



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: PETITION TO APPROVE THE)
CONTRACT TO PERFORM)
PHASE II OF THE LAND)
REGISTRATION SURVEY)
PROJECT WITH DUENAS)
CAMACHO AND ASSOCIATES)
_____)

GWA DOCKET 17-07

ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the Petition to Approve the Contract to Perform Phase II of the Land Registration Survey Project (the “Petition”), filed by the Guam Waterworks Authority (“GWA”) on July 12, 2017.

BACKGROUND

On July 23, 1997, through a Grant Deed and an Assignment, the Government of Guam and PUAG conveyed over two hundred (200) pieces of real property to GWA. As indicated in the Grant Deed, a few conditions of the conveyance include the requirement that “real estate requirement survey map(s)” shall be completed, and that GWA shall “pay” for such “survey process.”¹ The Grant Deed further provides that for properties without “real estate requirement map(s),” such properties will revert back to the Government of Guam.²

¹ Petition to Approve the Contract to Perform Phase II of the Land Registration Survey Project (the “Petition”), Exhibit A (Grant Deed, July 23, 1997), p. 37 (July 12, 2017).

² Petition, Exhibit A, p. 38.

On March 29, 2017, GWA issued Request for Proposals RFP-03-ENG-2017 (“RFP”), which sought “experienced and qualified professional land surveyors to provide complete land surveys and associated services for GWA ISLANDWIDE REAL PROPERTY SURVEY AND MAPPING – PHASE II, GWA Project No. M17-001-BND.”³ On April 24, 2017, GWA evaluated four (4) proposals, and consequently selected the firm of Duenas, Camacho & Associates, Inc. (“DCA”) as the top offeror.

Thereafter, GWA and DCA negotiated a contract for services related to field survey work on the ninety-three (93) properties.⁴ The Consolidated Commission on Utilities (hereinafter referred to as the “CCU”) issued GWA Resolution No. 38-FY2017 (“GWA Resolution No. 38”), authorizing GWA to enter into a contract with DCA for the total amount of \$1,153,523.54, which includes a ten percent (10%) contingency.

On July 25, 2017, the Administrative Law Judge of the PUC Joepheth 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 made the following findings.

DETERMINATIONS

A. Contract Review Protocol

Pursuant to 12 G.C.A. §12105,⁵ GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. In addition, GWA’s Contract Review Protocol requires that “[a]ll

³ RFP, p. 2.

⁴ Petition, p. 2.

⁵ Formerly 12 G.C.A. § 12004.

professional service procurements in excess of \$1,000,000” require “prior PUC approval under 12 G.C.A. §12004, which shall be obtained before the procurement process is begun”⁶ Further, all externally funded loan obligations and other financial obligations, such as lines of credit, bonds, etc., in excess of \$1,000,000, and any use of such funds, must be approved by the PUC.⁷

B. GWA’s Petition

In its Petition, GWA maintained that pursuant to the Grant Deed and Assignment, GWA is required to survey the lots conveyed by the Government of Guam “to provide a means to sever the property need and allow the remainder to revert back to the Grantor.”⁸ GWA submitted that “[i]f the lots are not surveyed and registered, they will revert back to the Government of Guam in their entirety.”⁹ GWA maintained that the subject contract and fees were fairly and openly procured”¹⁰

C. Request for Proposals and Proposed Contract

The subject contract seeks the service of a contractor “to survey, divide and register these properties or portions thereof as per the requirements of the grant deeds and Guam Public Law”; as well as “engage a professional land survey consultant (PLS) for survey related services including research, survey, mapping and recordation.”¹¹ As

⁶ GWA’s Contract Review Protocol (“GWA CRP”), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

⁷ *Id.*

⁸ Petition, p. 2.

⁹ Petition, p. 2.

¹⁰ Petition, p. 3.

¹¹ RFP, p. 13.

indicated in the RFP, the ultimate goal of the project “is to develop property boundary map(s) for registration at the Department of Land Management which delineate the real property required by GWA for the operation and maintenance of existing facilities and for the development of facilities required in the future.”¹² The work will primarily consist of (1) survey and mapping; (2) preparing a Broker’s Price Opinion (BPO); and (3) registration of the properties at Land Management.¹³

Pursuant to the Scope of Work indicated in the RFP, DCA will be required to conduct a field survey to establish the property boundaries required to meet GWA’s real property needs.¹⁴ In addition, DCA will be required to develop a legal boundary survey map, and to submit these completed maps to Land Management for review and approval.¹⁵

Upon approval of such maps by Land Management, DCA must then proceed with the monumentation of the property corners and the recording of the map. RFP, p. 15. Additionally, DCA will also be required to provide GWA with a “broker’s price opinion (BPO)” in order to establish an approximate value for each parcel of land acquired by GWA.¹⁶

Finally, DCA will also be required to perform field verification surveys to obtain relevant data on adjacent lots to each property; conduct additional research work at Land Management to obtain relevant information relative to each lot listed and adjacent

¹² RFP, p. 13.

¹³ RFP, p. 13.

¹⁴ RFP, p. 14.

¹⁵ RFP, p. 14.

¹⁶ RFP, p. 15.

lots including title reports or abstract of title reports which may be necessary for the land registration process; prepare a land registration map, and record the approved maps with Land Management.¹⁷

D. Cost and Funding

GWA submitted that the entire cost of the contract is \$1,048,657.77.¹⁸ GWA, however, requests an additional ten percent (10%) contingency for a total of \$1,153,523.54.¹⁹ GWA further submitted that the contract will be funded by 2016 bond proceeds.²⁰

E. CCU Resolution No. 31-FY2014

The Petition is supported by Resolution No. 38-FY2017 issued by the Consolidated Commission on Utilities (the “CCU”) at its June 6, 2017 meeting. In the Resolution, the CCU found the terms of the fee proposal submitted by DCA to be fair and reasonable; and, therefore, authorized GWA to enter into a contract with DCA for the land survey and associated services.²¹ The CCU further approved funding of \$1,048,657.77, plus a ten percent (10%) contingency, for a total of \$1,153,523.54.²²

Based on the Grant Deed and Assignment discussed above, as a condition of the conveyance of over two hundred (200) pieces of real property to GWA, GWA is

¹⁷ RFP, p. 15.

¹⁸ Petition, p. 2.

¹⁹ Petition, pp. 2-3.

²⁰ GWA Resolution No. 38-FY2017, pp. 2-3 (June 6, 2017).

²¹ GWA Resolution No. 38-FY2017, p. 3 (June 6, 2017).

²² Petition, Exhibit 2 (Resolution No. 31-FY2014), p. 3.

required to complete “real estate requirement survey map(s)”.²³ The properties conveyed to GWA include “portions of un-surveyed, undivided, and unregistered properties, portions of which have also been reserved for other agencies.”²⁴ And in the event GWA fails to satisfy this condition, the Grant Deed provides that properties without “real estate requirement map(s)” performed will revert back to the Government of Guam.²⁵ Accordingly, the record is clear that GWA is under a legal obligation to complete these survey maps or surrender its rights to those properties.

The ALJ further found that the terms of the survey work, and the costs associated with such services are fair, reasonable and necessary, especially given the tasks to research, survey and map ninety-three (93) pieces of property, and then register certain properties. In addition, the ALJ found that the record reflects GWA’s proper selection of DCA as the top bid, and that the submission of four (4) vendors for the subject procurement makes this selection relatively competitive.

Moreover, this Commission has already reviewed and approved this project, including the funding source, as CIP MC 05-02. Therefore, the ALJ recommended that the PUC ratify the subject procurement and approve GWA’s contract for the land survey services with DCA.

Accordingly, based on the documentation provided by GWA in this docket, and for the other reasons set forth in the ALJ Report, the ALJ recommended that the PUC

²³ Petition, Exhibit A (Grant Deed, July 23, 1997), p. 37.

²⁴ RFP, p. 13.

²⁵ Petition, Exhibit A (Grant Deed, July 23, 1997), p. 38.

approve the contract between GWA and DCA, for entire cost of the contract of \$1,048,657.77.

ORDERING PROVISIONS

Upon careful consideration of the record herein, the July 25, 2017 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 hereby RATIFIES the underlying procurement and APPROVES the contract between GWA and DCA for land survey services for a cost of \$1,048,657.77. This amount shall be subject to the twenty-percent (20%) contingency pursuant to Section 9 of GWA CRP.

2. GWA 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.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

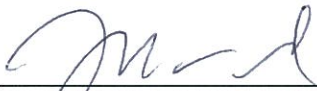
SO ORDERED this 27th day of July, 2017.



JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ
Commissioner



JOSEPH M. MCDONALD
Commissioner



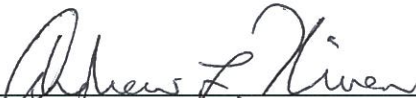
FILOMENA M. CANTORIA
Commissioner



MICHAEL A. PANGELINAN
Commissioner



PETER MONTINOLA
Commissioner



ANDREW L. NIVEN
Commissioner

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