PART 2 – CONFIDENTIAL FACTS AND ADVICE

MD2843
Title: Relocation to The Crystal – additional landlord repairs at the Crystal and final dilapidations settlement at City Hall

Information may have to be disclosed in the event of a request under the Freedom of Information Act 2000. In the event of a request for confidential facts and advice, please consult the Information Governance team for advice.

This information is not suitable for publication until the stated date because:

The details in the accompanying tables include confidential commercial information pertaining to the breakdown of the budget for work on specific items. Retaining this information in the confidential part of the decision is intended to protect GLAP in securing best value in the procurement of such work.

References to previous commercial work undertaken at The Crystal is confidential.

Landlord negotiations with owners of City Hall are confidential, and publication of details regarding the dilapidation discussions could impede the negotiating position the GLA has reached.

Date at which Part 2 will cease to be sensitive or when this information should be reviewed with a view to publication: March 2022.

Legal adviser recommendation on the grounds for not publishing information at this time:

The contents of Part 2 include sensitive information that relates to the GLA's and GLAP's commercial interests, the disclosure of which could prejudice those interests. For those reasons it is considered that the information contained in this report and appendices is exempt from publication in reliance upon the exclusions contained in sections 42(1) (legal professional privilege) and 43 (2) (Commercial Interests) of the Freedom of Information Act 2000; and because the public interest in withholding the information outweighs the public interest in releasing it.

If this information is considered for release pursuant to the provisions of the Environmental Information Regulations 2004, this information should be considered exempt information under regulation 12(5)(e) – where disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

Legal Adviser – I make the above recommendations that this information is not suitable for publication at this time.

Name: Morgan Francis **Date: 10.08.2021**

Once this form is fully authorised, it should be circulated with Part 1.

Confidential Decision and/or advice:

1. Supporting report – GLAP additional landlord repairs to The Crystal

1.1 Alterations and repair costs

1.1.1 The total price for ISG to undertake the works was originally agreed at £12.950m, with a view of achieving practical completion in early Autumn 2021. A high-level breakdown of the price is included in Appendix 1. In accordance with MD2476, GLAP as landlord agreed to invest £3.300m to cover refurbishment costs and repairs required to relet the building. In return, the GLA as tenant agreed to take a long-term lease of 25 years (subject to a tenant break in year 20) at a rent of £1.700m per annum (MD2705).

1.1.2 Upon assessment of ISG's itemised cost estimate for carrying out the alteration works to The Crystal, in line with MD2476 and MD2722, it was determined that the full GLAP budget of £3.300m would be taken up.

1.1.3 The apportionment of initial forecast (pre-tender) and subsequent ISG estimated costs between GLA and GLAP is outlined in the following table:

Table 1 – Breakdown of the GLA and GLAP cost contributions

	GLA original forecast contribution	GLAP original forecast contribution	GLA revised contribution following ISG bid	GLAP revised contribution following ISG bid
Alteration works	£5.550m	£0	£5.950m	£2.150m
Repairs	£0	£0.500m	£0	£0.150m
Sustainability works	£0	£2.500m		£1.000m
Security works	£2.500m	£0	£1.620m	£0
Broadcasting works	£2.500m	£0	£2.080m	£0
Total	£10.550m	£3.000m	£9.650m	£3.300m

1.1.4 Following detailed surveys by ISG and revisions to the alterations required by the GLA, further works have been identified as necessary. Most of these relate to repairs and maintenance issues to ensure the building is fit for purpose and include a suggested allocation of £1.394m of additional landlord (GLAP) costs, and a time-delay compensation of £0.550m, which represents ISG's fixed fees in managing the contract for an extended period. This is proposed to be split between GLA and GLAP at £0.275m each. A summary of the additional landlord (GLAP) costs are set out in the following table:

Table 2 – Summary of additional GLAP cost items		
Item	**GLAP cost**	**Comments**
Replace raised access floor in exhibition area	£0.290m	Damage caused to the structure due to water ingress
Replace building management system	£0.058m	Maintenance issues and obsolete equipment
Repairs to curtain walling	£0.150m	Additional repairs identified
Repairs to lighting	£0.160m	Further repairs identified
Other repairs to heating pumps, fans, and mechanical and electrical equipment	£0.506m	Unforeseen repairs and replacement of obsolete equipment identified
Roof repairs	£0.230m	Outstanding roof repairs to be undertaken by a specialist roofing contractor outside the ISG contract
Further ISG fees due to additional project time needed to complete the works	£0.275m	The main reason for the delay is currently attributed to the long lead time to deliver the raised access floor. However, there is a similar long lead time to provide the Heald Matador bollard, which is required for security reasons. In view of this, the proposal is to split the time delay cost equally between the GLA and GLAP.
Total	**£1.669m**	

1.1.5 As illustrated above, the increased repair costs and contractor fees allocated to GLAP totals £1.669m.

1.1.6 Given that the scope of works under the building contract has increased, this could give rise to a potential risk of procurement challenge from the other framework suppliers, if such works were not within the original scope that was mini-tendered, but on the understanding that ISG was the only supplier who expressed an interest in the opportunity and tendered, this risk is mitigated to a large degree.

1.2 Warranties

1.2.1 When GLAP accepted the surrender of Siemens' lease in July 2019, all the original building contracts and associated warranties were assigned to GLAP. These documents have been examined by GLAP's property consultants, Avison Young, to establish whether any claims for the repairs can be made against them. However, the manufacturers' mechanical and electrical warranties only had a one-to-two-year life span, and other guarantees are subject to onerous conditions – such as a rigorous maintenance regime – that do not appear to have been complied with by Siemens. A summary of the position regarding the key repair items is set out below:

- Raised access floor – the warranty is likely to have been invalidated because of the damage caused by water ingress and overloading in the past by Siemens.
- Building management system – the manufacturer's warranty was only for two years.
- Curtain wall – the warranty is conditional on complying with strict maintenance measures including a monthly, quarterly and annual inspection programme. In the last few years of Siemens occupation, the building was neglected and there is no record of all the required maintenance being complied with, which invalidates the warranty. In any event, a significant

proportion of the repairs relates to cracked or damaged panels as a result of some physical impact, and this is not covered under the warranty.

- Other mechanical and electrical equipment – the warranties have long since expired.

1.2.2 In view of the above it is unlikely that GLAP will be able to make any successful claims for the repairs against the warranties.

1.3 Original business case versus letting to the GLA

1.3.1 The original business case to accept a surrender of Siemen's lease, as detailed in MD2476, assumed it would cost approximately £15.380m to re-let the building in terms of lost rent, maintenance liability and refurbishment works. If GLAP proceeds with the additional investment outlined above, the cost of reletting the building letting to the GLA is assumed to be significantly less at £12.870m.

1.3.2 This is mainly achieved because the letting is due to be completed sooner than expected, and there will therefore be less liability in terms of running the building and void rent period. This is illustrated in the table below:

Table 3 – original business case versus letting to the GLA – cost comparison

Item	**Original business case assumptions**	**Original business case cost**	**Proposed GLA letting assumptions**	**Proposed GLA letting cost**	**Saving against original business case**	**Comments**
Time period while a reletting strategy is agreed	24 months	£7.050m	21 months	£6.200m	£0.850m	Loss of rent plus cost of running the building less any income
Time period to refurbish and remarket	18 months	£4.680m	9 months	£1.700m	£2.980m	Loss of rent plus maintenance charges. GLA letting cost is significantly less because ISG pays for maintenance during the works period and no marketing time.
Refurbish-ment and repair costs	Repairs and alterations including fees	£3.650m	Repairs and improvement works	£4.969m	(£1.319m)	
Total		**£15.380m**		**£12.869m**	**£2.511m**	

1.3.3 As illustrated above, after taking into account the increased investment of £1.669m, GLAP would still save approximately £2.511m compared to the original business case by proceeding with letting to the GLA.

2. Supporting report – City Hall dilapidation settlement

2.1 Key considerations

2.1.1 Dilapidations is the phrase commonly used in commercial property to describe the landlord's claim against the tenant for all breaches of the lease at its termination. Typically, as is the case here, the phrase encompasses the tenant's obligation to keep the premises in repair and to reinstate it to a contractually defined standard. In this case, the GLA is contractually obliged to keep City Hall in repair and to reinstate it to a contractually defined condition (the lease has appended to it a reinstatement specification that would be onerous for the GLA to comply with).

2.1.2 The estimated dilapidations liability (that is, the cost of complying with the repair and reinstatement provisions) had been assessed by GLA's consultants [redacted]

2.1.3 The figure agreed is exclusive of VAT; currently, VAT is not applicable to dilapidation payments. However, HMRC is reviewing this and the agreement provides that VAT will be charged if applicable. The GLA can recover VAT, so this is cost-neutral in any event.

2.1.4 Further, the break clause is conditional on the GLA providing the landlord with 'full vacant possession' of City Hall by 25 December 2021. If this is not achieved the break could be invalid. The financial settlement will be on the basis that the lease terminates unconditionally on 25 December 2021. The GLA will still need to remove furniture and equipment from the building, and in practice there will not be any significant difference in terms of the GLA's responsibility. However, by removing the requirement to deliver 'full vacant possession', there is no possibility of breaching this provision. This removes the risk of the GLA being forced to honour the existing lease until December 2026.

2.1.5 The financial settlement minimises the works required by the GLA prior to handover and enables the statutory business of the Mayor and the London Assembly to continue at City Hall for long as possible, and potentially up to the end of November 2021.

2.2 Financial comments

2.2.1 Mayoral approval is sought for expenditure of up [redacted] for the financial settlement to the landlord for City Hall lease dilapidations claim; and delegation of the GLA Chief Officer's authority to finalise the Settlement Deed.

2.2.2 [redacted].

2.3 Risks

2.3.1 It is currently unclear what the landlord intends to do with City Hall once the GLA vacates. It is possible that significant redevelopment works, or the demolition of the building could be planned, although the landlord has indicated that this is unlikely. If the landlord had a settled intention to demolish or substantially redevelop City Hall the GLA, then pursuant to section 18 of the Landlord and Tenant Act 1927 the GLA might have argued that its dilapidations liability was significantly reduced (because of the economic waste of repairing a building that its owner intended to demolish or redevelop).

2.3.2 If the landlord does, in the coming 12 months, announce a plan to substantially redevelop or demolish the building, it may be perceived by some that the GLA failed to make a claim under section 18 of the LTA 1927. That said, at the time of this MD officers have no grounds to doubt the landlord's assertions about its intentions, and the basis for a section 18 claim is not made out. Additionally, given the landmark location of the building, how recently it was built and its architectural credentials, demolition would be controversial, and it would not be straightforward to secure the necessary consents, if required from the London Borough of Southwark.

2.3.3 There are significant advantages to the GLA reaching an early settlement. It eliminates the risk of non-compliance with the break provisions, or the repair and reinstatement provisions in the lease. It also enables the GLA to remain at City Hall for as long as possible and provides for a full and final settlement of all liabilities at a very favourable rate to the GLA, subject to paragraph 3.2.6.

2.3.4 On balance, an early settlement is considered to be in the best interests of the GLA.

3. Overall project cost

3.1.1 Despite the additional amounts set out in this paper, the overall relocation project costs are still less than the original budget, as illustrated in the table below:

Table 4 – overall project budget

Area of Expenditure	**Budget**	**Forecast**	**Variance**	**Comments**
GLA relocation costs	[redacted]	[redacted]	[redacted]	[redacted]
GLAP investment	[redacted]	[redacted]	[redacted]	[redacted]
Broadcasting costs	[redacted]	[redacted]	[redacted]	
City Hall dilapidations	[redacted]	[redacted]	[redacted]	
Union Street fit-out works	[redacted]	[redacted]	[redacted]	
Total	[redacted]	[redacted]	[redacted]	

3.1.2 As outlined above, the current total project costs are forecast to be £3.214m under budget after taking into account the increased expenditure sought under this MD. [redacted]

3.1.3 [redacted] it is proposed to invest £0.500m further at Union Street. It was originally planned to invest in the design of more collaboration space and related furniture to support this over the next couple of years. However, with these funds now available it makes sense to take the opportunity of investing in these now and to bring forward internal design changes and limited amounts of new furniture to better support the use of the building for collaboration. This necessary work will provide a refreshed and more collaborative environment for the GLA at Union Street and includes furniture and spaces for interaction to support different working styles, decorations, and equipment for an agile office.

3.2 Conclusion

3.2.1 The supplementary works for The Crystal amount to about £2.506m. It is proposed that the GLA is to pay for the amendments to the alteration works, amounting to £0.837m; and GLAP is to pay for the enhanced repair works, as per their landlord obligations, totalling £1.669m (as set out in 1.1.4 and Table 2). It is also proposed that a contingent sum of £0.417m (25 per cent of the £1.669m) is set aside to cover the liability for any further unforeseen GLAP (landlord) repairs during the remainder of the project, making a total of £2.086m.

3.2.2 GLAP's total revised contribution will be up to £5.386m versus the contribution of £3.300m, which was originally proposed.

3.2.3 In view of the speed of executing the GLA letting, GLAP will still be approximately £2.511m better off compared to the original business case, because there will be less rent lost and fewer maintenance costs to incur. In reality, if letting to the GLA did not proceed, it would be difficult to re-let the building in the current market and it would probably take longer than originally assumed in the business case.

3.2.4 On the condition the GLA meets its fair share of the additional charges (£0.837m as outlined above) then it would make good business sense for GLAP to also increase its contribution to ensure the transaction proceeds to completion.

3.2.5 It should be noted that some of the costs still need to be finalised. While there may be further adjustments over the next few weeks, the contingency allowance should be sufficient to cover any additional costs identified.

3.2.6 It should also be noted that negotiations with the City Hall landlord are ongoing, and the terms set out in this paper are in draft form and subject to final agreement. Should the terms be drastically revised, a further MD seeking approval of the revised terms will be drafted.

3.2.7 MD2705 estimated that the GLA would make £47.000m of savings over 5 years and there would be Group-wide savings of £61.000m over the same period. Arising from this Decision savings to the GLA increase by £5.300m to £52.300m and savings to the GLA Group increase by £3.214m to just over £64.000m. The final figures will be published as soon as possible after the completion of the move.

Appendix 1 – Summary of additional works to The Crystal and associated costs

Item	ISG price 23/03/21 £m	ISG revised total estimated price 12/07/21 £m	GLA forecast 22/03/21 £m	Comments
Alteration Works	8.100	8.940	5.550	Currently the GLA is paying £5.850m towards the works. The balance is paid with a GLAP contribution of £2.150m (£3.300m, less costs below of £1.000m + 0.150m). The additional amounts include improved IT and broadcasting installations (£75k); improved sound insulation for the Chamber (£115k) and changes to the second floor layout (£35k).
Security works (excluding highway works)	1.620	1.620	2.500	
Sustainability works	1.000	1.000	2.500	GLAP contribution
Broadcasting works	2.080	2.080	2.500	
Repairs	0.150	1.830	0.500	GLAP contribution. The extra costs include raised access floor (£286k); building management system (£58k); curtain walling (£150k); lighting (£140k); and other mechanical and electrical repairs.
Total	**12.950**	**15.470**	**13.550**	No contingency included