is the fee paid to WLL for the provision of sports and leisure services within West Lothian in accordance with the Service Agreement.

The management fee includes £220,000 for landlord maintenance.

The management fee will be paid quarterly in advance, subject to the terms and conditions set out in the Annual Funding agreement continuing to be met by WLL.

D.3 Updates to the Annual Funding Agreement

A financial plan for WLL for the period 2019/20 to 2022/23 was reported to Council Executive on 11 September 2018. Delivery of some elements of the plan required the council to consider various requests made by WLL including a re-profiling of the WLL management fee to fund WLL severance packages.

The support for the severance packages was provided upfront by the council by re-profiling the management fee and covered WLL's severance costs of moving to a new staffing structure. The annual management fee paid to WLL by the council will be reduced over eight years, starting in 2020/21, to offset the amount re-profiled in 2018/19.

The re-profiling of the annual management fee paid to WLL by the council from 2020/21 amounts to a reduction in the annual management fee of £132,000 per year for eight years. This includes amendments as a result of the council providing total funding for severance costs of £1.053 million which is made up of the £270,000 advance funding payment made in 2018/19 and the £230,000 and £553,000 advance funding payments made in 2019/20.

A reduction in the net management fee of £250,000 has also been applied in 2020/21 as part of budget reductions approved by the council. The total saving is an overall reduction to the management fee of £1.009 million by 2022/23. This reduction is phased over four financial years with the first reduction of £250,000 having been applied in 2019/20. This will be followed by the reduction in 2020/21 of

a further £250,000, a further £250,000 reduction in 2021/22 and a further £259,000 reduction in 2022/23. The proposed annual management fee through to 2022/23 is detailed below.

| | 2019/20 | 2020/21 | 2021/22 | 2022/23 |
|-------------------------------------|--------------|--------------|--------------|--------------|
| | £'000 | £'000 | £'000 | £'000 |
| Core Funding Base | 2,974 | 2,724 | 2,474 | 2,224 |
| Approved Incremental Budget Saving | (250) | (250) | (250) | (259) |
| Core Funding | 2,724 | 2,474 | 2,224 | 1,965 |
| Voluntary Severance Advance Funding | 0 | (132) | (132) | (132) |
| Landlord Maintenance | 220 | 220 | 220 | 220 |
| Total Annual Management Fee | 2,944 | 2,562 | 2,312 | 2,053 |

D.4 WLL's Three Year Plan and 2019/20 Financial Performance

WLL are forecasting a deficit position of £10,000 for the 2019/20 financial year.

WLL advise that overall implementation of saving measures in 2019/20 is progressing, with £949,000 of savings forecast to be made against a target of £1.108 million, a £159,000 shortfall.

This shortfall has been offset by an increase to the forecast of membership income. The income target for 2019/20 includes an increase of £45,000 on the actual income achieved in 2018/19. WLL report that membership income has been steadily growing and that, to 31 December 2019, income is £231,000 above budget with a surplus of £220,000 included within the forecast for the year. The forecast allows for a potential downturn in membership income following the change to opening hours at some WLL venues. This change is part of WLL's three year plan and the effect this will have on membership levels will need to be monitored.

The 2019/20 cash position is being monitored closely with ongoing discussions between WLL and the council to ensure risk is kept to a minimum.

WLL's current three year plan is for the period 2019/20 to 2021/22. WLL's Board are planning to approve a detailed balanced budget for the 2020/21 financial year in March 2020. An update will be provided to the WLL Advisory Committee at its meeting on 30 April 2020. WLL have indicated that they are working on extending their current three year financial plan to include a high level budget for 2022/23.

E. CONCLUSION

The updated Annual Funding Agreement between the council and WLL sets out the agreed management fee to be paid to WLL by the council for 2020/21. This details the terms and conditions regarding the payment of the management fee, including provision of services by WLL in accordance with the Services Agreement.

The 2020/21 agreement sets out monitoring and scrutiny of the financial performance of WLL by the council and covers termination and disputes, insurance and indemnity and governance.

WLL's board are scheduled to approve a detailed, balanced, budget for 2020/21 and progress to implement WLL's Three Year Plan continues to be made.

F. BACKGROUND REFERENCES

Performance Reports to WLLAC in 2018/19 and 2019/20

West Lothian Leisure Three Year Plan 2019/20 to 2021/22

WLL Annual Funding Agreement 2019/20 - Report by Head of Finance and Property Services to Council Executive 26 March 2019

Applications for Re-phasing of WLL's Management Fee Pro Forma – submitted by WLL on 30 July and 13 September 2019

Voluntary Severance and Early Retirement request for support – Report by Head of Finance and Property Services – Council Executive 20 August 2019

Voluntary Severance and Early Retirement request for support – Report by Head of Finance and Property Services – Council Executive 8 October 2019

Appendices/Attachments:

Appendix 1 – Annual Funding Agreement between WLC and WLL

Appendix 2 – WLL Financial Reporting Arrangements

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Donald Forrest
Head of Finance and Property Services
24 March 2020

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Appendix 1

Annual Funding Agreement Document

Between

West Lothian Council

And

West Lothian Leisure

**For the provision of facilities for recreational, sporting,
cultural and social activities in terms of sections 14, 15
and 16 of the Local Government and Planning (Scotland)
Act 1982.**

1 April 2020 to 31 March 2021

ANNUAL FUNDING AGREEMENT DOCUMENT FOR 2020/21
FOR THE DELIVERY OF
RECREATIONAL, SPORTING, CULTURAL AND SOCIAL ACTIVITIES

Between

WEST LOTHIAN COUNCIL established under the Local Government etc (Scotland) Act 1994 and having its principal offices at West Lothian Civic Centre, Howden South Road, Livingston, West Lothian EH54 6FF

And

WEST LOTHIAN LEISURE a company which is a Scottish charity (Scottish charity number SC027470) incorporated under the Companies Acts (company number SC543017) and having its registered office at Xcite Bathgate, Balbardie Park, Torphichen Road, Bathgate, West Lothian EH48 4LA

1. MANAGEMENT FEE

- 1.1 The council agrees, subject to the terms and conditions set out in the Agreement, to pay the management fee to the West Lothian Leisure (WLL) in consideration for the provision of services by WLL in accordance with the Services Agreement.
- 1.2 The management fee due in respect of each financial year shall be payable by the council to WLL quarterly in advance, in four equal instalments, subject to receipt by the council of a valid VAT invoice issued by WLL relating to that element of the management fee. The 2020/21 management fee is shown below:
 - The council will pay £2.562 million in 2020/21 for services in relation to the WLL's role in utilising its professional management and leisure skills to manage the council's sport and recreational facilities on its behalf and for the outcomes and services detailed in the Service Specification.
 - The management fee includes a contribution towards the cost of the following specific project in 2020/21:
 - Landlords Capital Maintenance (£220,000)
- 1.3 The sum will be reviewed in advance of each subsequent financial year, and a management fee will be agreed by the council as part of the council's revenue budget for the year ahead.
- 1.4 Authority for agreeing minor revisions to the management fee with WLL is delegated to the council's Head of Finance and Property Services.
- 1.5 In the event of there being any overpayment by the council for any reason, including where it has been determined that the council has over-compensated for provision of services, the council shall be entitled to recover any sums due either by repayment by WLL to the council or by deduction from future sums due by the council to WLL under this or any other agreement between the parties.
- 1.6 WLL shall keep secure and maintain until two years after the final payment of all sums due under the Agreement, full and accurate records of all expenditure incurred by the WLL in its performance of those services, and of all payments made to it by the council, by service users or by third parties in that regard.

2. 2018/19 ADDITIONAL FINANCIAL SUPPORT FOR ONE-OFF STAFFING COSTS

- 2.1 The council provided WLL £270,000 of additional funding in 2018/19 in a re-profiling of the management fee to cover one-off staffing costs required to deliver the 2018/19 savings, as agreed by Council Executive.
- 2.2 The management fee provided by the council will be reduced in eight equal annual instalments of £33,750 commencing in 2020/21 and ending in 2027/28.

3. 2019/20 ADDITIONAL FINANCIAL SUPPORT FOR ONE-OFF STAFFING COSTS

- 3.1 The council provided WLL £783,000 of additional funding in 2019/20 in a re-profiling of the management fee to cover one-off staffing costs required to deliver the 2019/20 savings, as agreed by Council Executive.
- 3.2 The management fee provided by the council will be reduced in eight equal annual instalments of £97,875 commencing in 2020/21 and ending in 2027/28.

4. RESCHEDULING OF DEBT PAID THROUGH SELF-FINANCING

- 4.1 As part of the 2019/20 funding agreement, the council rescheduled debt due to the council from WLL, paid through self-financing. The total overall value of repayments due by WLL to the council has not changed. The total debt has been combined and will be paid back in equal instalments each year by WLL starting from 2019/20.

5. MONITORING

- 5.1 The council is obliged to set, and thereafter monitor and control, the amount of management fee paid and/or payable by the council to WLL.
- 5.2 WLL will maintain financial records in relation to work planned and undertaken and will provide the following financial information to the council on a regular basis:
 - Forecast trading account and balance sheet
 - Projected Cash-flow for the remainder of the financial year
 - Key assumptions used to compile forecasts
 - Update on key risk areas e.g. income generation from memberships
 - Material movements from previously reported position
 - Potential impact of the projected financial position on the council
- 5.3 Generally this reporting will be every two months in line with committee timetables, to allow a separate finance report to be prepared and presented to the West Lothian Leisure Advisory Committee by the council's Head of Finance and Property Services. Council Executive revenue budget monitoring reports at period 4, 6 and 9 will contain a specific section on WLL to give an update on financial performance.
- 5.4 An annual timetable will be provided to WLL by the council prior to the start of the financial year confirming when the financial information will need to be submitted. Timescales will be in line with the approved committee cycle meetings of the West Lothian Leisure Advisory Committee.
- 5.5 The annual timetable will include the requirement for WLL to provide a detailed and balanced budget for the following financial year and the requirement for longer term budget strategy to ensure financial sustainability of the organisation.
- 5.6 The annual timetable will be updated as required to reflect any conditions agreed by Council Executive.

- 5.7 WLL will submit to the council as soon as possible, but not later than mid September each year, its annual report and accounts audited by a qualified accountant, and will allow inspection of its accounting records by officers of the council if requested, within 14 days notice of receiving a written request to that effect.
- 5.8 Financial performance will be reviewed in depth on an annual basis. The annual review will build on the regular meetings of the council/WLL review group and liaison between the liaison officers. This review will use the WLL final accounts and related audit reports.
- 5.9 WLL will demonstrate, to the reasonable satisfaction of the council, the existence and implementation of internal quality assurance systems to ensure effective working practices and robust financial systems are in place and appropriate to the standards required by the council and the needs and wishes of the service users.
- 5.10 WLL will demonstrate, to the reasonable satisfaction of the council, the existence and implementation of budgetary control processes which enable effective monitoring and quality financial control of the Service.
- 5.11 When requested by the council in writing, WLL will provide in a form agreed with the council, all and any information and documentation relevant (and no matter in what form that information is stored), in the reasonable opinion of the council, to demonstrate the quality of the service and to allowing the council to monitor, assess and evaluate the Provision of the Service by WLL.
- 5.12 WLL shall provide to the council all inspection reports or any other documents making recommendations by or setting out requirements from the Office of the Scottish Charity Regulator relating to the Services, and of any proposals by the Commission to cancel WLL's registration, within seven working days of receipt by the WLL.
- 5.13 The council reserves the right to commission, at its own cost, internal or external evaluations of the financial performance of WLL to which WLL will provide any information requested.

6. TERMINATION AND DISPUTES

- 6.1 This agreement may be terminated by either party giving the other six months' notice in writing of its intention to do so.
- 6.2 If WLL has a receiver or administrator appointed, becomes insolvent, apparently insolvent, or is sequestrated or signs a Trust Deed for the behoof of its creditors, or goes into liquidation (other than voluntary liquidation for the purposes of reconstruction or amalgamation) or is wound up by the Court or is voluntarily wound up by creditors or by members, the council may terminate the Agreement by written notice with immediate effect.
- 6.3 If in the opinion of the council, WLL commits a material breach of the terms and conditions of the Annual Funding Agreement document then the council may terminate the Agreement by written notice with immediate effect.

7. INSURANCE AND INDEMNITY

- 7.1 WLL shall be responsible for ensuring that appropriate and adequate insurance is maintained throughout the duration of the funding agreement for employer's liability, public liability, professional liability, malpractice, building and contents, and will on request provide evidence to the Purchaser that such cover has been affected and all due premium payments have been paid.
- 7.2 If WLL has motor vehicles utilised for the purposes of the service users therein, they shall maintain appropriate vehicle and passenger insurance and shall supply to the purchaser,

on request, copies of all or any of the relative policies with confirmation that all due premium payments have been paid.

- 7.3 WLL shall indemnify the purchaser fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities in respect of any financial loss, death or personal injury, or loss of or damage to property unless WLL is able to demonstrate that such financial loss, death or personal injury or loss of or damage to property was not caused or contributed to by their negligence or default or the negligence or default of their staff or any circumstances within their control. WLL shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of these risks.

8. GOVERNANCE

- 8.1 In signing this agreement WLL is agreeing to the conditions of funding as set out in this Annual Funding Agreement and in the Services Agreement.

Signed on behalf of the Council

Signature:

Name: Donald Forrest

Position: Head of Finance and Property Services

Date:

Signed on behalf of WLL

Signature:

Name: Tim Dent

Position: Chief Executive

Date:

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Appendix 2

2020/21 FINANCIAL REPORTING ARRANGEMENTS WITH WEST LoTHIAN LEISURE

FINANCE REPORT ON WEST LoTHIAN LEISURE BY COUNCIL TO WEST LoTHIAN LEISURE ADVISORY COMMITTEE

1. BACKGROUND

The council's Head of Finance and Property Services will present a financial report to the West Lothian Leisure Advisory Committee (WLLAC) at each of its meetings covering the financial performance of West Lothian Leisure (WLL). The various reports presented over the course of the year will include an update on budget development and approval, WLL audit reports and projected outturns in relation to the trading and cash-flow, focussing on key risks and potential implications for the council.

2. REPORTING ARRANGEMENTS FOR REMAINDER OF 2019/20 COMMITTEE CYCLE

Committee meetings are scheduled for 30 April and 18 June. The financial information to be covered in the reports at each of the meetings will include the following:

| Date of WLLAC Meeting | Key areas to be covered in financial report for WLLAC | Financial Information to be provided by WLL to WLC |
|-----------------------|--|---|
| 30 April 2020 | <ul style="list-style-type: none">• Approved budget for 2020/21• Update on WLL three year plan• WLL Annual Funding Agreement | <ul style="list-style-type: none">• Latest projected outturn report for 2019/20 including trading account, balance sheet and cash-flow• Approved budget for 2020/21 |
| 18 June 2020 | <ul style="list-style-type: none">• Final accounts for 2019/20• Projected Outturn for 2020/21• Update on three year plan | <ul style="list-style-type: none">• Report on final accounts for 2019/20 including trading account, balance sheet and cash-flow• Projected outturn report for 2020/21 including trading account, balance sheet and cash-flow |

The following timetable outlines the key dates and tasks required to allow reports to be prepared and presented to the WLLAC for approval at these remaining meetings:

| | | | | |
|--|---------------------------------|---|--|--|
| WLL to provide latest financial information to WLC * (Head of Finance, WLL) | WLC/WLL Review Group Meeting ** | Agree Financial report with Head of Finance & Property Services (E Brownlee) | Financial Report to Committee Services (E Brownlee) | Present Report at WLLAC Meeting (D Forrest) |
| 08/04/20 | 14/04/20 | 22/04/20 | 23/04/20 | 30/04/20 |
| 27/05/20 | 02/06/20 | 10/06/20 | 11/06/20 | 18/06/20 |

*financial information to be provided to Esma Brownlee, Accountant in WLC four working days prior to WLC/WLL review Group Meeting

**includes discussion on financial performance

3. REPORTING ARRANGEMENTS FOR 2020/21 COMMITTEE CYCLE

The timetable below outlines the key dates for 2020/21 financial reporting and the areas to be covered within each report. This will be updated once consultation with WLL on future meeting dates is complete.

| Information to be reported* | WLL to provide latest financial information to WLC | WLC/ WLL Review Group Meeting** | Agree Financial report with Head of Finance & Property Services | Financial Report to Committee Services | WLLAC Meeting |
|--|--|---------------------------------|---|--|---------------|
| Period 3 forecast 20/21 | August 2020 | TBC | TBC | TBC | TBC |
| Period 5 forecast 20/21 | October 2020 | TBC | TBC | TBC | TBC |
| Period 7 forecast 20/21 | November 2020 | TBC | TBC | TBC | TBC |
| Detailed budget for 21/22 | December 2020 | TBC | TBC | TBC | TBC |
| Period 9 forecast 20/21 | February 2021 | TBC | TBC | TBC | TBC |
| Period 11 forecast 20/21 Budget update 21/22 | April 2021 | TBC | TBC | TBC | TBC |
| Draft accounts 20/21 Latest forecast 21/22 | May 2021 | TBC | TBC | TBC | TBC |

*information not to be restricted to this and may include other relevant financial updates which will be requested in advance

**exact dates to be confirmed, but meeting will be held in advance of the deadline for agreeing the financial reporting information with the Head of Finance and Property Services

The approved budget and final outturn will be presented to the WLLAC meeting immediately after these tasks are finalised by WLL. In addition to these tasks, each committee meeting will consider the latest forecast position from WLL. The financial information required for each meeting in respect of the latest projected outturns should include:

- Forecast trading account and balance sheet
- Projected cash-flow for the remainder of the financial year

- Key assumptions used to compile forecasts
- Update on key risk areas e.g. income generation from memberships
- Material movements from previously reported position
- Potential impact on the council

The financial information should be provided, in excel format, by the WLL Head of Finance of West Lothian Leisure to Esma Brownlee (Accountant, Financial Management Unit) a minimum of four working days prior to the WLC/WLL Review Group.

In addition to the existing routine monitoring and scrutiny to the WLLAC, the Head of Finance and Property Services will include updates on the WLL financial position to the Council Executive within the Revenue Budget monitoring reports at period 4, 6 and 9 throughout the 2020/21 financial year and beyond.

4. ADDITIONAL INFORMATION TO BE PROVIDED

WLL will submit to the council by mid September each year its annual report and accounts audited by a qualified accountant, and will allow inspection of its accounting records by officers of the council if requested, within 14 days notice of receiving a written request to that effect. This will allow further review of WLL's annual financial performance at the WLL Review Group before being reported to WLLAC.

In addition, with the agreement of the WLL Chief Executive, future audit reports will be presented to the WLLAC once these become available.

5. ADDITIONAL FUNDING

This document will be updated, as required, if any additional funding for 2020/21 is agreed by Council Executive.