

<b>Report to:</b>	Sutton Shareholdings Board	<b>Date:</b>	5 February 2019
<b>Report title:</b>	Contract award for Wallington Public Hall		
<b>Report from:</b>	Mary Morrissey, Chief Executive (Interim)		
<b>Ward/Areas affected:</b>	Wallington South		
<b>Chair of Committee/Lead Member:</b>	Councillor Sunita Gordon, Chair Councillor Jayne McCoy, Vice Chair and Chair of Housing, Economy and Business Committee		
<b>Author(s)/Contact Number(s):</b>	Simon Latham, Assistant Director, Housing, Planning and Regeneration - 020 8770 4006		
<b>Corporate Plan Priorities:</b>	<ul style="list-style-type: none"> <li>● Being Active</li> <li>● Living Well Independently</li> <li>● Smarter Ways of Working</li> </ul>		
<b>Open/Exempt:</b>	Open		
<b>Signed:</b>		<b>Date:</b>	28 January 2019

## 1. Summary

- 1.1 This report outlines the procurement and evaluation process followed by Sutton Living Limited to choose a contractor to undertake the building works at Wallington Public Hall and recommends the delegation of authority to agree the award of the works contract by Sutton Living Limited to the Shareholder Representative, or their nominee, in consultation with the Chair of the Shareholdings Board.

## 2. Recommendations

The Sutton Shareholdings Board is recommended to:

- 2.1 Delegate authority to agree the award of the works contract by Sutton Living Limited for the development of Wallington Public Hall to the Shareholder Representative, or their nominee, in consultation with the Chair of the Shareholdings Board.

## 3. Background

- 3.1 Sutton Living sought tenders for the redevelopment of Wallington Public Hall site using its Procurement Policy, for bids on both a qualitative and financial basis. An original tender

deadline was extended two and a half weeks until the 8 January 2019, and four tenders were returned.

- 3.2 Sutton Living is outside EU Procurement Rules, being a private company, nevertheless has a procurement policy to ensure transparency in terms of contractor selection.
- 3.3 The tenders had been reviewed by the Company's Employers' Agent, Pellings.
- 3.4 Authority to enter into contracts with a value greater than £3m is a matter reserved to the shareholder, and therefore agreement is sought via this report to delegate final approval to the Shareholder Representative, or their nominee, in consultation with the Chair of the Shareholding Board, given that it has not been possible to complete the tender evaluation by the date of despatch of this report.

#### Choice of Contractor

- 3.5 A number of small to medium sized contractors were considered based on the knowledge and experience of the Employer's Agent and MD, who has delivered development projects for RPs and Local Authorities elsewhere.
- 3.6 A longlist was reduced to five contractors who were invited to bid on plans produced by the scheme architects, Bell Phillips, and a set of "Employer's Requirements" drawn up by Sutton Living in collaboration with Pellings. Before the invitation to tender was sent out one contractor withdrew, leaving four, which still complies with the Company's Procurement Policy.

#### Form of Contract

- 3.7 A JCT (Design and Build) form of contract was chosen as being typical of those used by RPs and Local Authorities. It passes a significant degree of development risk to the contractor, but requires the requirements of the employer to be clearly set out. The form of contract, and subsequent amendments were agreed by Devonshires, the Company's solicitors

#### Basis of Evaluation

- 3.8 Tenders were invited on the basis of both quality and price, using price for 60% of the evaluation and 40% for quality. Quality was assessed by responses to how the contractor can deliver a successful scheme working in a restricted environment, and its logistics plan and flow chart, detailing how it will undertake the work in the most efficient way. Finally, tenderers were required to provide examples of similar completed schemes, demonstrating value for money.

#### Tender Returns

- 3.9 Tenders were returned from:

- Kind & Co
- Lifebuild

- PA Findlay
- SDB Contractors

### Tender Analysis

3.10 This was undertaken by Pellings. It has not been possible, by the time of despatch of this report, to complete the evaluation, so agreement is sought to delegate authority to award the contract to the Shareholder Representative, or their nominee, in consultation with the Chair of the Shareholdings board.

## **4. Options Considered**

4.1 Sutton Living has sought a competitive rather than a negotiated tender which is in line with accepted development practice.

## **5. Impacts and Implications**

### Risk Mitigation

5.1 The successful contractor will need to demonstrate financial standing and financial checks will be made by the Company prior to letting of the contract. The contractor will also be required to provide a bond or parent company guarantee, and Sutton Living will obtain NHBC (or similar) insurance against the contractor going out of business whilst undertaking works to mitigate risk.

### Financial

5.2 The proposed contract will be fully funded from an advanced loan from the London Borough of Sutton. The agreed funding has taken into consideration various risk mitigation strategies to protect both Sutton Living and the Authority.

5.3 The contract is expected to be delivered within the agreed budget.

5.4 The funding remains within Sutton Living or its subsidiary and the lead Project Officer will be expected to monitor and manage the contract bearing in mind risk management at all stages.

5.5 It is essential that there is sufficient rigour within the procurement process to ensure that value for money is achieved for Sutton Living, for the duration of the contract.

### Legal

5.6 Sutton Living as an organisation that is not a contracting authority are not bound by the Public Contracts Regulations. However, as an independent commercial entity the company would still have a procurement policy and scheme of management in relation to procurement exercises they carry out. As the main body of this report states the company has followed its procurement policy and obtained advice from Devonshires with regards the legal aspects of

the project and the legal documentation and so there should be no concerns on this front for the Council as the owner of Sutton Living’s holding company, Opportunity Sutton.

5.7 Due to the value of the tender this is a reserved matter for the Shareholdings Board to approve. In light of the circumstances described above it is open to to the Shareholding Board to approve the letting of the contract and delegate to the Shareholder Representative, or their nominee, in consultation with the Chair of the Shareholdings Board, to finalise the documents and enter into the agreement.

**6. Appendices and Background Documents**

Appendix letter	Title
None	

Background documents
Sutton Living Business Plan 2018/19

Audit Trail		
Version	Final	Date: 28 January 2019
Consultation with other officers		
Finance	Yes	Solomon Akuffo
Legal	Yes	Fabiola Hickson
Equality Impact Assessment required?	No	N/A