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Contract

Gibfield White Land Development

Torus62 Limited

F03: Contract award notice

Notice identifier: 2023/S 000-037789

Procurement identifier (OCID): ocids-h6vhtk-0421f2

Published 22 December 2023, 10:06am

Section I: Contracting authority

I.1) Name and addresses

Torus62 Limited

Helene Central, 4 Corporation Street

St Helens

WA9 1LD

Contact

Procurement Manager

Email

procurementteam@torus.co.uk

Telephone

+44 7718707048

Country

United Kingdom

Region code

UKD - North West (England)

Internet address(es)

Main address

<https://www.torus.co.uk>

I.4) Type of the contracting authority

Body governed by public law

I.5) Main activity

Housing and community amenities

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Gibfield White Land Development

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 a single site at Gibfield White Land in Atherton, Manchester. The Negotiated Procedure without Prior Publication is being followed and is justified under Regulation 32 (2) (b) (iii). A voluntary ex ante transparency notice was published prior to award.

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: £22,617,074

II.2) Description

II.2.3) Place of performance

NUTS codes

- UKD - North West (England)

Main site or place of performance

NORTH WEST (ENGLAND)

II.2.4) Description of the procurement

This Notice confirms the contracting authority's award of a works contract using the negotiated procedure without prior publication, in accordance with Regulation 32 of the Public Contracts Regulations 2015. The contracting authority has entered into a Development Agreement with Northstone Development Limited, Company No. 11501341 ("Northstone"). The Development Agreement provides for the development 113 units by Northstone, comprising a mix of Rent to Buy, Affordable Rent & Social Rent properties. The works will commence in January 2024 and are intended to be complete by June 2026. The contract value is £22,617,074 excluding VAT. The works can only be provided by a particular economic operator for the following reason: protection of exclusive rights under Regulation 32(2)(b)(iii) of the Public Contracts Regulations 2015. A detailed explanation for the use of the negotiated procedure without prior publication is at Annex D.

II.2.5) Award criteria

Price

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

II.2.14) Additional information

This Contract Award Notice confirms the award a public works contract using the Negotiated Procedure without prior publication (Regulation 32 (2) (b) (iii)). The detailed explanation for the use of the negotiated procedure without prior publication is set out in Annex D.

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 services can be provided only by a particular economic operator for the following reason:
 - protection of exclusive rights, including intellectual property rights

Explanation:

The works can only be provided by a particular economic operator for the following reason: protection of exclusive rights under Regulation 32 (2) (b) (iii) of the Public Contracts Regulations 2015. The contracting authority was approached by Peel L&P Environmental Holdings Limited, ("Peel") regarding the freehold sale of the land at Gibfield, a site west of North Road, Atherton, Manchester, a site which was within Peel's ownership and which it wished to transfer to the contracting authority for the development of 113 homes ("the Site"). Peel required the purchaser of the Site to appoint Northstone to carry out the development of the site. Peel and Northstone are part of the same group and have the same persons with significant control. Accordingly, it was a condition of the sale of land agreement between Peel and the contracting authority, that the development works at the Site would be undertaken by Northstone. An extract of the clause included in the sale of land agreement is at section VI.3 for transparency. Under Regulation 32(2)(b)(iii) of the Public Contract Regulations 2015, the contracting authority considered that the works could be supplied by only one economic operator, Northstone, as it held exclusive rights in relation to the development by virtue of its relationship with the land owner and as a condition of the sale of the Site that the contracting authority appointed Northstone to carry out the works. In accordance with Regulation 32(2)(b)(iii), the contracting authority considered that no reasonable alternative or substitute exists. There was no reasonable alternative to route to purchase the Site without it being a condition of sale for the contracting authority to appoint Northstone to undertake the development works. Peel held exclusive rights over the Site as the Site owner and therefore imposed conditions relating to the sale requiring the appointment of Northstone to carry out the development works at the Site. Peel was not willing to sell the Site to the contracting authority without this condition. The contracting authority considered that it would not be given the opportunity to purchase the Site without this condition of sale and the requirement to appoint Northstone as the developer to carry out the works. The contracting authority considered that there were no alternative viable sites for this development. The contracting authority further considered that the absence of competition

in this case was not a result of artificial narrowing down of the parameters of the procurement by the contracting authority. This opportunity was presented to it by Peel and Northstone and the structure of the transaction and the design of the development at the Site was already determined by them at the time the opportunity was presented to the contracting authority.

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

The procurement is covered by the Government Procurement Agreement: Yes

IV.2) Administrative information

IV.2.1) Previous publication concerning this procedure

Notice number: [2023/S 000-035862](#)

Section V. Award of contract

A contract/lot is awarded: Yes

V.2) Award of contract

V.2.1) Date of conclusion of the contract

21 December 2023

V.2.2) Information about tenders

Number of tenders received: 1

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

V.2.3) Name and address of the contractor

Northstone Development Limited

Venus Building, 1 Old Park Lane

Manchester

M41 7HA

Telephone

+44 1616298200

Country

United Kingdom

NUTS code

- UKD - North West (England)

National registration number

11501341

The contractor is an SME

No

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

Total value of the contract/lot: £22,617,074

Section VI. Complementary information

VI.3) Additional information

Extract from sale of land agreement: “Developer” means Northstone Development Limited (Company No. 11501341) registered at Venus Building, 1 Old Park Lane, Manchester M41 7HA “Development Contract” means the contract between the Buyer and the Developer under which the Developer will carry out the Proposed Development in the form annexed at Appendix 2 “Proposed Development” means a residential development of the Property as set out in the Planning Permission (as may be varied from time to time); 4.3 The Buyer enters into the Development Contract with the Developer, and acknowledges that it is a condition of the sale of the Property by the Seller to the Buyer that the Developer is appointed by the Buyer to carry out the Proposed Development.

To view this notice, please click here:

<https://www.delta-esourcing.com/delta/viewNotice.html?noticeId=829897806>

GO Reference: GO-20231222-PRO-24843785

VI.4) Procedures for review

VI.4.1) Review body

High Court of England of Wales

Royal Courts of Justice, The Strand

London

WC2A 2LL

Country

United Kingdom