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Award

## **Sale of Land at Telford Place, Crawley**

Crawley Borough Council

F15: Voluntary ex ante transparency notice

Notice identifier: 2022/S 000-032843

Procurement identifier (OCID): ocds-h6vhtk-0386ac

Published 18 November 2022, 4:02pm

### **Section I: Contracting authority/entity**

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

Crawley Borough Council

Town Hall, The Boulevard

CRAWLEY

RH101UZ

#### **Contact**

Siraj Choudhury

#### **Email**

[siraj.choudhury@crawley.gov.uk](mailto:siraj.choudhury@crawley.gov.uk)

#### **Telephone**

+44 1293438000

**Country**

United Kingdom

**Region code**

UKJ28 - West Sussex (North East)

**Justification for not providing organisation identifier**

Not on any register

**Internet address(es)**

Main address

<https://crawley.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**

Sale of Land at Telford Place, Crawley

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

- 45000000 - Construction work

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

Works

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

This Voluntary Ex-Ante Transparency (VEAT) notice relates to arrangements governed by a proposed contract for sale ("Sale Contract") and (subsequent Transfer) between (1) Crawley Borough Council ("the Council") and (2) Platinum Skies Crawley Limited ("the Developer") in respect of land owned by the Council at Telford Place, Crawley, RH10 1FG (the "Site") Land Registry Title Number WSX240015 and WSX68805) and an Agreement for Lease (and subsequent Lease) between (1) Platinum Skies Crawley Limited and (2) the Council in respect of the affordable rented units to be leased to the Council.

This VEAT notice has been issued on the basis that such arrangements fall outside the remit of the Public Contracts Regulations 2015 and Directive 2014/24/EC for the reasons set out under section 11.2.4.

#### **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: £300

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

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

NUTS codes

- UKJ28 - West Sussex (North East)

Main site or place of performance

United Kingdom

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

The Council has agreed a sale of the Site to the Developer and the parties are now looking to enter into a Sale Contract which is subject to various conditions precedent being satisfied the main one being the Developer obtaining a satisfactory planning permission. Provided that the conditions precedents are satisfied (or waived) the Council will transfer the freehold ownership of the Site to the Developer. The Site is subject to a restriction which limits its development to affordable housing. The purchase price for the sale of the Site will be calculated by reference to a formula which is dependent on the planning permission being granted. The Sale Contract envisages the Developer obtaining the planning permission but does not impose any binding obligation on the Developer to develop the Site. The Parties are also intending to enter into an Agreement for Lease consecutively with the Sale Agreement which envisages the Council will purchase the affordable rent units from the Developer (under a Lease arrangement) once they have reached the stage of practical completion, to fulfil the Developer's obligations under a section 106 agreement to ensure affordable rent accommodation is included within the development, in addition to the affordable housing on the rest of the Site. The purchase price for the circa 95 affordable rented units (actual figure to be determined when planning permission is secured) the Council is intending to acquire is to be calculated in accordance with the formula set out in the Agreement for Lease. Various deposit payments will be made to the Developer upon different stages of construction being reached for the affordable rented units by way of reservation of the units. Total value of the procurement (excluding VAT): £300 to £330 per square foot gross internal area to be determined as per the formula set out in Agreement for Lease

## **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:

Regulation 2 of the Public Contracts Regulations 2015 defines a public works contract as 'public contracts which has as their object any of the following:

(a) the execution, or both the design and execution, of works related to one of the activities listed in Schedule 2;

(b) the execution, or both the design and execution, of a work;

(c) the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work.

The Council does not consider that the arrangements governed by the agreement for lease or the lease (as described in section II.2.4 of this notice) constitutes the procurement of a public works contract as defined above (or any other type of public contract) within the scope of the Public Contracts Regulations 2015 or Directive 2014/24/EU for the following reasons:

(i) the agreement for lease and lease do not place any enforceable legal obligations, either immediate or contingent, on the Developer to carry out any works (for the benefit of the Council or otherwise). The agreement for lease and lease envisages that the Developer will initially obtain planning permission, remediation costs, rights to light, stopping-up and access to the site, but does not impose any binding obligation on the Developer to develop the site. If satisfactory the above is achieved the Developer will be able to develop the site but there is no binding obligation on the Developer to do so nor otherwise to procure the carrying out of the relevant development works. The carrying out the relevant development works are for the benefit of the Developer and/or any tenant/occupant of the residential units and not the Council.

(ii) Furthermore, the development works which the agreement for lease envisage may be

carried out in the future by the Developer, are not works that have been specified by the Council (being works instead which have been determined by the Developer), nor has the Council nor will the Council have (outside of its separate capacity as local planning authority) any decisive influence on the type or design of the development works.

On this basis, the Council considers that this arrangement is a straight land transaction which falls outside of the scope of the Public Contracts Regulations 2015.

#### **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/concession**

A contract/lot is awarded: Yes

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

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

18 November 2022

##### **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**

Platinum Skies Crawley Limited

170 Charminster Road

Bournemouth

BH89RL

Email

[sjada@ahh.org.uk](mailto:sjada@ahh.org.uk)

Telephone

+44 1202531635

Country

United Kingdom

NUTS code

- UKK24 - Bournemouth, Christchurch and Poole

Companies House

13324875

Internet address

[www.ahh.org.uk](http://www.ahh.org.uk)

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: £300

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## **Section VI. Complementary information**

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

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

High Court

Royal Courts of Justice, Strand

London

WC2A 2LL

Country

United Kingdom

#### **VI.4.4) Service from which information about the review procedure may be obtained**

High Court

Royal Courts of Justice, Strand

London

WC2A 2LL

Country

United Kingdom