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| Subject: | Royal Pavilion & Museums | | |
| Date of Meeting: | 28 April 2016 | | |
| Report of: | Assistant Chief Executive | | |
| Contact Officer: | Name: | Janita Bagshawe | Tel: 29-2840 |
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| Ward(s) affected: | All | | |

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The purpose of this report is to recommend to Members that the Council engage in a procurement process in accordance with the requirements of the Public Contracts Regulation 2015 to secure a third party organisation to manage and operate the Royal Pavilion and Museums independently of the City Council.
- 1.2 A new governance model for the management of the Royal Pavilion & Museums is a work stream of the Cultural Services Modernisation programme which was established to develop the recommendations in the Ernst & Young report.
- 1.3 In November 2015 the Economic Development and Culture Committee agreed a report with the recommendation that a full business case for the establishment by the council of a new trust setting out the context and financial imperative to move the management of the Royal Pavilion and Museums to such a trust be presented to Policy & Resources Committee in January 2016.
- 1.4 Subsequent further work into what would be involved, the costs and implications of establishing a brand new trust, the risks associated with creating a brand new entity with no existing reputation or funding or infrastructure have resulted in a review of this preferred option. Discussions with the Area Director of the Arts Council have also contributed to the review.
- 1.5 Legal advice confirmed that the council is required to make the opportunity highlighted in 1.1 known to the market in a fair, open and transparent procedure in accordance with the Public Contracts Regulations 2015 as they apply to requirements of this nature. It is recommended that a Contract Notice or a Prior Information Notice (PIN) be published in the Official Journal of the European Union alerting the market to the council's intentions.
- 1.6 An integral part of the procurement process is the evaluation of the proposals submitted. The evaluation criteria are set in advance. These will address each bidders financial and economic standing together with their technical and professional ability and the merits of each individual proposal for delivery of the required services so as to ascertain which is the "most economically advantageous".

2. RECOMMENDATIONS:

That the Policy & Resources Committee:

- 2.1 Approve the option to proceed with the procurement for a 25 year term contract as set out in the report.
- 2.2 Authorise the Chief Executive to award a contract externalising the future management of the Royal Pavilion and Museums on completion of the procurement process.
- 2.3 Agree that consideration may need to be given to maintaining the council's funding level for up to 3 years to support viable bids for operating the service. This would result in changes to the current level of savings assumed in the 4-year Service & Financial Plans for 2017/18 to 2019/20.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The 4 year Service and Financial Plans presented to Budget Council in February 2016 assume that the budget for the Royal Pavilion and Museums (RPM) service, as a non- statutory service, will be reduced significantly from its current £1.140million net budget in 2016-17. Indicative further savings of £0.372million over the next 3 years (2017 to 2020) have been identified, which in addition to the £0.246million savings already made since 2015/16 represents a total saving of 37% of the total direct RPM budget from £1.295million in 2015/16 to £0.813million by 2019/20. (For comparison, the service's direct budget 5 years ago in 2010/11 was £2.1million).
- 3.2 The ambition in moving the management of the RPM to a new entity is to enable it to continue to deliver on council priorities: a Strong Sustainable Economy, Children and Young People, Health & Well Being, Community Safety & Resilience and Environmental sustainability and build on the success of the RPM as a nationally significant museum service. However the financial benefits of becoming independent take time to grow, for example: initiating new income streams, engaging potential sponsors and individuals who will not give funds to a local authority run service. Brighton & Hove City council will need to support the new management in the early years of business to allow it time to develop new sources of income to replace the reducing local authority contribution as has been the case with other museum services which have moved outside of council control across the country. The new entity will need time to get to grips with the existing operations and re-design services to become more efficient and generate new income streams.
- 3.3 It is therefore anticipated that the RPM direct budget may need to be maintained at its 2016/17 level of £1.140million until 2020/21 to enable viable bids, after which the grant contribution would be reduced to approximately £0.776million. This means that the savings identified within the current 4 Year Service & Financial Plan in paragraph 3.1 would not therefore be realised until 2020/21. Maintaining the investment for an initial period would allow the new operators to run and develop the RPM service and determine longer term plans to deliver the saving required. Indicative financial modelling suggests that without this provision

the new operators would only just break even in the first few years and would therefore not be in a position to build reserves to support and/or invest in the longer term viability of the operation which would represent a significant risk to viability.

3.4 These assumptions would need to be tested in the procurement process when considering and testing alternative financial models.

3.5 The sites within the Royal Pavilion and Museums portfolio are:

- Brighton Museum & Art Gallery – a Grade 2 listed building, on its present site since 1873.
- Booth Museum of Natural History – a Grade 2 listing building, founded in 1874, bequeathed to the public in 1890 by Thomas Booth and held in trust by the council since that date.
- Hove Museum & Art Gallery – established in 1927 (purchased by Hove Corporation in 1926).
- Preston Manor – which is a Grade 2 listed building, bequeathed in 1933 to be held in trust by the council (An 18th century building dating back in part to medieval period).
- Royal Pavilion – a Grade 1 listed building, purchased by the council in 1850. It was restored as a historic palace in the 1970s since which it has been open all year round to the public.
- Royal Pavilion Garden- Grade 2 on Historic England register of parks.

3.6 The museum collections include 3 Designated Collections of national/international significance:

- World Art, Natural History & Decorative Art (designation attracts funding). The designation scheme is a mark of distinction, identifying and celebrating pre-eminent collections of national and international importance in non-national institutions. There are 140 designated collections held in museums, archives and libraries across England.
- Local History, Social History, Fine Art, Costume, Musical Instruments, Archaeology, Egyptology, Numismatics, Toys and Crafts.

3.7 Most of the collections are owned directly by the City Council having been either donated or acquired by the museum service since its inception in 1860. Some items are held in trust by the city council e.g. for the National Toy Museum & Institute of Play; The James Green Trust's collection of Burmese textiles; photographs and artefacts; the Booth Trust Birds, Cases, Library and Building.

3.8 Other sites/historic monuments within the portfolio include:

- Grade 1 listed buildings : William IV Gate House and India Gate.
- Grade 2 listing buildings/sites: Northgate House, the Old Court House, Jaipur Gate and the Royal Pavilion Garden (the only restored regency garden in England).
- Portslade Old Manor Ruins – an ancient monument.
- Blatchington Windmill run by a Friends organisation.
- Off-site store.

- The Keep. The RPM manages the Service Level Agreement with East Sussex County Council in respect of the City's archives. Collections from the RPM are also stored and accessed through the Keep.

3.9 In a new management entity the sites and collections managed currently by the Royal Pavilion and Museums will remain in the ownership of the city council.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 Options which were considered as part of the report to Economic Development and Cultural Committee in November 2015 were:

- **Remain within the Council** - The risk with this is potential closure of sites, reduced services and consequently the loss of a nationally recognised museum service. As a service currently which has this status it is able to attract funding. If sites are closed and reduction in services takes place, this status will be lost and the service will go into decline. This in turn will impact on the priorities the service currently delivers for the city and the visitor economy.
- **Incorporate as a mutual or a community interest company or other form of social enterprise** - There may be financial risks associated with this option as they do not attract the taxable benefits which trusts can e.g. gift aid. They operate in short contractual timeframes and require the parent body to conduct a tender process. As a mutual, an organisation may only be awarded a contract for a period of three years before being required to compete. The council would then have to put the service out to tender again and the mutual organisation would need to re-tender. As museums need to operate on long timeframes, this approach and uncertainty would not be suitable or recommended. This is not a tested model for museums and with the international significance of the Royal Pavilion and Museums it is considered that this option carries high risks with financial benefits less than becoming a trust.

4.2 The option of the establishment of a Trust to be set up by the Council was discounted on the grounds of cost and risks associated with establishing a new entity as set out in paragraph 1.4 above.

4.3. Taking the above considerations into account, the appointment of a third party organisation to manage the service has been identified as the preferred option, as recommended in this report. To achieve this, a procurement process which complies with the requirements of fairness and transparency and the Public Contracts Regulations 2015 is required.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 The Council's change management process will be followed in relation to staff and trade union engagement.

6. CONCLUSION

- 6.1 This report sets out the case to proceed to procurement for a 25 year term to find an alternative management for the Royal Pavilion and Museums.

7. FINANCIAL & OTHER IMPLICATIONS:

7.1 Financial Implications

- 7.1.1 A high level assessment of costs and income over a 25 year period indicates that an organisation that is able to attract charitable benefits (gift aid, business rates relief etc) and can achieve income growth will deliver a small surplus from year 1 assuming reducing council investment plus an additional one off investment for the cost of change.
- 7.1.2 However, to succeed it is likely that Council funding will need to be maintained at 2016/17 levels during the early stages of the development. It is recommended that the option to maintain funding for a period of up to 3 years should be available to support bidders in putting forward viable business cases. If this option were utilised, the savings within the current 4 Year Service & Financial Plans, beginning 2017/18, would not therefore be applied to the Council contribution until 2020/21.
- 7.1.3 The expectation is that the funding from the council will reduce over the period as the new organisation grows, giving it the capacity to build appropriate reserves. Council support is expected to have reduced by over 40% by year 10 and over 50% by Year 15.
- 7.1.4 Sensitivity analysis of a high level financial assessment has been carried out which demonstrates that the delivery model is financially sustainable based on prudent assumptions and even if the income growth that is anticipated cannot be achieved, for example, as a result of an unexpected drop in visitor numbers.
- 7.1.5 The council will maintain ownership of the buildings and would continue to fund planned maintenance, however the level of maintenance resources is expected to reduce in line with the council's 4 year service & financial plans. The level of future investment in maintenance would need to be negotiated within any management agreement.
- 7.1.6 Negotiation will be required in agreeing the planned funding reduction for the operation and the affordable level of funding support in the future. The cost of support functions and overheads also needs to be assessed and, in particular, where an organisation cannot provide these itself, consideration given to the conditions for the provision of support functions from the council and how these may be allowed to change over time.
- 7.1.7 The evaluation of the proposals as part of the procurement process will test their financial deliverability and assess the impact on council funding and investment. The risk of failure and mitigating action will also be assessed
- 7.1.8 If the procurement does not go ahead then the council will need to manage the operations within the reduced budget envisaged within the 4 Year Service and

Financial Plan. There is a risk that this will reduce the capacity to deliver services which could have an impact on the quality of service offer.

Finance Officer Consulted: Anne Silley

Date: 23/03/16

Legal Implications:

- 7.2 The appointment of an economic operator to manage the service is subject to the Public Contracts Regulations 2015 (PCR2015) and must comply with the overriding principles of transparency, non-discrimination and equality in the process of procuring and awarding all contracts.
- 7.2.1 Additional rules apply to the award of contracts depending on the nature of the contract (e.g. works, services or supplies), the value of the contract, and whether it falls within the provisions of Schedule 3 to the PCR. Those areas falling within Schedule 3 are broadly speaking health, education and cultural matters and are referred to as being "Light Touch". The Light Touch Regime procurement route is set out in the PCR 2015, at Regulation 74-77. It applies to the procurement of services whose value equals or exceeds the threshold of £589,148. The process requires an advertisement in the Official Journal of the Economic Union either in the form of a Contract Notice or a Prior Information Notice calling for expressions of interest.
- 7.2.2 Failure to advertise the contract is a direct breach of the PCR which may result in any contract awarded directly being challenged. An application to have the contract declared in effective may be made for six months from when a party should have been aware of the breach.
- 7.2.3 The Council's Contract Standing Orders provide that every contract shall comply with the EU Treaty, the EU Public Procurement Directives and all relevant EU and domestic legislation.

Lawyer Consulted:

Name: Judith Fisher

Date: 9-3-16

Equalities Implications:

A full Equalities Impact Assessment will be carried out. There will be a full consultation process with staff and trade unions. The public and particular community interest groups will also be consulted.

Sustainability Implications:

None

Any Other Significant Implications:

None

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members' Rooms

None

Background Documents

None

