

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD3107

Title: Crystal Palace National Sports Centre Contract Extension

Executive Summary:

Greenwich Leisure Limited (GLL) manage the provision of leisure management services at the Crystal Palace National Sports Centre (CPNSC). The current contract between the Greater London Authority (GLA) and GLL (the "CPNSC Contract") is due to expire on 31 March 2023. The GLA is progressing with the development of detailed proposals for a comprehensive capital works programme at the CPNSC. Based on specialist leisure consultancy advice and the current programme for the delivery of these capital works, it is not considered a suitable time to procure an alternative or long-term operator for the site. It is proposed to extend the CPNSC Contract for a period of up to four years on a 3 + 1 option.

Within the proposed extension period, a capital works programme for the CPNSC will be under delivery, aligning with the future procurement of a long-term operator for the site.

Decision:

That the Mayor approves:

- the extension of the CPNSC Contract for a period of up to four years from the 1 April 2023 (three years with an option in favour of the GLA to extend for one further year)
- a related exemption from the requirements of section 9 of the GLA's Contracts and Funding Code
- expenditure as set out in detail in the Part 2 of this decision paper, associated with the CPNSC Contract.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

23/3/22

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1 The London Development Agency (LDA), GLA Land and Property (GLAP) and subsequently the Greater London Authority (GLA) have occupied the Crystal Palace National Sports Centre (CPNSC) under a 125-year lease from the London Borough of Bromley.
- 1.2 GLL were procured by the LDA in partnership with Sport England in 2004 to provide leisure management services at the CPNSC under a leisure management contract dated 1 October 2004 (CPNSC Contract). The CPNSC Contract was varied and extended between the LDA and GLL in 2009. Under the Greater London Authority and London Development Agency Transfer Scheme 2012, all rights and liabilities of the LDA transferred to the GLA (including the CPNSC Contract) and, in 2014, the GLA transferred all its rights, obligations and liabilities under the CPNSC Contract to GLAP. In April 2022, GLAP subsequently transferred all its rights, obligations and liabilities under the CPNSC Contract back to the GLA.
- 1.3 The CPNSC Contract has been further varied, most recently in: 2021 (approved under cover of MD2746), moving the expiry date to 31 March 2023; and 2022 (approved under cover of MD2910) to reflect an open book-book approach between GLAP and GLL as well as providing retrospective approval for expenditure under an open-book approach from April 2020.
- 1.4 The CPNSC is in urgent need of major capital investment. Following a detailed feasibility study and outline business case, investment was secured to deliver significant capital works at CPNSC (also approved under cover of MD2910). The GLA is progressing with the development of detailed design proposals, and the programme for redevelopment of the CPNSC which will run from 2023 for the duration of the proposed extension period. This remains subject to a confirmed contractor procurement strategy and finalisation of project scope.
- 1.5 Throughout the contract term, GLL have managed CPNSC, increasing a range of sporting activities and have worked with the LDA, GLAP and the GLA to reduce the financial impact of running the centre. They have provided a good level of service, often in difficult circumstances and have provided continuity during what has been a period of uncertainty, particularly given the added pressures on the leisure industry in recent years.
- 1.6 In 2021 MD2746 set out that within the proposed extension period specialist consultant, Max Associates, will assess the current appetite and market engagement for a full procurement of the operational contract at the CPNSC. This assessment would also consider the emerging development schedule for capital works and would give a view on the most appropriate time for a full procurement of a long-term operator.

Current status

- 1.7 As recorded in MD2746 Max Associates has assessed current market appetite for a full procurement exercise to identify and appoint a long-term operator, taking into account the emerging programme for capital investment. They have advised the GLA that such a procurement is not appropriate at this time the reasons set out at paragraphs 1.8 to 1.13 (inclusive) below.
- 1.8 Under cover of MD2910 the Mayor approved an ambitious high-level timetable which envisioned that construction works could potentially commence in 2023. However, the comprehensive redevelopment of the centre is a complex project. A more detailed capital works programme has now been developed alongside professional consultants, and these proposals remain subject to forthcoming surveys and necessary consents. It is considered inappropriate for any new operator to

be taking on the centre through such a complex period of capital works delivery which will result in parts of the centre being closed at various times to enable construction work.

- 1.9 GLL has significant organisational knowledge on the operation of the CPNSC. This will be important in supporting the development of the capital works investment, which would be lost should an alternative operator be procured at this time. It will also allow for the delivery of potential short-term capital and maintenance investments to bring various areas back up to standard in advance of the more comprehensive capital interventions.
- 1.10 It is critical for users of the centre, for on-going commerciality, and for the need to continue to deliver on the Mayor's sporting priorities, that there is continuity of service during the capital works programme. The closure of the centre is undesirable and is not considered a viable option. Furthermore, it is likely that the planning process will require a commitment to provide sports facilities in some capacity for the duration of construction works. The GLA needs an experienced, knowledgeable operator to navigate and support this.
- 1.11 A combination of the current closure of areas of the estate, volatile energy costs and lack of meaningful trading history in the last three years due to COVID-19 lockdowns and recovery means there would be significant commercial risk to any potential new operator if procurement were to take place now, likely resulting in operators pricing for this risk in their tender proposals or not tendering at all.
- 1.12 It is considered that the appropriate point that the GLA should commence a procurement for a long-term operator contract is after all consents are secured and construction works are ongoing. At this point potential operators would be able to accurately baseline their bids as part of a procurement process. It is anticipated that a likely period to prepare and run a procurement process for the long-term operator would be a minimum of 12 to 18 months.
- 1.13 It is therefore Max Associates' considered opinion that aligning the appointment of a long-term operator with the mobilisation of the centre once the capital works programme is underway, would be a more attractive proposition to the market. This timing would allow the operator to be part of the final fix, fit-out and launch of the centre. Prospective operators could then more easily price against the known works and services specification, understand the full opportunity for income generation and commence the contract in time to fully launch the centre in partnership with the GLA. This would allow the operator to maximise income in its early years following completion of the works through to maturity, maximising the financial offer the GLA is likely to achieve from the market for the longer-term (10+years) contract. It will also allow for alternative governance models for the CPNSC to be given full consideration.
- 1.14 Based on the above professional advice, officers consider it appropriate to extend the CPNSC Contract for a further period until such time as the delivery of the capital works programme is nearing completion, giving a more attractive proposition to the leisure market under a long-term operator procurement.

Extension period

- 1.15 It is considered that an extended CPNSC Contract period of three years, plus an option to extend for an additional year will:
- provide sufficient time to develop, secure approvals for, procure a contractor for and progress the delivery of a capital works programme for the centre, thereby providing the required certainty as part of the future procurement process for a long-term operator
 - provide sufficient time of 12 to 18 months to run a procurement process for the long-term operator whilst the capital works programme is ongoing

- target that the procurement of the long-term operator is aligned to the appropriate completion stages of the capital works programme
- provide sufficient stability to GLL to incentivise them to drive revenue generation throughout the contract extension period.

Contract extension terms

- 1.16 Max Associates and GLA officers have considered whether the CPNSC Contract should continue to run under the current 'open-book' arrangement agreed as part of the 2022 variation or return to the previous management fee arrangement.
- 1.17 The open-book arrangement was agreed because of the immediate and ongoing impact of COVID-19 on the operation of the facilities and the significant loss of revenue to GLL. The open-book approach meant that GLA and GLL would work fully transparently, sharing CPNSC's full income details, together with the expenditure and resulting surplus or deficit that needed to be covered. Further details of the arrangement are set out in Part 2 of MD2910.
- 1.18 Based on discussions with GLL and the advice of Max Associates, remaining on an open-book arrangement rather than returning to a management fee is considered by officers to be suitable for this contract extension for the reasons set out at paragraphs 1.19 to 1.21 (inclusive) below.
- 1.19 The impact of COVID-19 and ongoing energy price pressures continues to be felt across the leisure industry and combined with the forthcoming capital works at CPNSC, creates pressures on revenue generation and core expenditure. The original justifications for moving to an open-book arrangement therefore remains.
- 1.20 The planning of the programme of capital works delivery and associated temporary closures of parts of the centre as works are carried out mean that accurate forecasting of a management fee over the four-year period would not be possible. This will likely result in operators costing in this risk as part of a management fee, in either reduced income and/or higher margin.
- 1.21 Capital works delivery including partial temporary closures of facilities under the management fee arrangement could trigger a series of formal compensation events. This can be dealt with in a quicker reactive way and offer better value for money under an open-book arrangement.
- 1.22 In any case, GLL has provided four-year projections for various contracting model options set out in Part 2. These include no consideration of any capital works delivery given the current unknowns set out above. The options represent value for money to the GLA when compared with standard operating margins in the wider sector.
- 1.23 It is also considered that the current open-book arrangements provide sufficient incentive for GLL to drive revenue generation as detailed in Part 2.
- 1.24 Taking account of the above, and the difficulties presented by the complexities of capital works delivery under a management fee arrangement, the continuation of an open-book arrangement is considered the most appropriate arrangement for this extension.

Integration with LLDC operator contracts

- 1.25 MD2910 set out that due regard would be given to the potential to integrate the operator procurement with the London Legacy Development Corporation estates review. Market testing of LLDC's operator contracts was undertaken in 2021 and concluded that such integration of CPNSC with other LLDC operator contracts would offer no operator benefit and would not be a suitable or viable due to the geographic distance between the CPNSC and the Queen Elizabeth Olympic Park. This was not taken forward as part of LLDC's procurement of an operator for its facilities.

Costs

- 1.26 A review of net financial projections from GLL has informed a budget for management of the Operator Contract that are set out in the Part 2 of this decision form.

GLA's Contracts and Funding Code

- 1.27 Section 9 of the GLA's Contracts and Funding Code sets out the procurement thresholds determining the process for procuring goods and services. This decision form seeks a single source exemption from the GLA's Contracts and Funding Code.
- 1.28 Section 10 of the Code outlines exemptions to standard procurement processes where there is a clear and specific rationale. This rationale is outlined in this decision form, which demonstrates the exemption grounds that the supplier's previous involvement in the continuation of existing work cannot be separated from the new work at this time.

2. Objectives and expected outcomes

- 2.1 The primary objective of the proposed extension of the current CPNSC contract for up to four years is to enable continuity of service while the GLA develops and implements its programme for delivery of capital works at CPNSC. The GLA will also be able to rely on GLL's organisational knowledge in developing and implementing its capital works programme.
- 2.2 The current CPNSC contract will expire on the 31 March 2023. Without an extension, the GLA run the risk of having to close the centre. Extending the CPNSC Contract will enable GLL to continue to provide sporting services to the local and wider community in line with the Mayor's strategic objectives and recovery missions (see paragraph 4.5).
- 2.3 The advice from Max Associates set out in paragraph 1.7 also supports officers' view that now is not a suitable time to procure a long-term operator. Aligning that appointment with the completion of the capital works programme would provide greater certainty in the procurement process and continuity of service following completion of the capital works programme.
- 2.4 Continuing to structure the CPNSC Contract on an open-book arrangement will enable GLL to facilitate the centre's continued provision of essential sporting services, and will provide certainty to GLL as part of their financial management of CPNSC.
- 2.5 Furthermore, GLL are a not-for-profit organisation with any surplus from the contract being reinvested back into the centre directly.

3. Equality comments

- 3.1 Under section 149 of the Equality Act 2010, the Mayor and GLA are subject to the public sector equality duty and must have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation
 - advance equality of opportunity between people who share a relevant protected characteristic and those who do not
 - foster good relations between people who share a relevant protected characteristic and those who do not.
- 3.2 The 'protected characteristics' are age, disability, sex, sexual orientation, gender re-assignment, pregnancy and maternity, race, religion or belief and marriage/civil partnership status. The duty involves having appropriate regard to these matters as they apply in the circumstances, including

having regard to the need to: remove or minimise any disadvantage suffered by those who share or are connected to a protected characteristic; take steps to meet the different needs of such people; and encourage them to participate in public life or in any other activity with their participation is disproportionately low. This can involve treating people with a protected characteristic more favourably than those without one.

- 3.3 CPNSC is an important sporting and community facility for London. It supports a variety of sporting pathways, from participation to elite competition, and is host to a range of events. The contract extension facilitates this to continue.
- 3.4 Affordable community access to CPNSC is at the heart of the centre's operation. A contract extension will allow this to continue without any disruption in service and be provided by a not-for-profit organisation.
- 3.5 The GLA will work with its consultants and other agencies to promote inclusive design in the delivery of its capital works programme for CPNSC. This will be supported by engagement with a range of groups with protected characteristics, including existing and potential centre users, to develop and deliver facilities that meet the requirements of all Londoners. GLL's existing relationship with user groups will be particularly beneficial as part of this engagement.

4. Other considerations

Key risks and issues

- 4.1 Risk: Costs exceed those identified resulting in a more adverse financial position to that set out.
- 4.2 Mitigation: Officers will work closely with GLL to minimise this risk and will consider a series of potential investment opportunities to drive increased revenue generation and improve the customer experience in advance of more comprehensive capital interventions. GLL will also put in place relevant organisational resources to manage the requirements of the contract over the period of the extension.
- 4.3 Risk: Failure to extend the contract will result in the operational closure of the centre.
- 4.4 Mitigation: Relevant expertise has been sought to advise on the best route forward and to help in the assessment of risk and appropriate control measures. The operational closure of the centre has been determined as not a viable option given the negative impact to Londoners, the reputational risk to the GLA and the costs associated with mothballing the centre until construction works commence.

Links to Mayoral strategies and priorities

- 4.5 Extending the contract for up to four years whilst the capital works programme is developed and delivered, and a long-term operator is procured will ensure that CPNSC will remain open and operational, which will help to deliver the ambitions set out in the Mayor's leading strategic documents on sport and activity (Sport for all of us), reducing health inequalities (Better health for all Londoners) and improving social cohesion (All of Us; the Mayor's strategy for social integration) The continued operation of the centre aligns with the scope and ambition of the London Recovery Board's missions for London, in particular:
 - Mental Health and Wellbeing: through continuing to offer and encourage participation in sports and active lifestyles
 - Building Strong Communities: through the continued operation of, and supporting improvements to, a significant piece of social infrastructure for the local community

- A New Deal for Young People: ensuring a continued offer for local youth activities, including participation in sport
- Good Work for All: ensuring that jobs associated with the continued operation of the centre are protected
- Healthy Food, Healthy Weight: ensuring that access to health and fitness facilities is protected.

Consultation and impact assessments

- 4.6 Engagement and consultation with key stakeholders, centre users and the local community will form part of the development and delivery of the capital works programme. GLL will form an important link to current and potential future centre users as part of this process and will be a key stakeholder in informing the development and delivery of these works given their organisational knowledge of CPNSC.

Conflicts of interest

- 4.7 There are no conflicts of interest to note for any of those involved in the drafting and clearance of the decision.

5. Financial comments

- 5.1 Mayoral approval is sought for:

- the extension of the CPNSC Contract for a period of up to four years from the 1st April 2023 under a 3 plus 1 option
- a related exemption from the requirements of section 9 of the GLA's Contracts and Funding Code
- expenditure as set out in detail in the Part 2 of this decision paper, associated with the CPNSC Contract.

- 5.2 Projected net costs to the GLA of this contract extension are set out in Part 2 and will be funded from the Crystal Palace revenue budget. There will be a need to re-profile the budget set as part of the 2024-25 budget setting process to match the proposed net contract costs to 2026-27.

- 5.3 The TfL Estate management team will manage this contract, with support from the Crystal Palace National Sports Centre team, within Strategic Projects and Property, Housing and Land Directorate.

6. Legal comments

- 6.1 The foregoing sections of this report indicate that:

- 6.1.1 the decisions requested of the Mayor concern the exercise of the GLA's general powers, falling within the GLA's statutory powers to do such things considered to further or which are facilitative of, conducive or incidental to the promotion of social development in Greater London
- 6.1.2 in formulating the proposals in respect of which a decision is sought, officers have complied with the GLA's related statutory duties to:
- (a) pay due regard to the principle that there should be equality of opportunity for all people

(b) consider how the proposals will promote the improvement of health of persons, health inequalities between persons and to contribute towards the achievement of sustainable development in the United Kingdom

(c) consult with appropriate bodies.

6.2 In taking the decisions requested, the Mayor must have due regard to the Public Sector Equality Duty - namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010 and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion) and persons who do not (section 149 of the Equality Act 2010). To this end, the Mayor should have particular regard to section 3 (above) of this report.

6.3 Section 9.1 of the Contracts and Funding Code (the 'Code') requires the GLA to call-off services with a value of that concerned here from a suitable framework, where possible, or if not, to undertake a competitive process which managed by TfL Commercial in respect of the services required. However, the Mayor may approve an exemption from this requirement under section 10 of the Code upon certain specified grounds. One of those grounds is that a contract may let without competition where a supplier has had previous involvement in a specific current project or the services concerned are a continuation of existing work that cannot be separated from the new project/work. Officers have indicated that this ground applies and that the proposed contract affords value for money. Further advice in this regard is set out in part 2 of this MD.

6.4 If the Mayor makes the decisions sought, officers must ensure that the CPNSC Contract is varied and the related agreement is executed by the GLA and GLL on or before 31 March 2023.

7. Planned delivery approach and next steps

7.1 The timetable below outlines the proposed operator contract key milestones.

Activity	Timeline
Extension of operator contract	March 2023
Extension start date	April 2023
Commence procurement of a long-term centre operator	From October 2024
Long-term operator procurement completes	October 2025-March 2026
Contract end date	March 2026
Alternative contract end date (including optional extension of one year)	March 2027

Appendices and supporting papers:

None.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

Part 1 - Deferral**Is the publication of Part 1 of this approval to be deferred? YES**

If YES, for what reason: This information, including a capital works programme is intended for future publication.

Until what date: 30.09.23

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – YES**ORIGINATING OFFICER DECLARATION:**

Drafting officer to confirm the following (✓)

Drafting officer:

Kabir Choudhury has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Tim Steer has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Jules Pipe has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 20 March 2023.

✓

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature:**Date:**

22/03/2023

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature:**Date:**

20/03/2023

