09/12/2019 Current Report No. 68/2019 (02:33 p.m.)

Topic:
Signing of a significant Agreement of the value of 80.5 million PLN for “Construction of new peak sources in PGE Energia Ciepła S.A. Branch Wybrzeże in Heat and Power Plant Gdańsk”. The agreement was signed by a subsidiary of the Issuer, i.e. Erbud Industry Sp. z o.o. (a 100% subsidiary of ERBUD S.A.). The investor is PGE Energia Ciepła S.A. 59 Złota Street, 00-120 Warsaw.

Legal basis:
Article 17(1) MAR - confidential information.

Content of the Report:
The Management Board of the Issuer informs that on 9 December 2019 an Agreement was signed for “Construction of new peak sources in PGE Energia Ciepła S.A. Branch Wybrzeże in Heat and Power Plant Gdańsk”. The agreement was signed by a subsidiary of the Issuer, i.e. Erbud Industry Sp. z o.o. (a 100% subsidiary of ERBUD S.A.).
The investor is PGE Energia Ciepła S.A. 59 Złota Street, 00-120 Warsaw.

The Agreement was signed under the following terms:

1. Contract conclusion date: 09.12.2019 “Effective Date” - Erbud Industry Sp. z o.o. with PGE Energia Ciepła S.A. 59 Złota Street, 00-120 Warsaw (Employer).
2. Investor (exact name and registered office): PGE Energia Ciepła S.A. 59 Złota Street, 00-120 Warsaw
3. Contract value: 80 532 000 PLN net (in words: eighty million five hundred thirty two thousand PLN 00/100 net) plus VAT calculated in accordance with the applicable provisions of law,
4. Subject of the contract: Construction of new peak sources in PGE Energia Ciepła S.A. Branch Wybrzeże in Heat and Power Plant Gdańsk - The subject of the Agreement is the construction of a "turnkey" peak load boiler plant, incorporated into the existing infrastructure of EC 2 Gdańsk, consisting, among others, of

- two oil-gas flame and fire tube boilers with a capacity of 30MWt each with the necessary equipment;
- two electric and electrode boilers with a capacity of 35MWt each with their electrical power supply system;
- light oil management including the construction of an unloading station, a light oil storage tank and an oil pumping station;
- light oil supply system covering the installation of pipelines supplying light oil from the pumping station to the boiler burner systems of two oil-gas boilers and in the area of existing coal-fired boilers;
- electrical power supply system for electrode boilers including replacement of the existing two block transformers with new 3-wire transformers with on-load tap-changer;
- new MV switchgear with cable routes.

5. Place of performance of the contract: Heat and Power Plant Gdańsk
6. Deadlines for completion: Date of completion of the works: 29 April 2022.
7. Payment terms: The remuneration shall be paid on the basis of partial invoices issued by the Contractor after the execution and acceptance of individual Milestones indicated in Appendix 3 to the Agreement (Payment Schedule) for amounts corresponding to the values of individual Milestones. Payments shall be made by bank transfer to the bank account of the Contractor indicated in the VAT invoice, within 30 days from the date of delivery of a correctly issued VAT invoice to the Employer.
8. Performance Bond (value, term): The Contractor shall provide the Employer - on the Effective Date- with a Performance Bond for the due performance of the Agreement in the amount of

10% of the Contractual Remuneration net (excluding VAT) valid until 28.11.2021. The Employer consents to the creation of the Collateral by deducting it from the amount due for partially completed Works. In such a case, on the day of agreement conclusion the Contractor is obliged to pay at least 30% of the amount of the Collateral. The Employer shall pay the amount of the deduction to a bank account on the same day as the invoice is paid. The full amount of the collateral may not be paid later than by the middle of the term for which the Agreement was concluded.

9. Warranty for repair of defects and faults (value, term): The Contractor shall maintain at all times the Collateral for Proper Performance of the Agreement amounting to:
   - 100% of the amount constituting 10% of the net Contractual Remuneration (excluding VAT) from the Effective Date to the 30th day from the date of signing of the Commissioning Protocol - to secure the Employer's claims due to non-performance or improper performance of the subject of the Agreement;
   - 30% of the value of the amount constituting 10% of the Contractual Remuneration net (excluding VAT) until the Day of signing of the Final Protocol - to secure the Employer's claims under the Guarantee and Warranties. For the avoidance of doubt, the amount of 30% of the remuneration referred to above shall be maintained in full until the expiry of the Guarantee and Warranty Period for Construction, Insulation and Anti-corrosion Works, i.e. for a period of 60 months from the date of signing of the Commissioning Protocol (until 29.11.2026).
10. Other guarantees (type of guarantee, value, term): Within 30 (thirty) days from the Effective Date, the Employer shall pay the Contractor, on the basis of a pro forma invoice issued by the Contractor, an advance payment of 15% of the gross contractual remuneration [PLN], subject to prior receipt of the Advance Repayment Guarantee securing the above amount. The Contractor shall issue and deliver to the Employer a VAT invoice for the amount of the above advance payment within the time limit specified in the tax law regulations. The advance payment including VAT shall be settled by the Contractor in the VAT invoice covering the remuneration for the performance of works related to the construction of the light oil storage tank, unloading and supply infrastructure together with pipelines to the peak boiler room and block boiler room issued under the Contractual Remuneration provided for in the Payment Schedule.
11. Penalties: The total upper limit of all penalties under the Agreement may not exceed 20% of the net contractual remuneration referred to in par. 4 section 4.1. The Employer shall have the right to claim additional compensation exceeding the amount of reserved contractual penalties under the general rules of the Civil Code. The Employer shall have the right to combine the penalties charged on the basis of individual titles. The Employer reserves the right to charge contractual penalties for delay in the performance of Works, failure to meet the guaranteed parameters and delay in removing Defects in the amount and on the terms specified in Appendix No. 9 to the Agreement (Contractual Penalties and Guaranteed Parameters). Contractual penalty for delay in the timely submission of building designs and other required documents to the City Hall in order to obtain a building permit - PLN 15,000 (fifteen thousand zlotys) per each commenced Day of delay

    Contractual penalty for delay in the timely completion of works related to the completion of works on the replacement of the TB3 block transformer - PLN 15,000 (fifteen thousand zlotys) per each commenced Day of delay

    Contractual penalty for delay in the timely completion of assembly of oil and gas boilers and electrode boilers in all industries - PLN 15,000 (fifteen thousand zlotys) per each commenced Day of delay

    Contractual penalty for delay in the timely completion of works related to the completion of works on the replacement of the 5GT (TB5) block transformer - PLN 15,000 (fifteen thousand zlotys) per each commenced Day of delay

Contractual penalty for delay in the timely signing of the Commissioning Protocol ("Key Milestone") of oil and gas boilers and electrode boilers - PLN 15,000 (fifteen thousand zlotys) per each commenced Day of delay.

The total upper limit of contractual penalties for delays charged for failure to meet the Milestones completion dates may not exceed 15% of the net contractual remuneration. The Employer has the right to claim additional compensation exceeding the amount of reserved contractual penalties under the general rules of the Civil Code.

If the defect is not remedied within the specified time limits, the Contractor shall pay the Employer the following contractual penalties:

Penalty for delay in relation to the date of removal of a Limiting Defect - PLN 5,000 (five thousand zlotys) per each Day of delay

Penalty for delay in relation to the date of removal of a Defect - PLN 1,000 (one thousand zlotys) per each Day of delay