

Umatac/Merizo Wastewater Treatment Plant (“WWTP”) Improvements Design Build project by June, 2017.³

GWA maintains that the Baza Gardens WWTP project must be substantially completed by April 30, 2018, and that the entire amount of the contract funding must be “in place and available on the date the contract is executed” for the Umatac/Merizo WWTP project.⁴ GWA further maintains that it is required to complete improvements to the Baza Gardens WWTP and Umatac-Merizo WWTP in order to achieve compliance with the WWTP’s [National Pollutant Discharge Elimination System or “NPDES”] permit.⁵ According to GWA, the previous funding outlay for these projects did not account for the “project execution strategies” “being employed,” such as whether the projects were to be completed through phased construction, design-build contracts, or design-bid-build contracts.⁶

The Petition is supported by Resolution No. 14-FY2017, issued by the Consolidated Commission on Utilities on January 24, 2017, which approved the reallocation of funds from the 2010, 2013, and 2016 Bonds, and authorized GWA to seek PUC approval for such reallocation. GWA also filed with the PUC its new Capital Improvement Plan for 2016-2020.

GWA intends to fund the subject projects through reallocating proceeds from the 2010, 2013, and 2016 bonds from “completed” projects that contained an

³ Petition, p. 2.

⁴ Petition, p. 4.

⁵ Petition, p. 1.

⁶ Petition, pp. 1-2.

“unspent” balance, or by deferring projects to a later date.⁷ Pursuant to 12 G.C.A. § 12105, the PUC is tasked with reviewing and approving all uses of bond proceeds.

1. Baza Gardens Wastewater Treatment Plant Improvements

The Baza Gardens Sewage Treatment Plant (“STP”) Replacement project involves the construction of new wastewater treatment facilities. GWA needs an additional \$15.8 million to complete the project. According to GWA, this figure is for construction only, and would include a new pumping facility located at the existing Baza Gardens plant, two new equalization basins also at the plant, which are used to buffer flow and loading, and about 1,200 linear feet of pipelines.

2. Umatac-Merizo Wastewater Treatment Plant Improvements

The Umatac-Merizo STP Replacement project also involves the construction of new wastewater treatment facilities. GWA submits that \$8 million is already budgeted for the project, but that it needs an additional \$12.8 million, for a total of \$20.8 million for the entire project. GWA indicates that \$723,000 is budgeted for project management; \$17.5 million for the design-build contract; \$1.7 million for construction management; and an \$827,000 contingency. The components of this project include the following, among others: upgrade influent pump station, upgrade aerated lagoon, new lagoon effluent pump station, new lagoon effluent pipelines, upgrade overland flow system and recirculation pond, upgrade overland flow system and recirculation pump station, new UV disinfection system, upgrade plant water system electrical power supply and standby generator, plus other facilities.

⁷ Petition, p. 3.

3. **Northern District Wastewater Treatment Plant Secondary Treatment Upgrades**

GWA submits that it needs an additional \$1 million for this project in order to acquire the property adjacent to the existing plant location.⁸ GWA maintains that it requires the addition of this property in order to “upgrade and expand” the facility.⁹ According to a Guam Water and Wastewater Assessment Report prepared by the U.S. Department of the Navy last year, for purposes of land acquisition at the Northern District WWTP, the unit cost per acre is assumed to be at \$85,060, which is the purchase price indicated by available land records.¹⁰ The amount of \$560,000 was the original estimate for the purchase of additional land. GWA, however, intends on obtaining an additional seventeen (17) acres of land for this expansion, at a cost of about \$1.4 million. Accordingly, GWA maintains that \$1.56 million in total should be sufficient to acquire the additional seventeen (17) acres of property.

RECOMMENDATION

The PUC is tasked with reviewing and approving all uses of bond proceeds pursuant to 12 G.C.A. §12105. Based on the record, GWA is required to complete improvements to the Baza Gardens WWTP and Umatac-Merizo WWTP. In particular, the Amended Stipulated Order requires that GWA complete the Baza Gardens Wastewater Systems Upgrade by April 30, 2018. Amended Stipulated Order, pp. 24-25 (Nov. 10, 2011). In addition, the Amended Stipulated Order also requires that GWA complete the

⁸ Petition, p. 2.

⁹ Petition, p. 2.

¹⁰ Final Guam Water and Wastewater Assessment Report in Support of the Economic Adjustment Committee Implementation Plan, Department of the Navy, p. 3-24 (Feb. 2015).

Umatac-Merizo Systems Upgrade by December 31, 2018, but that by June 30, 2017, GWA must “execute a construction contract and issue a notice to proceed with construction.” Amended Stipulated Order, pp. 25-26.

Accordingly, the ALJ finds that the reallocation in this instance are reasonable and necessary given GWA’s need to comply with its obligations under the federal Amended Stipulated Order. The ALJ, therefore, recommends the PUC’s approval of the Petition. However, the ALJ recommends that GWA submit to the PUC a report detailing updates on its CIP projects that are funded by bond proceeds, specifically projects funded by the 2010, 2013, and 2016 bonds. Where projects have been completed, GWA should indicate that such projects have been completed. A proposed Order is submitted herewith for the Commissioners’ consideration.

Dated this 22nd day of February, 2017.



JOEPHET R. ALCANTARA
Administrative Law Judge

P173004.JRA

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: REQUEST BY THE GUAM)
WATERWORKS AUTHORITY)
TO REALLOCATE \$29.6)
MILLION OF 2010, 2013 &)
2016 BOND PROCEEDS)
_____)

GWA DOCKET 17-04

ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) at the request of Petitioner Guam Waterworks Authority (“GWA”) for approval to reprogram projects funded by GWA’s 2010, 2013 and 2016 Bond proceeds, filed with the PUC on February 13, 2017.

On February 22, 2017, the Administrative Law Judge of the PUC Joephet R. Alcantara (the “ALJ”) filed a report regarding the instant Petition, which included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

DETERMINATIONS

A. Reallocation

In its Petition, GWA sought approval to reallocate \$29.6 million of 2010, 2013, and 2016 bond funds to advance the timing of certain capital improvement projects.¹ GWA submitted that these projects are required under the November 10, 2011 Order for Preliminary Relief Re: Deadlines for Outstanding Projects under the Amended Stipulated

¹ Petition to Reallocate \$29.6 Million in 2010, 2013 and 2016 Bond Proceeds to Meet the Requirements of the Order of the United States District Court Relative to Incomplete Stipulated Order Projects (“Petition”), p. 1 (Feb. 13, 2017).

Order issued by the District Court of Guam in U.S. v. Guam Waterworks Authority, Civil Case No. 02-00035 (hereinafter referred to as the “Amended Stipulated Order”).² In particular, GWA intends to execute contracts for the following two major projects: the Baza Gardens Wastewater Conveyance and Pump Phase III by April, 2017; and the Umatac/Merizo Wastewater Treatment Plant (“WWTP”) Improvements Design Build project by June, 2017.³

GWA maintained that the Baza Gardens WWTP project must be substantially completed by April 30, 2018, and that the entire amount of the contract funding must be “in place and available on the date the contract is executed” for the Umatac/Merizo WWTP project.⁴ GWA further maintained that it is required to complete improvements to the Baza Gardens WWTP and Umatac-Merizo WWTP in order to achieve compliance with the WWTP’s [National Pollutant Discharge Elimination System or “NPDES”] permit.⁵ According to GWA, the previous funding outlay for these projects did not account for the “project execution strategies” “being employed,” such as whether the projects were to be completed through phased construction, design-build contracts, or design-bid-build contracts.⁶

The Petition was supported by Resolution No. 14-FY2017, issued by the Consolidated Commission on Utilities on January 24, 2017, which approved the reallocation of funds from the 2010, 2013, and 2016 Bonds, and authorized GWA to seek

² Petition, p. 1.

³ Petition, p. 2.

⁴ Petition, p. 4.

⁵ Petition, p. 1.

⁶ Petition, pp. 1-2.

PUC approval for such reallocation. GWA also filed with the PUC its new Capital Improvement Plan for 2016-2020.

GWA intends to fund the subject projects through reallocating proceeds from the 2010, 2013, and 2016 bonds from “completed” projects that contained an “unspent” balance, or by deferring projects to a later date.⁷ Pursuant to 12 G.C.A. § 12105, the PUC is tasked with reviewing and approving all uses of bond proceeds.

1. Baza Gardens Wastewater Treatment Plant Improvements

The Baza Gardens Sewage Treatment Plant (“STP”) Replacement project involves the construction of new wastewater treatment facilities. GWA needs an additional \$15.8 million to complete the project. According to GWA, this figure is for construction only, and would include a new pumping facility located at the existing Baza Gardens plant, two new equalization basins also at the plant, which are used to buffer flow and loading, and about 1,200 linear feet of pipelines.

2. Umatac-Merizo Wastewater Treatment Plant Improvements

The Umatac-Merizo STP Replacement project also involves the construction of new wastewater treatment facilities. GWA submitted that \$8 million is already budgeted for the project, but that it needs an additional \$12.8 million, for a total of \$20.8 million for the entire project. GWA indicated that \$723,000 is budgeted for project management; \$17.5 million for the design-build contract; \$1.7 million for construction management; and an \$827,000 contingency. The components of this project include the following, among others: upgrade influent pump station, upgrade aerated lagoon, new

⁷ Petition, p. 3.

lagoon effluent pump station, new lagoon effluent pipelines, upgrade overland flow system and recirculation pond, upgrade overland flow system and recirculation pump station, new UV disinfection system, upgrade plant water system electrical power supply and standby generator, plus other facilities.

3. Northern District Wastewater Treatment Plant Secondary Treatment Upgrades

GWA submitted that it needs an additional \$1 million for this project in order to acquire the property adjacent to the existing plant location.⁸ GWA maintained that it requires the addition of this property in order to “upgrade and expand” the facility.⁹ According to a Guam Water and Wastewater Assessment Report prepared by the U.S. Department of the Navy last year, for purposes of land acquisition at the Northern District WWTP, the unit cost per acre is assumed to be at \$85,060, which is the purchase price indicated by available land records.¹⁰ The amount of \$560,000 was the original estimate for the purchase of additional land. GWA, however, intends on obtaining an additional seventeen (17) acres of land for this expansion, at a cost of about \$1.4 million. Accordingly, GWA maintained that \$1.56 million in total should be sufficient to acquire the additional seventeen (17) acres of property.

The PUC is tasked with reviewing and approving all uses of bond proceeds pursuant to 12 G.C.A. §12105. Based on the record, GWA is required to complete improvements to the Baza Gardens WWTP and Umatac-Merizo WWTP. In particular, the

⁸ Petition, p. 2.

⁹ Petition, p. 2.

¹⁰ Final Guam Water and Wastewater Assessment Report in Support of the Economic Adjustment Committee Implementation Plan, Department of the Navy, p. 3-24 (Feb. 2015).

Amended Stipulated Order requires that GWA complete the Baza Gardens Wastewater Systems Upgrade by April 30, 2018. Amended Stipulated Order, pp. 24-25 (Nov. 10, 2011). In addition, the Amended Stipulated Order also requires that GWA complete the Umatac-Merizo Systems Upgrade by December 31, 2018, but that by June 30, 2017, GWA must “execute a construction contract and issue a notice to proceed with construction.” Amended Stipulated Order, pp. 25-26.

Accordingly, the ALJ found that the reallocation in this instance is reasonable and necessary given GWA’s need to comply with its obligations under the federal Amended Stipulated Order. The ALJ, therefore, recommended the PUC’s approval of the Petition. However, the ALJ recommended that GWA submit to the PUC a report detailing updates on its CIP projects that are funded by bond proceeds, specifically projects funded by the 2010, 2013 and 2016 bond proceeds. Where projects have been completed, GWA should indicate that such projects have been completed.

The Commission hereby adopts the findings contained in the February 22, 2017 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

After careful review and consideration of the above determinations, the February 22, 2017 ALJ Report, and the record herein, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission hereby ORDERS the following:

1. That GWA’s request for the reallocation of \$29.6 million of 2010, 2013, and 2016 bond funds to advance the timing of certain capital improvement projects is APPROVED and GWA’s February 13, 2017 Petition is GRANTED.

2. GWA shall submit to the PUC a report detailing updates on its Capital Improvement Projects funded by bond proceeds, specifically projects funded by 2010, 2013 and 2016 bond proceeds, including a timeline of events and deadlines for any outstanding projects, by April 1, 2017. Where projects have been completed, GWA should indicate that such projects have been completed.

3. GWA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses associated with the instant proceeding. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b), 12024(b) (renumbered as 12 G.C.A. §§ 12103(b) and 12125(b)), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

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SO ORDERED this 23rd day of February, 2017.

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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