

DECISION-MAKER:	CABINET		
SUBJECT:	SOUTHAMPTON GUILDHALL - MANAGEMENT CONTRACT EXTENSION		
DATE OF DECISION:	15 MARCH 2010		
REPORT OF:	CABINET MEMBER FOR LEISURE CULTURE AND HERITAGE		
AUTHOR:	Name:	Nigel Greene	Tel: 023 8083 3419
	E-mail:	Nigel.greene@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

Appendix 1 of this report is not for publication by virtue of categories 3 and 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules as contained in the Council's Constitution.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.

SUMMARY

Cabinet is asked to approve extending the current Southampton Guildhall Management Contract with Live Nation (Music) UK Limited for a further 15 years to 2028.

RECOMMENDATIONS:

- (i) To delegate authority to the Solicitor to the Council, following consultation with the Executive Director for Neighbourhoods and the Cabinet Member for Leisure, Culture and Heritage, to finalise and enter into a contract and any other associated documentation to extend the current Southampton Guildhall Management Contract with Live Nation (Music) UK Limited; formerly Clear Channel Entertainment (Music) Limited; for a further 15 years to the maximum Term permitted in the Contract of 25 years to 10 February 2028.

REASONS FOR REPORT RECOMMENDATIONS

1. Extending the Contract will deliver external capital investment in the Guildhall toilets, provide new opportunities for additional subsidy reductions and deliver the same or better level of customer service. It will also avoid unbudgeted public procurement costs.
2. Cabinet approval is required in spring 2010 in order to get the legal formalities in place around August 2010. This timetable is intended to avoid the small, but potential risk, of Live Nation changing its mind at a later date about agreeing to extend the Contract, which would then leave insufficient time for the Council to undertake a public procurement process.

3. Not extending the Contract will result in closure of the Guildhall in February 2013 or trigger a public procurement process.
4. Southampton Guildhall is the focal point of the soon to be refurbished Guildhall Square and is a key partner in the Cultural Quarter. With the New Arts Complex expected to open at some point in the future, it is essential that the Guildhall remains open to the public and contributes to the Cultural Quarter identity with a vibrant and inclusive programme of events.
5. If the Contract is extended, in line with their original tender proposals, Live Nation will provide a document setting out new and renewed commitments to be appended to the Contract. This will include commitments to; undertake capital improvements to refurbish the toilets; will increase participation; will continue the social events; will work with schools, universities and local communities to further encourage community usage of the venues and will continue to use their international buying power to bring a wide range of entertainment to the city.

CONSULTATION

6. Draft versions were circulated for comment to Council colleagues as per the consultation list below. Live Nation has cleared the final draft versions of this report.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

7. **Option 1 – Do nothing.** Let the Contract expire and close the Guildhall on 13 February 2013. This option would deliver significant 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.
8. **Option 2 – Do nothing let the Contract expire and take the service back in-house from 11 February 2013.** This will trigger significant unbudgeted TUPE/Pension liabilities for the Council plus other significant unbudgeted one-off transfer costs.
9. **Option 3 – Re-negotiate the terms as part of the agreement to extend the contract.** Legal Services has advised that re-negotiating the terms to the extent that there is a “material deviation” from the original bargain would mean that it would need to be regarded as effectively, a new contract and therefore a new contract which would need to be the subject of a public procurement process under the Public Contracts Regulations 2006.
10. **Option 4 – Procurement.** If there is a lack of political support to extend the Contract, Cabinet will need to consider a future Cabinet Report to approve a formal public procurement process before the end of August 2010.

DETAIL

11. On 25 November 2002 Cabinet approved formally entering into contracts, negotiated and 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. 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.

12. 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.
13. Since taking over the management of the Guildhall, Live Nation has presented artists and performers at the Guildhall that would not otherwise have come to Southampton as the Guildhall maximum capacity is only 1749. Live Nation has delivered and exceeded expectations measured annually against their 2002 procurement promises and delivered the Council requirements as set out in the Service Specification.
14. The contract is monitored monthly and performance is discussed at quarterly contract monitoring meetings. An annual service review Briefing Paper is presented to the Cabinet Member for Leisure Culture and Heritage in spring each year. Mystery shopper exercises demonstrate consistently high levels of customer satisfaction with the venue staff and events programme. All the Council staff that TUPE transferred in 2003 are still in post or have been promoted to higher positions.
15. Customer satisfaction feedback through letters and service monitoring show there is ongoing and persistent customer dissatisfaction with the outdated Guildhall toilets and high bar prices.
16. The Service Specification will be updated but essentially remain unchanged. It will contain the original Live Nation commitments and new promises as measurable targets and performance measures. Services provided to customers will improve or remain the same or. There are no service reductions.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

17. As part of their 2002 tender bid, Live Nation gave a capital expenditure commitment to spend circa £200k; £50k on a new accessible disabled toilet and £150k on a capital refurbishment of the Guildhall and Solent Suite bars, and the sales area under the Balcony. This was delivered to a high standard in 2004-5.
18. The current Contract has delivered the externalisation objective of securing external capital funding. Since 2005, in addition to their tender promises, Live Nation has delivered a further **£170k** of capital improvements to at no cost to the Council:-
 - 2005-6 New Auditorium Carpet £70k.
 - 2006-7 New Public Address System (in-house PA) £50k.
 - 2007-8 Roof Space and over stage safety improvements £20k.
 - 2008-9 Installation of safety lines and working at height improvements £10k.
 - 2009-10 Awaiting Listed Building Consent for further weight loading upgrades to the over-stage area £20k.

Revenue

19. Extending the Contract will commit the Council to increasing the externalised services revenue budgets by RPI each and every subsequent financial year to provide sufficient funds to meet the net subsidy. It will not be possible for the Council to rely on the profit share payments to balance the budgets as these will not be known until the following March of each calendar year. This is because Live Nation financial year end is 31st December and final accounts take several months to finalise.
20. The annual service subsidy is commercially sensitive and is detailed in the Revenue section of the Confidential Appendix 1.
21. In order to provide the contract area venues “Fit for Purpose” it will remain a Council responsibility to inspect, service and maintain all the utility services, fabric and facia of the Grade 2* Listed Building. All planned and reactive repairs to the building and maintenance of the historic Compton Organ will need to be funded as part of the centralised R&M programme. There are no budget provisions within the Leisure Culture and Heritage Portfolio to meet the costs of premises inspections, reactive repairs or planned maintenance costs.

Property

22. All the options as outlined above, with the exception of Option 1 would commit the Council to maintain the Guildhall “Fit for Purpose”. See 21 above.
23. The Contract areas are not included in the Civic Centre Accommodation Refurbishment Project (ASAP) and therefore will not be improved or upgraded as part of that project.
24. There is regular and persistent customer dissatisfaction with the Guildhall toilets which are prone to flooding and overflowing on a regulator basis. To improve this satisfactorily, all the flooring, waste pipes, urinals, pedestals, cisterns, hand basins and foul drainage need to be completely refurbished. A feasibility study is required to establish the costs of refurbishment and to explore options to remedy the insufficient waste water capacity within the Guildhall. Live Nation have committed a significant sum of money to fund improvements to the toilets within the first four years of the extended contract.

Other

Procurement Route

25. If the contract extension option is not supported, the Council will need to allow the Guildhall to close in 2013, or agree to fund a public procurement process.
26. If the procurement option is pursued, it will be necessary to produce completely new contract documentation including developing from scratch, a premises lease which does not exist for the current contract. In addition to internal re-charges, professional fees will be charged by Capita Property Services to provide building condition surveys and set out new premises management agreements. These will be additional external costs to the Council as none of these costs are allowed for in the partnership agreement.

27. The procurement would need to start in September 2010; would take between 12 and 15 months and needs to be undertaken in sufficient time to allow for the possibility of a failed process, i.e. no qualifying bids. If there is a successful bid, a further 9 to 12 months post-award of contract is required to supply complex due diligence information to the new contractor and to effectively manage the transition.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

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

Other Legal Implications:

29. The current Contract clause 28.2.2 provides break points at the 5th, 10th and 15th anniversary with eighteen months written notice by either party. This should provide sufficiently flexible options for both Live Nation and the Council. A further break at the 20th Anniversary will be considered as part of the legal formalities.
30. In recent discussions to agree the contract extension, Live Nation confirmed that there are no issues or concerns for them in respect of the Royal Pier Development and how that might impact on the future viability for the Guildhall.
31. Legal services have advised that Contract clause 28.2.1 should be reworded. This will need to be an agreed variation to the current contract as part of the extension legal formalities. This is to avoid conflict with any new or emerging capital projects.

POLICY FRAMEWORK IMPLICATIONS

32. This proposal is consistent with the City of Southampton Strategy, Strategic Objective 5; **to provide imaginative arts and cultural opportunities.**
33. This proposal is consistent with the Council's aspirations to place the Guildhall at the heart of the sense of place that will be the **Cultural Quarter**. The Guildhall General Manager is a member of the Cultural Quarter Development Group.
34. This proposal is consistent with the 2006 Design Specification for **Guildhall Square** which set out the Council's aspirations and detailed proposals for a high quality public realm; *"To transform the Square into a 'special place' designed as an external stage setting for temporary/seasonal and performance events for the proposed SNAC, as well as the Guildhall and other city events. This high quality flexible space, at the heart of the emerging Cultural Quarter, will be a place to sit and enjoy, incorporating water and/or light and public art projects in a design that respects the primacy of the Guildhall portico, creating a functional space of real sense of place and distinction"*

