



BEFORE THE PUBLIC UTILITIES COMMISSION

IN RE:	REQUEST FOR REVIEW) AND APPROVAL OF) AGREEMENT WITH BME) & SONS, INC. BY PORT) AUTHORITY OF GUAM) FOR CONTRACT) RELATED TO THE) MARINE SERVICE LIFE) EXTENSION, WHARF) REPAIR PROJECT) <hr style="width: 100%;"/>	PAG DOCKET 14-07 ORDER
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This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the June 27, 2014 Petition for review and approval of the BME & Sons, Inc. (“BME”) contract related to the Marine Service Life Extension, Wharf Repair project (“Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”). PAG seeks the PUC’s review and approval of the \$4,541,635.00 construction contract with BME.

DETERMINATIONS

On January 30, 2014, the PUC approved PAG’s petition for approval of a \$10 million Bank of Guam loan to fund certain Service Life Extension repairs, cargo handling equipment, and upgrades to PAG’s Financial Management System. Accordingly, part of the \$10 million was intended to fund the wharf repairs.

On April 21, 2014, PAG issued an Invitation for Bid (“IFB”) to solicit construction work for the Marine Service Life Extension, Wharf Repair project.¹ Three firms submitted bids in response to the IFB, which were evaluated by PAG’s procurement

¹ Petition, p. 1.

personnel.² PAG's procurement personnel thereafter determined BME to be the lowest responsive and responsible bidder.³ On June 25, 2014, PAG's Board of Directors ratified the bid award to BME.⁴

On July 28, 2014, the ALJ issued an ALJ Report detailing his review of the subject contract. In the ALJ Report, the ALJ found the following. Pursuant to 12 G.C.A. §12004, PAG may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Additionally, pursuant to PAG's current Contract Review Protocol, "[a]ll professional services contracts in excess of \$1,000,000" "shall require prior PUC approval under 12 G.C.A. §12004." Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

According to the Scope of Work for this contract, the instant project is intended to repair defects, such as concrete delamination, spalls, and cracks, in an effort to bring the facility back to a state of good repair to extend its service life. Accordingly, such work includes the following, among others: survey the existing project structures prior to start of work to verify and determine extent of repairs; demolish, remove, and dispose of existing steel, concrete, and other items necessary to implement repairs; and remove and dispose of abandoned fender units, marine batteries, and other items from mudline.

The contractor will also be required to demolish and remove a 12-inch-wide strip of concrete slab around concrete piles of Cargo Berth F5; demolish and remove spur rail and repair of area by filling in and compacting asphalt concrete to match existing grade

² Petition, p. 1.

³ Petition, p. 1.

⁴ Petition, p. 1.

along the spur rails; repair of structures; and apply a concrete protective coating system to under-deck above-water-line structures of Cargo Berth F5 to minimize moisture and chloride penetration, and to eliminate or significantly slow future deterioration to the structures. The contractor must further remove, repair, repaint, and re-install fender units; install ultra-high molecular weight (UHMW) crane bumpers on existing crane stops; as well as the removal of debris and unused items and the cleaning of the project site after implementation of the repairs.

Pursuant to the proposed contract, BME will be required to complete the project within two hundred seventy (270) calendar days from the date the Notice to Proceed is issued. The proposed contract contains the usual contract terms included in PAG's construction contracts.

As indicated by PAG, "[t]he design and bid specifications for this project was performed and completed by Parsons Brinkerhoff in June 2012 and has estimated the construction work at Six Million Dollars (\$6 M)."⁵ The cost of the contract is \$4,541,635.00 and is almost \$2 million less than the cost estimated by PAG. According to PAG, the contract will be drawn from the \$10 million SLE loan approved by the PUC earlier this year.

According to its website, BME is a general contractor specializing in mechanical projects and general construction. BME also offers its clients services related to civil, structural, architectural, electrical, mechanical, fire alarm, fire protection system, plumbing, and air conditioning work.

⁵ Petition, p. 1.

According to its bid submission, BME has experience completing several design-build contracts with the Navy, which includes the construction of new picnic pavilions, playgrounds, fence relocation, and miscellaneous repairs in Polaris Point. BME also completed several construction contracts, such as repairs to storage facilities, and renovations to other Navy facilities. BME was also involved in the following projects: \$1.2 million upgrades to the Airport's hangar facilities; GWA's Sinajana and Agana Heights water transmission lines for the series "A" wells; and \$3.8 million project to replace the air conditioning units in Naval base housing.

Resolution No. 2014-09 indicates that PAG's Board of Directors approved the contract award to BME during its June 25, 2014 meeting. In addition, the Resolution authorized PAG management to petition the PUC for review and approval of the contract award to BME.

Accordingly, the ALJ recommended that the PUC approve the proposed contract with BME, at a cost of \$4,541,635.00. The Commission hereby adopts the findings contained in the July 28, 2014 ALJ Report and, therefore, issues the following:


ORDERING PROVISIONS

Upon careful consideration of the record herein, the ALJ's July 28, 2014 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:

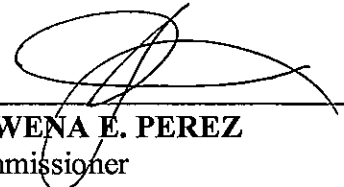
1. The proposed contract with BME is hereby APPROVED at a cost of \$4,541,635.00.

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 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 31st day of July, 2014.



JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ
Commissioner



JOSEPH M. MCDONALD
Commissioner




FILOMENA M. CANTORIA
Commissioner



MICHAEL A. PANGELINAN
Commissioner



PETER MONTINOLA
Commissioner



ANDREW L. NIVEN
Commissioner

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