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Award

Giles Lane Student Accommodation Project

UNIVERSITY OF KENT

F15: Voluntary ex ante transparency notice

Notice identifier: 2024/S 000-010427

Procurement identifier (OCID): ocds-h6vhtk-044e95

Published 28 March 2024, 5:16pm

Section I: Contracting authority/entity

I.1) Name and addresses

UNIVERSITY OF KENT

The University of Kent The Registry,

Canterbury

CT2 7NZ

Contact

Mark Reed

Email

m.reed@kent.ac.uk

Telephone

+44 1227824301

Country

United Kingdom

Region code

UKJ4 - Kent

Companies House

RC000656

Internet address(es)

Main address

<https://www.kent.ac.uk/>

I.4) Type of the contracting authority

Body governed by public law

I.5) Main activity

Education

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Giles Lane Student Accommodation Project

II.1.2) Main CPV code

- 45000000 - Construction work

II.1.3) Type of contract

Works

II.1.4) Short description

Intention to award a Public Works contract under Regulation 32(2) (b) (iii) of the Public Contract Regulations 2015 for the development of student accommodation at Giles Lane,

Canterbury, Kent. The Negotiated Procedure without Prior Publication is being followed and is justified under Regulation 32 (2) (b) (iii).

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: £51,000,000

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

Canterbury, Kent

II.2.4) Description of the procurement

This Notice sets out the contracting authority's intention to award a works contract using the negotiated procedure without prior publication, in accordance with Regulation 32 of the Public Contracts Regulations 2015.

The University of Kent (the "University") intends to enter into a transaction to secure new student accommodation ("the Transaction"). The University will enter into an Agreement for Lease ("AFL") with Canada Life (the "Fund") and Giles Lane Investments Limited (the "Developer") for the construction of 91 new student rooms (the "Development") on a property known as Landon, Giles Lane ("Landon") which adjoins the University's Canterbury campus.

The Developer has the option to purchase Landon from the current owners (the "Option") and has obtained planning permission for the Development. The AFL will contain obligations on the Developer to procure the construction of the Development and obligations on the Fund to grant an occupational lease to the University ("the Underlease") on practical completion of the Development. The Underlease will be a full repairing and insuring, financing lease, with limited rights of assignment by the University,

containing an indexing rent with cap and collar. On expiry of the Underlease, subject to payment of all rents and interest to the Fund, the University will have the option to purchase the Headlease from the Fund for one pound (£1) (the Fund will also have the option to require the University to purchase the Headlease for one pound (£1)).

The Transaction comprises a number of other arrangements, including:

- a building contract between the Developer and a building contractor, and the appointments of a professional team by the Developer, with warranties in favour of the University;
- arrangements in respect of the construction and maintenance of the wetland, which is described in section IV.1.1;
- licence arrangements to enable the Developer to locate contractor welfare facilities and store other materials on the University's campus;
- licence arrangements to enable certain other wetland works to be undertaken on the University's campus, to satisfy a planning condition for the Development;
- the Developer has an option over other land of the University which, together with Landon and other parcels of land in third party ownership, was intended to comprise one large development of student accommodation, which option over the said University land is to be varied now that Landon will progress independently;
- the University will receive a payment on completion of the Transaction.

The works can only be provided by the Developer for the following reason: protection of exclusive rights under Regulation 32 (2) (b) (iii) of the Public Contracts Regulations 2015.

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:

Negotiated Procedure without prior publication (Regulation 32(2)(b)(iii) Public Contracts Regulations 2015, as amended).

Explanation:

The University in good faith considers that the award of the contract without prior publication of a contract notice is permitted by Part 2 of the Public Contracts Regulations 2015 (as amended).

The University's justification for this view is that, in good faith, it considers that the works to be delivered under the contract can only be provided by a particular economic operator (i.e. the Developer) for the following reason: protection of exclusive rights under Regulation 32(2)(b)(iii) of the Public Contracts Regulations 2015.

The University considers that:

- the University requires new student accommodation urgently to meet its growing student demand and the Development is capable of being delivered in time for the September 2025 intake of students;
- the University's students demand "on campus" accommodation and Landon is ideally located on a site which adjoins, and can be incorporated into, the University's campus;
- the Developer holds exclusive rights to acquire Landon under the Option;
- the Developer's exclusive rights include;
 - o the Developer's rights in respect of Landon, pursuant to the Option;
 - o the fact that Landon adjoins the University's Canterbury campus;

- o the Developer has secured planning permission for the Development;
 - o the Developer owns the intellectual property in the design for which planning permission has been obtained;
 - o the Developer has negotiated terms with a third party, to deliver a wetland on third party land, which wetland is required to satisfy a condition in the relevant planning permission;
 - o the Developer has negotiated terms with a funder and contractor, such that the Developer will commit (in the AFL) to delivering the Development in time for September 2025;
- this opportunity for the Development and the Transaction exists solely as a result of those rights;
 - the absence of competition is not a result of artificial narrowing down of the parameters of the procurement by the University;
 - no reasonable alternative or substitute exists for the delivery of so many rooms "on campus" in time for September 2025; and
 - there is no reasonable alternative route to acquire Landon for development without it being a condition under the Transaction for the Developer to be the supplier appointed to undertake any development works.

This VEAT notice demonstrates the intention to award a public works contract using the Negotiated Procedure without prior publication (Regulation 32(2)(b)(iii) Public Contracts Regulations 2015, as amended).

This contract has not yet been entered into and a contract award notice will be published following award.

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

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

28 March 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

Giles Lane Investments Limited

134 High Street,

Hythe

CT21 5LB

Country

United Kingdom

NUTS code

- UKJ - South East (England)

Companies House

12093126

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: £51,000,000

Total value of the contract/lot/concession: £51,000,000

Section VI. Complementary information

VI.3) Additional information

Total value of the contract/lot/concession:

£51,000,000 (Note: the total value of the contract noted here is the aggregate of the rent payable by the University under the Underlease (as defined in Section II.2.4) but, whereas this figure assumes 0% inflation, in practice the rent will be subject to indexation.)

VI.4) Procedures for review

VI.4.1) Review body

High Court of England of Wales

Royal Courts of Justice, The Strand

London

WC2A 2LL

Country

United Kingdom