

A circular blue ink stamp. The outer ring contains numbers 1 through 12, with the 12 o'clock position at the top. In the center, there is an upward-pointing arrow above the word "RECEIVED". Below "RECEIVED" is the date "OCT 28 2019". At the bottom of the center text is "Public Utilities Commission" and "GUAM" at the very bottom.

PAG DOCKET 20-01

PUC COUNSEL REPORT

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] pursuant to the Port Authority of Guam's ["PAG"] Petition for Approval of its contract with N.C. Macario & Associates, Inc. ("Macario & Associates") for the Architectural & Engineering [A/E] Design and Consulting Services for the Equipment, Maintenance, and Repair Building [EQMR], Warehouse No. 1, and the Waterline Replacement Projects.¹
2. PAG requests that the PUC approve the \$1,406,427.48 PAG/Macario & Associates Contract for A/E Design & Consulting Services for the EQMR, Warehouse No. 1, and the Waterline Replacement Projects.

BACKGROUND

3. PAG's EQMR has 24,000 square feet of space, it was constructed in 1968, and currently houses PAG's maintenance and repair supply management staff. PAG's Warehouse No. 1 has 55,000 square feet of space, it was also constructed in 1968, and is currently occupied by various PAG Departments including its Operations, Riggers, and Police Departments.² The A/E Design and Consulting Services are necessary to develop assessment reports, plans specifications, and cost estimates to be used to repairing and retrofitting the EQMR and Warehouse No. 1 to preserve the structural integrity of the buildings and to build additional office space, and to

¹ PAG Petition for Approval of Contract for A/E Design & Consulting Services for the structural repair of Warehouse No. 1 and the Waterline Removal Projects under the Contract Review Protocol, PAG Docket 20-01 [“PAG Petition”], filed on October 14, 2019 at 1.

² PAG-RFP-019-002 (A/E Design Consulting Services for Warehouse 1 and EQMR Building Upgrades, and Waterline Replacement), Attachment 1, Scope of Services, Paragraph 1, Warehouse 1 and EQMR Building, attached as Exhibit A to PAG Board Resolution No. 2019-10 [PAG Board Resolution].

modernize both buildings to ensure they comply with modern fire and electrical code requirements.³

4. The PAG's existing main water lines are over fifty-years old and some contain asbestos pipes. The main line is 16 inches in diameter and it distributes water to other lines throughout PAG's container yard. The other water lines are 16-inch and 10-inch diameter lines that run diagonally through the container yard and return to Route 11. PAG's water system also includes a 10-inch diameter looped system that covers the waterfront with feeds to the buildings on the west end of the terminal. The 10-inch diameter lines connect to six-inch diameter lines that are linked to fire suppression systems in the PAG's buildings and to fire hydrants in the container yard.⁴ The Water Line Replacement Project is necessary because PAG has experienced fifteen major water leaks in the past three years and includes the relocation of the main service feed line from the container yard to Route 11, additional water lines to increase system redundancy, and to improve water pressure to meet modern building codes and safety and U.S. Coast Guard codes governing firefighting operations.⁵
5. PAG determined that a private contractor would be more effective for completing the extensive A/E Design and Consulting work required to design and oversee these projects and issued PAG-RFP-19-003 (A/E Design Consulting Services for Warehouse 1 and EQMR Building Upgrades, and Waterline Replacement) [RFP] on January 8, 2019.⁶
6. A total of seven firms submitted offers in response to the RFP and PAG determined that Macario & Associates was the most qualified firm to provide the A/E Design & Consulting Services for the projects.⁷
7. On October 10, 2019, the PAG approved the PAG/Macario & Associates Contract for A/E Design & Consulting Services for the EQMR, Warehouse No. 1, and the Waterline Replacement Projects for \$1,004,935.94 for the EQMR and Warehouse No. 1 Projects, and \$401,491.54 for the Waterline Replacement Project, for a total of \$1,406,427.48, to be paid out of PAG Bond Indentures and Investment Projects, subject to PUC's approval.⁸

³ Id.

⁴ Id., at Paragraph 2, Waterline Replacement.

⁵ Id.

⁶ PAG Board Resolution at 1.

⁷ Id.

⁸ Id., and PAG Petition at 1.

ANALYSIS

8. The PUC's Contract Review Protocol for PAG mandates that PAG must obtain PUC approval for all professional service contracts in excess of \$1,000,000 and for any contract that exceeds the amount of \$1,000,000.⁹ Here, the PUC must approve the PAG/Macario & Associates Contract for A/E Design & Consulting Services for the EQMR, Warehouse No. 1, and the Waterline Replacement Projects because its \$1,406,427.48 cost exceeds the \$1,000,000 contract review amount.
9. PAG is required to obtain the PUC's approval of contracts in excess of \$1,000,000 prior to beginning the procurement process. It appears that this was not done in this case because PAG likely did not believe that the RFP's contract would exceed the amount of \$1,000,000 at the time it solicited for the bids.
10. PAG also made a good faith attempt to negotiate the lowest cost for this contract. PAG successfully negotiated a fourteen percent reduction of the original contract price offered by Macario & Associates which resulted in the final contract price of \$1,406,427.48.¹⁰
11. The EQMR and Warehouse No. 1 Building Projects and Waterline Replacement Projects are, considering the age and condition of important aspects of PAG's infrastructure, vital to ensure PAG continues to provide a sustainable, healthy, and safe environment for its employees, tenants, and the vessels and public it serves.
12. The RFP Scope of Services justifies the \$1,406,427.48 cost of the contract. Said scope of services includes an Investigation Phase in which Macario & Associates will determine what structural repairs and renovations are needed for the EQMR, Warehouse No. 1, and the Waterline, a Design Phase to develop and provide the designs and cost estimates of the structural repairs, renovations, and the new waterline system, a Bidding Phase to assist PAG with soliciting for and obtaining a contractor to perform the construction required by these projects, and Construction Services which include inspections and oversight of the construction contractor to ensure the improvements are constructed in accordance with the design.¹¹

⁹ PUC Order re Contract Review Protocol for PAG, PUC Administrative Docket 09-01, filed on June 20, 2011 ["PAG Contract Review Protocol"] at paragraphs 1(c) and (e) at 1.

¹⁰ PAG Petition at 1.

¹¹ RFP, Attachment 1, Scope of Services, Paragraph 1, Warehouse 1 and EQMR Building, Paragraph 2 Waterline Replacement, attached as Exhibit A to PAG Board Resolution.

13. Based on the foregoing, PAG's request to approve the PAG/Macario & Associates Contract for A/E Design & Consulting Services for the EQMR, Warehouse No. 1, and the Waterline Replacement Projects is reasonable, prudent, and necessary.

RECOMMENDATION

14. Counsel recommends that the PUC approve the \$1,406,427.48 PAG/Macario & Associates Contract for A/E Design & Consulting Services for the EQMR, Warehouse No. 1, and the Waterline Replacement Projects.
15. A Proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 28th day of October, 2019.



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