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Award

Royal Derby Hospital MSCP

University Hospital of Derby and Burton NHS Foundation Trust

F15: Voluntary ex ante transparency notice

Notice identifier: 2024/S 000-003149

Procurement identifier (OCID): ocds-h6vhtk-0435e7

Published 31 January 2024, 9:11am

Section I: Contracting authority/entity

I.1) Name and addresses

University Hospital of Derby and Burton NHS Foundation Trust

Royal Derby Hospital

Derby

DE223NE

Contact

Andrew Selby

Email

andrew.selby@nhs.net

Telephone

+44 1332340131

Country

United Kingdom

Region code

UKF11 - Derby

Justification for not providing organisation identifier

Not on any register

Internet address(es)

Main address

<http://www.uhdb.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

Royal Derby Hospital MSCP

II.1.2) Main CPV code

- 45000000 - Construction work

II.1.3) Type of contract

Works

II.1.4) Short description

University Hospitals of Derby and Burton NHS Foundation Trust (UHDB) intends to enter into contracts with Noviniti Dev Co 10 Ltd (Noviniti) and CP Plus Limited (CP Plus) in respect of a new multi-storey car park development at Royal Derby Hospital, Derby (the Hospital). The documents to be executed by UHDB comprise a Licence for Alternations to be granted to Noviniti pursuant to the Ground Lease previously entered into with Noviniti, to permit Noviniti to undertake the car park works. The completed car park will be leased to CP Plus as the car park operator pursuant to a Principal Agreement for Underlease (S2AFL) and Operator Lease. There is a Deed of Covenant between CP Plus and UHDB in respect of surplus car parking revenue and certain circumstances where UHDB will support the rent payable by CP Plus. UHDB has structured the contractual arrangement as a land transaction exempt from the Public Contracts Regulations 2015 and Concession Contracts Regulations 2016.

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: £23,000,000

II.2) Description

II.2.2) Additional CPV code(s)

- 45213312 - Car park building construction work

- 98351000 - Car park management services

II.2.3) Place of performance

NUTS codes

- UKF11 - Derby

Main site or place of performance

Royal Derby Hospital, Uttoxeter Road, Derby DE22 3NE

II.2.4) Description of the procurement

UHDB intends to enter into the S2AFL with Noviniti and CP Plus in respect of a new multi-storey car park development at the Hospital and a Licence for Alterations under the Ground Lease granted to Noviniti in order to permit Noviniti to carry out the development. Following completion of the works Noviniti will grant an Operator Lease to CP Plus. UHDB will be obliged to accept a lease of the car park directly from Noviniti if CP Plus defaults. UHDB has structured the contractual arrangement as a land transaction exempt from the Public Contracts Regulations 2015 and Concession Contracts Regulations 2016

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:

Following on from the grant of the Ground Lease dated 15 November 2023, relating to the grant to Noviniti of a 45 years Ground Lease of part of UHDB's freehold land at the Hospital, UHDB proposes to enter into the S2AFL and a Licence for Alterations. The option to grant the Ground Lease was the subject of a VEAT Notice published on 21 September 2023. The Licence for Alterations describes the permitted works. Under the S2AFL Noviniti is not obliged to carry out any works but if it does not, UHDB may

terminate the Ground Lease, which contains a break right for UHDB if Noviniti does not commence any works by an agreed deadline.

If Noviniti completes the construction of the car park works it may call for CP Plus to accept the Operator Lease for a term of 15 years and for UHDB to accept a Reversionary Lease of the car park for a further term of 30 years.

There is provision for UHDB to accept a direct lease from Noviniti of the car park in place of the Operator Lease if CP Plus defaults and also for UHDB to accept an Overriding Lease to become the direct tenant of Noviniti if CP Plus defaults during the term of the Operator Lease.

At completion, UHDB and CP Plus may enter into a Deed of Covenant under which surplus car parking revenue will be payable to UHDB and UHDB commits to support the rent payable by CP Plus in certain instances. UHDB considers that if the arrangement with CP Plus is a services concession, the value would be below the threshold set out in the Concession Contracts Regulations 2016.

Noviniti is under no obligation to serve notice to elect to carry out any works. No public works contract arises due to the lack of an enforceable obligation and Noviniti is entitled to "walk away" without delivering any works.

Following completion of the Ground Lease, Noviniti has an exclusive right to undertake any works until such time as the UHDB break right under the Ground Lease becomes capable of exercise.

UHDB considers that the arrangements fall within the land exemption under Regulation 10(1)(a) of the Public Contracts Regulations 2015 and/or 10(11)(a) of the Concession Contracts Regulations 2016.

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

Title

Royal Derby Hospital MSCP

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

31 January 2024

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 10 Ltd

Unit 2, Newby Hall

Ripon

HG45AE

Email

jonathan.houlston@noviniti.co.uk

Country

United Kingdom

NUTS code

- UK - United Kingdom

Companies House

13891000

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: £23,000,000

Total value of the contract/lot/concession: £23,000,000

Section VI. Complementary information

VI.4) Procedures for review

VI.4.1) Review body

High Court of England and Wales

Royal Courts of Justice, the Strand

London

WC2A 2LL

Country

United Kingdom