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Award

West Marina Land Disposal and Development

Hastings Borough Council

F15: Voluntary ex ante transparency notice

Notice identifier: 2021/S 000-007907

Procurement identifier (OCID): ocds-h6vhtk-02a654

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Section I: Contracting authority/entity

I.1) Name and addresses

Hastings Borough Council

Muriel Matters House, Breeds Place

HASTINGS

TN343UY

Contact

Estates Manager

Email

estates@hastings.gov.uk

Telephone

+44 1424451640

Country

United Kingdom

NUTS code

UKJ22 - East Sussex CC

Internet address(es)

Main address

www.hastings.gov.uk

I.4) Type of the contracting authority

Regional or local authority

I.5) Main activity

Housing and community amenities

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

West Marina Land Disposal and Development

II.1.2) Main CPV code

- 45000000 - Construction work

II.1.3) Type of contract

Works

II.1.4) Short description

A development agreement for commercial and residential development of land at West Marina, Seaside Road, St Leonards-on-sea, and associated grant of leases and transfers of freehold properties.

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: £35,000,000

II.2) Description

II.2.2) Additional CPV code(s)

- 45000000 - Construction work

II.2.3) Place of performance

NUTS codes

- UKJ - South East (England)

Main site or place of performance

West Marina, Seaside Road, St Leonards-on-sea.

II.2.4) Description of the procurement

Hastings Borough Council ("the Council") is entering into an agreement with West Marina St Leonards Limited ("WMSLL") for the development and disposal of land at West Marina, Seaside Road, St Leonards-on-sea ("West Marina"). West Marina has been largely vacant for over 30 years following the closure of the former lido. The site represents an opportunity for land to be developed to create a high quality development which can help regenerate the area. Development of the site will include a mix of residential units (including some affordable housing) as well as commercial units, beach huts and "glamping spaces".

The arrangements will entail a minimum of 1,500 sqm of buildings comprising workshops / live works space within sui generis use class, 50 beach huts and 12 glamping huts as well as a minimum of 125 residential buildings and a car park.

The Council invited proposals from two bidders, from which its preferred partner has been selected.

II.2.5) Award criteria

Quality criterion - Name: Deliverability / Weighting: 40

Quality criterion - Name: Experience/Track record / Weighting: 10

Cost criterion - Name: Financial offer / Weighting: 50

II.2.11) Information about options

Options: No

II.2.14) Additional information

The Council has decided to award a contract to WMSLL which is wholly owned by County Gate Properties Holdings Limited ("County Gate"). County Gate's bid is guaranteed by the Generator Group Limited who replaced County Gate's original proposed guarantor Sunley Holdings Limited.

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 Council considers that the contract between the Council and WMSLL for the West Marina Development and Land Disposal falls outside the scope of Public Contract Regulations 2015 (PCR) as the main object of the transaction is a land transaction and not a public works contract. Therefore the Council relies on Regulation 10(1)(a) PCR, alternatively that the definition of a public works contract is not met.

The Council considers that the contractual arrangements with WMSLL do not fall within the definition of a public works contract for the following reasons:

(1) In respect of the land intended for residential use, the freehold will be transferred to WMSLL for a nominal value. Whilst the Council has stipulated the minimum number of residential units (125) and will be able to request variations to the plans and specifications for the construction of the residential units, WMSLL retain the absolute discretion to approve such variations. In relation to the land intended for the commercial use, the Council will dispose of this by way of a 250 year lease.

The Council has specified a minimum number of 1,500 sqm of buildings comprising workshops / live works space within sui generis use class, 50 beach huts and 12 glamping huts. The Council has the right to approve the planning application in so far as it relates to the commercial development. The Council may (before the development commences) request variations to the plans and specifications for the construction of the commercial developments and WMSLL must not unreasonably withhold its approval of any such variation (although it may do so if the variation would, in WMSLL's reasonable opinion, have a significant adverse financial consequence to WMSLL).

There is no absolute obligation on WMSLL to carry out the works as it has a right to issue a notice of unsatisfactory survey and subsequently terminate the agreement.

(2) In terms of economic benefit, as said above the freehold of the residential units will be transferred to WMSLL following completion of the development albeit that the Council will have pre-emption rights over fifteen residential units for purchase at market value with a

5% discount if the Council purchases six or more units. The Council will not retain nomination rights in relation to the affordable housing units. For the commercial units, in consideration of the grant of the 250 year lease the Council will derive a rent. The rent is fixed at a minimum amount. There is an additional rent paid in the form of 50% of the profits generated by the commercial units once the commercial development has been completed. Given the length of the lease, the Council does not anticipate to obtain an economic benefit from the development itself as by the time the land reverts back to the Council the works are likely to no longer exist.

The Council therefore considers that the contract is outside the scope of the PCR.

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

West Marina Development

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

4 March 2019

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

West Marina St Leonards Limited

The St Botolph Building, 138 Houndsditch

London

EC3A 7AR

Country

United Kingdom

NUTS code

- UKI31 - Camden and City of London

The contractor/concessionaire is an SME

Yes

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

Total value of the contract/lot/concession: £35,000,000

Section VI. Complementary information

VI.3) Additional information

Contract Award Value: The total value encapsulates the potential redevelopment of the West Marina site based on its capacity for both commercial and residential redevelopment and represents the gross development value prior to any redevelopment costs.

Contract Award Date: The Council agreed initial Heads of Terms with WMSLL at a Cabinet Meeting on 04/03/2019. Subsequent negotiation were held, resulting in confirmation of Heads of Terms in July 2019 by Cabinet.

VI.4) Procedures for review

VI.4.1) Review body

High Court Royal Courts of Justice

Strand, Holborn

London

WC2A 2LL

Telephone

+44 2079476000

Country

United Kingdom

VI.4.3) Review procedure

Precise information on deadline(s) for review procedures

In accordance with Regulation 88 - 104 (Enforcement of duties through the Court) of the Public Contracts Regulations 2015 (as amended) ("PCR").