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Award

Falkirk Gateway Development Agreement

Falkirk Council

F15: Voluntary ex ante transparency notice

Notice identifier: 2023/S 000-015190

Procurement identifier (OCID): ocids-h6vhtk-03d00f

Published 29 May 2023, 10:09am

Section I: Contracting authority/entity

I.1) Name and addresses

Falkirk Council

The Foundry 4, Central Park, Central Boulevard, Larbert

Falkirk

FK5 4RU

Email

steve.revell@falkirk.gov.uk

Telephone

+44 1324506566

Country

United Kingdom

NUTS code

UKM76 - Falkirk

Internet address(es)

Main address

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

Buyer's address

https://www.publiccontractsscotland.gov.uk/search/Search_AuthProfile.aspx?ID=AA00184

I.4) Type of the contracting authority

Regional or local authority

I.5) Main activity

General public services

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Falkirk Gateway Development Agreement

Reference number

n/a

II.1.2) Main CPV code

- 45233161 - Footpath construction work

II.1.3) Type of contract

Works

II.1.4) Short description

Installation of shared use cycle / pedestrian route as part of a development site sale

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: £234,000

II.2) Description

II.2.2) Additional CPV code(s)

- 45233161 - Footpath construction work

II.2.3) Place of performance

NUTS codes

- UKM76 - Falkirk

Main site or place of performance

Falkirk Gateway Site North (to the North west of Westfield Roundabout)

II.2.4) Description of the procurement

The Council intends to enter into two development agreements with Hargreaves Property Ventures Ltd. to lease / sell land at adjacent sites in Falkirk to the north-west and south-west of Westfield Roundabout. The development agreements follow a marketing exercise carried out in December 2017, a preferred developer being identified (the highest bidder in this case) in 2018 and Heads of Terms agreed in 2021. Developers were required to submit a draft masterplan showing the mix of housing and commercial development proposed and a price offer.

Because the development agreements as a whole impose no positive obligations to develop on the preferred developer, the Council does not consider that they are within the scope of application of the Public Contracts (Scotland) Regulations 2015. A positive obligation does exist in relation to the site to the north-west of the two sites which is to construct a shared use pedestrian and cycle lane (the "green corridor route"). The estimated value of the works involved in the provision of the green corridor route as being GBP234,000, and therefore were that contract to be procured on its own it would not satisfy the value thresholds above which the Public Contracts Regulations apply. On that basis the Council's position is that the development agreement does not have the effect of awarding a contract that would be subject to the regulations. The development agreement also requires the developer to secure planning approval for the development in general prior to purification of the agreement.

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:
 - absence of competition for technical reasons

Explanation:

The works are only able to be delivered by the developer as a part of a wider development scheme after the commencement of a lease by them. The marketing procedure was undertaken as a sale of land prior to the "Faraday case".

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

27 April 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

Hargreaves Property Ventures Ltd

West Terrace, Esh Winning

Durham

DH7 9PT

Telephone

+44 7583095126

Country

United Kingdom

NUTS code

- UKC14 - Durham CC

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: £200,000

Total value of the contract/lot/concession: £200,000

V.2.5) Information about subcontracting

The contract/lot/concession is likely to be subcontracted

Value or proportion likely to be subcontracted to third parties

Value excluding VAT: £200,000

Proportion: 100 %

Short description of the part of the contract to be subcontracted

All the construction costs associated with the construct of cycle/pedestrian paths

Section VI. Complementary information

VI.3) Additional information

It should be noted that this VEAT notice is intended to inform the market of the intention to award a contract under Regulation 33 (1) (b) (iii) and whilst the system requires an award date prior to the notice publication for the avoidance of doubt it should be noted that the contract has not been entered into prior to the publication of this notice.

(SC Ref:720714)

VI.4) Procedures for review

VI.4.1) Review body

Falkirk Sheriff Court

Sheriff Court House, Main Street, Camelon,

Falkirk,

FK1 4AR

Country

United Kingdom