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Contract

## **Contract Modification (under Regulation 43 Concession Contracts Regulations 2016) to the Quay Management Agreement between Shepherd Offshore Services Limited and Newcastle City Council**

Newcastle City Council

F03: Contract award notice

Notice identifier: 2022/S 000-024205

Procurement identifier (OCID): ocds-h6vhtk-03642c

Published 30 August 2022, 4:39pm

### **Section I: Contracting authority**

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

Newcastle City Council

Barras Bridge

NEWCASTLE-UPON-TYNE

NE1 8QH

#### **Contact**

Andrew Richardson

#### **Email**

[andrew.richardson@newcastle.gov.uk](mailto:andrew.richardson@newcastle.gov.uk)

#### **Telephone**

+44 1912116936-26936

**Country**

United Kingdom

**Region code**

UKC22 - Tyneside

**Justification for not providing organisation identifier**

Not on any register

**Internet address(es)**

Main address

<http://www.newcastle.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**

Contract Modification (under Regulation 43 Concession Contracts Regulations 2016) to the Quay Management Agreement between Shepherd Offshore Services Limited and Newcastle City Council

#### **II.1.2) Main CPV code**

- 63721000 - Port and waterway operation services and associated services

#### **II.1.3) Type of contract**

Services

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

In August 2001, Newcastle City Council ('the Council') awarded a contract to provide a quayside management service to Shepherd Offshore Services Limited ('SOSL'), whereby SOSL operates port activities at Walker Quay ('the Quay') on behalf of the Council ('the Contract').

The Contract term is 25 years from 6 August 2001, and is due to expire on 31 March 2026. SOSL is remunerated solely by receiving a share of the income from operating the Contract.

The Council has become aware of the need for considerable remediation works to be carried out to the Quay prior to the expiry of the Contract which is the responsibility of the Council, therefore a contract modification has been made to extend the term of the Contract.

#### **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: £265,119,131

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

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

NUTS codes

- UKC22 - Tyneside

Main site or place of performance

Walker Quay, Newcastle-upon-Tyne.

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

Following the commissioning of a survey of Walker Quay, the Council has become aware of the need for considerable remediation works to be carried out to preserve the structural integrity of the Quay and associated facilities ('the Works'). For safety reasons, the Works are required to be carried out prior to the expiry of the Contract. The Works will not improve the Quay but are necessary maintenance in order to maintain operations at the Quay.

The Works will disrupt the normal operations and turnover of the Quay for the remaining term of the Contract to 31 March 2026. As a result, in order to compensate SOSL for losses it will incur as a result of the Works, the Council has entered into an extension of the Contract for a further 9.7 years.

#### **II.2.5) Award criteria**

Price

#### **II.2.11) Information about options**

Options: No

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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:

Explanation in Section VI. Complementary Information.

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

The procurement is covered by the Government Procurement Agreement: No

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

### **Title**

Contract Modification to Newcastle City Council Quay Management Agreement

A contract/lot is awarded: Yes

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

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

6 August 2001

#### **V.2.2) Information about tenders**

Number of tenders received: 2

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

#### **V.2.3) Name and address of the contractor**

Shepherd Offshore Services Limited

White Street, Walker

Newcastle upon Tyne

NE6 3NH

Country

United Kingdom

NUTS code

- UKC22 - Tyneside

Companies House

06450756

The contractor is an SME

No

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

Total value of the contract/lot: £265,119,131

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## **Section VI. Complementary information**

### **VI.3) Additional information**

This Notice is to advise of a contract modification and is published to satisfy the Concessions Contracts Regulations 2016 ('CCR').

The Council has made the decision to modify its current contract for quay management services to extend the Contract term by 9.7 years.

Regulation 43 of the CCR permits variations to existing contracts without undertaking further competition in certain circumstances. Regulation 43(1)(e) CCR permits modifications to be made to existing concession arrangements, irrespective of value, if they are not substantial within the definitions provided at Regulation 43(9) CCR. The extension to the Contract is not substantial within Regulation 43(9) CCR for the following reasons:

(a) the extension does not render the concession contract materially different in character

from the one initially concluded, because the object of the Contract will remain as the exclusive provision of quay management services to the users of the Quay together with ancillary port activity;

(b) the extension does not introduce conditions which would have attracted a larger or different pool of applicants than those originally selected, or would have resulted in a different tender being selected as the winning tender, because the circumstances leading to the extension were not known to the Council at the time of entering into the Contract and the extension opportunity would therefore have been available to any bidder who won the original procurement;

(c) the extension does not change the economic balance of the Contract in favour of SOSL in a manner which was not provided for in the original contract, as the extension puts SOSL in the position it would have been in if that extension had not been required. Further, the term of the extension, which is the contractual equivalent for compensation which would otherwise be due to SOSL for permitting the Works to be undertaken over the remaining term of the Contract, is supported by technical and financial analysis carried out by an independent expert report prepared by WSP.

(d) the extension does not change the scope of the Contract considerably, because the extension will be on materially the same scope in terms of services provided, other than some additional services to assist the works contractor which will be separately appointed by the Council to carry out the remediation works.

(e) there is no replacement concessionaire proposed in the contract modification.

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

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

High Court of Justice

Technology and Construction Court, 7 Rolls Buildings, Fetter Lane

London

EC4A 1NL

Country

United Kingdom