

GUAM PUBLIC UTILITIES COMMISSION  
REGULAR MEETING  
September 30, 2021  
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:41 p.m. on September 30, 2021, pursuant to due and lawful notice. Commissioners Montinola, Pangelinan, McDonald, Flores-Brooks, and Guerrero were in attendance and Commissioner Montinola served as the Chairperson for the meeting. The following matters were considered at the meeting under the agenda included as *Attachment "A"* hereto.

**1. Approval of Minutes**

The Chairperson announced that the first item of business on the agenda was approval of the minutes of August 26, 2021. Upon motion duly made, seconded, and unanimously carried, the Commission approved the minutes subject to corrections.

**2. PTI Pacifica Inc.**

The Chairperson announced that the next item of business on the agenda was PTI Docket 21-01, Petition for Annual USAC Certification, ALJ Report, and USAC Certification. ALJ Horecy stated that the USAC program is a beneficial program to both the telecom companies and the ratepayers of Guam because it enables the telecom companies to build out their telecommunication services and to provide new kinds of services and equipment that benefit the ratepayers and that PTI filed its annual petition requesting USAC certification by the PUC, that PTI has complied with all the requirements necessary for the USAC filing, and he recommended that the PUC approve the petition. Commissioner McDonald moved to approve the petition which motion was seconded by Commissioner Guerrero, and the motion carried unanimously.

**3. TeleGuam Holdings LLC**

The Chairperson announced that the next item of business on the agenda was GTA Docket 21-02, Petition of GTA for Annual USAC, ALJ Report, and USAC Certification. ALJ Horecky stated that GTA's five-year buildout plan shows major expansion of the VDSL, and that's the very high-data rate digital subscriber line, that GTA met the requirements, and he recommended that the PUC approve the USAC certification.



Commissioner Guerrero moved to approve the petition which motion was seconded by Commissioner McDonald, and the motion carried unanimously.

#### **4. Docomo Pacific Inc.**

The Chairperson announced that the next item of business on the agenda was Docomo Docket 21-01, Petition for Annual USAC Certification, ALJ Report, and USAC Certification. Commissioner Pangelinan recused himself from this matter due to a conflict of interest. ALJ Horecky stated that Docomo's five-year plan indicates that Docomo has expanded its fiber underground network in central, southern, and northern Guam, and will continue to do so over the next five years of its plan, that plans to deployment fiber to the home, that Docomo has met all the requirements, and he recommended that the PUC approve the petition. Commissioner McDonald moved to approve the petition which motion was seconded by Commissioner Guerrero, and the motion carried unanimously.

#### **5. Guam Power Authority**

The Chairperson announced that the next item business on the agenda was GPA Docket 21-18, Petition to Approve FY2022 CIP Ceiling Cap, ALJ Report, and Proposed Order. ALJ Horecky stated that this budget request comes before the PUC annually because GPA must file its proposed CIP budget cap before November 15<sup>th</sup> of each year, that GPA's proposed FY 2022 CIP cap is \$28,077,688, that the projects listed are justified, and he recommended that the PUC approve the petition. GPA GM Benavente stated that the CCU had approved a two-year O&M and CIP budget based on minimal base-rate revenues of \$155 million to address them, that GPA is trying to keep the projects moving despite the carryover projects from last year. A discussion ensued between the all of the commissioners, ALJ Horecky, GPA, GM Benavente, and GPA CFO Kim concerning use of the LEAC for GPA's CIP projects, what happens to unused GPA's CIP funds, a reconciliation of the under-expenditure numbers in the petition compared to past years under-expenditure numbers, whether the capitol budget was inflated, the various causes of under-expenditures in GPA's CIP budget, whether GPA's CIP budget for the last five-years if 50% off, measures GPA can take to improve the accuracy of its CIP budget, whether all the commissioners received copies of GPA's CIP budget, the effect of the availability of GPA funds on the CIP budget, whether GPA can amend their CIP budget so that it accurately states which amounts are carry-overs from prior years, whether the CIP budget is based on cash or accrual methodologies, whether GPA needed the PUC to approve the CIP budget at this meeting, whether the CIP budget was linked to LEAC, whether GPA should add more detail to its CIP budget, whether GPA should use the term "cap" instead of "budget" for its CIP budget, and whether the PUC should modify the proposed order. Commissioner Pangelinan moved to approve



the proposed order granting the petition which motion was seconded by Commissioner McDonald, the motion passed by majority vote with the only opposing vote being cast by Commissioner Guerrero.

The Chairperson announced that the next item of business on the agenda was GPA Docket 21-19, Filing of the FY2022-2024 Construction Budget. ALJ Horecky stated that this was informational because under the contract review protocol, GPA is required to file its construction budget but the PUC is not required to approve it or assess it or comment on it, and he stated that he is providing a filing to show that GPA has complied with this requirement.

The Chairperson announced that the next item of business was GPA Docket 21-16, Petition to Approve the Contract with Tristar Terminals Guam, Inc. for the Lease of an Additional Storage Tank for Diesel Fuel, PUC Counsel Report, and Proposed Order. PUC Counsel Camacho stated that Tristar is the only bulk fuel storage facility on Guam, that the PUC historically has had issues with them concerning their contracts because Tristar automatically increased their prices by 4% and the PUC had previously ordered that "No more fuel storage agreements with these automatic price increase. You have to show us, justify why there's a price increase," that around 2017 GPA leased an additional 196-barrel fuel storage tank for five-years, that GPA is requesting the PUC to approve their lease of a second 196-barrel tank for the amount of \$1.764 million for the first year which is \$588,000.00 then its paying for the existing tank for the first year and \$288,000 more for the second year and these cost increases are due to Tristar having to refurbish the second tank so that it will hold ultra-low sulfur diesel, and he recommended that the PUC approve the petition. A discussion ensued between the Chairperson, Commissioners Flores-Brooks, Guerrero and PUC legal counsel Camacho concerning whether LEAC funds would pay for this lease, when the second tank would be ready for GPA's use, and whether GPA had made plans to construct its own bulk storage facility. GPA GM Benavente stated that GPA was planning on going from the three different fuels that it is currently using to five fuels, and then down to one fuel over the next three years and that GPA needs the extra tank to accommodate the ultra low sulfur diesel fuel for MEC 8 and 9, Piti 8 and 9 which is required by the consent decree. Commissioner Guerrero moved to approve the proposed order granting the petition which motion was seconded by Commissioner Pangelinan, and the motion carried unanimously.



## 6. Port Authority of Guam

The Chairperson announced that the next item of business on the agenda was PAG Docket 21-04, Petition for Approval of Award to California Pacific Technical Services for CCTV Surveillance System and Access Control Systems Replacement Project and Preventative Maintenance Services, ALJ Report, and Proposed Order. ALJ Alcantara stated that this matter concerned PAG's contract to upgrade of PAG's closed circuit television surveillance and access control systems, that in 2018 PAG received \$160,000.00 from FEMA to replace its CCTV system, that in 2019, the U.S. Maritime Administration awarded \$655,000.00 to PAG to upgrade PAG's CCTV system, that in May 2021 PAG issued a multistep invitation for bid for the purchase of 24 fixed and 40 pan-tilt-zoom high-resolution digital cameras to be installed at various Port locations along with the necessary connectivity to the Port's command center as well as optional bid items that include the installation of a CCTV system over at the Agat Marina, that PAG only received one bid in response to this solicitation from CalPac, and that he recommends that the PUC approve PAG's contract with Calpac for the amount of \$1,221,418.00. PAG GM Respicio stated that about \$800,000.00 of the contract's cost would come from federal grant monies and that the other \$400,000 from Port funds, that the CCTV system is required by the U.S. Coast Guard, and that Guam Customs and Quarantine would have access to the new CCTV system. A discussion ensued between the Chairperson, Commissioners Flores-Brooks and McDonald, and PAG GM Respicio concerning the shared link between PAG and Guam Customs and Quarantine, the cost of the new CCTV system, which PAG funds would the \$400,000 come from, whether there were any other federal grants PAG could access to pay the \$400,000, and whether CalPac has any other Guam clients. Commissioner Guerrero moved to approve the proposed order granting the petition which motion was seconded by Commissioner McDonald, and the motion carried unanimously.

The Chairperson announced that the next item of business on the agenda was PAG Docket 21-05, Petition for Approval of Award to WSP USA, Inc. for the Owner Agent Engineer Technical Consulting Services, ALJ Report, and Proposed Order. ALJ Alcantara stated that PAG was requesting that the PUC approve an owner's agent engineer contract award to WSP USA to provide technical consulting services to PAG, that the contract is critical to PAG's day to day operations, that in June, 2021 PAG issued an RFP which solicited the services of this OAE engineer who could provide PAG with these technical consulting services, that in July, 2021 PAG's evaluation committee scored WSP's proposal as the highest and that it recommended award of the contract to WSP, that the contract is a term for three years with three-year-long options for renewal, that the contract will be mostly funded by a federal grant issued by the Office of Local Defense Community Cooperation at \$1.5 million, and that PAG will be paying about \$100,000 with its internal funds, and that he recommended the PUC approve this petition. PAG GM Respicio stated that PAG's original OAE contract



started in 2014 and expired in 2019, that the contract is structured as task-driven based on the funding, that PAG has weekly Zoom meetings with WSP, and that for this contract PAG requires engineers to assist PAG's in-house engineer in capital improvement projects. A discussion ensued between the Chairperson and PAG GM Respicio about what projects PAG would be using WSP on, and the task driven nature of the contract. Commissioner Guerrero moved to approve the proposed order granting the petition which motion was seconded by Commissioner Pangelinan, and the motion carried unanimously.

The Chairperson announced that the next item of business on the agenda was the PAG Docket 21-06, Petition for Approval of Award to Matson for the Performance Management Contract for the Port Gantry Cranes, ALJ Report, and Proposed Order. ALJ Horecky stated that PAG was petitioning for approval of their award to Matson for the performance management contract for the Port gantry cranes, that from 2015 through 2020 Matson had PAG's technical services contract regarding these gantry cranes, that PAG received two offers in response to its solicitation and found that Matson was the most qualified bidder, that Guam law requires PAG to have a PMC for its gantry cranes, that Matson would have to conduct monitoring and preventive maintenance of the cranes, that the initial contract term is for five years with options to renew for a successive five years for a total of 20 years subject to the availability of funds, that each year there is \$200,000 allocated for this contract, and that he recommended that the PUC approve the petition. PAG GM Respicio stated that this was a five-year contract for \$200 million a year and that the real value to this contract if the PAG's certification and training that come from it. A discussion ensued between the Chairperson, Commissioners Flores-Brooks, Guerrero and Pangelinan, and PAG GM Respicio concerning the replacement of the cranes, possible future federal funding, crane maintenance, PAG's long-term plans for replacement and operation of the cranes, the cost of replacing PAG's existing cranes, the cost of the PMC, why PAG Board approval of the contract took so long, whether any federal authorities inspect the cranes, what federal certifications of the cranes are required, whether PAG still required a PMC, and the contract term. Commissioner Pangelinan moved to approve the proposed order granting the petition which motion was seconded by Commissioner McDonald and the motion carried unanimously.

## **7. Administrative Matters**

The Chairperson announced that the next item of business on the agenda was the Automatic Renewal of Nine PUC Consultant Agreements for One-Year Terms commencing October 1, 2021, unless terminated by PUC prior to commencement date. ALJ Horecky stated all of these contracts had five-years that were broken up into one-year terms and state that unless either party terminates before the end of the contract,



that they're automatically renewed, that the PUC has nine of these contracts, and that this was the PUC's opportunity to terminate any of these contracts if it was not satisfied with any of these contractors. A discussion ensued between the commissioners and ALJ Horecky concerning the automatic approval of the contracts unless rejected, the various contractors who had these contracts, the evaluation of the PUC's consultants, the five-year term of the contracts, whether the PUC should stagger the contract terms of these contracts, the length of time some of these contractors have had consulting contracts with the PUC, the amount of consulting fees the PUC has been paying these contractors, and whether a vote was needed to terminate any of the contracts. As no such vote was taken, the nine-consulting contract automatically were renewed for another one-year period.

The Chairperson announced that the next item on the agenda was the Employment Agreement for PUC Administrator, Resolution 21-01. ALJ Horecky stated that this resolution was for increasing the salaries of the PUC's employees in accordance with the budget. A discussion ensued between the commissioners and ALJ Horecky regarding the salary raises for the PUC's administrator and assistant administrator. Commissioner Guerrero moved to approve the resolution which motion was seconded by Commissioner Flores-Brooks, and the motion carried unanimously.

The Chairperson announced that the next item of business was Continuing Part-Time Employment of Assistant to PUC Administrator, Resolution 21-02. ALJ Horecky stated that this resolution would increase the salary of the PUC's assistant administrator from \$22,000 to \$24,000 per annum including the health and welfare benefits and that she has been performing well. Commissioner Guerrero moved to approve the resolution which motion was seconded by Commissioner Flores-Brooks, and the motion carried unanimously.

The Chairperson announced that the next item of business on the agenda was the FY2022 Administrative Budget/Annual Assessment Order. ALJ Horecky stated that the PUC must approve the FY2022 budget, that the PUC's budget committee recommended approval of the budget, and that the PUC's administrative budget for FY2022 is \$495,000. A discussion ensued between the commissioners and ALJ Horecky concerning the FY2022 budget and the FY2021 budget, and the budget's amount for commissioner training. Commissioner Guerrero moved to approve the budget which motion was seconded by Commissioner Flores-Brooks, and the motion carried unanimously. After approving this budget the PUC then signed the annual assessment



order which required the five PUC regulated entities to pay the assessment fee of \$99,000 each. A discussion ensued between the Commissioners and ALJ Horecky regarding who much certain entities were paying, including GSWA. Commissioner Guerrero made a motion to approve the assessment order which was seconded by Commissioner Pangelinan, and the motion carried unanimously.

The Chairperson announced that the next item of business on the agenda was the Bookkeeping Services for PUC. Commissioner Flores-Brooks stated that she had been working with the PUC's administrative staff to clear matters relating back to 2008, including bank reconciliations, account receivables, accounts payable, that they should be finished by year-end, and that the PUC does not currently need a bookkeeper which would save the PUC approximately \$500 per month. A discussion ensued between the commissioners as to whether the PUC required bookkeeping services on an annual basis.

The Chairperson announced that the next item of business on the agenda was the Budget Review. ALJ Horecky stated that the PUC's prior account records concerning the budget had been reviewed and resolved. A discussion ensued between the Commissioner, ALJ Horecky and the PUC's Palomo about how much they had been paying the PUC's prior bookkeeper per month, and the review of the PUC's financial records.

There being no further business, the Commissioners moved to adjourn the meeting.



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Peter Montinola  
Vice-Chairperson



**ATTACHMENT A**  
**THE GUAM PUBLIC UTILITIES COMMISSION**  
**NOTICE OF PUBLIC MEETING**

**NOTICE IS HEREBY GIVEN** that the Guam Public Utilities Commission [PUC] will conduct a regular business meeting, commencing at 6:30 p.m. on September 30, 2021, Third Floor, GCIC Building, 414 W. Soledad Ave., Hagatna.

The following business will be transacted:

**Agenda**

1. **Call to Order**
2. **Approval of Minutes of August 26, 2021**
3. **PTI Pacifica Inc.**
  - **PTI Docket 21-01, Petition for Annual USAC Certification, ALJ Report, and USAC Certification**
4. **TeleGuam Holdings LLC**
  - **GTA Docket 21-02, Petition of GTA for Annual USAC Certification, ALJ Report, and USAC Certification**
  - **GTA Docket 21-03, Petition of GTA/Pulse Mobile for Annual USAC Certification, ALJ Report, and USAC Certification**
5. **Docomo Pacific Inc.**
  - **Docomo Docket 21-01, Petition for Annual USAC Certification, ALJ Report, and USAC Certification**
6. **Guam Power Authority**
  - **GPA Docket 21-18, Petition to Approve FY2022 CIP Ceiling Cap, ALJ Report, and Proposed Order**
  - **GPA Docket 21-19, Filing of the FY2022-2024 Construction Budget**
  - **GPA Docket 21-16, Petition to Approve the Contract with Tristar Terminals Guam, Inc. for the Lease of an Additional Storage Tank for Diesel Fuel, PUC Counsel Report, and Proposed Order**
7. **Port Authority of Guam**
  - **PAG Docket 21-04, Petition for Approval of Award to California Pacific Technical Services for CCTV Surveillance System and Access Control Systems Replacement Project and Preventative Maintenance Services, ALJ Report, and Proposed Order**



- **PAG Docket 21-05, Petition for Approval of Award to WSP USA, Inc. for the Owner Agent Engineer Technical Consulting Services, ALJ Report, and Proposed Order**
  - **PAG Docket 21-06, Petition for Approval of Award to Matson for the Performance Management Contract for the Port Gantry Cranes, ALJ Report, and Proposed Order**
- 8. Administrative Matters**
- **Automatic Renewal of Nine PUC Consultant Agreements for One Year Terms commencing October 1, 2021, unless terminated by PUC prior to commencement date**
  - **Employment Agreement for PUC Administrator, Resolution 21-01**
  - **Continuing Part-Time Employment of Assistant to PUC Administrator, Resolution 21-02**
  - **FY2022 Administrative Budget/Annual Assessment Order**
  - **Bookkeeping Services for PUC**
  - **Budget Review**
- 9. Adjournment**

Due to the current public health emergency, all persons attending the meeting will be required to wear masks. Social distancing protocols will be observed. Further information about the meeting may be obtained from the PUC's Administrator Lou Palomo at 472-1907. The meeting will be broadcast live on the PUC website at [guampuc.com](http://guampuc.com). Those persons who require special accommodations, auxiliary aids, or services to attend the meeting should also contact Ms. Palomo.

**This Notice is paid for by the Guam Public Utilities Commission**



## BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

The Application of the Guam Power  
Authority to Approve the FY2022 GPA  
CIP Ceiling Cap

)  
) GPA Docket 21-18  
)

) ORDER  
)  
)



### INTRODUCTION

This matter comes before the Guam Public Utilities Commission [PUC] upon GPA's Petition for Request for Approval of the FY2022 GPA CIP Ceiling Cap.<sup>1</sup> Therein, GPA requests PUC approval of its FY2022 Capital Improvement Project Cap in the amount of \$32,202,862, which consists of General Plant (\$25,884,923) and Engineering (\$2,192,765).<sup>2</sup> GPA's proposed FY2022 Ceiling Cap also includes \$4,125,174 for Line Extensions. However, pursuant to the GPA Contract Review Protocol, regulatory review is not required for blanket job orders and line extensions.<sup>3</sup> The Guam Consolidated Commission on Utilities [CCU] approved the FY2022 Capital Improvement Project Ceiling Cap.<sup>4</sup>

### BACKGROUND

The Contract Review Protocol for the Guam Power Authority requires that GPA's annual level ("cap") of internally funded Capital Improvement Projects ("CIP") be set by the PUC before November 15<sup>th</sup> of each fiscal year.<sup>5</sup>

The CIPs included within the Cap are for "general plant" and "engineering." The "general plant" expenditures include such items as plant, CT, and diesel overhauls and improvements, bucket trucks, networking equipment, renovation of Julale Office, Dededo Supply Warehouse, and Hagatna Power Plant building, substation/breaker upgrades, and other miscellaneous items.<sup>6</sup>

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<sup>1</sup> GPA Petition for Contract Review (Application to Approve the FY2022 GPA CIP Ceiling Budget), GPA Docket 21-18, filed September 10, 2021.

<sup>2</sup> Id. at p. 1.

<sup>3</sup> Contract Review Protocol for GPA, Administrative Docket, February 15, 2008, Sec. 1a.

<sup>4</sup> Guam Consolidated Commission on Utilities (CCU) Resolution No. 2021-23, Relative to the Adoption of a Budget for the Guam Power Authority for Fiscal Years 2022 and 2023, adopted August 24, 2021.

<sup>5</sup> Contract Review Protocol for GPA, Administrative Docket, February 15, 2008, Sec 1f.

<sup>6</sup> GPA Petition for Contract Review, *supra*, at Attachment A.



The “engineering” expenditures include such items as Storage Tank 1935 Refurbishment, T&D Master Plan, LED Streetlight Conversion and T&D Line Maintenance Support, System Protection Upgrade, and Tenjo Vista Firewall and Transformer Relocation.<sup>7</sup>

The Contract Review Protocol does not require that GPA provide justifications for the items listed under General Plant.<sup>8</sup> GPA indicates that what it has provided is a General Plant (CIP) Approved Budget; it has always been the case that GPA does not expend all amounts indicated in the budget for the stated items.<sup>9</sup>

### **DETERMINATIONS**

This year’s requested cap includes some large “plant” items: (1) Cabras 1 & 2 Major Overhaul, \$6,163,833; (2) Major Overhaul for Piti 7, \$3,622,260; (3) Gas CT Improvements, \$2,311,412; (4) Aggreko Unit Major Overhaul, \$1,400,000; (5) Diesel Improvements, \$1,238,000; (6) 55 ft. bucket trucks, \$786,894; (7) COLO Networking Equipment, \$600,000; and (8) EPCM Contract, \$500,000;<sup>10</sup>

The prior year cap levels were as follows:

FY2021 Cap: \$21,561,155<sup>11</sup>  
FY2020 Cap: \$23,780,278  
FY2019 Cap: \$22,022,011  
FY2018 Cap: \$20,959,813  
FY2017 Cap: \$18,798,120  
FY2016 Cap: \$12,067,780  
FY2015 Cap: \$9,974,000  
FY2014 Cap: \$7,363,110.  
FY2013 Cap: \$10,135,760.  
FY2012 Cap: \$13.581M.<sup>12</sup>

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<sup>7</sup> GPA Petition for Contract Review, *supra*, at Attachment B.

<sup>8</sup> Contract Review Protocol for GPA, Administrative Docket, February 15, 2008, Sec. 1f.

<sup>9</sup> Discussion between PUC Counsel and GPA Legal Counsel on September 15, 2017.

<sup>10</sup> GPA Petition for Contract Review, *supra*, at Attachment A.

<sup>11</sup> PUC Order, GPA Docket 20-19, dated September 24, 2020, at pgs. 2-3.

<sup>12</sup> PUC Order, GPA Docket 18-17, dated September 27, 2018, at pgs. 1-2.



FY2011 Cap: \$5M.<sup>13</sup>

FY2010 Cap: \$16,390,707.<sup>14</sup>

The proposed FY2022 CIP cap (\$28,077,688) is over \$6.5M more than the FY2021 cap (\$21,561,155). The amount of the CIP cap requested by GPA this year has increased over prior years.

GPA CFO John Kim indicated to the ALJ that \$5,988,713 of the funds in the CIP cap for FY2022 are **carryover from FY2021**.<sup>15</sup> If one subtracts the carryover amount from the FY2022 cap, that cap is more in line with the caps for FY2019, 2020, and 2021.

The CIP Cap is only a spending limit. There does not appear to be any year in which GPA has expended funds up to the CIP Cap. In a phone conference between GPA CFO John Kim, GPA Counsel Graham Botha, and PUC ALJ Fred Horecky, on September 18, 2020, CFO Kim indicated that, for FY2018, GPA only spent \$9M out of the \$17M general plant cap. For FY2019, GPA only spent \$7M out of its \$19M general plant budget. Mr. Kim estimates that there is a \$6M-\$8M carryover of cap funds from year to year.<sup>16</sup> For FY2021, Mr. Kim indicates that only \$5.5M out of a general plant cap of \$18,381,155 was spent.<sup>17</sup> GPA Due to procurement delays, and other factors, including weather related delays and factors such as the present pandemic, projects are delayed and must be carried over from one year to the other.

It is also noteworthy that several of the general plant expenditures are for overhaul and replacement items for the Cabras 1 & 2 plants, the Combustion Turbines improvements, Diesel improvements, Piti 7 major overhaul, and the Aggreko Unit Major Overhaul. These costs could be expected as those plants age and their life spans shorten. The general plant costs are justified and necessary.

Regarding the proposed engineering projects for FY2022, with a cap of \$2,192,765, the request is less than the FY2021 engineering project request of \$3,180,000.

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<sup>13</sup> PUC Order, GPA Docket 13-16, dated October 29, 2013, at pgs. 1-2.

<sup>14</sup> PUC Order, GPA Docket 10-05, dated October 29, 2010, at pg. 1.

<sup>15</sup> See Attachments A and B hereto, which indicate the Carryover funds from FY2021 to FY2022 for both "plant" and "engineering" projects.

<sup>16</sup> Phone conference between GPA CFO John Kim, GPA Counsel Graham Botha, and PUC ALJ Fred Horecky on September 18, 2020.

<sup>17</sup> Phone conference between GPA CFO John Kim and PUC ALJ Fred Horecky on September 14, 2021.



The proposed Engineering CIP projects appear reasonable and should improve the IWPS. Major projects include: (1) Storage Tank 1935 Refurbishment, \$600,000; (2) T & D Master Plan (Transportation), \$500,000; (3) LED Street light Conversion and T & D Line Maintenance Support, \$350,000.

A substantial portion of the costs for the FY2022 Engineering projects are also carryover from FY2021 (\$1,367,765).<sup>18</sup> The Tank 1935 Refurbishment is necessary to supply ULSD to the Piti 7,8, and 9 power plants. The T & D Master Plan (Transportation) includes building plans for the T & D Building. The LED Streetlight conversion has been underway for several years. A substantial number of improvements are designed for substations. All of these projects should improve the island-wide transmission and distribution system.

GPA must seek approval under the Contract Review Protocol for procurement of any items included within the CIP cap which exceed the \$1.5M threshold if the PUC has not previously approved such items.

Based upon the recognition that the FY2022 general plant budget is consistent with that of prior fiscal years, subject to GPA's ability to carry out the capital improvement projects using internally funded dollars, the Administrative Law Judge recommends that the PUC approve the proposed FY2022 \$28,077,688 Ceiling Cap.

### **ORDERING PROVISIONS**

Upon consideration of the record herein, the Petition of GPA, and the 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** that:

1. The GPA FY2022 internally funded CIP ceiling cap, which consists of General Plant and Engineering, is approved in the amount of \$28,077,688.
2. The General Plant and Engineering budgets are consistent with prior budgets and appears reasonable; no prudence concerns are noted.

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<sup>18</sup> See Attachment B hereto, which indicate the Carryover funds from FY2021 to FY2022 for "Engineering" projects .



3. GPA shall file a complete reconciliation of the FY2021 expenditures on or before December 15, 2021, as required by the Contract Review Protocol
4. GPA must obtain Contract Review approval from the PUC before it expends amounts for those projects which exceed the contract review threshold of \$1.5M.
5. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses are authorized pursuant to 1 GCA §§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]**



Order  
Request of GPA to  
Approve FY2022 CIP Ceiling Cap  
GPA Docket 21-18  
September 30, 2021

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Dated this 30th day of September 2021.

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Jeffrey C. Johnson  
Chairman


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Rowena E. Perez-Camacho  
Commissioner



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Joseph M. McDonald  
Commissioner



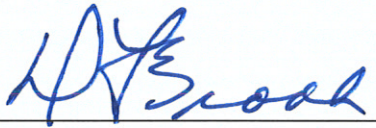
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Michael A. Pangelinan  
Commissioner



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Peter Montinola  
Commissioner



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Doris Flores Brooks  
Commissioner

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Pedro S.N. Guerrero  
Commissioner



1 **D GRAHAM BOTHA, ESQ.**  
2 **General Counsel**  
3 **Guam Power Authority**  
4 **688 Route 15, Suite 302**  
5 **Mangilao, Guam 96913**  
6 **Ph: (671) 648-3203/3002**  
7 **Fax: (671) 648-3290**



8 **BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

9 **IN THE MATTER OF:**

10 The Guam Power Authority Filing of the  
11 FY2022-2024 Construction Budget

12 **GPA DOCKET NO. 21-19**

13 **FILING OF GPA FY2022-2024**  
14 **CONSTRUCTION BUDGET**

15 **COMES NOW**, the GUAM POWER AUTHORITY (GPA), by and through its counsel  
16 of record, D. GRAHAM BOTHA, ESQ., and hereby files GPA's FY2022-2024 Construction  
17 Budget. GPA has provided a construction budget summary for FY2022-2024, and the  
18 2010/2014 bond series funded projects.

19 **RESPECTFULLY SUBMITTED** this 10<sup>th</sup> day of September, 2021.

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21 **D. GRAHAM BOTHA, Esq.**  
22 **GPA General Counsel**  
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**GUAM POWER AUTHORITY**  
**ATURIDAT ILEKTRESEDAT GUAHAN**  
**P.O. Box 2977 HAGATNA, GUAM USA 96932 - 2977**

September 9, 2021

Mr. Frederick Horecky, Esq.  
Administrative Law Judge  
Guam Public Utilities Commission  
Suite 207 GCIC Building  
414 West Soledad Avenue  
Hagatna, Guam 96910

**SUBJECT: "REPORTING COMPLIANCE"**  
**REFERENCE: FY2022-2024 CONSTRUCTION BUDGET**

Dear Judge Horecky:

In accordance with Guam Public Utilities Commission's instructions for reporting compliance, the Guam Power Authority is submitting the following:

EXHIBIT	FISCAL YEAR(S)	DESCRIPTION
Exhibit A	FY2022 - 2024	2010-2014 Construction Bond Funded Series

Please contact Mr. John E. Kim, Chief Financial Officer, at 648-3120 should you have any further questions or concerns regarding the aforementioned filing.

Sincerely,

  
JK JOHN M. BENAVENTE, P.E.  
General Manager

cc: Mr. John E. Kim, Chief Financial Officer  
Ms. Pamela R. Aguigui, Chief Budget Officer  
Graham Botha, Legal Counsel

Attachment



**GUAM POWER AUTHORITY****BOND PROJECTS - APPROVED****FISCAL YEAR 2022-2024****"PUC CONSTRUCTION COMPLIANCE REPORTING"****EXHIBIT A**

No.	BOND Series	Bond Capital Improvement Project Name	FY 2022 BUDGET	FY 2023	FY 2024
1	2010	Upgrade Fire Protection - Manenggon Diesel	\$ 327,948	\$ -	
		<b>TOTAL 2010 BONDS:</b>	<b>\$ 327,948</b>	<b>\$ -</b>	<b>\$ -</b>
2	2014	Generator Protection Upgrade with Fault Recorders	\$ 94,000	\$ -	
3	2014	Facilities Physical Security	\$ 1,000,000		
		<b>TOTAL 2014 BONDS:</b>	<b>\$ 1,094,000</b>	<b>\$ -</b>	<b>\$ -</b>
<b>TOTAL BONDS:</b>			<b>\$ 1,421,948</b>	<b>\$ -</b>	<b>\$ -</b>



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

GPA DOCKET 21-16

THE APPLICATION OF THE GUAM  
POWER AUTHORITY TO APPROVE  
THE CONTRACT WITH TRISTAR  
TERMINALS GUAM, INC., FOR THE  
LEASE OF AN ADDITIONAL  
STORAGE TANK FOR DIESEL FUEL

ORDER



INTRODUCTION

1. This matter comes before the Public Utilities Commission ["PUC"] pursuant to the Guam Power Authority's ["GPA"] Petition for Contract Review.<sup>1</sup>
2. GPA must ensure that it has an adequate inventory of Ultra Low Sulphur Diesel fuel oil [ULSD] for its Piti 8 & 9, and the Ukudo plant and must obtain an additional 196,000 barrels of storage capacity to do so.<sup>2</sup>
3. GPA has an existing contract with Tristar Terminals Guam, Inc., ["Tristar"] for handling and receiving GPA's fuel oil import deliveries into GPA's storage facilities [Contract] and GPA requests that the PUC approve an amendment to the Contract wherein GPA will lease a 196,000 barrel storage tank from Tristar for a term of up to three years with an estimated cost total cost of \$4,410,000.<sup>3</sup>

BACKGROUND

4. On March 1, 2008 GPA entered into an agreement with Shell Guam, Inc., for the lease of fuel storage tanks with a total nominal capacity of 500,000 of fuel oil and the tanks are located at the Agat Terminal Facility.<sup>4</sup>

<sup>1</sup> GPA Petition to Approve the Contract with Tristar Terminals Guam, Inc., for the Lease of an Additional Storage Tank for Diesel Fuel, GPA Docket 21-11, dated August 6, 2021 [GPA Petition].

<sup>2</sup> Id., at 3. NOTE: the page numbers cited herein are the PDF page numbers and not the numbers of GPA's Petition or its exhibits which are not continuous.

<sup>3</sup> Id., at 3.

<sup>4</sup> PUC Counsel Report dated December 6, 2010, GPA Docket No. 10-10 at 2.



5. On May 20, 2009, GPA and Shell Guam, Inc., agreed that the contract would be assigned to Tristar.<sup>5</sup>
6. The initial term of the storage agreement expired on February 28, 2011 and the PUC approved a two-year extension of the agreement that expired on February 28, 2013.<sup>6</sup>
7. On September 24, 2013, the PUC authorized GPA to enter into a new storage agreement with Tristar for a five-year period starting on September 1, 2013 and ending on August 31, 2018, and noted that Tristar's storage costs were high and escalated an additional 4% each year, that Tristar had submitted sufficient evidence justifying its 4% annual escalation rate, and that GPA had little choice but to enter into the storage agreement because there were no other storage alternatives on Guam for its fuel.<sup>7</sup>
8. On September 28, 2017, the PUC authorized GPA to lease an additional 196,000 barrel capacity storage tank from Tristar for its ULSD fuel oil for a five year term that would expire on December 31, 2022, giving GPA a thirty-day operating and an additional thirty-day reserve of ULSD fuel oil that would cost GPA an additional \$1,176,000 annually.<sup>8</sup> GPA subsequently entered into the Contract with Tristar.
9. On August 31, 2018, the PUC authorized GPA to extend its fuel storage agreement with Tristar for a four-year period from September 1, 2018 to August 31, 2022 which included an annual 4% increase but warned GPA that it would not approve any future contracts between GPA and Tristar containing an automatic annual CPI increase and that GPA and Tristar could include actual Tristar costs in the pricing or negotiate increases based upon actual CPI increases in the prior year.<sup>9</sup>
10. The contract extension also reduced GPA's leased storage capacity from 422,150 barrels to 315,500 barrels that would cost GPA an average annual cost of \$1,366,322.76 for the Contract's four- year term.<sup>10</sup>

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<sup>5</sup> Id., at 3.

<sup>6</sup> PUC Order dated December 15, 2010, GPA Docket No. 10-10 at 2.

<sup>7</sup> PUC Order dated September 24, 2013, GPA Docket No. 13-11 at 2-3.

<sup>8</sup> PUC Order dated September 28, 2017, GPA Docket No. 17-23 at 1-4.

<sup>9</sup> PUC Order dated August 30, 2018, GPA Docket No. 18-10 at 1-4.

<sup>10</sup> PUC Legal Counsel Report dated March 24, 2018, GPA Docket No. 18-10 at 3.



11. On June 4, 2021, GPA contacted Tristar and requested to lease Tristar's Tank No. 1907 for additional ULSD fuel oil storage and requesting to extend the existing ULSD fuel oil storage agreement on a month-to-month basis beyond its existing December 31, 2022 expiration date and in response, Tristar provided GPA with a draft Amendment No. 2 for the Contract.<sup>11</sup>
12. On July 27, 2021, the Guam Consolidated Commission on Utilities issued Resolution No. 2021-18 authorizing GPA to enter into the Amendment No. 2 of the Contract subject to the PUC's approval.<sup>12</sup>

### DETERMINATIONS

13. GPA must obtain the PUC's approval of Amendment No. 2 to the Contract. Generally, GPA must obtain PUC approval for any contract or obligation which exceeds the review threshold of one-million-five-hundred-thousand-dollars (\$1,500,000).<sup>13</sup> Here, GPA must obtain the PUC's approval for Amendment No. 2 of the Contract because the amendment would increase the Contract's costs by \$4,410,000 and it would extend the term of the contract on a month-to-month basis beyond its December 31, 2022 expiration date previously approved by the PUC.
14. The cost of Amendment No. 2 to the Contract is reasonable. Although the amendment does not contain the automatic annual CPI increases that the PUC prohibited in GPA from having in its fuel storage contracts with Tristar, GPA will be paying more for the additional tank for 2022 and 2023 than it is paying for its existing tank that it is leasing from Tristar. Specifically, under the existing contract between GPA and Tristar, GPA is renting a 196,000-barrel ULSD fuel storage tank from Tristar at a cost of about \$1,176 million for 2022, which is the last year of the contract. However, the amendment's additional fuel storage tank will cost GPA \$1,764,000 for that same year which is \$588,000 more than the tank that GPA is currently renting which appears to be the same capacity and it will be \$288,000 more than the lease for the existing tank in 2023, if GPA extends the lease for this tank in that year. GPA was queried as to the difference in costs and responded by

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<sup>11</sup> Letter from John Benavente to Kazhakuttam Vikraman dated June 4, 2021, GPA Petition at 5.

<sup>12</sup> Id., at 3-4.

<sup>13</sup> Paragraph 4(e), Order dated February 15, 2008, GPA Contract Review Protocol.



submitting Tristar's statements in response to this query. Tristar states it is not able to match the 2022 and 2023 lease cost of the amendment's additional tank with its existing leased tank because doing so is not economically viable due to: (1) The need to refurbish the additional tank to enable it to meet API Standards and GPA's quality requirements for the ULSD; (2) Tristar needs the \$1,764 million amount for the amendment's one-year contract term to recoup the costs of the refurbishment; (3) The existing contract term has a five-year term resulting in a revenue \$30 per barrel for the full contract term compared to only the \$9 per barrel revenue that Tristar will earn from the amendment's one-year term after it recovers the cost of the refurbishment. This appears to be true, as the amendment's storage fee would be \$9 per barrel for the first year, \$7.50 per barrel for the second year, and \$6 per barrel for the third year and any extension year, resulting in a total estimated cost of \$1,764,000 for the first year, \$1,470,000 for the second year, and \$1,176,000 for the third year and any extension year thereafter.<sup>14</sup> Hence, the \$4,410,000 cost of the amendment is reasonable, considering the necessary refurbishment costs which must be recouped in the first and second years of the amendment.

15. The amendment is prudent and necessary. GPA will require an increased supply of ULSD fuel to operate Piti 8 & 9 and the new Ukudu power plant for the next three years.<sup>15</sup> Additionally, GPA requires the increased supply of ULSD by February, 2022 and seeking the approval of Amendment No. 2, at this time will ensure sufficient time to refurbish and additional storage tank and begin using it by that time.<sup>16</sup>

16. Based on the foregoing, Amendment No. 2 to the Contract and its \$4,410,000 cost are reasonable, prudent, and necessary, and will enable GPA to meet its ULSD needs for Piti 8 & 9 and the Ukudu plant for the next three years.

### **ORDERING PROVISIONS**

After careful review and consideration of the above determinations, GPA's Petition to approve Amendment No. 2 to the GPA-Tristar Contract, the Report of PUC Legal

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<sup>14</sup> GPA Petition at 6.

<sup>15</sup> Id., at 3.

<sup>16</sup> Id., at 5.



Order  
GPA's Application to Approve the  
Contract with Tristar for the Lease  
Of an Additional Storage Tank  
For Diesel Fuel  
GPA Docket 21-16  
September 26, 2021

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Counsel, and the record herein, for good cause shown, and on motion duly made, seconded, and carried by the undersigned Commissioners, the Guam Public Utilities Commission HEREBY ORDERS that:

1. Amendment No. 2 to the GPA-Tristar Contract is approved and GPA may lease a 196,000 barrel ULSD storage tank from Tristar for a term of up to three years for no more than \$4,410,000.
2. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

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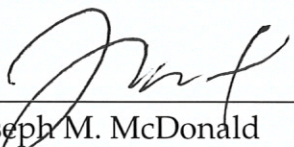
Order  
GPA's Application to Approve the  
Contract with Tristar for the Lease  
Of an Additional Storage Tank  
For Diesel Fuel  
GPA Docket 21-16  
September 26, 2021

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Dated this 30th day of September, 2021.

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Jeffrey C. Johnson  
Chairman

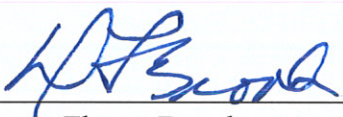


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Joseph M. McDonald  
Commissioner

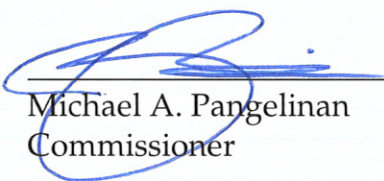
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Rowena E. Perez-Camacho  
Commissioner



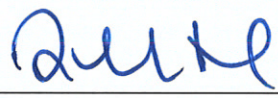
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Doris Flores Brooks  
Commissioner



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Michael A. Pangelinan  
Commissioner



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Peter Montinola  
Commissioner



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Pete Guerrero  
Commissioner



**BEFORE THE PUBLIC UTILITIES COMMISSION**

**IN RE: PETITION FOR APPROVAL )  
OF AWARD TO CALIFORNIA )  
PACIFIC TECHNICAL )  
SERVICES FOR CCTV )  
SURVEILLANCE SYSTEM )  
AND ACCESS CONTROL )  
SYSTEMS REPLACEMENT )  
PROJECT AND BY )  
PREVENTATIVE )  
MAINTENANCE SERVICES )  
BY PORT AUTHORITY OF )  
GUAM )**

**PAG DOCKET 21-04**

**ORDER**



**INTRODUCTION**

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the September 1, 2021 Petition for review and approval of the contract related to the closed-circuit television (“CCTV”) surveillance and access control system (“ACS”) upgrade (the “Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”).

On September 27, 2021, the Administrative Law Judge of the PUC (the “ALJ”) assigned to this matter filed an ALJ Report that included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

**DETERMINATIONS**

Back in 2018, PAG received \$160,867.00 from the U.S. Federal Emergency Management Agency (“FEMA”) to replace the Port’s CCTV systems.<sup>1</sup> And in 2019, PAG

<sup>1</sup> PAG’s Inter-Office Memo for Solicitation of IFB or RFP, IFB-PAG-003-21, p. 1.



was awarded a \$654,700.00 grant from the U.S. Maritime Administration to be used for PAG's CCTV Surveillance System Replacement project.<sup>2</sup>

On May 10, 2021, PAG issued Multi-Step Invitation for Bid IFB-PAG-003-21 (hereinafter referred to as the "IFB") for the purchase of twenty-four (24) fixed and forty (40) pan/tilt/zoom high resolution digital cameras to be installed at various Port locations, along with the necessary connectivity to the Port Command Center; and optional bid items, such as the installation of a CCTV surveillance system for the Agat Marina.<sup>3</sup> While nineteen prospective bidders expressed interest in the IFB, only one contractor submitted a bid, namely California Pacific Technical Services LLC *doing business as* CalPac ("CalPac").<sup>4</sup>

Thereafter, PAG evaluated CalPac's bid; and at the conclusion of PAG's evaluation process, it determined that CalPac was the most responsive and responsible bidder.<sup>5</sup> On August 26, 2021, PAG's Board of Directors issued Resolution No. 2021-09, which approved the awarding of the contract to CalPac, and thereby authorizing the bid amount of \$1,221,418.00 for the purchase of twenty-four (24) fixed and forty (40) pan/tilt/zoom high resolution digital cameras to be installed at various Port locations, along with the necessary connectivity to the Port Command Center; including the installation of a CCTV surveillance system for the Agat Marina.

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<sup>2</sup> PAG's Inter-Office Memo for Solicitation of IFB or RFP, IFB-PAG-003-21, p. 1.

<sup>3</sup> Petition, p. 1 (Sept. 1, 2021).

<sup>4</sup> Petition, p. 1.

<sup>5</sup> Petition, p. 1; Resolution, p. 1 (Aug. 26, 2021).



## **DISCUSSION**

### **1. PAG's Contract Review Protocol**

Pursuant to 12 G.C.A. §12105, PAG may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Accordingly, pursuant to PAG's current Contract Review Protocol, "[a]ll professional services contracts in excess of \$1,000,000" and "[a]ll externally funded loan obligations and other financial obligations, such as lines of credit, bonds, etc., in excess of \$1,000,000," "shall require prior PUC approval . . . ." Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

### **2. Scope of Work and Funding**

Based on the IFB, the scope of work involves the removal and disposal of existing analog cameras; the installation of digital internet protocol ("IP") cameras; the integration of the digital IP cameras with PAG's existing ACS and CCTV surveillance systems and software; training, and preventative maintenance services.<sup>6</sup> The project sites include the Commercial Port, the Container Yard, the Port Command Center, and the Agat Marina.<sup>7</sup> According to PAG, this project will be funded by a FEMA grant, a MARAD grant, and PAG funds.

### **3. CalPac**

Based on its Technical Proposal, CalPac is a contractor that specializes in security system installation and maintenance.<sup>8</sup> According to CalPac, it is currently

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<sup>6</sup> IFB, pp. 104-117.

<sup>7</sup> IFB, p. 6.

<sup>8</sup> CalPac's Technical Proposal, IFB-PAG-003-21, p. 1.



involved in improvement and maintenance projects for many large companies, such as GTA Teleguam, Docomo, Pacific Data Systems, Pacific Telecom Inc., IT&E, and Tata Communications.<sup>9</sup> CalPac's projects further include the design and installation of an Access Control System at Guam's FBI/ICE Building, U.S. Coast Guard Sector Guam, FAA Guam Facility, and the Army Reserve.<sup>10</sup> CalPac also provides system preventative maintenance to the Naval Base Guam, the U.S. Marshall Service and the U.S. District Court of Guam.<sup>11</sup>

#### **4. Board Resolution**

Resolution No. 2021-09, issued on August 26, 2021, approved the award to CalPac.<sup>12</sup> The Resolution thereby authorized the amount of \$1,221,418.00 for the contract, which includes the Optional Bid related to the installation of a CCTV surveillance system for the Agat Marina and some preventative maintenance service.<sup>13</sup>

### **RECOMMENDATION AND CONCLUSION**

According to PAG, it currently operates a Kantech CCTV surveillance system and ACS that provides automated maritime security and monitoring capabilities for the entire Port.<sup>14</sup> However, according to the Port, the systems have not undergone any significant upgrades since 2015; and that the servers that support the CCTV and ACS

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<sup>9</sup> CalPac's Technical Proposal, IFB-PAG-003-21, p. 1.

<sup>10</sup> CalPac's Technical Proposal, IFB-PAG-003-21, pp. 7-8.

<sup>11</sup> CalPac's Technical Proposal, IFB-PAG-003-21, pp. 8-9.

<sup>12</sup> Resolution, p. 1.

<sup>13</sup> Resolution, p. 1.

<sup>14</sup> PAG's Inter-Office Memo for Solicitation of IFB or RFP, IFB-PAG-003-21, p. 1.



systems “are not fully functional.”<sup>15</sup> Specifically, the condition of both the CCTV and ACS systems “are not able to support the IT and Port Police Divisions’ ability to update important information and have complete oversight of the entire PAG facility.”<sup>16</sup>

Further, “[t]he CCTV Surveillance System and ACS Replacement Project and Preventative Maintenance Services will provide automated maritime security protection and monitoring capabilities for the entire [Port].”<sup>17</sup> The upgraded system will provide: “(1) new digital cameras and supporting components; (2) ensure connectivity and operability between . . . all cameras and CCTV and ACS equipment at strategic Port property locations; (3) ensure that software support encapsulates all law enforcement requirements; (4) include removal of existing analog CCTV components and installation of new hardware and related components; (5) upgrade Port ACS and CCTV software; (6) repair existing support software; (7) provide for warranty maintenance, and service of the system upon completion; and (8) deliver training, user manuals, as-built drawings, and final close-out documentation.”<sup>18</sup>

Based on the foregoing, the ALJ found that the CCTV Surveillance System and Access Control System Replacement Project and Preventative Maintenance Services squarely align with the PAG’s efforts to modernize, streamline and expand its operations, and protect and secure its assets. Accordingly, based on this record, the ALJ

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<sup>15</sup> PAG’s Inter-Office Memo for Solicitation of IFB or RFP, IFB-PAG-003-21, p. 1.

<sup>16</sup> PAG’s Inter-Office Memo for Solicitation of IFB or RFP, IFB-PAG-003-21, pp. 1-2.

<sup>17</sup> PAG Memorandum, Determination Regarding the Use of Multi-Term Contract, p. 1 (May 5, 2021).

<sup>18</sup> PAG Memorandum, Determination Regarding the Use of Multi-Term Contract, p. 1.



recommended that the PUC approve the proposed contract with CalPac, at a cost of \$1,221,418.00.

The Commission hereby adopts the findings in the September 27, 2021 ALJ Report and therefore issued the following.

### **ORDERING PROVISIONS**

Upon careful consideration of the record herein, 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. That the instant Petition is hereby APPROVED.
2. PAG is authorized to enter into the proposed contract with California Pacific Technical Services LLC *doing business as* CalPac for the purchase of twenty-four (24) fixed and forty (40) pan/tilt/zoom high resolution digital cameras to be installed at various Port locations, along with the necessary connectivity to the Port Command Center, at a total cost of \$1,221,418.00; which includes the Optional Bid related to the installation of a CCTV surveillance system for the Agat Marina and preventative maintenance service.
3. 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 this matter. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.



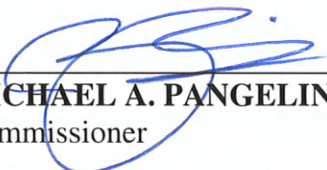
**SO ORDERED** this 30<sup>th</sup> day of September, 2021.

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**JEFFREY C. JOHNSON**  
Chairman

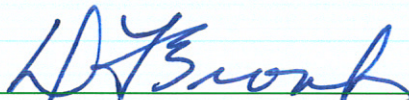
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**ROWENA E. PEREZ-CAMACHO**  
Commissioner

  
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**JOSEPH M. MCDONALD**  
Commissioner

  
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**PEDRO GUERRERO**  
Commissioner

  
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**MICHAEL A. PANGELINAN**  
Commissioner

  
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**PETER MONTINOLA**  
Commissioner

  
\_\_\_\_\_  
**DORIS FLORES BROOKS**  
Commissioner

P213054.JRA



**BEFORE THE PUBLIC UTILITIES COMMISSION**

**IN RE:** ) **PAG DOCKET 21-05**  
 )  
 **PETITION FOR APPROVAL** )  
 **OF AWARD TO WSP USA, INC.** )  
 **FOR THE OWNER AGENT** ) **ORDER**  
 **ENGINEER TECHNICAL** )  
 **CONSULTING SERVICES** )  
 **BY PORT AUTHORITY** )  
 **OF GUAM** )



**INTRODUCTION**

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the Petition filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”) on September 2, 2021, whereby PAG requests review and approval of a contract award to WSP USA Inc. (hereinafter referred to as “WSP”) for PAG’s Owner’s Agent Engineer Contract (the “Petition”), which will provide technical consulting services to the Port.

On September 27, 2021, the Administrative Law Judge of the PUC (the “ALJ”) assigned to this matter filed an ALJ Report that included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

**DETERMINATIONS**

The history of the Owner’s Agent Engineering Services (“OAE”) contract dates back to 2015. The Request for Proposal (“RFP”) for the first OAE contract sought professional services and technical support in the areas of design and engineering, program management, financial consulting and analysis, and other related services for PAG. In particular, the RFP sought services related to: assistance with PAG’s 5-Year Tariff Petition before the PUC;



assistance with PAG's Capital Program, to include assistance with issuance of revenue bonds; implementation of a new Terminal Operating System ("TOS") by assisting with the TOS contract and task order negotiations; assistance with studies related to rate adjustments and PUC petitions; and technical services during the construction phase of the Marine Service Life Extension Project at the Port's wharfs.<sup>1</sup>

In addition, that RFP further sought services related to assisting with MARAD/PMT sponsored projects, which include renovations to building spaces, linking all communications infrastructure, automating the Gate Complex, maintenance programs, securing security grants, and various infrastructure projects; as well as other tasks required by the Port.<sup>2</sup>

According to PAG, "[t]he appointment of an OAE Services Contract is critical to PAG's day-to-day operations."<sup>3</sup> "The Port, in collaboration with the Office of the Governor of Guam ("OOG"), and the assistance of the Office of Economic Adjustment ("OEA"), has determined that there is a need for procuring qualified professional maritime services for an OAE for the Port."<sup>4</sup> According to the Port, "[t]he scale, complexity, and challenges of the [Port Improvement Program] was and continues to be unprecedented for the Port and requires considerable professional and technical expertise, capacity and capability not currently present . . . within the Port's in-house staff and resources."<sup>5</sup>

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<sup>1</sup> Petition, PAG Docket 15-05, RFP, "Attachment 1," pp. 1-3 (Aug. 11, 2015).

<sup>2</sup> Petition, PAG Docket 15-05, RFP, "Attachment 1," pp. 4-5.

<sup>3</sup> PAG's Determination of Need, RFP No. PAG-021-003, p. 1 (Apr. 28, 2021); PAG's Memo Re: Determination of Planning, RFP No. PAG-021-003, p. 1.

<sup>4</sup> PAG's Determination of Need, RFP No. PAG-021-003, p. 1; PAG's Memo Re: Determination of Planning, RFP No. PAG-021-003, p. 1.

<sup>5</sup> PAG's Determination of Need, RFP No. PAG-021-003, p. 1; PAG's Memo Re: Determination of Planning, RFP No. PAG-021-003, p. 1.



On June 16, 2021 the Port issued RFP No. PAG-021-003, which solicited the services of qualified contractors who could provide PAG with technical consulting services.<sup>6</sup> While eleven (11) prospective offerors requested an RFP packet, only one vendor submitted a proposal on July 7, 2021.<sup>7</sup>

On July 23, 2021, an evaluation committee evaluated and scored WSP's proposal, giving WSP a score of 489 out of a possible 500 points.<sup>8</sup> Thereafter, a cost negotiations committee met with WSP to discuss rates, task orders, and deliverables.<sup>9</sup>

On July 29, 2021, PAG's Board of Directors issued Resolution No. 2021-08, which approved the proposed contract and award to WSP, subject to successful cost negotiations between the parties.<sup>10</sup> Cost negotiations concluded on August 16, 2021; and a Letter of Acceptance issued, summarizing the cost negotiations, rates, fees, and terms of the contract.<sup>11</sup>

**A. Regulatory Review**

Under 12 G.C.A. §12105, the PUC must expressly approve any contractual agreements or obligations which could increase PAG's rates and charges. In addition, under PAG's Contract Review Protocol, "[a]ll professional service contracts in excess of \$1,000,000" "shall require prior PUC approval . . . ."<sup>12</sup>

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<sup>6</sup> Petition, p. 1.

<sup>7</sup> Petition, p. 1.

<sup>8</sup> Petition, p. 1.

<sup>9</sup> Petition, p. 1.

<sup>10</sup> Resolution, p. 1.

<sup>11</sup> Petition, p. 2.

<sup>12</sup> Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).



## **B. Scope of Work**

According to the Scope of Work, the OAE will provide Program Management Support and Capital Improvement Program construction technical services, which shall include projects such as the Hotel Wharf and Access Road Maintenance and Repair; Golf Pier Structural Repair; Warehouse #1; Water Line Repair and Replacement; and the Administration Building Renovation and Annex Construction, just to name a few.<sup>13</sup> The OAE will also provide support to PAG's operations and any Program Management Contractor related to the maintenance, repair and replacement of PAG's Ship-To-Shore Gantry Cranes.<sup>14</sup>

The OAE is also tasked with providing the Port with Information Technology ("IT") support. These responsibilities include advising PAG on strategic issues related to cargo operations and IT; providing support for the upgrade of the Terminal Operating System and other modules; providing support for PAG's Financial Management System upgrade project and integration of the Terminal Operating System; providing support for cyber security; providing assistance for the procurement of a Gate Operating System, to name a few.<sup>15</sup>

The OAE will also provide PAG with support to continue to develop and maintain PAG's Environmental, Health, and Safety Program. These tasks will include providing PAG employees with health and safety training; and reviewing the health and safety components of PAG's construction projects.<sup>16</sup> Finally, the OAE will provide technical support related to the

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<sup>13</sup> Scope of Work, PAG RFP No. 021-003, p. 2.

<sup>14</sup> Scope of Work, PAG RFP No. 021-003, pp. 2-3.

<sup>15</sup> Scope of Work, PAG RFP No. 021-003, p. 3.

<sup>16</sup> Scope of Work, PAG RFP No. 021-003, p. 3.



rehabilitation and safe use of the Port's marine structures, under the Port's Wharf Service Life Extension program.<sup>17</sup>

The contract is for a term of two years, with three year-long options for renewal. The contract will be mostly funded by a federal grant, issued by the Office of Local Defense Community Cooperation, of \$1,500,000.00, with the remaining \$100,000.00 to be supplemented by the Port's funds.<sup>18</sup>

**C. Other Supporting Documents**

In March of this year, PAG and the Office of the Governor prepared a Memorandum of Agreement ("MOA") outlining PAG's use of the \$1,500,000.00 federal grant, issued by the Office of Local Defense Community Cooperation, for the subject OAE contract. Pursuant to the terms of this MOA, PAG agrees to use the funding for the work indicated in the grant application, namely for the projects listed under the Scope of Work for the OAE. In addition, in the Notice of Award for the federal grant issued by the Office of Local Defense Community Cooperation, PAG is required to use these funds for the projects described in the application, namely the Scope of Work for the OAE.

**D. Board Resolution**

On July 29, 2021, PAG's Board of Directors issued Resolution No. 2021-08. In the Resolution, the Board approved the contract award to WSP, at a cost of \$1,600,000.00, conditioned on the successful cost negotiations between the parties. The Board further authorized PAG to petition the PUC for approval of the OAW contract to WSP.<sup>19</sup>

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<sup>17</sup> Scope of Work, PAG RFP No. 021-003, p. 3.

<sup>18</sup> PAG's Determination of Need, RFP No. PAG-021-003, p. 1 (Apr. 28, 2021)

<sup>19</sup> PAG Board Resolution No. 2020-03, p. 1 (June 9, 2020).



## **CONCLUSION AND RECOMMENDATION**

In its grant application materials, PAG has indicated that “[t]he scale, complexity, and challenges of the [Port Improvement Program] was and continues to be unprecedented for the Port and requires considerable professional and technical expertise, capacity and capability not currently present . . . within the Port’s in-house staff and resources.” The Port has expressed that “[i]t is paramount for the PAG to continue to engage the services of a professional maritime consultant as its OAE to build upon what has been accomplished and to maintain continuity and momentum in the modernization efforts of the PAG . . . .”

The federal funding for this contract relieves ratepayers a little bit of the impact related to PAG’s modernization efforts. Accordingly, based on the record before the Commission in the instant docket, and for the other reasons set forth herein, the ALJ found that the contract award to WSP, as outlined in the Petition, procurement, and supporting documents, is reasonable, prudent, and necessary. The ALJ recommended that the PUC approve PAG’s OAE contract with WSP at a cost of \$1,600,000.00.

The Commission hereby adopts the findings in the September 27, 2021 ALJ Report and therefore issued the following.

## **ORDERING PROVISIONS**

Upon careful consideration of the record herein, 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. That the instant Petition is hereby APPROVED.
2. PAG is authorized to enter into the proposed OAE contract with WSP USA Inc. at a cost of \$1,600,000.00.



3. 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 this matter. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

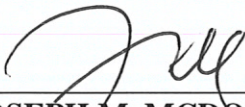
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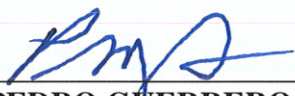


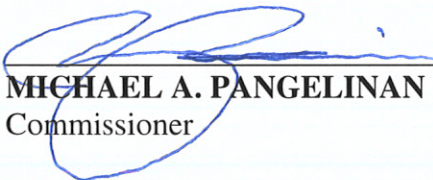
**SO ORDERED** this 30<sup>th</sup> day of September, 2021.

**JEFFREY C. JOHNSON**  
Chairman

**ROWENA E. PEREZ-CAMACHO**  
Commissioner

  
**JOSEPH M. MCDONALD**  
Commissioner

  
**PEDRO GUERRERO**  
Commissioner

  
**MICHAEL A. PANGELINAN**  
Commissioner

  
**PETER MONTINOLA**  
Commissioner

  
**DORIS FLORES BROOKS**  
Commissioner

P213056.JRA



## BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

PORT AUTHORITY OF GUAM'S  
PETITION FOR APPROVAL OF AWARD  
TO MATSON NAVIGATION  
COMPANY, INC. FOR THE  
PERFORMANCE MANAGEMENT  
CONTRACT FOR THE PORT GANTRY  
CRANES

PAG Docket 21-06

### ORDER



### INTRODUCTION

This matter comes before the Guam Public Utilities Commission [PUC] pursuant to the September 8, 2021, Port Authority of Guam ["Port"] Petition for Approval of Award to Matson Navigation Company, Inc. ["Matson"] for the Performance Management Contract for the Port Gantry Cranes.<sup>1</sup>

### BACKGROUND

On July 13, 2020, PAG initiated the competitive solicitation process for the PMC RFP - PAG-020-005.<sup>2</sup> The RFP, Performance Management Contract for Gantry Cranes, solicited proposals from qualified firms "to provide the services of a Performance Management Contractor to assist with the management of performance, operations, maintenance, emergency response, trouble shooting, repairs required, inclusive of all parts and labor; and preventative maintenance of all equipment and facilities directly associated with the Gantry Cranes, including but not limiting to the acquisition for replacement of such equipment on an as needed basis. The contract shall include

<sup>1</sup> PAG Petition, p. 1 (September 8, 2021).

<sup>2</sup> Id.



Certification for the Port Gantry Cranes and Training for the Port Crane Mechanic Staff.”<sup>3</sup>

A Contractor was sought by the Port to assist in the Performance, Operations, Maintenance, Emergency Response, Trouble Shooting, Diagnostics, and Repairs of Port Gantry Cranes #4, #5 and #6.<sup>4</sup>

Two proposals were received by PAG in response to the RFP. On October 6, 2020, the PAG Evaluation Committee independently assessed and ranked the offerors’ proposals. It was determined that Matson Navigation Company, Inc. was the highest and best qualified offeror to perform the required services in accordance with the criteria set forth in the RFP.<sup>5</sup> On December 21, 2020, Port’s Management approved the recommendation and assigned committee members to negotiate fees with Matson. After the Port Management and Matson came to a final agreement on August 11, 2021, a request to approve the award was made to Port’s Board of Directors.<sup>6</sup> On August 26, 2021, in Resolution No. 2021-10, the PAG Board of Directors approved the contract award to Matson for RFP PAG-020-005 for the Performance Management Contract to provide maintenance and certification of the Port Authority of Guam Gantry Cranes, subject to review and approval by the PUC.<sup>7</sup>

The ALJ filed his Report herein dated September 24, 2021. The PUC adopts the conclusions and recommendations therein.<sup>8</sup>

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<sup>3</sup> RFP-PAG-020-005, p. 4.

<sup>4</sup> Id., at p. 5.

<sup>5</sup> PAG Memorandum to Procurement File from the General Manager, (undated) at p. 2.

<sup>6</sup> Petition, p. 2.

<sup>7</sup> PAG Board of Directors, Resolution No. 2021-10, Relative to Petitioning the Public Utilities Commission (PUC) for the Approval of the Award to Matson for the Performance Management Contract for the Port Authority of Guam Gantry Cranes, adopted and approved on August 26, 2021, p. 2.

<sup>8</sup> ALJ Report, PAG Docket 21-06, dated September 24, 2021.



## DETERMINATIONS

### 1. PAG's Contract Review Protocol

PAG indicates that the cost of the PMC Contract will be the amount of \$200,000.00 per year for an initial contract term of five (5) years, with options to renew the contract for the five (5) additional years thereafter, not to exceed a total contract of twenty (20) years.<sup>9</sup> Pursuant to PAG's current Contract Review Protocol, "All professional service contracts in excess of \$1,000,000" require prior PUC approval under 12 GCA § 12105. This PMC contract must be reviewed by the PUC.<sup>10</sup>

### 2. "Need" for the PMC Contract and Legislative Requirements

#### A. Determination of Need

The Port indicates that it is necessary for it to enter a Performance Management Contract for the Gantry Cranes. On March 18, 2020, the Port General Manager Rory Respicio issued a "DETERMINATION OF NEED, PERFORMANCE MAINTENANCE CONTRACT FOR GANTRY CRANES." Therein the General Manager stated: "the Port Authority of Guam (Port), in accordance with Public Law 31-145, is soliciting a Request for Proposal RFP) for a Performance Management Contract (PMC) with a Professional entity to provide services for the Training of Port Crane Mechanic Staff and the Performance, Operation, Maintenance Emergency Response, Trouble Shooting, Diagnostics and Repairs to Port Gantry Cranes on an on-call, as needed basis. The

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<sup>9</sup> Id.

<sup>10</sup> Contract Review Protocol, PAG Docket 09-01, p. 1. (June 20, 2011).



purpose of the Performance Management Contract is to ensure compliance with 12 GCA Chapter 10 Article 4 § 10401.”<sup>11</sup>

## B. Legislative Requirements

A part of the history of the purchase of the Gantry Cranes by the Port is set forth in Public Law No. 31-145.<sup>12</sup> In 2011, the Guam Legislature determined that ownership of the Gantry Cranes operating on its rails would improve operational efficiency and reliability in the movement of cargo through the Port and for transshipment to the neighboring islands in the region<sup>13</sup>, and that it would be prudent for the Port to explore acquisition of the POLA Cranes through direct purchase.<sup>14</sup> Further, the Legislature authorized PAG to enter into negotiations with the Carriers with the specific purpose of acquiring through purchase or lease-to-own one (1) or more of the POLA Gantry Cranes.<sup>15</sup>

Section 3 of P.L. 31-145 also added a new Section 5 to Public Law 30-57. Section 5(h), Maintenance, which provided as follows: **“in the event the Port acquires the POLA Gantry Cranes, the Port shall contract, pursuant to the Guam procurement act, the services of a Performance Management Contractor (PMC) to manage the performance, operation, and maintenance of the newly acquired POLA Gantry Cranes, and other Gantry Cranes used in support of Port operations.** Said contractual services *shall* be crafted to ensure that employees of the Port Equipment Maintenance

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<sup>11</sup> Port General Manager Rory J. Respicio, DETERMINATION OF NEED, PERFORMANCE MAINTENANCE CONTRACT FOR GANTRY CRANES, dated March 18, 2020.

<sup>12</sup> P.L. No. 31-145 (November 17, 2011).

<sup>13</sup> Id. at Section 1.

<sup>14</sup> Id.

<sup>15</sup> Id. P.L. No. 31-145 (November 17, 2011) at Section 1.



Division will be utilized to the maximum extent possible, and that *no* employee will be displaced *except* for cause..."<sup>16</sup> (emphasis added).

Furthermore, 12 GCA §10401, Public-Private Partnership Authorization through a Performance Management Contract, authorizes the Board of Directors of the Port "to issue a Request for Proposal (RFP)...soliciting... proposals from qualified parties for the management, operation, and maintenance of its cargo handling equipment through a performance management contract, subject to the procurement laws of Guam."<sup>17</sup>

The Port has "determined that a PMC is necessary for the Port to effectuate the technical and professional support services relative to the Port's Gantry Cranes. The Port's need and record of planning is documented by Public Law 31-145, the Determination of Need, Requisitions, the Market Research Surveys, and related documents contained in the Procurement Planning Documents."<sup>18</sup> **The Port is not only authorized but required by law to enter into a Performance Management Contract for the Gantry Cranes.**

### 3. A History of PUC Involvement with the Port and the POLA Cranes

Since 2012, the PUC has been actively involved in addressing issues concerning the POLA Cranes, as well as the efforts of the Port to enter into Maintenance Agreements and a PMC for the Cranes. On August 27, 2012, pursuant to the Report of PUC Consultant Slater Nakamura, the PUC approved the Sales Agreement pursuant to which the Port purchased the POLA Cranes.<sup>19</sup> PUC also ordered the Port (1) to

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<sup>16</sup> P.L. No. 31-145 (November 17, 2011) at Section 3.

<sup>17</sup> 12 GCA §10401(a).

<sup>18</sup> PAG Memorandum to Procurement File from the General Manager, (undated) at p. 2.

<sup>19</sup> PUC Order, PAG Docket 12-01, Review of POLA Sales Agreement and Interim Maintenance Agreement, dated August 27, 2012, at p. 7.



complete the development of a Structured Maintenance Program for all its cranes, which it had initiated with Parsons Brinkerhoff and sub-consultant Sarandipity, L.L.C;<sup>20</sup> and (2) to make repairs to the Cranes, and to develop a tariff to acquire, finance, and maintain such Cranes.<sup>21</sup>

On December 11, 2012, the PUC approved an interim surcharge on containers of \$105, which increased to \$125 after February 28, 2013. A \$5 surcharge per ton was assessed with respect to breakbulk, non-containerized cargo.<sup>22</sup> 9.5% of the revenues from the crane surcharge were ordered to be deposited into a crane replacement sinking fund.<sup>23</sup>

On April 24, 2014, PUC approved the Marine Technical Services Agreement of the Port for an estimated cost of \$1,020,000.00.<sup>24</sup>

#### 4. Scope of Work and Proposed Contract

##### A. Scope of Work

The primary service provided by the Contractor will be performance of monitoring requirements for the Gantry Cranes, preventative maintenance of all equipment and facilities directly associated with the Gantry Cranes, including, but not limited to the acquisition for replacement of such equipment.<sup>25</sup>

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<sup>20</sup> Id.

<sup>21</sup> Id., at pgs. 7-8.

<sup>22</sup> PUC Order, PAG Docket 12-02, Petition for Crane Surcharge by Port Authority of Guam, dated December 11, 2012, at p. 9.

<sup>23</sup> Id. at p. 10.

<sup>24</sup> PUC Order, PAG Docket 14-04, Request for Review and Approval of Agreement with Marine Technical Services, Inc. by Port Authority of Guam, at p. 1.

<sup>25</sup> RFP, Attachment 1.



The Scope of Work includes all services required in the RFP and those set forth in the proposal of Matson.<sup>26</sup> The first element of the Matson organization execution plan will be to mobilize a team to conduct crane condition surveys, including any recent surveys, concurrent with an assessment of the maintenance program, maintenance records, recurring problems, and spare parts inventory.<sup>27</sup> Matson will provide the work services and presents extensive background and experience in assisting the Port in the past with equipment maintenance, safety, and asset management services for over five years. The work will be performed in conjunction with PBA (Paul Bridges) a firm with substantial engineering and crane maintenance experience including work on the Port Authority Gantry Cranes.<sup>28</sup>

Matson will provide a far-reaching training program for the PAG Crane Mechanic Staff. Within 30 days of Notice of Award, Matson/PBA will assess the knowledge and skill level of the Mechanic Staff and develop a training plan consisting of a combination of online courses through ABB University, hands on training, and classroom style training. Such training will include Diesel Engine Fundamentals, Electrical Crane Standards, ABB Training, Base Electricity for Crane Mechanics, Procurement, and others.<sup>29</sup>

Matson will also conduct quarterly assessments and evaluation of the condition of PAG's cranes, including its operations and spare parts inventory. Matson will provide detailed reports of assessments and evaluations with recommendations for improvement following the quarterly assessments and evaluations.<sup>30</sup> During the course

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<sup>26</sup> Agreement between Jose D. Leon Guerrero Commercial Port (Port Authority of Guam) and Company, par. 1A, Scope of Work.

<sup>27</sup> Matson Proposal for a Performance Management Contract for Gantry Cranes, p. 11.

<sup>28</sup> Id., at p. 4.

<sup>29</sup> Id., at p. 5.

<sup>30</sup> Id., at p. 12.



of negotiations, Matson agreed that training would be provided by equipment manufacturers.

## B. Contract Term

Based upon the proposed contract, the term of the contract is for five (5) years, with options to renew every five (5) years and shall not exceed a total of twenty (20) years subject to the availability of funds. Each renewal period is subject to the consent of both parties.<sup>31</sup> The contract terms and limits are specifically approved pursuant to 12 GCA §10402, Contract Limits. The Contract contains “Early Termination” provisions for the Port for termination without cause, termination in the best interest of the Government of Guam, termination for cause, and termination for lack of funds.<sup>32</sup>

## 5. Cost and Funding

The funding for the PMC contract is through local Port funds. A requisition has been approved covering the amount of two hundred thousand dollars (\$200,000) per year, for a term of 5 years. Projects issued via Task Orders against the contract will also be funded with local Port funds.<sup>33</sup> The Port Authority and Matson engaged in extensive negotiations between February 2021 and August 2021 on various funding issues. The parties reached agreement that Matson would charge 10% plus cost for the procurement of parts as opposed to 20% plus cost. Matson also agreed to comply with the PAG Travel policy requiring economy travel. Matson further agreed that training would be

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<sup>31</sup>Agreement between Jose D. Leon Guerrero Commercial Port and Matson Navigation Company, Inc., at Par. II, p. 2.

<sup>32</sup> Id., at Par. IV, pgs. 2-3.

<sup>33</sup> PAG Executive Summary for Board of Directors, August 26, 2021.



provided by the manufacturer and not a third party, and that training entities would be approved by PAG.<sup>34</sup> The Port staff indicated diligence and thoroughness in negotiating acceptable pricing. PAG's cost negotiation efforts were in accordance with procurement law and in the best interest of the Port and the people of Guam.

#### 6. Board Resolution

Resolution No. 2021-10, issued on August 26, 2021, approved the award to Matson Navigation Inc., and authorized the expenditure from PAG local funds in the amount of \$200,000.00 per year for an initial contract term of five (5) years.<sup>35</sup>

### CONCLUSION

PAG has established that it needs assistance in maintaining, certifying, and repairing the Gantry Cranes. The PMC model will allow Matson to assist the Port with emergency procurement in case of necessary immediate repairs.

It appears that the Port and its personnel diligently pursued and accomplished the requirements of procurement law. The result of the procurement was the selection of a highly qualified team, Matson/PBA, which has already assisted the Port in maintaining and servicing the Gantry Cranes for at least 5 years. Once the Port selected Matson as the most qualified Offeror, the Port procurement team negotiated in an attentive and responsible manner to ensure that the final pricing and terms were most advantageous to the Port and Guam.

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<sup>34</sup> Id., at pgs. 1-2.

<sup>35</sup> PAG Board of Directors, Resolution No.2021-10, Relative to petitioning the Public Utilities Commission (PUC) for the Approval of the Award to Matson for the Performance Management Contract for the Port Authority of Guam Gantry Cranes, adopted and approved on August 26, 2021.



When compared to other utility PMCs, the cost of the Port of \$200,000 per year is far less. The Port will attempt to ensure that the PMC funds are used for essential services such as assessment, maintenance, and training. The Port has stated that the PMC provides a “safety net” to the Port for maintaining and repairing the Gantry Cranes.

At the same time, the Port is proceeding ahead to develop funding for new Gantry Cranes around 2025 and thereafter.<sup>36</sup> Just yesterday, the Port Board of Directors approved plans to replace two of the POLA Cranes, after a funding source has been found and all regulatory approvals have been satisfied.<sup>37</sup>

### **ORDERING PROVISIONS**

Upon consideration of the record herein, the Petition of PAG for Approval of Award to Matson Navigation Company, Inc. [“Matson”] for the Performance Management Contract for the Port Gantry Cranes, the 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** that:

1. The award of the Port Authority of Guam to Matson Navigation Company, Inc., for the Performance Management Contract for the Port Gantry Cranes, is approved. PAG is authorized to execute the proposed PMC Agreement with Matson.
2. PAG is authorized to expend the amount of two hundred thousand dollars

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<sup>36</sup> Zoom conference between ALJ Fred Horecky and Port General Manager Rory Respicio/Procurement Staff/Legal Counsel, September 21, 2021.

<sup>37</sup> Guam Daily Post, September 24, 2021, at p. 6.



(\$200,000) per year, for a term of 5 years, for the Performance Management Agreement.

3. PAG shall obtain prior PUC approval before any renewal of the Performance Management Agreement.
4. PAG is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§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]**



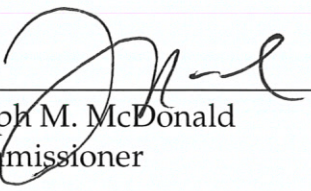
Dated this 30th day of September 2021.

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Jeffrey C. Johnson  
Chairman

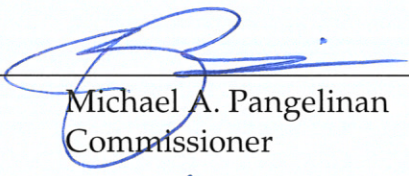
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Rowena E. Perez-Camacho  
Commissioner



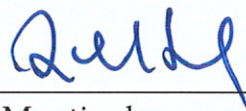
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Joseph M. McDonald  
Commissioner



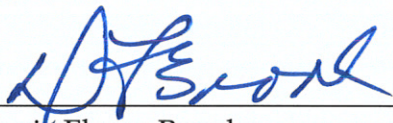
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Michael A. Pangelinan  
Commissioner



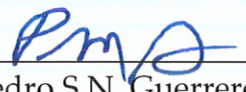
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Peter Montinola  
Commissioner



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Doris Flores Brooks  
Commissioner



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Pedro S.N. Guerrero  
Commissioner