



BEFORE THE PUBLIC UTILITIES COMMISSION

**IN RE: REQUEST FOR REVIEW)
 AND APPROVAL OF)
 BLACK CONSTRUCTION)
 CONTRACT BY PORT)
 AUTHORITY OF GUAM)
_____)**

**PAG DOCKET 12-04

ORDER**

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the October 22, 2012 Petition for review and approval of the Black Construction Corporation (“Black Construction”) contract related to the Gregorio D. Perez Marina Renovation and Site Improvement Phase II Project (hereinafter referred to as the “Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG”).¹

DETERMINATIONS

On August 2, 2012, PAG began the Invitation for Bid (“IFB”) process for the competitive solicitation of bids related to the subject project² by publishing the IFB in the Marianas Variety newspaper.³ At the bid opening on September 12, 2012,⁴ Black Construction and Sumitomo Mitsui Co. Ltd. submitted bids.⁵

¹ Petition, p. 2 (Oct. 10, 2012).

² Petition, p. 1.

³ PAG’s Bid Analysis and Recommendation (“Bid Analysis and Recommendation”), p. 1 (Sept. 14, 2012).

⁴ Bid Analysis and Recommendation, p. 1.

⁵ Petition, p. 1; Bid Analysis and Recommendation, p. 1.

Upon PAG's review of the bids, PAG determined that Black Construction submitted the lowest responsive and responsible bid, and therefore recommended that Black Construction be awarded the contract in the amount of \$1,698,877.00 for the project.⁶ On September 15, 2012, the firm of N.C. Macario & Associates, Inc. ("Macario & Associates"), an engineering and construction management consultant for PAG, similarly found that Black Construction's bid was the lowest responsive and responsible bid, and therefore recommended that the project be awarded to Black Construction.⁷

On September 20, 2012, PAG's Board of Directors ratified the award for the project to Black Construction in the amount of \$1,698,877.00.⁸ On October 25, 2012, PAG's Board of Directors issued Resolution No. 2012-23 affirming such ratification. On October 12, 2012, PAG petitioned the PUC to approve the subject Black Construction contract.

The entire project is federally funded by the U.S. Department of Interior, Office of Insular Affairs, under certain Guam grants, specifically Guam-CIP-2006-1 Grant No. GR670090 and GUAM-CIP-2007-1 Grant No. 770061.⁹

On October 26, 2012, the Administrative Law Judge of the PUC (the "ALJ") submitted an ALJ Report detailing his findings and determinations regarding review of the Black Construction contract. In the ALJ Report, the ALJ found that the Gregorio D. Perez Marina Renovation and Site Improvement Phase II Project was a "significant" project that would

⁶ Petition, p. 1; Bid Analysis and Recommendation, pp. 1-2.

⁷ N.C. Macario & Associates, Inc.'s Bid Evaluation Report ("Bid Evaluation Report"), p. 1 (Sept. 15, 2012); Petition, p. 2.

⁸ Petition, p. 2.

⁹ Petition, p. 1.

“certainly improve ‘PAG’s current infrastructure by renovating its marinas.’”¹⁰ The ALJ also found that continuation of such renovations would provide much needed upgrades to PAG’s infrastructure “without any interruption in Marina operation and loss of revenue for PAG.”¹¹

The ALJ further found that the project was fully funded by the federal government, at no cost to PAG’s users, and that the Black Construction contract fell well below the federal government’s budget of \$2.5 million, and was also over \$300,000 less than the Government of Guam’s estimate for the project. The ALJ found that the Petition was supported by the findings of PAG’s Board of Directors, and therefore recommended that the PUC the Black Construction contract related to the Gregorio D. Perez Marina Renovation and Site Improvement Phase II Project for the total cost of \$1,698,877.00.

The Commission hereby adopts the findings made in the October 26, 2012 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

Upon consideration of the record herein, the October 26, 2012 ALJ Report, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

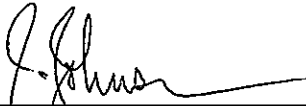
1. The PUC approves the Black Construction Corporation contract related to the Gregorio D. Perez Marina Renovation and Site Improvement Phase II Project.
2. PAG is ordered to pay the PUC’s regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with

¹⁰ ALJ Report, p. 5 (Oct. 26, 2012) (citing Petition, p. 1).

¹¹ ALJ Report, p. 5 (citing Petition, p. 2).

the instant contract review process. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

SO ORDERED this 30th day of October, 2012.



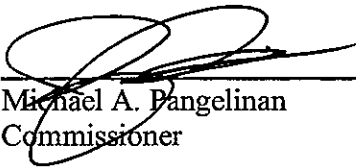
Jeffrey C. Johnson
Chairman



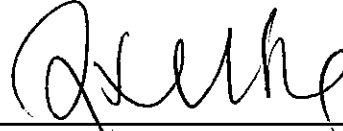
Joseph M. McDonald
Commissioner

Rowena E. Perez
Commissioner

Filomena M. Cantoria
Commissioner



Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner

P124092.JRA