

# Executive Decision Report

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## **Phoenix 2020 Extension**

Decision to be taken by: Deputy City Mayor, Culture  
Leisure Sport and Regulatory Services

Decision to be taken on: 22 July 2021

Lead director: Mike Dalzell

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**City Mayor**

## Useful information

- Ward(s) affected: Castle ■ Report author: Mike Dalzell
- Author contact details: 37 2931
- Report version number: 1

### 1. Summary

- 1.1 This report seeks approval to provide up to a further £500k to Leicester Arts Centre Limited (Phoenix) in order to enable the delivery of the Phoenix 2020 project that will extend the current offer and enable the charity to become more financially self sufficient. This support is required as a funding gap remains between secured funds and the total capital cost of the project. The project is now at a crucial stage, requiring a decision either to proceed immediately with the appointment of a contractor or face the likelihood that others' funds promised for the scheme will be lost and the scheme overall will then be in serious jeopardy of not proceeding. Details are explained in the report. The £500k will be further to funds approved previously by the council for the project, these being £1m from resources set aside for the Economic Action Plan and £400k from the countywide business rates pool. This council support matches a further £500k award to the project in July 2021 by Arts Council England and represents a joint approach to resolving the funding gap.

### 2. Recommendation

- 2.1 To approve a grant of up to £500k to Leicester Arts Centre Ltd (Phoenix) to support the delivery of the Phoenix 2020 project, to be funded from resources set aside for COVID recovery, on the basis that if any of this sum is not required to deliver the scheme it will be retained by / repaid to the council.

### 3. Supporting information including options considered:

- 3.1 The Leicester Arts Centre Ltd is a company limited by guarantee and a registered charity. It operates the Phoenix Cinema and Arts Centre the city's centre for independent cinema, art and digital culture which is a vital and well loved part of the offer of the Cultural Quarter and the wider city.
- 3.2 The Phoenix 2020 project, as the name implies, has been developed over several years and was intended by now to be delivered. Enabling the project to proceed will assist with the city's plans for COVID recovery. The essence of the project is to expand the number of cinema screens from two to four enabling much more efficient and flexible programming. It will also significantly enhance the Digital Gallery and catering offers at the venue. The growth in audiences anticipated from the above will enable improved income earning and financial sustainability. It has been recognised for some time that if Phoenix does not expand it will struggle to be sustainable over the medium term as forecast cost increases will outstrip

income earning capacity in the current configuration. The Phoenix 2020 project has also been supported by the council to date as it creates a future opportunity for the council to reduce revenue support as the business becomes more self-reliant. £1m was committed from resources set aside for the Economic Action Plan and £400k from the countywide business rates pool. The council currently supports Phoenix with an annual revenue support grant of £215k.

- 3.3 The project was successful in securing a £4m capital grant allocation from the Arts Council England. The Phoenix team has since attracted a range of significant contributions from other funders including charitable trusts, the European ERDF programme, the city council and individual supporters.
- 3.4 A project board comprising Phoenix senior managers, trustees and senior officers from the city council has steered the development of the project over the past several years. A thorough design development process has been undertaken and a procurement strategy agreed that has resulted in the potential appointment of Wilmott Dixon Construction Ltd as the main contractor operating under a SCAPE framework. The programme is to very shortly appoint the contractor so as to allow a start on site in summer 2021 and a completion of the scheme in autumn 2022. The SCAPE framework will allow for a fixed price contract sum that will then offer the Phoenix team considerable cost certainty as cost risk is passed to the contractor.
- 3.5 In recent months it has become clear that there remains a funding gap between the funds secured and the estimated total cost of the project which is now £8.71m. Though the construction element is by far the largest cost there are also significant sums required to fit out the complex when handed over and to cover off trading losses during construction that will be the direct responsibility of the charity. Although there has been considerable work to value engineer out cost and to consider other options for delaying spend, a gap remains which has got larger for reasons summarised below.
- 3.6 Leicester Arts Centre Trustees has committed a significant level of reserves towards the scheme (£200k). A further option to remove fit out of the first floor meeting room and bar was also discounted as it would remove future revenue earning capacity.
- 3.7 At the beginning of 2021 it had been hoped that further fund-raising and a combination of value engineering and competitive tendering the various work packages through the Wilmott Dixon supply chain might close off the funding gap. However the situation has worsened and the funding gap now stands at £1m as:
  - i) Some fund-raising bids were not successful
  - ii) The project is in delay which increased cost to allow for future inflation
  - iii) Reviewing the business plan in the light of COVID has required a greater provision for trading loss during the construction phase as it is anticipated audience numbers will not now recover as quickly as previously predicted
  - iv) One element of the scheme (basement wall repairs) has proved problematic and has driven a cost increase and extended the build programme
  - v) There is now considerable cost inflation in the construction sector based on increasing raw material prices and the impact of COVID disruption is being priced in as increased risk throughout the supply chain. The extent of the

issue only crystallised when WDC completed the tendering exercises with their supply chain and advised a revised price on 5 May 2021.

- 3.8 The latest price quoted by Wilmott Dixon will lapse at end July and additional costs for delay / inflation will then need to be factored, further increasing the funding gap. The £500k pledged by the ERDF programme is time limited and requires the scheme to proceed now as otherwise the activity (business support) required by the funder can't be delivered within the necessary timescale. If the £500k ERDF award has to be declined then the project must be considered to be in serious jeopardy.
- 3.9 Since the funding gap became apparent the Phoenix team have flagged to the council that further financial assistance may be required. Arts Council England have also been engaged and remain keen to see the project proceed. Once the details of the funding gap were clear ACE appointed an independent consultant to review the Phoenix 2020 business plan, the financial forecasts and the governance arrangements for the project. That report has endorsed the basic rationale of the project as essential and considers that the project has been well managed and that the forecasts seem reasonable though it has insisted on an increased contingency.
- 3.10 Arts Council England have decided to provide further funding of £500k to help close the funding gap, subject to similar further support from the council. If the council also provide up to a maximum of £500k, this will enable the contractor to be appointed and the project to proceed at the current tendered cost and without further delay.

#### **4. Details of Scrutiny**

EDTT 12 October 2017 – for original funding decision

#### **5. Financial, legal and other implications**

##### 5.1 Financial implications

The report proposes to provide up to a further £500k to Leicester Arts Centre Limited (Phoenix) in order to enable the delivery of the Phoenix 2020 project that will extend the current offer and enable the charity to become more financially self sufficient. This contribution will be funded from monies set aside to support COVID recovery.

The Council has previously committed £1m from resources set aside for the Economic Action Plan and £400k from the countywide business rates pool.

Amy Oliver, Head of Finance, ext. 37 5667

## 5.2 Legal implications

The proposed funding will need to be assessed against subsidy control (formerly known as state aid), similar to the former state aid position there are exceptions under the subsidy control regime which applies to the audio/visual sector though a full analysis of this will be required therefore legal advice and assistance sought. The proposed funding will need to also be underpinned by a legal funding agreement between the parties, such an agreement can be drafted to include clawback provisions to protect the Authority in recouping sums where the scheme is no longer required to be delivered. Legal services should be instructed in this respect.

Ongoing legal advice should be sought as required.

Mannah Begum, Principal Solicitor, Commercial Team, ext. 1423

## 5.3 Other Implications (You will need to have considered other implications in preparing this report. Please indicate which apply?)

### 5.3.1 Equality Implications

None arising from this decision

Surinder Singh, Equalities Officer, Ext 37 4148

### 5.3.2 Climate Change Implications

None arising from this decision

Aidan Davis, Sustainability Officer, Ext 37 2284

## **6. Background information and other papers:**

Cultural Investment Programme Phoenix 2020 - Deputy City Mayor - Culture, Leisure and Sport individual decision, 23 October 2018

Capital Budget Monitoring April – July 2020/21 – City Mayor 14<sup>th</sup> October 2020

## **7. Summary of appendices:**

None

## **8. Is this a private report (if so, please indicate the reasons and state why it is not in the public interest to be dealt with publicly)?**

No

## **9. Is this a “key decision”?**

No

**10. If a key decision please explain reason**

Not applicable