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Awarded contract

Retail and elective hub development

South Warwickshire NHS Foundation Trust

F15: Voluntary ex ante transparency notice

Notice reference: 2023/S 000-001757

Published: 19 January 2023, 5:26pm

Section I: Contracting authority/entity

I.1) Name and addresses

South Warwickshire NHS Foundation Trust

Lakin Road

Warwick

CV34 5BW

Contact

Gaynor McGARRY

Email

gaynor.mcgarry@swft.nhs.uk

Country

United Kingdom

NUTS code

UKG13 - Warwickshire

Internet address(es)

Main address

<https://www.swft.nhs.uk/>

Buyer's address

<https://www.swft.nhs.uk/>

I.4) Type of the contracting authority

Body governed by public law

I.5) Main activity

Health

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Retail and elective hub development

II.1.2) Main CPV code

- 45000000 - Construction work

II.1.3) Type of contract

Works

II.1.4) Short description

South Warwickshire University NHS Foundation Trust ("SWFT") intends to enter an option agreement with Noviniti Dev Co 2 Limited ("Noviniti") giving Noviniti the right to call for a ground lease in respect of land at Warwick Hospital ("the Hospital") as the site of a proposed building for intended retail uses and clinical space ("the Potential Development"). It is anticipated that during the option period Noviniti will take steps to identify its initial commercial tenant of the retail space. The contractual arrangements are structured as a land transaction exempt from the Public Contracts Regulations 2015 ("PCR") and the Concession Contracts Regulations 2016 ("CCR").

II.1.6) Information about lots

This contract is divided into lots: No

II.1.7) Total value of the procurement (excluding VAT)

Lowest offer: £13,000,000 / Highest offer: £17,000,000 taken into consideration

II.2) Description

II.2.2) Additional CPV code(s)

- 45213100 - Construction work for commercial buildings

II.2.3) Place of performance

NUTS codes

- UKG1 - Herefordshire, Worcestershire and Warwickshire

II.2.4) Description of the procurement

SWFT intends to enter into an option agreement for the grant of a ground lease with Noviniti in respect of the site of a proposed building housing retail uses and clinical space at the Hospital. SWFT has structured the contractual arrangements as a land transaction exempt from the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016.

II.2.5) Award criteria

Price

II.2.11) Information about options

Options: No

II.2.13) Information about European Union Funds

The procurement is related to a project and/or programme financed by European Union funds: No

Section IV. Procedure

IV.1) Description

IV.1.1) Type of procedure

Award of a contract without prior publication of a call for competition in the cases listed below

- The procurement falls outside the scope of application of the regulations

Explanation:

The subject of this notice is an agreement to be entered into between SWFT and Noviniti for the grant of an option entitling Noviniti to call for the grant of a 45 year Ground Lease of part of SWFT's freehold land at the Hospital.

The area which will be subject to the option are defined within the Option Agreement and the option period will run for an initial period of 39 weeks (subject to extension). SWFT has had valuation advice and will grant the Ground Lease at a premium which reflects the market value.

The Ground Lease anticipates that Noviniti may choose (but with no obligation to do so) to undertake a Permitted Alteration (in accordance with a Licence for Alterations that may be entered into in relation to the proposed Ground Lease) of a retail use development at the Hospital (the “Potential Development”). The Ground Lease is subject to break clauses in favour of SWFT if no Licence for Alterations has been issued or work on any Permitted Alterations begun at the second anniversary of the relevant Ground Lease. The Ground Lease is subject to a further break clause in favour of SWFT on the 40th anniversary of practical completion of the Potential Development.

The details of the Potential Development will have been agreed between SWFT and Noviniti prior to the grant of the Option Agreement. Noviniti has a right to terminate the Ground Lease if Noviniti has not commenced the works comprising the Potential Development by the date 52 weeks after the date of the Ground Lease.

The exercise of the option by Noviniti to call for the Ground Lease does not trigger any obligation on Noviniti to undertake or on SWFT to procure the Potential Development. If Noviniti decides to undertake the Potential Development (and if SWFT subsequently so decides) Noviniti and SWFT may enter into an agreement for lease providing for the grant by Noviniti of underleases of all or part of the completed development to SWFT and/or a third party, with reversionary leases to SWFT. If that agreement is reached SWFT anticipates that SWFT, Noviniti and the third party (if applicable) will enter into further documents including a deed of variation of the Ground Lease, a Licence for Alterations authorising the Permitted Alteration and underleases of the completed development.

In the event that Noviniti chooses to proceed with the Potential Development, SWFT may also choose (but is under no obligation) to carry out its own further development at the site by adding up to two further floors on top of Noviniti’s development for clinical use by SWFT. Accordingly, the terms of any Licence for Alterations are likely to include technical requirements to enable SWFT to add to the building structure in the future if required.

IV.1.8) Information about the Government Procurement Agreement (GPA)

The procurement is covered by the Government Procurement Agreement: No

Section V. Award of contract/concession

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

18 January 2023

V.2.2) Information about tenders

The contract has been awarded to a group of economic operators: No

V.2.3) Name and address of the contractor/concessionaire

Noviniti Dev Co 2

The Stables Churchfield Farm Harley Way Oundel

Peterborough

PE8 5 AU

Country

United Kingdom

NUTS code

- UK - United Kingdom

The contractor/concessionaire is an SME

No

V.2.4) Information on value of contract/lot/concession (excluding VAT)

Lowest offer: £13,000,000 / Highest offer: £17,000,000 taken into consideration

Section VI. Complementary information

VI.4) Procedures for review

VI.4.1) Review body

Royal Courts of Justice

London

London

London

Country

United Kingdom

Internet address

<https://www.justice.gov.uk>