

DECISION-MAKER:	CABINET
SUBJECT:	GUILDHALL – CONTRACT EXTENSION
DATE OF DECISION:	13 FEBRUARY 2012
REPORT OF:	CABINET MEMBER FOR RESOURCES, LEISURE AND CULTURE

STATEMENT OF CONFIDENTIALITY

Confidential Appendix 1 of this report is not for publication by virtue of categories 3 and 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules as contained in the Council's Constitution. It is not considered to be in the public interest to disclose this information because this appendix contains confidential and commercially sensitive information which would, if made public, be in breach of the confidentiality clause in the current contract and may impact on the integrity of any commercial procurement process and the Council's ability to achieve 'best value' in line with its statutory duties.

BRIEF SUMMARY

Cabinet is asked to approve extending the current Southampton Guildhall Management Contract with Live Nation (Music) UK Limited for a further 10 years to February 2023 and an option to 2028.

RECOMMENDATIONS:

- (i) To approve an extension of the existing Southampton Guildhall management contract with Live Nation (Music) UK Limited for an immediate 5 years from February 2013 to February 2018 and a joint commitment to extend for a further 5 years from February 2018 to February 2023 subject to the building fabric being of sufficient standard to provide the contract areas as fit for purpose.
- (ii) To delegate authority to the Head of Legal, HR and Democratic Services to do anything necessary to give effect to this decision
- (iii) To delegate authority to the Head of Legal, HR and Democratic Services after consultation with the Director of Economic Development and the Cabinet Member for Resources, Leisure and Culture, to amend or vary the contract and, if necessary, extend the contract for the remaining 5 year term to the maximum term permitted in the contract of 25 years from February 2023 to February 2028.
- (iv) Subject to full Council agreement to add the proposed works to the Guildhall to the Leisure and Culture Capital Programme on 15th February 2012; to approve in accordance with Financial Procedure Rules, capital expenditure totalling £519,000, phased £110,000 in 2012/13, £170,000 in 2013/14 and £239,000 in 2014/15, from the Leisure and Culture Capital Programme to carry out works at the Guildhall as set out in paragraph 22.

REASONS FOR REPORT RECOMMENDATIONS

- 1 Southampton Guildhall is the iconic back drop to the new Guildhall Square which has already seen many successful large scale public events following its £4.5m refurbishment in 2010. With the £15m SeaCity Museum opening in April 2012 and the £21m new arts complex opening in 2015, the Guildhall should remain open to the public, contributing to the Cultural Quarter identity with a vibrant and inclusive programme of events.
- 2 On 15th March 2010, Cabinet approved extending the contract for a further 15 years to February 2028.
- 3 Following the Cabinet decision, external factors emerged that had a direct impact on extending the Guildhall contract as approved. These were the unprecedented reduction in local government funding; the economic downturn which affected forecasts for Southampton Guildhall profitability which prompted a review of the suitability and affordability of the contract extension by both parties.
- 4 The main issue for consideration is that extending the contract puts a contractual commitment on the Council to keep the building in a defined state of repair. The building condition definition of “Fit for Purpose” is that the Council will provide the Guildhall, Solent Suite and Lecture Theatre in a sufficient state of repair for Live Nation to safely open the building to staff and the public in order to provide the Service.
- 5 Options considered and rejected are summarised below and detailed in the attached Confidential Appendix 1.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 6 **Option 1** – Do nothing. Let the contract expire 10 February 2013. Repair issues will remain unsolved. Could deliver revenue budget savings for the Council, but would leave an empty, inactive Guildhall at the heart of the newly refurbished Guildhall Square and Cultural Quarter. Unascertained annual mothballing costs.
- 7 **Option 2** – 5 year + 5 year commitment as per recommendation (i) above. This option allows the contract to expire at the end of the initial 5 years at no cost to the Council, should the building condition survey work being undertaken before 2015 indicate significant unbudgeted capital expenditure in addition to the £519k urgent capital work identified in paragraph 22.
- 8 **Option 3** – 10-year extension. No option to break earlier if building fabric beyond economic repair except at normal 5-yearly break.
- 9 **Option 4** – 5-year extension, greater Council subsidy than option 2 or 5, no extension.
- 10 **Option 5** – 15-year extension approved by Cabinet in March 2010. No option to break earlier if building fabric beyond economic repair except at normal 5-yearly break.
- 11 **Option 6** – Let the contract expire 10 February 2012, take the service back in-house. Greater Council subsidy than options 2 or 5.

- 12 **Option 7** – Renegotiate existing contract and specification which expires on 10 February 2013. Not deliverable as this proposal suggests a significant renegotiation of the existing contract and that would be illegal.
- 13 **Option 8** – Public procurement for a new services provider to start when the current contract expires 10 February 2013. There is little hope of securing an alternative provider given the limited number of alternative venue operators and the Council’s aspirations to further reduce the service subsidy. Further, there may now be insufficient time available to carry out such a procurement process and leave adequate time for demobilisation and mobilisation issues. Based on consultation with contributors for the previous Cabinet report and 2010-11 experience with outsourcing services, the unbudgeted procurement costs are likely to be circa £90k.

DETAIL (Including consultation carried out)

- 14 On 25 November 2002, Cabinet approved formally entering into contract, agreed on behalf of the cross party working group, with Clear Channel Entertainment (Music) UK Ltd. Cabinet approved a management contract for an initial term of 10 years with an option to extend for any period up to 25 years in total. The contract commenced on 10 February 2003. Following company restructures in 2006 and again in December 2009, the contracting company is now called Live Nation (Music) UK Limited.
- 15 The contract areas managed by Live Nation are: Southampton Guildhall and all dressing rooms; the Solent Suite; North entrance Lecture Theatre, North entrance Advance Tickets Box Office and cash office behind.
- 16 Extending the contract for an immediate 5 years plus a conditional commitment to extend for a further 5 years allows both parties to assess the true condition of the fabric of the building with the option to end at year 5 if the building is unsustainable. The initial 5 year plus second 5 year commitment will deliver external capital investment in the Guildhall toilets, provide new opportunities for additional subsidy reductions through profit-share and deliver the same or better level of customer service. There are no service reductions.
- 17 The proposal has been subject to detailed discussion with the Live Nation Chief Operating Officer.

RESOURCE IMPLICATIONS

Revenue

- 18 The current contract has delivered the externalisation financial objective of reducing the Guildhall net subsidy from the in-house run service subsidy of £390,000 in 2001/02 to £228,000 in 2011-12.
- 19 Extending the contract will require the Council to increase the Guildhall contract revenue budgets by CPI each year to provide sufficient funds to meet the annual net subsidy.
- 20 It will not be appropriate for the Council to rely on receiving any profit-share payments to balance the budgets as these may not be triggered. Live Nation company Financial Year End is 31st December and final accounts take several months to produce. Qualification for a profit share payment to the Council will not be known until 15 months after the April in each year.

Capital

21 The Senior Manager - Property, Procurement and Contract Management has confirmed in Table A below, the highest likelihood of imminent building failure which will need to undertaken regardless of which option is adopted.

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Table A - Replacement	2012/13	2013/14	2014/15	Total
Heating system	£20,000	£80,000	£154,000	£254,000
Roof and stonework	£25,000	£50,000	£50,000	£125,000
Professional Fees (Capita)	£20,000	£20,000	£10,000	£50,000
Testing and thermographic imaging	£40,000			£40,000
Contingency	£5,000	£20,000	£25,000	£50,000
Total	£110,000	£170,000	£239,000	£519,000

23 Table A costs are estimates and will need to be validated. Until the Council undertakes non-destructive testing and thermographic imaging it will not be possible to tell whether the heating system replacement costs can be reduced.

24 Full Council will be asked to approve the addition of £519,000 to the Leisure and Culture Capital Programme on 15th February, funded from Council resources. Prior to completing extended contract formalities, both sides need comfort that a fully funded capital scheme is in place to address the known high risk premises defects as set out in 22 above. Submitting a capital request later in the year risks the existing contract expiring before being completed and signed by both parties.

Property

25 Regardless of which option is adopted and capital expenditure as set out in paragraph 22, it will still remain the responsibility of the Council to inspect, service and maintain all the utility services, and fabric and facia of the Grade 2* Listed Building. Corporate property budgets through Civic Buildings currently meet the costs of statutory testing and inspection. There are currently no budget provisions within the Leisure and Culture Portfolio or to meet the costs of premises inspections, reactive repairs or planned maintenance.

26 Live Nation would be happy to accept the Council's remedial approach to maintaining the Guildhall heating and other repair and maintenance issues as set out in paragraph 22 for the next 5 years. This allows the Council sufficient time to establish realistic premises liability costs and if necessary set aside an additional Capital budget to undertake essential repairs to maintain the building fit for purpose.

- 27 There has been regular and persistent customer dissatisfaction with the Guildhall toilets which are prone to flooding and overflowing. Live Nation will fund and undertake a feasibility study within 24 months of contract extension to establish the indicative costs of toilet refurbishment and to explore options to remedy the insufficient waste water capacity within the Guildhall
- 28 In an attempt to address toilet overflows, the sand accumulation has been removed from the external waste water sumps, following which, there have been far fewer overflow problems reported within the past 3 months of operation even though there has been a large number of concerts and events. The problems may have been partially resolved provided regular waste pipe de-scaling and sump clearing is undertaken.
- 29 None of the contract areas or shared areas are included in the Civic Centre Accommodation Refurbishment Project (ASAP). Therefore no contract areas have been improved or upgraded, nor will be, as part of that project.
- 30 An additional future funding liability for the Council is the 1927 original Guildhall Compton Organ. Due to the uniqueness of the organ and English Heritage accreditation, this instrument was excluded from the current contract and will remain a Council responsibility. During 2008/09, the keyboards, consoles, power supply and blower underwent a £40k capital budget repair programme to keep the organ operational for a further 8-10 years.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

- 31 The Council has the power to provide the Guildhall and Solent Suite facility under section 145 Local Government Act 1972. Power to provide the facility includes power to engage a contractor to provide it.

Other Legal Implications:

- 32 Cabinet approval is required on 13 February 2012 in order to provide both the Council and Live Nation reasonably sufficient time to undertake long term financial forecasting. The sooner that the position is resolved the more Live Nation will feel able to confirm Guildhall bookings for 2013 and beyond with sufficient certainty that the Council is committed to extending the partnership beyond February 2013.
- 33 Many months of detailed work will be needed to fully develop and finalise with sufficient detail and clarity all of the agreed terms of the proposals before they can be imported into the contract wording through a Deed of Variation.
- 34 The Deed of Variation will include revisions already agreed by both parties; new definitions, revised profit share terms, exterior use of Guildhall Square to service Guildhall events, Live Nation conditional capital expenditure commitments, trigger for not extending the contract after the first 5 years.

- 35 The current and extended contract provides break options at 5-yearly intervals of the anniversary with eighteen months written notice by either party.
- 36 With the exception of Option 2, the party invoking termination at the 5-yearly break option picks up all the associated costs including but not limited to; TUPE, booking cancellation, hire agreements, service contracts termination and service cessation.

POLICY FRAMEWORK IMPLICATIONS

- 37 This proposal is consistent with the Council priority to deliver low cost, efficient, customer centred services.

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KEY DECISION? Yes

WARDS/COMMUNITIES AFFECTED:	None
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SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

Appendices

1.	Confidential Appendix 1 – Southampton Guildhall – Management Contract Extension
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Documents In Members' Rooms

1.	None
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Integrated Impact Assessment

Not required as business as usual. Extension of existing contract which does not change the service.	NO
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Other Background Documents

Integrated Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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