

This is a published notice on the Find a Tender service: <https://www.find-tender.service.gov.uk/Notice/024395-2024>

Award

Giles Lane Student Accommodation Project

UNIVERSITY OF KENT

F15: Voluntary ex ante transparency notice

Notice identifier: 2024/S 000-024395

Procurement identifier (OCID): ocds-h6vhtk-04876c

Published 2 August 2024, 4:58pm

Section I: Contracting authority/entity

I.1) Name and addresses

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: £418,000,000

II.2) Description

II.2.2) Additional CPV code(s)

- 45000000 - Construction work

II.2.3) Place of performance

NUTS codes

- UKJ4 - Kent

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 Deutsche Bank (the "Fund") and Giles Lane Investments Limited (the "Developer") for the construction of 845 new student rooms (the "Development") on a property which contains three separate parcels of land currently under different ownership. Attached at Annex 1 is a plan with coloured shading which indicates the ownership of the

parcels of land. The University are the freehold proprietors of the land shaded blue ("University Land"), Citi Nests Canterbury Limited ("Citi Nest") are the freehold proprietors of the land shaded green ("Citi Nest's Land") and St Edmunds School are the freehold proprietors of the land shaded yellow on the Plan (the "School's Land").

Attached at Annex 2 is the redline plan for the demise, which encompasses the University Land, Citi Nest's Land, and part of the School's Land. The Developer has the exclusive option to purchase the University Land and Citi Nest's Land (the "Options"). The Developer will purchase Citi Nest's Land and transfer the freehold to the University. The Developer is finalising an agreement with the School for the transfer of this land to the University. The Developer 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 alienation 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 squash court, 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;]
- the Developer is already progressing the development of phase one on other land known as Landon. This was intended to comprise one large development of student accommodation together with this Development. However, it was progressed 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

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:
 - protection of exclusive rights, including intellectual property rights

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 and the Developer are progressing the development of the Landon site to acquire urgently needed new student accommodation;
- the University still requires new student accommodation to meet its growing student demand and the Development is capable of being delivered in time for the academic year 2026/27 intake of students;
- the University's students demand "on campus" accommodation and the Development is ideally located on a site which adjoins, and can be incorporated into, the University's campus;
- the Developer holds exclusive rights to acquire part of the land intended for Development under the Options[and will be holding the exclusive rights to acquire the remaining land before this Transaction is entered into];

- the Developer's exclusive rights include;
 - o the Developer's rights in respect of Citi Nest's Land (shaded green on the Plan), pursuant to the Options;
 - o the fact that Citi Nest's Land adjoins the University's Canterbury campus;
 - o [the future Developer's rights in respect of the School's Land, pursuant to a future option;]
 - o [the fact that the School's Land 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 the squash courts, which 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 the academic year 2026/27;
- 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"; and
- [there is no reasonable alternative route to acquire Citi Nest land for development without it being a condition under the Transaction for the Developer to be the supplier appointed to undertake any development works.]

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

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

2 August 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)

Total value of the contract/lot/concession: £418,000,000

Section VI. Complementary information

VI.3) Additional information

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.

(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, Strand London

London

WC2A 2LL

Country

United Kingdom