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Contract

Essex Waste Management Partnership Residual Waste Treatment Contract

ESSEX COUNTY COUNCIL

F20: Modification notice

Notice identifier: 2022/S 000-007144

Procurement identifier (OCID): ocids-h6vhtk-032282

Published 16 March 2022, 12:01pm

Section I: Contracting authority/entity

I.1) Name and addresses

ESSEX COUNTY COUNCIL

CHELMSFORD

CM1 1QH

Contact

Katie Bray

Email

katie.bray@essex.gov.uk

Telephone

+44 3330132305

Country

United Kingdom

NUTS code

UKH3 - Essex

Internet address(es)

Main address

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

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Essex Waste Management Partnership Residual Waste Treatment Contract

Reference number

1410

II.1.2) Main CPV code

- 90510000 - Refuse disposal and treatment

II.1.3) Type of contract

Services

II.2) Description

II.2.2) Additional CPV code(s)

- 09100000 - Fuels
- 09310000 - Electricity
- 31682000 - Electricity supplies
- 42914000 - Recycling equipment
- 45111200 - Site preparation and clearance work
- 45222110 - Waste disposal site construction work

- 45232470 - Waste transfer station
- 71314100 - Electrical services
- 71340000 - Integrated engineering services
- 77120000 - Composting services
- 79420000 - Management-related services
- 79990000 - Miscellaneous business-related services
- 90500000 - Refuse and waste related services

II.2.3) Place of performance

NUTS codes

- UKH3 - Essex

Main site or place of performance

Courtauld Close, off Courtauld Road, Basildon, Essex, SS13 1FL

II.2.4) Description of the procurement at the time of conclusion of the contract:

The Contract was awarded on 31 May 2012 by Essex County Council (the "Authority") to UBB Waste (Essex) Limited, following the completion of a full tender process.

The contracted works and services were for the design, construction, commissioning, operation, handback and/ or financing of a mechanical biological treatment (MBT) facility at Courtauld Close, off Courtauld Road, Basildon, Essex, SS13 1FL.

The objectives of the procurement included: improving services for the Authority's customers in a way which also represents value for money; reducing the tonnage of Municipal Solid Waste (MSW) going to landfill, particularly Bio Degradable MSW; recycling more; limiting the impact of rising waste disposal costs to the taxpayer; and reducing the Authority environmental impacts.

II.2.7) Duration of the contract, framework agreement, dynamic purchasing system or concession

Duration in months

324

Section IV. Procedure

IV.2) Administrative information

IV.2.1) Contract award notice concerning this contract

Notice number: [2009/S 225-323258](#)

Section V. Award of contract/concession

Contract No

1410

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract/concession award decision:

31 May 2012

V.2.2) Information about tenders

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

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

UBB Waste (Essex) Limited

Westmoreland House, 80-86 Bath Road

Cheltenham

GL53 7JT

Email

toviecopark@urbaser.co.uk

Telephone

+44 8000725634

Country

United Kingdom

NUTS code

- UKK1 - Gloucestershire, Wiltshire and Bristol/Bath area

Internet address

<https://www.ubbessex.co.uk/>

The contractor/concessionaire is an SME

No

V.2.4) Information on value of the contract/lot/concession (at the time of conclusion of the contract;excluding VAT)

Total value of the procurement: £800,000,000

Section VI. Complementary information

VI.3) Additional information

For transparency reasons, a VEAT notice is also published to inform the market of the modifications. A standstill period of at least 10 days will be observed following publication and prior to the signing the modified contract.

VI.4) Procedures for review

VI.4.1) Review body

The High Court

London

WC2A 2LL

Country

United Kingdom

Section VII: Modifications to the contract/concession

VII.1) Description of the procurement after the modifications

VII.1.1) Main CPV code

- 90000000 - Sewage, refuse, cleaning and environmental services

VII.1.2) Additional CPV code(s)

- 45111000 - Demolition, site preparation and clearance work
- 45200000 - Works for complete or part construction and civil engineering work
- 90720000 - Environmental protection
- 90730000 - Pollution tracking and monitoring and rehabilitation

VII.1.3) Place of performance

NUTS code

- UKH3 - Essex

Main site or place of performance

Courtauld Close, off Courtauld Road, Basildon, Essex, SS13 1FL

VII.1.4) Description of the procurement:

VII.1.4) Description of the procurement:

As described above, the Contract was awarded on 31 May 2012 to UBB Waste (Essex) Limited, following the completion of a full tender process.

The contracted works and services were for the design, construction, commissioning, handback and operation of a mechanical biological treatment (MBT) facility in the Tovi Eco-Park (Basildon, Essex). Following the initial construction of the facility, the contract provided for a commissioning period followed by Acceptance Tests to confirm that the facility could meet the performance requirements in the contract. If not ultimately passed by an Acceptance Longstop Date of 12 January 2017, the Authority was entitled to terminate the Contract.

The facility did not pass the Acceptance Test by the Acceptance Longstop Date, which resulted in the Authority commencing litigation against the contractor. The Authority has given notice that it is proposing to take a decision to enter into an Amendment and Settlement Agreement to settle that litigation and to amend the handback requirements of

the contract on the basis that the site will be cleared and returned to ECC in a condition that will allow for its future redevelopment. It is expected that the modified contract will have a term expiring in 2040.

More specifically, the contractor shall:

- Demolish the MBT facility to ground slab level.
- Surrender the Environmental Permit which relates to the operation of the MBT facility and is held by Urbaser Environmental Limited.
- Remove certain hazardous substances from the site and hand back the site in accordance with the conditions in the Amendment and Settlement Agreement, to the satisfaction of an independent environmental consultant.
- Remove certain plant and equipment from the MBT facility prior to its demolition.
- Design and build a new surface water management system for the site. This includes re-grading part of the site and installing new surface water retention structures.
- Install new sections of security fencing for the site.
- Arrange for the de-energisation of the UKPN electrical sub-station and install a new power supply to the site to serve the surface water management system.
- Fill below-ground voids following the demolition process with granular materials.
- Obtain all necessary consents to enable the works.
- Surrender to the Authority its sub-lease interest in the site.
- Procure that its ultimate parent companies indemnifies the Authority (until the expiry of a period of three years following handback) against any failure by the contractor to perform its obligations as set out above and further detailed in the Amendment and Settlement Agreement.

A VEAT notice is also published linked to this modification.

The current modifications have arisen in connection with the proposed settlement of the litigation and the subsequent proposed amendment of the handback requirements of the Contract. The services / works which form part of the agreement with the contractor (which include the demolition services / works) are estimated to be in the region of c. 1% of the original value of the Contract (which was c. £800m).

VII.1.5) Duration of the contract, framework agreement, dynamic purchasing system or concession

Duration in months

324

VII.1.6) Information on value of the contract/lot/concession (excluding VAT)

Total value of the contract/lot/concession:

£800,000,000

VII.1.7) Name and address of the contractor/concessionaire

UBB Waste (Essex) Limited

Westmoreland House, 80-86 Bath Road

Cheltenham

GL53 7JT

Email

toviecopark@urbaser.co.uk

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<https://www.ubbessex.co.uk/>

The contractor/concessionaire is an SME

No

VII.2) Information about modifications

VII.2.1) Description of the modifications

Nature and extent of the modifications (with indication of possible earlier changes to the contract):

See description at VII.1.4.

VII.2.2) Reasons for modification

Need for additional works, services or supplies by the original contractor/concessionaire.

Description of the economic or technical reasons and the inconvenience or duplication of cost preventing a change of contractor:

These works are essential to ensure that, following the failure of the contractor to implement the initial contracted works, the site at Tovi Eco-Park is cleared and decontaminated as necessary in accordance with the appropriate environmental standards and returned to the Authority in a state that allows its future re-development. As UBB Waste (Essex) Limited was the original contractor who built the MBT facility, it has (i) the full set of technical information (including detailed records of the construction history of the site relating to the above ground and underground structures) and prior experience required to carry out the demolition and associated modification works to the requisite standards and (ii) particular knowledge of and experience with the hazardous substances used on the site (including knowledge of where events of contamination have occurred in the past). As the requisite Environmental Permit is held by an affiliate of the contractor, the contractor is essential to surrender the Environmental Permit.

In addition to these technical reasons, there are significant economic reasons preventing a change of contractor. These arrangements are being put in place in the context of a planned settlement of litigation and the objective is to avoid the contractor passing back to ECC the costs of restoring the site in issue. UBB Waste (Essex) Limited, as the contractor responsible for the original work, is also in a position to procure the provision to the Authority of a comprehensive package of warranties and indemnities for the work undertaken.

As regards the avoidance of inconvenience or duplication of costs, UBB Waste (Essex) Limited is already present on site with certain machinery and equipment. Its pre-existent knowledge and experience with the MBT facility on site means that significant duplication of costs is avoided. The introduction of a new contractor would also cause significant inconvenience and delay in the rectification of the site, a need for ECC to coordinate the interface between UBB Waste (Essex) Limited and the new contractor, and result in ECC paying for someone else to take a risk which had already been allocated to UBB Waste

(Essex) Limited (and which it may not be possible to pass on in full).

VII.2.3) Increase in price

Updated total contract value before the modifications (taking into account possible earlier contract modifications, price adaptations and average inflation)

Value excluding VAT: £800,000,000

Total contract value after the modifications

Value excluding VAT: £809,900,000