

**Decision Maker:** RENEWAL, RECREATION AND HOUSING PORTFOLIO HOLDER

**For pre-decision scrutiny by the Renewal, Recreation and Housing Policy Development and Scrutiny Committee**

**Date:** Wednesday 16<sup>th</sup> December 2020

**Decision Type:** Non-Urgent Executive Non-Key

**Title:** Consideration to vary contract for Hydrological Study and Strategy

**Contact Officer:** Lizzi Hewitt-Brown, Programme Manager - Regeneration  
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**Chief Officer:** Sara Bowrey, Director of Housing, Regeneration and Planning

**Ward:** Crystal Palace

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## 1. REASON FOR REPORT

- 1.1 In February 2020, the Council awarded Stirling Maynard a contract to undertake a Hydrological Study and Strategy at Crystal Palace Park. The core contract value was £57,250.
  - 1.2 In addition, Historic England provided a sum of £30,000 for additional surveys. This variation was authorised by the Chief Officer at the point of contract award.
  - 1.3 Stirling Maynard has identified a number of knowledge gaps and has made numerous recommendations for further work. An additional £60,000 may be available from Historic England to fund the high priority items.
  - 1.4 An exemption is requested to vary this below threshold contract by £90,000, increasing the value from £57,250 to a potential £147,250 (this includes Historic England's original £30,000 additional surveys budget).
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## 2. RECOMMENDATION(S)

- 2.1 The Portfolio Holder is requested to:
  - Authorise an exemption to vary the contract value by £90,000.

### Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A

### Corporate Policy

1. Policy Status: N/A.
  2. BBB Priority: Quality Environment.
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### Financial

1. Cost of proposal: Potential value of contract is £147,250
  2. Ongoing costs: N/A.
  3. Budget head/performance centre: N/A
  4. Total current budget for this head: Current value of contract is £76,731
  5. Source of funding: £30,000 (LBB) £117,250 (Historic England, full value tbc)
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### Staff

1. Number of staff (current and additional): N/A
  2. If from existing staff resources, number of staff hours: N/A
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### Legal

1. Legal Requirement: No statutory requirement or Government guidance.
  2. Call-in: Call-in is applicable
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Crystal Palace Park received an estimated 1.4 million visitors per year
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: Councillors would like to follow through with more detailed questions however they wish to support the recommendations in principle. Councillor Wilkins has commented that 'we now have a clear and deliverable road map which will result in multi-layered regeneration of CP Park for future generations.'

### **3. COMMENTARY**

- 3.1 Stirling Maynard has been undertaking a Hydrological Study in Crystal Palace Park which will culminate in a strategy for improvements to park's water bodies.
- 3.2 The contract was awarded with a core value of £57,250: £30,000 of this was funded by the council, and £27,250 was funded by Historic England. Historic England provided a further £30,000 for 'additional surveys' to be identified and commissioned during the course of the contract.
- 3.3 The potential to vary the contract by £30,000 was authorised at the point of contract award - see 'Consideration for agreement to award the contract for Hydrological Study and Strategy'.
- 3.4 As part of the core contract, Stirling Maynard was required to identify gaps in knowledge and make recommendations for areas of further investigation to ensure the final strategy is as comprehensive as possible.
- 3.5 To date, £19,481 of the 'additional surveys' budget has been instructed, bringing the total contract value to £76,731.
- 3.6 Historic England has notified the council that further grant funding may be available. If possible, the funder is keen to commission the more high priority recommendations.
- 3.7 It was not expected that funds could be available past the £30,000. Therefore, Stirling Maynard did not make recommendations assuming they would result in further work.
- 3.8 Any more grant monies would have a ceiling value of £60,000 as Historic England is unable to fund more than 80% of project costs without authorisation at a national level.
- 3.9 While it is acknowledged that it is not best practice to vary a contract more than 50% of its original value, the core purpose and outcome of this project has not changed. Additionally, 80% of the funds would be provided by Historic England who are keen to undertake the works while the money is available.
- 3.10 This is a rare chance to harness monies that would otherwise be unavailable. It provides the opportunity to maximise the output of this commission while the council's financial contribution does not increase.

### **4. SUMMARY OF THE BUSINESS CASE**

- i) The council's monetary contribution to this project is £30,000 and will not exceed this sum.
- ii) To date, Historic England has contributed £57,250 and could potentially offer a further £60,000.
- iii) The contract value is currently £76,731 and has the potential to increase to £147,250 if this exemption to vary is authorised.

#### **4.1 SERVICE PROFILE/DATA ANALYSIS**

4.1.1 N/A

#### **4.2 OPTIONS APPRAISAL**

- 4.2.1 Should this exemption to vary not be authorised, the priority recommendations will remain uncommissioned until a time that further funding is found.

### **4.3 PREFERRED OPTION**

- 4.3.1 Authorise this exemption to increase the contract value by £90,000 (including the £30,000 authorised at contract award).

### **4.4 MARKET CONSIDERATIONS**

- 4.4.1 It is understood that it is not best practise to vary a contract more than 50% of its original value. However, most of the additional surveys have been sub-contracted to Stirling Maynard. In so doing, Stirling Maynard has received multiple quotes ensuring that value for money has been achieved. It is expected that this will be the case with any further commissions.

## **5. STAKEHOLDER ENGAGEMENT**

- 5.1 Key community groups have been involved to date on this project to ensure that informal knowledge has been captured and used where possible. This includes the Friends of Crystal Palace Dinosaurs and the Concert Platform Working Group.

## **6. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS**

- 6.1 **Estimated Contract Value** – current value is £76,731
- 6.2 **Other Associated Costs** – potential contract value to be increased to £147,250
- 6.3 **Proposed Contract Period** – If this exemption to vary is authorised, it is likely that the contract period will be extended from 30<sup>th</sup> November 2020 to 31<sup>st</sup> March 2021.

## **7. SUSTAINABILITY AND IMPACT ASSESSMENTS**

- 7.1 1.4 million visits are made to Crystal Palace Park each year.
- 7.2 This commission is a technical assessment of the water bodies in Crystal Palace Park but it will considerably enhance the council's understanding of the park. In so doing, better and more informed decisions can be made around necessary interventions that will safeguard the park's future for years to come.

## **8. POLICY CONSIDERATIONS**

- 8.1 Crystal Palace Park is shown within various designations and policies in the Local Plan and the London Plan. There is outline planning permission in place for the 2007 Masterplan, which established the planning principles of the Regeneration Plan.
- 8.2 The Regeneration Plan requires a separate planning consent which was submitted in January 2020 and is being determined. Once granted, a substantial research and repair project will be undertaken on the Crystal Palace dinosaurs. The hydrological study and strategy will inform this project.

## **9. IT AND GDPR CONSIDERATIONS**

9.1 A DPIA has previously been undertaken.

## **10. PROCUREMENT RULES**

10.1 The report seeks a variation of the contract with Stirling Maynard, the value of the proposed variation being up to £90k.

10.2 This is a services contract and the value of this procurement falls below the thresholds set out in Part 2 of the Public Contracts Regulations 2015, so is only subject to Part 4 of the Regulations. While it is advisable to not exceed a variation of more than 50% of the original contract value (in accordance with the requirements of Regulation 72 for above-threshold contracts), it is permissible to do so with a below-threshold contract.

10.3 The Council's requirements for authorising a variation are covered in CPR 23.7 and 13.1. For a contract of this value, the Approval of the Chief Officer following Agreement by the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance must be obtained. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.

10.4 Following Approval, the variation must be applied via a suitable Change Control Notice, or similar, agreed with the Provider.

10.5 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

## **11. FINANCIAL CONSIDERATIONS**

11.1 The value of this contract variation is up to £90,000, including the £30,000 variation authorised at contract award. This will be fully funded from an additional contribution from Historic England and the further works will only proceed if that funding is secured.

11.2 The Council's original match funding contribution of £30,000 is funded from the café rental income revenue budget that is ring-fenced for regeneration works within the park each year. This is not affected and therefore there are no further financial implications of this contract exemption.

## **12. PERSONNEL CONSIDERATIONS**

12.1 N/A

## **13. LEGAL CONSIDERATIONS**

13.1 The Council has the legal power to hold, maintain and develop its landholdings and buildings in connection with its functions including powers available under various Parks and Open Spaces legislation. In furtherance of these powers the Council may provide and commission through a contract for consultancy services outlined in this report.

13.2 The commissioning of the services contract to provide a hydrological study and strategy for the lake systems at Crystal Palace Park is a public services contract within the meaning of the Public Contracts Regulations 2015, This report is seeking approval to vary the services contract awarded in February 2020 by adding additional services and costs. Due to value of the contract and the additional services falling below the relevant threshold a Regulation 72 compliant variation is not required. However, the variation must still comply with the EU

Treaty Principles of transparency, fairness and non-discrimination applied in a proportionate way.

- 13.3 The report has described the reasons and justification for the variation and in all the circumstances described the Treaty Principles would appear to have been followed.
- 13.4 The procurement comments to this report deals with compliance with the CPRs
- 13.5 Officers will need to ensure where applicable, CPR's are followed in relation to any related services or works contract and contracts are in conformity with any grant conditions.

<b>Non-Applicable Sections:</b>	4.1, 12.1
Background Documents: (Access via Contact Officer)	6 <sup>th</sup> February 2020 - 'Consideration for agreement to award the contract for Hydrological Study and Strategy'