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Award

Hermitage Lane Development

TBG Open Door Limited

F15: Voluntary ex ante transparency notice

Notice identifier: 2021/S 000-002456

Procurement identifier (OCID): ocids-h6vhtk-0290ff

Published 8 February 2021, 10:50am

Section I: Contracting authority/entity

I.1) Name and addresses

TBG Open Door Limited

2 Bristol Avenue, Colindale, London NW9 4EW

London

NW9 4EW

Contact

Meera Bedi

Email

Meera.Bedi@BarnetHomes.org

Country

United Kingdom

NUTS code

UKI - LONDON

Internet address(es)

Main address

<https://www.opendoorhomes.org>

I.4) Type of the contracting authority

Body governed by public law

I.5) Main activity

Housing and community amenities

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Hermitage Lane Development

II.1.2) Main CPV code

- 45000000 - Construction work

II.1.3) Type of contract

Works

II.1.4) Short description

A lease and development agreement relating to the development of land at Hermitage Lane, London NW2

II.1.6) Information about lots

This contract is divided into lots: No

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

Value excluding VAT: £4,472,068

II.2) Description

II.2.3) Place of performance

NUTS codes

- UKI - LONDON

Main site or place of performance

Hermitage Lane, London NW2

II.2.4) Description of the procurement

TBG Open Door Limited ("Open Door") is a Registered Provider of social housing.

Open Door is entering into a lease and development agreement with Hill Residential

Limited ("HRL") relating to the development of a site at Hermitage Lane, London NW2. The development will comprise of the construction of 52 homes on the site, 31 of which will be for private sale on the open market and 21 of which will be affordable housing units.

The contractual arrangements between the parties will be structured as follows:

1. Open Door is the freehold owner of the site.
2. Open Door will enter into an agreement with HRL to grant HRL a lease of the site in consideration for an agreed sum.
3. The lease will place HRL under an obligation to deliver the entire 52 unit scheme (both the private sale and affordable units) on the site in accordance with the planning permission for the site and the requirements of the associated Section 106 agreement, but it will not place HRL under an obligation to carry out the construction works to a specification prescribed by Open Door which is set out in the lease.
4. Alongside the lease, there will be a separate development agreement between Open Door and HRL for the delivery of the 21 affordable units only. This development agreement will place HRL under a positive obligation to carry out the affordable housing works to a specification prescribed by Open Door which is contained in the agreement.
5. The affordable housing units will be retained by Open Door following completion.
6. HRL will be entitled to sell leasehold interests in the 31 private units on the open market and will be entitled to retain the proceeds of sale.

II.2.11) Information about options

Options: 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:

Open Door is of the view that the contractual arrangements to be entered into with HRL (as described in section II.2.4) fall outside the scope of the Public Contracts Regulations 2015 (Regulations) for the following reasons:

1. Although the lease will place HRL under an obligation to deliver the entire 52 unit scheme (both the private and affordable units) in accordance with the planning permission and requirements of the associated section 106 agreement, it will not place HRL under an obligation to carry out the works to a detailed specification prescribed by Open Door which is set out in the lease. Accordingly, Open Door is of the view that the lease should be classified as an agreement for the disposal of an interest in land, and so is excluded from the scope of the Regulations by virtue of Regulation 10(1)(a) of the Regulations.

2. The development agreement relating to the development of the 21 affordable units will place HRL under an obligation to carry out the affordable housing works to a specification prescribed by Open Door hence it will be categorised as a works contract for the purposes of the Regulations. However the estimated value of such works at the relevant time for the purposes of Regulation 6(7) of the Regulations was £4,472,068 which is less than the £4,733,252 works threshold at which the Regulations apply. Accordingly, the development agreement is not subject to the Regulations.

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

The procurement is covered by the Government Procurement Agreement: Yes

Section V. Award of contract/concession

Title

Hermitage Lane Development

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

2 March 2020

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

Hill Residential Limited

The Power House, Gunpowder Mill, Powdermill Lane, Waltham Abbey, Essex EN9 1BN

Waltham Abbey

EN9 1BN

Country

United Kingdom

NUTS code

- UKJ - SOUTH EAST (ENGLAND)

The contractor/concessionaire is an SME

No

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

Initial estimated total value of the contract/lot/concession: £4,472,068

Total value of the contract/lot/concession: £4,472,068

Section VI. Complementary information

VI.3) Additional information

The contracting authority intends to enter into the contractual arrangements referred to in this notice following a minimum 10 day calendar day standstill period starting on the day after this notice is published in the UK Find a Tender Service. The Public

Contracts Regulations 2015 (SI 2015 No 102) (as amended) (the Regulations) provide for aggrieved parties who have been harmed or who are at risk of harm by a breach of the Regulations to bring proceedings in the High Court. Any such proceedings must be brought within the limitation period specified by the Regulations

according to the remedy sought.

VI.4) Procedures for review

VI.4.1) Review body

High Court

London

Country

United Kingdom

VI.4.3) Review procedure

Precise information on deadline(s) for review procedures

In accordance with Part 3 of the Public Contracts Regulations 2015