

This is a published notice on the Find a Tender service: <https://www.find-tender.service.gov.uk/Notice/029847-2023>

Award

Burtree Garden Village - Lead Construction Manager

Homes England (the name adopted by the Homes and Communities Agency)

F15: Voluntary ex ante transparency notice

Notice identifier: 2023/S 000-029847

Procurement identifier (OCID): ocids-h6vhtk-040abc

Published 10 October 2023, 3:11pm

Section I: Contracting authority/entity

I.1) Name and addresses

Homes England (the name adopted by the Homes and Communities Agency)

The Lumen, St James Boulevard, Newcastle Helix

Newcastle upon Tyne

NE4 5BZ

Email

matthew.bell@homesengland.gov.uk

Country

United Kingdom

Region code

UKC - North East (England)

Internet address(es)

Main address

<https://www.gov.uk/government/organisations/homes-england>

Buyer's address

<https://www.gov.uk/government/organisations/homes-england>

I.4) Type of the contracting authority

National or federal Agency/Office

I.5) Main activity

Housing and community amenities

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Burtree Garden Village - Lead Construction Manager

Reference number

DN681292

II.1.2) Main CPV code

- 71311000 - Civil engineering consultancy services

II.1.3) Type of contract

Services

II.1.4) Short description

Homes England's land interest at Burtree Garden Village comprises a 122 hectare site which was acquired between March 2020 and December 2022. The land purchased forms approximately 69% of Burtree Garden Village, a wider strategic mixed use allocation located at the north-western edge of Darlington.

Homes England acquired the Freehold interest in the site by way of an assignment of an Option Agreement held by a private developer Hellens Land Limited (Hellens) who had up until this time acted as lead developer/promoter. Upon acquiring the Option Agreement from Hellens, it was a condition of the assignment by Hellens that a Collaboration Agreement was entered into between Homes England and Hellens, detailing how the parties will collaborate to obtain planning and how costs of the acquisition and planning and infrastructure works and receipts will be shared.

The wider Garden Village extends to 178 ha (440 acres) and seeks to deliver over 2,000 new homes, village centre, primary school, employment space along with an extensive and integrated blue/green network incorporating a new 10 ha (25 acre) public park. Circa. 1,600 of these new homes, 600,000 sq. ft of employment space, park, nature reserve, land identified for a new primary school, village centre and park are proposed to be accommodated on the Homes England owned land.

Whilst Homes England have been involved in this site since late 2019, Hellens have been

involved since 2015. Their role was initially working with the various landowners to promote the site, followed by leading the consortium in the preparation of a masterplan along with other technical works. This work resulted in the site successfully obtaining Garden Communities status in 2019 from MHCLG (now DLUHC) just prior Homes England's involvement.

This along with the work Hellens has undertaken to date with Homes England means that they have been working on the Burtree project for eight years and as such have detailed knowledge of the site, its complexities and the relationships between the landowners.

Since the initial acquisition in March 2020, Homes England and Hellens have worked closely with the Local Authority to agree key principles around the phasing strategy and infrastructure delivery to ensure the successful delivery of the Garden Village. This has resulted in the need for a new section of road, along with a new roundabout, drainage basins, utilities and landscaping to be constructed at the beginning of the development, prior to any homes being built.

In December 2022 Homes England secured funding to take on a master developer role by providing primary vehicular infrastructure, SUDs, pedestrian and cycle links, village centre, landscaping and central park.

Homes England's ongoing support for the Burtree site, which is part of the Government's Garden Communities programme, helps fulfil this wider government objective whilst also proposing to invest in the town of Darlington, supporting the levelling up agenda. The site has also been masterplanned to achieve positive outcomes in terms of design, place making, sustainability and environmental considerations, resulting in a beacon scheme for the North East demonstrating the quality of place Homes England and wider government is seeking to encourage.

The Collaboration Agreement documents the agreement between Homes England and Hellens as to how the delivery of the site will take place, how the project is to be funded and the division of risk and receipts between those parties thereafter. The Collaboration Agreement also sets out that Homes England will consider how Hellens could be involved in the future delivery of the infrastructure, which is considered a significant benefit given Hellens experience and knowledge of the project.

It is now proposed that Hellens Land Limited be directly appointed as Lead Construction Manager.

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: £3,730,000

II.2) Description

II.2.3) Place of performance

NUTS codes

- UKC - North East (England)

II.2.4) Description of the procurement

The role of Lead Construction Manager includes the following services:

1. Take on the Lead Consultant role where Hellens will manage and use the existing project team (which includes planning and other technical consultants) and the extensive information that currently exists.
2. Secondly, Hellens as the Lead Construction Manager, would manage and oversee the delivery of the infrastructure along with, in the first instance, procuring an infrastructure contractor in accordance with Homes England's public sector procurement rules.

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

- Additional deliveries by the original supplier

Explanation:

In accordance with the provisions of the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 SI No. 2020/1319, this procurement falls to be regulated under the provisions of the Public Contracts Regulations 2015 (PCR 2015) as amended (in particular by SI 2020/1319). Prior publication of a contract notice in the Official Journal of the European Union is no longer appropriate. It is considered that the award of the contract without prior publication of a contract notice in the UK e-notification service (in accordance with the relevant legislation) is lawful in accordance with regulation 32(2)(b)(ii) of the PCR 2015 because competition is absent for technical reasons.

Homes England's collaboration agreement with Hellen establishes a number of key elements which impact on competition:

- Homes England and Hellens are jointly responsible for meeting the financial obligations that allow the exercising of the options to acquire land, upon which, the proposed infrastructure works worth £36.4m will take place
- to date Hellens have been responsible for funding the majority of the costs relating to planning and other technical/consultants work and reports
- Hellens will ultimately fund the majority of works and services costs including those services included in this notice. Therefore the actual cost of the services included in this notice will be lower at £1,555,410.

Hellens have a direct financial and land interest in the subject site, a detailed understanding of the project and this together with the delivery obligations establish circumstances where Hellens have an ability to provide development management services in a sufficiently unique form from a commercial and technical perspective, avoiding complexity and delay in the pace of development.

In considering the grounds for this approach, Homes England considers that Hellens have an exclusive position but not an exclusive rights under Regulation 32(2)(b)(ii). This approach

maintains pace of development to contribute to Homes England objectives in addressing urgent need for new homes across England but this not considered extremely urgent under Regulation 32(2)(c). These considerations provide further support to the technical reasons identified.

No reasonable alternative or substitute exists to this approach and a viable procurement to enable other suppliers to provide an equivalent solution is not practical or possible, hence competition is absent for technical reasons for this notice.

The relationship established on the back of Homes England's decision to acquire land options and enter into a collaboration agreement and share costs based on the respective land ownership creates a situation no other development manager could fully replicate. That Hellen's have a long term and continuing interest and unique understanding of the project and development challenges, are likely to be acting as Homes England's agent for the procuring works under the Public Contract Regulations 2015, are funding the majority of the cost of the development management and this approach improves the commercial viability by retaining costs within that of Homes England and Hellens are relevant technical reasons.

It is these technical reasons which mean no reasonable alternative or substitute exists to this approach and a viable procurement to enable other suppliers to provide an equivalent solution is not practical or possible. Whilst other suppliers may be able to replicate in part some of the requirements the overall technical uniqueness of Hellens means the potential for a viable competition is not possible for technical reasons and further supported by exclusive and urgency reasoning.

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

26 July 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

Hellens Land Limited

10 Teal Farm Way, Teal Farm Park

Washington

NE38 8BG

Country

United Kingdom

NUTS code

- UKC - North East (England)

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: £3,730,000

Section VI. Complementary information

VI.3) Additional information

The value given in Section II.1.7 is an indicative figure based on forecast costs. The final cost will be significantly less as explained in IV.1.

The date given at V.2.1 is the date this notice has been submitted. This award decision is subject to contract.

VI.4) Procedures for review

VI.4.1) Review body

Courts and Tribunals Judiciary

London

Country

United Kingdom