

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:)

GWA DOCKET 19-12)

THE PETITION OF THE GUAM)
WATERWORKS AUTHORITY FOR)
APPROVAL OF GWA'S FIRE)
HYDRANT REPLACEMENT PHASE I)
CONTRACT UNDER THE CONTRACT)
REVIEW PROTOCOL)

PUC COUNSEL REPORT

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] pursuant to the Guam Waterworks Authority's ["GWA"] Petition for Approval of its contract with Mega United Corporation ("Mega United") for the Fire Hydrant Replacement Phase I.¹
2. GWA requests that the PUC approve the \$1,366,937 GWA/Mega United Contract for Fire Hydrant Replacement Phase I.

BACKGROUND

3. GWA has and maintains approximately 3,800 fire hydrants which are connected to and are a part of its island-wide drinking water distribution system. The condition of these fire hydrants ranges from excellent to extremely poor and they are further sub-categorized as being either "wet barrel" or "dry barrel" fire hydrants.²
4. GWA's Water Distribution Operations has been able to replace approximately three-hundred wet barrel fire hydrants but has only replaced a small number of dry barrel fire hydrants because the replacement work for the dry barrel hydrants requires extensive trenching, pipe and valve replacement, and pavement or concrete demolition and restoration.³

¹ GWA Petition for Approval of GWA's Fire Hydrant Replacement Phase I Contract under the Contract Review Protocol, GWA Docket 19-12 ["GWA Petition"], filed on July 29, 2019 at 1.

² Guam Consolidated Commission on Utilities ["CCU"] Resolution No. 38-FY2019, Relative to Approval of Fire Hydrant (Dry Barrel) Replacement Project Phase I, GWA Project No. W19-002-BND ["CCU Resolution"] at 1.

³ Id., at 1.

5. GWA determined that a private contractor would be more effective for completing the extensive work required to replace the dry barrel fire hydrants.⁴ On March 20, 2019, GWA issued GWA-IFB-03-ENG-2019 (Fire Hydrant Replacement Phase I) ["IFB"] to replace seventy-eight dry barrel fire hydrants with wet barrel fire hydrants in Barrigada, Mongmong-Toto-Maite, Yona, Tamuning, Dededo, and Chalan Pago.⁵
6. GWA received three bids in response to the IFB and determined that Mega United's bid was the lowest responsive and responsible bid and awarded the IFB Contract to Mega United.⁶
7. On June 5, 2018, the CCU approved the GWA/Mega United Contract for Fire Hydrant Replacement Phase I in the amount of \$1,242,670, plus a ten percent contingency of \$124,267 for a total contract price of \$1,366,937 to be paid using bond revenues and GWA's internally funded Capitol Improvement Project ["CIP"] Funds, subject to PUC's approval.⁷

ANALYSIS

8. The PUC's Contract Review Protocol for GWA mandates that GWA must obtain PUC approval for CIPs in excess of \$1,000,000 and for any contract that exceeds the amount of \$1,000,000.⁸ Here, the PUC must approve the GWA/Mega United Contract for Fire Hydrant Replacement Phase I because its \$1,366,937 cost exceeds the \$1,000,000 contract review amount.
9. GWA is required to obtain the PUC's approval of CIPs and contracts in excess of \$1,000,000 prior to beginning the procurement process. This was not done in this case because GWA did not believe that the IFB's contract would exceed the amount of \$1,000,000 at the time it solicited for the bids. Further, after GWA opened the bids and discovered that the lowest responsive and responsible bid was in excess of \$1,000,000, GWA did not want to reduce the amount of the fire hydrants replaced to bring the contract's costs below the \$1,000,000 threshold because it believed that all the fire hydrants replacements it solicited for are necessary to protect the People of

⁴ Id.

⁵ GWA Petition at 1.

⁶ Id., at 2.

⁷ CCU Resolution at 3.

⁸ PUC Order re Contract Review Protocol for GWA, PUC Administrative Docket 00-004, filed on October 27, 2005 ["GWA Contract Review Protocol"] at paragraphs 1(a) and (e) at 1.

Guam from the threat of fire and to enable the Guam Fire Department to effectively conduct fire suppression operations.

10. The fire hydrants are unique aspects of GWA's water distribution system because although they are owned by GWA, the Guam Fire Department ["GFD"] has the prior right to use any fire hydrant at any time.⁹ Further, Guam Law specifically requires GFD's Fire Chief to have all the fire hydrants inspected quarterly to see if they are maintained in good working order.¹⁰ It is unclear whether these inspections were done, however, at least since 2015, when GFD finds any fire hydrants not working or damaged GFD reports such fire hydrants to GWA and GFD does its part to maintain the fire hydrants but it is GWA's responsibility to repair them.¹¹
11. There is a joint effort between GFD and GWA to maintain GWA's fire hydrants. Every GFD fire station conducts hydrant surveys for their areas of responsibility and these surveys involve GFD conducting basic maintenance such as clearing debris and vegetation from fire hydrants and the fire stations keep a record of the fire hydrants in their area and the quality of their water pressure.¹² If these surveys encounter an inoperative or low pressure fire hydrant, GFD marks the fire hydrant, record the fire hydrant in a log book and submit a trouble ticket to their Water Liaison Officer.¹³
12. GWA keeps track of defective fire hydrants and has been repairing and replacing them. A GWA assessment in 2013, indicated that an estimated 419 fire hydrants on Guam needed to be replaced because they were inactive and did not have water.¹⁴ Since then, as set forth above, GWA replaced three hundred of these fire hydrants using its own resources.
13. The GWA/Mega United Contract for Fire Hydrant Replacement Phase I will replace an additional seventy-eight fire hydrants that GWA finds difficult and complex to replace using its own resources because these are all dry barrel fire hydrants.

⁹ See 28 G.A.R. §2103(n) and §2116(a).

¹⁰ See 10 G.C.A. §73109.

¹¹ Statements of GFD Fire Chief Joey San Nicolas from *400 Fire Hydrants on Guam need Replacing*, Marianas Variety, December 11, 2015.

¹² Statements of GFD Spokesperson Keven Reilly from *GFD Working with GWA on Fire Hydrant Maintenance*, Undated post 2018 KUAM New story.

¹³ Id.

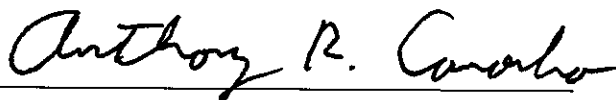
¹⁴ Statement of GWA Spokesperson Heidi Ballendorf, Id.

14. Alternative funding sources for the contract exist. As set forth above, GWA intends to pay for the cost of the contract using bond revenues and GWA's internally funded CIP Funds. However, GWA has the authority to institute and collect a fire hydrant fee to cover costs incurred periodically to replace fire hydrants and to maintain them.¹⁵ However, it does not appear that GWA is using proceeds from such a charge to pay for the costs of this contract. Further, GWA has the authority to seek payments from any third parties who are responsible for damaging fire hydrants.¹⁶
15. Based on the foregoing, especially the importance of the fire hydrants to the safety of the People of Guam, GWA's pro-active efforts of cooperating with GFD to maintain the fire hydrants, its identification of the defective fire-hydrants, and its efforts to replace many of the defective fire hydrants using its internal resources, GWA's request to approve the GWA/Mega United Contract for Fire Hydrant Replacement Phase I is reasonable, prudent, and necessary.

RECOMMENDATION

16. Counsel recommends that the PUC approve the \$1,366,937 GWA/Mega United Contract for Fire Hydrant Replacement Phase I.
17. A Proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 26th day of August, 2019.



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PUC Legal Counsel

¹⁵ See 28 G.A.R. §2102.

¹⁶ See 28 G.A.R. §2103(n) and §2116(d).