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Award

## **VEAT Notice - South West Kent Waste Partnership – Waste Services Contract 2019**

Tunbridge Wells Borough Council

F15: Voluntary ex ante transparency notice

Notice identifier: 2023/S 000-007049

Procurement identifier (OCID): ocids-h6vhtk-03b1cb

Published 10 March 2023, 12:35pm

### **Section I: Contracting authority/entity**

#### **I.1) Name and addresses**

Tunbridge Wells Borough Council

Town Hall

Tunbridge Wells

TN1 1RS

#### **Contact**

Mr Dan Hutchins

#### **Email**

[dan.hutchins@tunbridgewells.gov.uk](mailto:dan.hutchins@tunbridgewells.gov.uk)

#### **Telephone**

+44 1892526121

#### **Country**

United Kingdom

**Region code**

UKJ46 - West Kent

**Internet address(es)**

Main address

<http://www.tunbridgewells.gov.uk>

Buyer's address

<http://www.tunbridgewells.gov.uk>

**I.4) Type of the contracting authority**

Regional or local authority

**I.5) Main activity**

General public services

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**Section II: Object**

**II.1) Scope of the procurement**

**II.1.1) Title**

VEAT Notice - South West Kent Waste Partnership – Waste Services Contract 2019

Reference number

DN660348

**II.1.2) Main CPV code**

- 90500000 - Refuse and waste related services

**II.1.3) Type of contract**

Services

#### **II.1.4) Short description**

Tonbridge and Malling Borough Council (“TMBC”) and Tunbridge Wells Borough Council (“TWBC”) (together “the Partnership”) awarded a contract to Urbaser Ltd and Urbaser SAU (“Urbaser”) for recycling and refuse collection services and street cleansing services across the local authority areas covered by the Partnership (“the Contract”). The procurement leading to the award of the Contract was advertised in the OJEU (Contract Notice 2018/S 023-048722). Details can be found in the Contract Notice and Contract Award Notice (2019/S 060-139796).

The contract is for a term of 8 years with an option to extend twice; the first extension for either up to 2 years or 8 years and the second extension for a period of 2 years but only if the contract has already been extended for 8 years.

The estimated total value of the Contract is £121,340,554.85 (excluding VAT).

The Partnership is intending to modify the Contract as described in this Notice.

#### **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: £121,340,554.85

### **II.2) Description**

#### **II.2.3) Place of performance**

NUTS codes

- UKJ46 - West Kent

Main site or place of performance

Kent, England

#### **II.2.4) Description of the procurement**

The Contract commenced in March 2019 with an initial term of 8 years. The estimated value of the Contract was £121,340,554.85 (excl. VAT). The services have been affected by the nationwide shortage of HGV drivers, as a result of which the garden waste service and some other collections were temporarily suspended. In order to attract and retain drivers, Urbaser proposed an enhanced pay rate. In the period May to October 2022 the

Partnership provided some financial assistance towards that enhanced pay rate. The support was conditional upon Urbaser providing evidence of the enhanced pay rate actually provided to the drivers and incurred by Urbaser. The value of the Partnership's support between May and October 2022 was capped at £178,896.87. That support has been successful in recruiting and retaining drivers. The pressures in the market continue, however, and the Partnership intends to continue to provide this support for the period from November 2022 to 31 March 2023.

[Continued at VI.3]

#### **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

#### **II.2.14) Additional information**

The value in II.1.7 represents the estimated value of the Contract when it was originally entered into in September 2018. The estimated value of the Contract taking into account the proposed modification detailed in this notice will be up to a maximum of £121,786,554.58.

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## **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 Partnership considers that it is permissible to make the proposed modifications to the Contract because they fall within the scope of Regulation 72(1)(e) and 72(8) of the Public Contracts Regulations 2015 ("PCR") which permit modifications that are not "substantial".

The proposed modifications do not render the Contract materially different from the one initially concluded. The financial support to be provided from November 2022 to March 2023 will not exceed £146,500 (approx. 0.12% of the value of the Contract). It relates to a market-wide issue and will only be paid upon Urbaser providing evidence of the actual costs incurred. It will not alter the economic balance of the Contract. From April 2023 the increased cost of wages will be covered by the Contract's indexation provisions.

In relation to the re-rounding of collections and re-fleeting of vehicles, this will bring a direct benefit to the Partnership and its residents. Waste collections will be more efficient, the number of journeys will reduce, as will carbon emissions. The contribution provided in relation to the costs of early termination of the existing vehicle leases will be limited to £300,000 (approx. 0.25% of the value of the Contract) which will reflect a share of Urbaser's costs of implementing the improvements to the service. While the Partnership will ultimately acquire a liability (in the form of the unexpired term of the vehicle lease) this will directly benefit the Partnership by facilitating a smooth transition to a new provider or to in-house provision, with the key assets in place. It will mean that the Partnership or a new provider will not be exposed to the need to compete with established service providers for new vehicles in a congested market during a transition period. Urbaser taking the new vehicles on an 8-year lease (the expected life of such vehicles) ensures value for money which ultimately benefits the Partnership and its taxpayers.

The Partnership considers that the proposed modifications (individually and collectively) do not render the Contract materially different to the one originally concluded, do not extend the scope of the Contract, do not alter the economic balance of the Contract in favour of Urbaser, and would not have affected the participation in, or outcome of, the procurement.

The Partnership is providing details of the historical modifications that have occurred to date, which were de minimis and therefore did not require a re-procurement.

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

The procurement is covered by the Government Procurement Agreement: Yes

### **IV.2) Administrative information**

#### **IV.2.1) Previous publication concerning this procedure**

Notice number: [2019/S 060-139796](#)

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## **Section V. Award of contract/concession**

### **Title**

South West Kent Waste Partnership – Waste Services Contract 2019

A contract/lot is awarded: Yes

### **V.2) Award of contract/concession**

#### **V.2.1) Date of conclusion of the contract**

25 September 2018

#### **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**

Urbaser Ltd and Urbaser SAU

First Floor, Westmoreland House, 80-86 Bath Road

Cheltenham

GL53 7JT

Country

United Kingdom

NUTS code

- UKJ46 - West Kent

The contractor/concessionaire is an SME

No

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

Total value of the contract/lot/concession: £121,340,554.85

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## **Section VI. Complementary information**

### **VI.4) Procedures for review**

#### **VI.4.1) Review body**

High Courts of Justice

The Royal Court of Justice, The Strand

London

WC2A 2LL

Country

United Kingdom