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Award

Acquisition and Development of Land - North West Quadrant, Slough

Homes England (the trading name adopted by the Homes and Communities Agency)

F15: Voluntary ex ante transparency notice

Notice identifier: 2023/S 000-005090

Procurement identifier (OCID): ocds-h6vhtk-03a705

Published 20 February 2023, 5:05pm

Section I: Contracting authority/entity

I.1) Name and addresses

Homes England (the trading name adopted by the Homes and Communities Agency)

One Friargate

Coventry

CV1 2GN

Email

enquiries@homesengland.gov.uk

Country

United Kingdom

Region code

UK - United Kingdom

Internet address(es)

Main address

<https://www.gov.uk/government/organisations/homes-england>

Buyer's address

<https://www.gov.uk/government/organisations/homes-england>

I.4) Type of the contracting authority

National or federal Agency/Office

I.5) Main activity

Housing and community amenities

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Acquisition and Development of Land - North West Quadrant, Slough

Reference number

DN657146

II.1.2) Main CPV code

- 45215214 - Residential homes construction work

II.1.3) Type of contract

Works

II.1.4) Short description

Homes England is an executive non-departmental public body, sponsored by the Department of Levelling Up, Housing and Communities and is the trading name of the Homes and Communities Agency, a statutory corporation established by the Housing and Regeneration Act 2008. In line with its statutory objectives, Homes England intends to acquire the freehold of a site currently owned by Slough Borough Council (the Council) at William Street, Slough (known as North West Quadrant (the NWQ Site)), to enter into a

novated option agreement with Community Solutions for Regeneration (Slough) Limited (CSR) as described below, and subsequently to enter into a development agreement with CSR to develop the NWQ Site. To the extent that this transaction would otherwise require a call for competition pursuant to the Public Contracts Regulations 2015 (PCR) or the Concession Contracts Regulations 2016 (CCR), then entry into it is permitted by PCR reg 32(2)(b)(iii) or CCR reg 31(6)(b)(iii) because of the exclusive rights enjoyed by CSR or associated entities.

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.2.3) Place of performance

NUTS codes

- UK - United Kingdom

II.2.4) Description of the procurement

The proposed transaction comprises two stages: (1) the acquisition of the freehold site by Homes England, and the novation to Homes England (with amendments) of an existing option agreement by which the Council granted certain exclusive rights to North West Quadrant LLP (NWQ LLP); and (2) the intention that Homes England and CSR will enter into a development agreement in respect of the NWQ Site within 12 months of acquisition of the NWQ Site.

NWQ LLP is a development subsidiary of Slough Urban Renewal LLP (SUR). SUR was set up in March 2013 as a joint venture between the Council and CSR. SUR's role was to acquire and develop various sites owned by the Council. NWQ LLP was established in November 2019 specifically in relation to the NWQ Site, and on the terms of specific arrangements set out in a partnership deed concluded at that time. At the same time, the Council entered into an option agreement which granted to NWQ LLP, subject to the satisfaction of certain conditions, an option to acquire the NWQ Site through the grant of leases on a phased basis, and with a view to development. The period of the option was until 22 March 2028. Significant preparatory work has been undertaken by CSR or associated entities but, in light of financial pressures on the Council, further work on the development of the NWQ Site has currently been suspended.

Homes England wish to progress the development of the NWQ Site in furtherance of its statutory objectives to improve the supply and quality of housing in England; to secure the regeneration or development of land or infrastructure in England; to support in other ways the creation, regeneration or development of communities in England or their continued well-being; and to contribute to the achievement of sustainable development and good design in England, with a view to meeting the needs of people living in England. This transaction also supports the Government's ambition for Homes England to respond to the long-term housing challenges facing this country by facilitating the delivery of new homes, where they are most needed, and to deliver a sustained improvement in affordability, using its funding and powers to play a more active role in the housing market, working with partners across the wider housing sector and increasing the pace, scale and quality of delivery. Slough is an area of significant housing need in which there has been significant underperformance in housing delivery. The NWQ Site is a c10 acre key gateway site in Slough, prominent in the town centre, and unlocking this stalled development will significantly increase supply and help to bring forward a significant number of new affordable homes. Homes England also considers that development of the NWQ Site will act as a catalyst and help to bring forward other schemes within the wider area securing regeneration of the town and driving quality housing supply.

The existing option agreement prohibits the transfer of the Council's freehold interest without a covenant by the transferee to observe and perform the Council's obligations under the option agreement. CSR would require NWQ LLP to stand upon its rights under the option agreement, which means in effect that Homes England would not be able to enter into arrangements for the development of the NWQ Site otherwise than with NWQ LLP or an associated entity acceptable to NWQ LLP and to CSR. Given that NWQ LLP is unable to function effectively under the existing partnership agreements, the option agreement will be novated from the Council to Homes England and from NWQ LLP to CSR, rather than Homes England simply covenanting to observe and perform the Council's obligations. It is the intention of Homes England and CSR to enter into a development agreement in respect of the NWQ Site within 12 months of acquisition of the NWQ Site, failing which the novated option agreement would terminate. During the 12 month period the obligations on both parties under the novated option agreement are suspended.

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

Negotiated without a prior call for competition

- The works, supplies or services can be provided only by a particular economic operator for the following reason:
 - protection of exclusive rights, including intellectual property rights

Explanation:

The proposed novated option agreement would not itself amount to a public works contract within the meaning of the PCR (or works concession within the meaning of the CCR), but it reflects Homes England's intention to enter into a development agreement and leases of the NWQ Site to CSR. Either those leases, or the contemplated development agreement between Homes England and CSR, may (depending upon their eventual terms) amount to a public works contract or a works concession. Grant of leases on a phased basis pursuant to the development agreement will be subject to satisfaction of conditions precedent including planning and financial viability and entering into of the relevant build contracts.

However, the existing option agreement has created an exclusive right within the meaning of PCR reg 32(2)(b)(iii) or CCR reg 31(6)(b)(iii). Although certain long-stop dates contained in the original option agreement may have expired, the suspension of work on the development has occurred at the request or with the concurrence of the Council and in circumstances such that the Council and Homes England would not be entitled to terminate the existing option agreement or treat NWQ LLP's rights under the option agreement as at an end. As set out above, this means that the works required for the development of the NWQ Site can only be supplied by CSR as a party acceptable to NWQ LLP.

No reasonable alternative or substitute exists. There are no other sites in the Slough area which would offer a reasonable alternative for Homes England; there is a severely limited number of other sites of a broadly comparable size and those are either being developed by third parties or would take significant work to make them comparably ready for development and, in any event, these sites are not considered comparable in terms of location (including proximity to the railway station) or regeneration impact.

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

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

20 February 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

Community Solutions for Regeneration (Slough) Limited

Kent House, 14-17 Market Place

London

W1W 8AJ

Country

United Kingdom

NUTS code

- UK - United Kingdom

National registration number

08251430

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.3) Additional information

The value given in Section II.1.7 (and repeated at V2.4) is an indicative figure in respect of the acquisition and the final cost of the acquisition and development will significantly exceed that figure. The date given at V.2.1 is the date this notice has been submitted. The novated option agreement has not yet been entered into. Note the previous references to EU Procurement Directive 2014/24/EU are legacy references and should be ignored.

VI.4) Procedures for review

VI.4.1) Review body

High Court

London

Country

United Kingdom