

**GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
October 28, 2021
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA**

MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:30 p.m. on October 28, 2021, pursuant to due and lawful notice. Commissioners Johnson, Perez-Camacho, Montinola, Pangelinan, McDonald, Flores-Brooks, and Guerrero were in attendance. 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 September 30, 2021. Upon motion duly made, seconded, and unanimously carried, the Commission approved the minutes subject to corrections.

2. Guam Power Authority

The Chairperson announced that the next item of business on the agenda was the Presentation by Guam Power Authority [GPA] General Manager [GM] John Benavente on Fuel Acquisition Plans through 2025. GPA GM Benavente stated that the presentation was about GPA's fuel acquisition plan to achieve compliance with the federal consent decree and what the projected financial impact on the ratepayers will be when these plans are implemented. GPA GM Benavente stated that they are leasing a second tank from Tristar because the first tank is being rehabilitated, that GPA is currently using high-sulfur and low-sulfur fuel in its baseload generators which are stored in tanks and piped to the baseload generators, and GPA is burning ultra-low-sulfur fuel in its standby generators which are stored in tanks and trucked to the standby generators, that the consent decree prohibits GPA from using any fuel higher than 0.2% sulfur FRO beginning January 1st, 2023. GPA GM Benavente stated that the new Ukudu power plant will be using ultra-low sulfur fuel, and that by July, 2022 GPA's conversion of the Piti 8&9 plants to take ultra-low sulfur diesel will be complete, that GPA will no longer need all the tanks it is currently leasing after converting to the ultra-low sulfur fuel, that after the new Ukudu power plant is in use, GPA will require less fuel than it is using now, and he presented a chart showing how the LEAC cost will decline over the next few years as a result of using less fuel and the KEPCO solar farm coming online. GPA GM Benavente concluded his presentation by explaining how GPA planned to achieve 50% renewable energy by 2035 and by stating that the new Ukudu power plant is the

sustainable path to achieve reliable power, a clean environment, and low-energy cost. A discussion ensued between the Chairperson, Commissioners Perez-Camacho, Guerrero, Flores-Brooks, and GPA GM Benavente concerning GPA's plan to use 3 types of fuel, then 5 types of fuel, then 3 types of fuel, then 1 type of fuel in just a few years, the status of the replacement of GPA's fuel pipelines, the financial closing to get several hundred million dollars to construct the new Ukudu power plant, a comparison of past LEAC rates to what the lower LEAC is expected to be in the near future, the status of permitting for the new Ukudu power plant, fuel consumption in the Piti plants and the amount of power the Mangilao PV will generate, the feasibility of past decisions concerning the solar farm at Dandan, GPA's plan to achieve 50% renewable energy by 2030, and the effect of battery storage for solar farms during Guam's peak energy demand periods. The Commissioners thanked GPA GM Benavente for this presentation.

The Chairperson announced that the next item of business was GPA Docket 22-01, Petition for Approval of Property Insurance Contract Extension with DB Insurance Co., Ltd., PUC Counsel Report, and Proposed Order. Counsel Camacho stated that the last time this contract came before the PUC was April of 2018. And on that day, the PUC approved GPA's property insurance contract with DB Insurance Company, Ltd. , which is now DB Insurance Limited is the new name, that the contract had a 3-year initial term with two 1-year extension periods, that the contract's initial term would expire on November 1, 2021, that GPA is requesting the PUC approve the first 1-year extension of this contract, that the PUC had the jurisdiction to approve the extension, that the extension would cost \$5.7 million, and he recommended that the PUC approve the extension because the increase in cost was reasonable and because GPA's bond indentures require GPA to have the property insurance. A discussion ensued between Commissioners, Counsel Camacho, ALJ Horecky, GPA GM Benavente, and GPA Legal Counsel Botha concerning why GPA did not solicit for a new contract instead of extending the existing contract at a higher rate, the effect of the Cabras explosion on GPA's insurance rates, the reasons for the increased cost for the extended term, GPA's comparison of the rates from other insurance companies, the amount of time it takes GPA to prepare a solicitation, the amount of the increase for the extended term, the justifications for the increase for the extended term, the PUC's threshold amount for review, the terms in the insurance contract, the effect of GPA's acquisition of the Aggreko units and battery storage facilities on GPA's insurance rates, the value of GPA's insured assets, and what GPA's options would be is it solicits for a new insurance contract and they only receive one bid or no bids. Commissioner Guerrero moved to approve the proposed order granting the petition, which was seconded by Commissioner Montinola, and the motion passed unanimously.

3. Guam Solid Waste Authority

The Chairperson announced that the next item of business was a Presentation by Guam Solid Waste Authority [GSWA] Chairman Gayle on Questions presented by the PUC. GSWA Chairman Gayle stated that he was presenting answers to the PUC's questions, which he previously responded to in writing, and that he wanted to address any additional questions that the PUC may have, and he introduced Irvin Slike, GSWA's new GM, to the Commissioners. GSWA Chairman Gayle stated that GSWA's management audit recommended rate adjustments to pay for future projects such as the cell destruction at Layon and the closure and maintenance of the existing cells, and the acquisition of truck reserves and equipment reserves, that the current rates are insufficient to pay for these future projects, that GSWA will be receiving \$6 million from the Government of Guam over the next three years to delay the rate increase, that GSWA is planning to implement improvements to its trash collection routes and that it will implement island-wide trash collection, the benefits of island-wide trash collection, and how GSWA planned to implement these new initiatives. GSWA Chairman Gayle requested that the PUC not divide its cost equally among the utilities by including GSWA because GSWA's revenues are less than \$20 million per year and that it is paying a much higher percentage than the other utilities who have greater revenues. A discussion ensued between Commissioners Montinola, Flores-Brooks, Guerrero, and Pangilinan, and GSWA Chairman Gayle, and GSWA GM Slike regarding whether GSWA was looking into obtaining electric vehicles, GSWA's current trash collection times, the status of collecting the recycling bins, whether GSWA should get a bottling bill that pays persons bringing in used bottles and cans, the status of the federal consent decree and receivership, methodologies that GSWA could use to implement island-wide trash collection, GSWA's revenues and operational expenses, the amount of trash being deposited into the landfill by the federal Department of Defense and how much they pay for that, the tipping fees paid by commercial trash haulers, GSWA's hazardous waste disposal, the enforcement of Guam's waste disposal laws, and the method in which fees are assessed to GSWA's customers. The Commissioners thanked GSWA Chairman Gayle for his presentation.

4. Guam Waterworks Authority

The Chairperson announced that the next item of business was GWA Docket 22-01, Petition to Approve Contract Amendment No. 3 with Brown and Caldwell to complete the Interim Water Resource Master Plan Update, ALJ Report, and Proposed Order. Commissioner Guerrero recused himself from this matter. ALJ Alcantara stated that GWA requests that the PUC authorize Amendment Number 3 to its June 17, 2019 owner-engineer contract with Brown & Caldwell for the project management and construction management services, that this amendment would add Task Order Number 8 to the engineer scope of work which specifically tasks the engineer with

completing the update to the water resource master plan which was published back in 2018, and the update will provide a review of GWA's progress on system recommendations and its capital improvement projects, that its cost will be at least \$361,841.00 and create a new contract amount of about \$2.3 million dollars and that 60% of the total contract has been funded by bond money and that 40% of the contract has been funded by U.S. EPA grants, and that he recommends that the PUC grant GWA's request. A discussion ensued between Commissioners Flores-Brooks, Montinola, and Perez-Camacho, ALJ Alcantara and GWA GM Bordallo concerning the status of various studies that GWA was currently undertaking for its upcoming rate case, and the over-registration of meters at 60 water wells, and the number of projects that Brown & Caldwell are working for GWA. Commissioner Pangelinan moved to approve the proposed order granting the petition which motion was seconded by Commissioner Montinola and the motion passed with one recusal by Commissioner Guerrero who did not participate with the discussion concerning this matter.

The Chairperson announced that the next item of business was GWA Docket 22-02, Petition to Approve Change Order No. 5 with Giant Construction Corp. for the Groundwater Production Meter Replacement Project, ALJ Report, and Proposed Order. ALJ Horecky stated that in GWA Docket 20-02, the PUC approved the basic bid in the amount of \$1,379,405.00 as well as the authorization for GWA to later fund the remaining 30 wells including the 15 in Additive Bid 2, that this matter only concerns the cost of Change Order 5 for Additive Bid 2, that the cost of the change order is \$741,744.65 which will increase the total authorized contract amount to \$1,443,409.43, and he recommended that the PUC approve the petition. A discussion ensued between the Chairperson, Commissioners Montinola, Perez-Camacho, Flores-Brooks, and GWA GM Bordallo concerning the failure rate with the water meters, the accuracy of measuring water production at the wells, GWA water loss prevention programs, the amount of water theft in the system, whether GWA was using U.S. EPA grants for the meter replacement project, whether the residential water meters were water resistant, the amount they are receiving from U.S. EPA grants, the U.S. Department of Defense Grant for the Northern District secondary upgrades, whether GWA has the capability to measure water pressure per village, and the amount of ARPA funds that the Governor of Guam has committed to GWA. Commissioner Montinola moved to approve the proposed order granting the petition which motion was seconded by Commissioner Perez-Camacho, and the motion passed with Commissioner Guerrero casting the only vote opposing the motion.

The Chairperson announced that the next item of business was GWA Docket 22-03, Petition to Approve Contract Amendments with Duenas, Camacho and Associates Inc. to complete Phase 3 Tank Inspection and Repairs, District Metering and Pressure Zone

Realignment, Deep Wells GAC System Installation and Rehabilitation, and Waterline Replacements, ALJ Report, and Proposed Order. ALJ Horecky stated that this matter was not ready for review at this time.

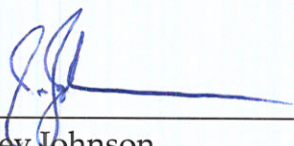
The Chairperson announced that the next item of business was GWA Docket 22-04, Petition to Approve Contract Change Order No. 2 with Giant Construction Corp. for the Tai Road/S-13 and Canada-Toto Loop/Blas Street Waterline Replacement Project, ALJ Report, and Proposed Order. ALJ Horecky stated that this matter was not ready for review at this time.

5. Administrative Matters

The Chairperson announced that the next item of business was Next Generation 911 Emergency Dispatch System Update. ALJ Horecky stated that Mr. Stone from the Fire Department had sent out a request to all the telecom companies to give their plans concerning implementation of the Next Generation 911 Emergency Dispatch System, that a bidder has been approved to develop this new system, and that Mr. Stone is asking the companies to lead with him and collaborate on the implementation.

The Chairperson announced that the next item of business was the Port Authority of Guam FY2022 Approved Budget. ALJ Horecky stated that this was an informational item.

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



Jeffrey Johnson
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 October 28, 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 September 30, 2021**
3. **Guam Power Authority**
 - **Presentation by GPA GM John Benavente on Fuel Acquisition Plans through 2025 (followed by questions from Commissioners)**
 - **GPA Docket 22-01, Petition for Approval of Property Insurance Contract Extension with DB Insurance Co., Ltd., PUC Counsel Report, and Proposed Order**
4. **Guam Solid Waste Authority**
 - **Presentation by GSWA Chairman Andrew Gayle on Questions presented by PUC (followed by questions from Commissioners)**
5. **Guam Waterworks Authority**
 - **GWA Docket 22-01, Petition to Approve Contract Amendment No. 3 with Brown and Caldwell to complete the Interim Water Resource Master Plan Update, ALJ Report, and Proposed Order**
 - **GWA Docket 22-02, Petition to Approve Change Order No. 5 with Giant Construction Corp. for the Groundwater Production Meter Replacement Project, ALJ Report, and Proposed Order**
 - **GWA Docket 22-03, Petition to Approve Contract Amendments with Duenas, Camacho and Associates Inc. to complete Phase 3 Tank Inspection and Repairs, District Metering and Pressure Zone Realignment, Deep Wells GAC System Installation and Rehabilitation, and Waterline Replacements, ALJ Report, and Proposed Order**
 - **GWA Docket 22-04, Petition to Approve Contract Change Order No. 2 with Giant Construction Corp. for the Tai Road/S-13 and**

**Canada-Toto Loop/Blas Street Waterline Replacement Project, ALJ
Report, and Proposed Order**

6. Administrative Matters

- **Next Generation 911 Emergency Dispatch System Update (Informational)**
- **The Port Authority of Guam FY2022 Approved Budget (Informational)**

7. 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. 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 PETITION OF THE GUAM
POWER AUTHORITY FOR APPROVAL
OF PROPERTY INSURANCE
CONTRACT EXTENSION WITH DB
INSURANCE CO., LTD.

GPA DOCKET 22-01

ORDER



INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission [“PUC”] upon the Guam Power Authority [“GPA”] Petition for Approval of Property Insurance Contract Extension with DB Insurance Co., Ltd.¹
2. The initial term of GPA’s Property Insurance Contract with DB Insurance Co., Ltd., will expire on November 1, 2021 and GPA requests that the PUC approve GPA’s exercise of a one (1) year extension of the contract beginning November 2, 2021 and ending on November 1, 2022 that will cost \$5,777,567 for that coverage period.²

BACKGROUND

3. GPA’s Bond Indenture Agreement requires GPA to “secure and maintain property insurance on all facilities constituting the system against risks of loss or damage to the extent that such insurance is obtainable at reasonable cost...”. The Indenture further requires GPA to carry insurance “of a scope and nature as that usually carried in the industry...”.³
4. GPA’s previous Property Insurance Contract expired on November 1, 2018 and prior to that date, GPA prepared a new Property Insurance solicitation for the policy period beginning on November 1, 2018 and ending on November 1, 2021.
5. On March 27, 2018, the Consolidated Commission on Utilities [“CCU”] adopted Resolution No. 2018-06, which approved GPA’s draft IFB for Property Insurance to

¹ GPA Petition for Approval of Property Insurance Contract Extension with DB Insurance Co., Ltd., GPA Docket 22-01, filed October 11, 2021 (Petition).

² Id., at 1 and 4.

³ Id., at 3 [NOTE: This report cites the PDF numbers because the numbers used in the Petition and its exhibits are not continuous].

include Boiler and Machinery and Terrorism coverage, and the resolution authorized GPA's General Manager was authorized to submit the IFB to the PUC.⁴

6. On April 26, 2018, the PUC authorized GPA to issue the Property Insurance IFB and required GPA to obtain the PUC's approval prior to making a final award of the contract.⁵
7. GPA subsequently issued the Property Insurance IFB as GPA-IFB-077-18 (Property Insurance)(Multi-Sealed Bid) and received one bid from DB Insurance Co., Ltd.⁶
8. On September 25, 2018, the CCU adopted Resolution No. 2018-22 which authorized GPA's General Manager to accept the terms of the annual premiums offered by DB Insurance Co., Ltd., and related parties at a cost of \$4,355,000 for each of the next three policy periods covered between November 1, 2018 and November 1, 2021 with two one-year options and to exercise the option to increase the coverage from \$200 million to \$300 million for an additional \$100 million annual premium.⁷
9. On October 28, 2018, the PUC approved GPA's Contract with DB Insurance Co., Ltd.⁸
10. On October 26, 2021 the CCU adopted Resolution No. FY2022-01 that authorized GPA's General Manager to accept the terms of the annual renewal premium offered by DB Insurance Co., Ltd., at a cost of \$5,777,567 for the policy period covered between November 2, 2021 and November 1, 2022 subject to the PUC's approval.
11. PUC Legal Counsel issued his report herein on October 25, 2021.
12. GPA requests that the PUC approve GPA's exercise of a one (1) year extension of the contract beginning November 2, 2021 and ending on November 1, 2022 that will cost \$5,777,567 for that coverage period.

⁴ Guam Consolidated Commission on Utilities Resolution No. 2018-06, Relative to Petitioning the Public Utilities Commission for Authorization to Begin Procurement for Property Insurance, issued March 27, 2018, at 2.

⁵ PUC Order, GPA Docket 18-12, GPA Petition for Approval of Insurance IFB, dated April 26, 2018, at pg. 3.

⁶ Guam Consolidated Commission on Utilities Resolution No. 2018-22, Relative to the Authorization of the GPA to Award Property Insurance for a Three-Year Policy with Two One-Year Options, issued September 25, 2018 at p. 1.

⁷ Id., at p. 2.

⁸ PUC Order dated October 28, 2018, GPA Docket No. 19-03 at 4.

DETERMINATIONS

13. The PUC's Contract Review Protocol mandates that GPA shall not incur expenses for PUC approved contracts and obligations in excess of 20% over the amount authorized by the PUC without prior PUC approval.⁹ Here, the initial three-year term of GPA's Property Insurance Contract with DB Insurance Co., Ltd., cost at least \$4,355,000 for each of the years for a total amount of, approximately, \$13,065,000. Further, 20% of that total amount is \$2,613,000 and the \$5,777,567 cost of the one (1) year extension of the contract exceeds that amount. Therefore, the PUC Contract Review Protocol requires GPA to obtain the PUC's prior approval for the one-year extension of its Property Insurance Contract with DB Insurance Co., Ltd., because the cost of the extension exceeds 20% of the contract costs.
14. The \$5,777,567 cost of the one (1) year extension is reasonable. As stated above, the initial three-year term of contract cost \$4,355,000 for each of the years. Here, the \$5,777,567 cost of the one (1) year extension is \$1,422,567 higher than the annual cost during the contract's initial term. GPA states that the higher price is caused by challenging conditions in the insurance market. This is likely true due to the fact that the initial term of the contract began in 2018 and since then there are now a multitude of new threats, such as the current global pandemic emergency, that have caused prices, to include insurance premiums, to increase.
15. The contract extension is prudent. GPA only has seven (7) days before the initial term of its contract will expire and this is an insufficient amount of time to prepare a new property insurance solicitation, issue it, receive responses, and award a new property insurance contract. Hence, it is more prudent for GPA to exercise the first one (1) year extension of the contract instead of issuing a solicitation for a new contract.
16. The contract extension is necessary. As stated above, GPA is required by its Bond Indenture Agreements to maintain property insurance coverage.
17. Based on the foregoing considerations, the one (1) year extension of GPA's Property Insurance Contract with DB Insurance Co., Ltd., is reasonable, prudent, and necessary. The PUC approves GPA's one (1) year extension of its insurance contract with DB Insurance Co., Ltd., by and through its local agent, AM Insurance, for the

⁹ PUC Order, Administrative Docket, filed on February 15, 2008 at 4.

policy period beginning November 2, 2021 and ending on November 1, 2022.

ORDERING PROVISIONS

After review of the record herein, GPA's Petition for Approval of its Property Insurance Contract Extension with DB Insurance Co., Ltd., by and through its local agent, AM Insurance, and the PUC Counsel Report, and for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. GPA's Petition for approval of its one (1) year extension of its Property Insurance Contract with DB Insurance Co., Ltd., by and through its local agent, AM Insurance, for the period of November 2, 2021, to November 1, 2022, is hereby approved.
2. GPA shall file a copy of its property insurance contract extension with the PUC.
3. 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 the 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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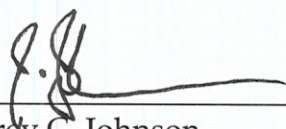
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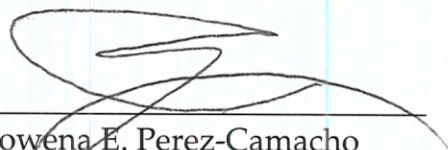
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Order
Petition for Approval of
Property Insurance Contract
Extension With DB Insurance Co., Ltd.
GPA Docket 22-01
October 28, 2022

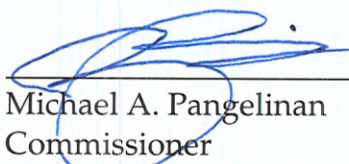
Dated this 28th day of October, 2021.



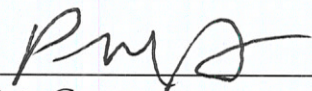
Jeffrey C. Johnson
Chairman



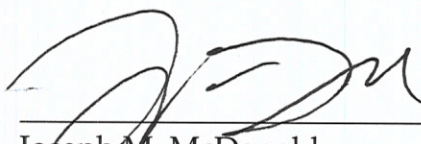
Rowena E. Perez-Camacho
Commissioner



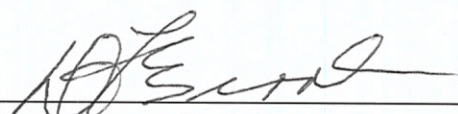
Michael A. Pangelinan
Commissioner



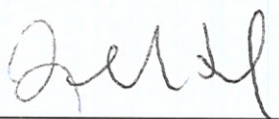
Pete Guerrero
Commissioner



Joseph M. McDonald
Commissioner



Doris Flores Brooks
Commissioner



Peter Montinola
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

**IN RE: PETITION TO APPROVE
CONTRACT AMENDMENT
AMENDMENT NO. 3
WITH BROWN AND CALDWELL
TO COMPLETE THE INTERIM
WATER RESOURCE MASTER
PLAN UPDATE**

GWA DOCKET 22-01

ORDER



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the Petition to Approve the Indefinite Delivery Indefinite Quantity (“IDIQ”) Contract Amendment No. 3, to Execute Task Order No. 8, with Brown and Caldwell to Complete the Interim Water Resource Master Plan Update (“WRMP”) (the “Petition”), filed by the Guam Waterworks Authority (“GWA”) on October 18, 2021.

On October 25, 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

In June 17, 2019, GWA entered into an “Owner-Engineer” [IDIQ] contract with Brown and Caldwell (also referred to herein as the “Engineer”) for Project Management and Construction Management services.¹ In August 21, 2020, the original contract was

¹ Petition to Approve the IDIQ Contract Amendment No. 3, to Execute Task Order No. 8, with Brown and Caldwell to Complete the Interim Water Resource Master Plan Update, p. 1 (Oct. 18, 2021).

amended to include additional task orders, which involved, for instance: additional work in GWA's Consulting Engineer's Report; project management for GWA's Route 1 and Route 4 Sewer Rehabilitation; a Cost of Service study; and technical assistance with GWA's water meters.² This amendment increased the total amount of the contract to around \$1.7 million.³

In September 30, 2020, this contract was amended again to include additional work on the Consulting Engineer's Report and extended work on the construction projects, such as the Route 1 and Route 4 Sewer Rehabilitation projects.⁴ This amendment added \$192,094 to the contract, resulting in a cost of over \$1.9 million for the entire contract.⁵

On May 25, 2021, the Consolidated Commission on Utilities (the "CCU") issued GWA Resolution No. 22-FY2021, which essentially approved a third amendment to the subject contract, adding Task Order No. 8; and further approved an additional \$328,946.00 to the contract.⁶

A. Review of GWA's ID/IO Contract with Brown and Caldwell for Project Management and Construction Management Services

Pursuant to 12 G.C.A. §12105,⁷ GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's

² Amendment to Owner-Engineer Agreement No. 1, pp. 1-2 (Aug. 21, 2020).

³ Amendment to Owner-Engineer Agreement No. 1, p. 1 (Aug. 21, 2020).

⁴ Amendment to Owner-Engineer Agreement No. 2, pp. 1-2 (Sept. 30, 2020).

⁵ Amendment to Owner-Engineer Agreement No. 2, p. 1 (Sept. 30, 2020).

⁶ GWA Resolution No. 22-FY2021, issued by the Consolidated Commission on Utilities, pp. 2-3 (May 25, 2021) (hereinafter referred to as the "Resolution").

⁷ Formerly 12 G.C.A. §121004.

express approval. Additionally, pursuant to GWA's Contract Review Protocol issued in Administrative Docket 00-04, "[a]ll professional service procurements in excess of \$1,000,000" require "prior PUC approval under 12 G.C.A. §12004, which shall be obtained before the procurement process is begun"⁸ GWA must also seek PUC's approval for any uses of bond funds.⁹

B. GWA's Request for Approval of Amendment No. 3, Task Order No. 8, Owner-Engineer Contract with Brown and Caldwell

In its Petition, GWA requested that the PUC authorize Amendment No. 3, to the June 17, 2019 Owner-Engineer contract with Brown and Caldwell for Project Management and Construction Management services. Amendment No. 3 would add Task Order No. 8, to the Engineer's Scope of Work, which specifically tasks the Engineer with completing an update to GWA's 2018 WRMP.¹⁰ GWA intends on completing this WRMP update, which will review GWA's progress on system recommendations and capital improvement projects.¹¹ GWA also anticipates that certain work will be required in order to complete this WRMP update, particularly tasks required by a U.S. Environmental Protection Agency ("U.S. E.P.A.") Consent Decree.¹²

GWA maintained that the cost for Task Order No. 8 (Amendment No. 3) is "\$328,946.00 with a ten (10%) contingency of \$32,895.000 increasing the Brown and

⁸ GWA's Contract Review Protocol ("GWA CRP"), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

⁹ *Id.*

¹⁰ Petition, p. 2.

¹¹ Resolution, p. 1.

¹² Resolution, p. 1.

Caldwell PM/CM IDIQ contract by \$361,841.00.”¹³ GWA further maintained that “Task Order No. 8 (Amendment No. 3) creates a new total contract amount of \$2,296,795.00.”¹⁴

GWA submits that, “to date,” 60% of this total contract amount is funded by bond money; and that 40% is funded by U.S. E.P.A. grants.¹⁵ GWA further submitted that “since the amount of the IDIQ contract funded by non-U.S. E.P.A. grant funds exceeds the PUC protocol limit of \$1,000,000”, GWA must obtain PUC approval of the contract.¹⁶ GWA notes that with respect to Amendment No. 3, this work will be paid by GWA bond funds applicable to the project and other funding sources.¹⁷

C. Board Resolution No. 22-FY2021

The instant request is supported by GWA Resolution No. 22-FY2021. In the Resolution, the CCU approved a third amendment to the subject contract, adding Task Order No. 8; and it approved an additional \$328,946.00 to the contract.¹⁸ The CCU also approved a 10% contingency of \$32,895.00.¹⁹ In the Resolution, the CCU also found that “Task Order 8 is required as part of GWA’s continuing commitment to improve GWA operations, effectively manage the CIP and improve customer service.”²⁰

¹³ Petition, p. 2.

¹⁴ Petition, p. 2.

¹⁵ Petition, p. 2.

¹⁶ Petition, p. 2.

¹⁷ Petition, p. 1.

¹⁸ Resolution, pp. 2-3.

¹⁹ Resolution, pp. 2-3.

²⁰ Resolution, p. 2.

D. Original Owner-Engineer Contract with Brown and Caldwell for Project Management and Construction Management Services

The subject contract involves general Engineering services, which is identified in the contract as follows:

To provide Indefinite Delivery/Indefinite Quantity (ID/IQ) professional project/construction management and utility consulting services for various types of water and wastewater utility projects and utility management activities as well as consulting engineering services in support of municipal planning, utility management analysis and regulatory compliance but not limited to the services indicated in the scope of work.²¹

The Task Orders to this contract have included, for instance, work on GWA's Consulting Engineer's Report; project management for GWA's Route 1 and Route 4 Sewer Rehabilitation; a Cost of Service study; and technical assistance with GWA's water meters.²² Subsequent Task Orders have further included extended work on the construction projects, such as the Route 1 and Route 4 Sewer Rehabilitation projects.²³

E. Task Order No. 8, Costs, and Funding

According to GWA, under Task Order No. 8, the Engineer will provide a general update to GWA's WRMP, issued back in August of 2018.²⁴ The update will include a summary of the financial planning work recently completed; including the 2020

²¹ Agreement Between Owner and Engineer for Professional Services, GWA Project No. M19-003-BND, p. 1 (June 17, 2019).

²² Amendment to Owner-Engineer Agreement No. 1, pp. 1-2 (Aug. 21, 2020).

²³ Amendment to Owner-Engineer Agreement No. 2, pp. 1-2 (Sept. 30, 2020).

²⁴ Petition, Exhibit 2 ("Task Order No. 8"), p. 1.

Consulting Engineer's Report, and the PUC Analytical Studies.²⁵ Also included in the scope of work is a comprehensive update of GWA's water system hydraulic model, which was last analyzed in 2016.²⁶

GWA further submitted that the Consent Decree negotiations are in the works.²⁷ However, GWA has included an optional task as part of the new Task Order, incorporating the Engineer's review of the Consent Decree and comment on its impact on the Master Plan projects, schedules, and possible changes to the Master Plan CIP and CIP Schedules to meet the Consent Decree requirements.²⁸

According to GWA, the following services and costs comprise the total amount of \$328,946.00 for Task Order 8: \$26,190 for task management; and \$45,370 for updates to GWA's Capital Improvement Projects, asset management, and financial planning.

Task Order No. 8 also includes \$126,454 for a Water System Update, which involves: an update on an examination of GWA's water distribution, and supply, and storage systems; booster pump evaluations; water loss control; recommendations on fire hydrants; and updating GWA's project sheets. Task Order No. 8 further includes \$44,370 for a Wastewater System Update, gravity piping evaluations, wastewater treatment evaluations, solids management, and updating GWA's project sheets with new projects, to name a few. Moreover, this task order includes \$37,146 for Updating the Report; and \$21,304 to examine a Consent Decree's impact on the WRMP.

²⁵ Petition, Exhibit 2 ("Task Order No. 8"), p. 1.

²⁶ Petition, Exhibit 2 ("Task Order No. 8"), p. 2.

²⁷ Petition, Exhibit 2 ("Task Order No. 8"), p. 2.

²⁸ Petition, Exhibit 2 ("Task Order No. 8"), p. 2.

GWA submitted that Task Order No. 8 will be paid for by GWA Bond funds, internal funding for Capital Improvement Projects, or other funding sources.²⁹

Since 2018, GWA reduced its use of a Program Management Office to oversee many of GWA's major construction projects. GWA previously indicated that even though Program Management Office was eliminated in 2019, it will still require assistance with engineering services, construction, and specialty consulting on complex projects.³⁰

The ALJ found that, as indicated in the CCU Resolution, "Task Order 8" is supposed to assist with "GWA's continuing commitment to improve GWA operations, effectively manage the CIP and improve customer service."³¹ The ALJ agreed. Indeed, the ALJ further found that GWA is in a critical juncture in its efforts to improve its quality of service and enhance its water and wastewater infrastructure, and GWA's engineering construction services contract plays a vital role in GWA's successful and timely completion of its construction projects. Additionally, the ALJ found the Engineer's role is especially crucial in instances where GWA lacks resources in planning, management analysis, and regulatory compliance.

Based on the documentation provided by GWA in this docket, and for the other reasons set forth herein, the ALJ recommended that the PUC authorize the amount of \$328,946.00 for Amendment 3 to the June 17, 2019 Agreement Between Owner and Engineer for Professional Services. The ALJ did not recommend any additional

²⁹ Resolution, p. 2.

³⁰ *See, e.g.*, GWA's PMO Transition Overview, GWA Docket 16-06, p. 9 (Dec. 29, 2016).

³¹ Resolution, p. 2.

contingency amount since all PUC-approved GWA contracts are already subject to 20% contingency above an authorized amount.

The Commission hereby adopts the findings in the October 25, 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. That GWA is authorized to enter into Amendment 3 to the June 17, 2019 Agreement Between Owner and Engineer for Professional Services with Brown and Caldwell in the amount of \$328,946.00.
3. GWA is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with 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.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

SO ORDERED this 28th day of October, 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

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:) GWA Docket 22-02
)
THE PETITION OF THE GUAM)
WATERWORKS AUTHORITY TO)
APPROVE CHANGE ORDER NO. 5) **ORDER**
WITH GIANT CONSTRUCTION CORP.)
FOR GROUNDWATER PRODUCTION)
METER REPLACEMENT PROJECT: GWA)
PROJECT NO. W19-001-BND.)
_____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission [“PUC”] pursuant to the October 18, 2021, Petition for PUC Review to Approve Change Order No. 5 with Giant Construction Corp. for the Groundwater Production Meter Replacement Project.¹

BACKGROUND

A. The Petition

In June 2017, GWA Consultant Brown and Caldwell conducted a field test on 60 existing well head flowmeters and developed bid-ready plans and specifications to replace faulty flowmeters and to standardize well head discharge piping.² Based on the 2017 field test on sixty (60) well head flowmeters, the existing meter readings were “shown to be inaccurate.”³ GWA submitted that “these meter reading inaccuracies are affecting non-revenue water calculations making it difficult to track distribution system losses.”⁴ The main objective of the Production Meter Replacement Project for 60 critical production wells “is to get accurate measurements of the volume of ground water

¹ GWA Petition, GWA Docket 22-02, dated October 18, 2021.

² Guam Consolidated Commission on Utilities Resolution No. 04-FY2020, Exhibit A-15 of the Petition.

³ Id., at p. 2.

⁴ Id.

produced from the wells. Completion of this project will be critical to GWA's water loss control program on meeting its overall water loss control objectives."⁵

The Groundwater Production Meter Replacement Project was awarded to Giant Construction Corp. in IFB-05-ENG-2019. Giant was the only bidder. The Guam Consolidated Commission on Utilities ["CCU"] approved the project award to Giant Construction Corporation and authorized GWA to enter into a contract with Giant⁶: "The original scope of the project was to replace faulty groundwater production meters and above-ground discharge piping at 60 critical production wells; however, in anticipation of a funding shortfall, the bid schedule was divided into a Basic Bid, Additive Bid No. 1 and Additive Bid No. 2. Under the Basic Bid schedule, only work for 30 deep wells of the 60 was awarded though GWA included provisions in the bid such that if additional funding was obtained after the contract was executed, any or all Bid items not exercised could be restored via Change Order."⁷

B. GWA Docket 20-02

In its Order dated January 30, 2020, the PUC authorized GWA to enter into the proposed contract with Giant Construction Corporation at a total cost of \$1,379,405.00, subject to the cost contingency provided under the Contract Review Protocol.⁸ The PUC found that "the work for the piping and meter replacement includes demolition of the existing production well piping, valves and supports; disposal of the old pipes and valves; disconnection of the chlorination system and electrical lines; supplying and installing the new piping, biddings, valves, gauges, instruments and appurtenances; connection to the existing piping and well heads; painting; and all other items required for a complete and operational system."⁹ The

⁵ Petition, at pgs. 1-2.

⁶ Petition, at p. 2.

⁷ Id.

⁸ PUC Order, GWA Docket 20-02, dated January 30, 2020, at p. 8.

⁹ Id., at pgs. 4-5.

PUC further determined that the Groundwater Production Meter Replacement Project was based upon “the need for GWA to continuously engage in efforts to replace old and aging infrastructure as one means to reduce water loss, which should reduce costs and improve system reliability.”¹⁰ Furthermore, GWA needed “properly functioning flowmeters” to ensure the proper reporting of under-or-over reported total production volumes.” Properly functioning flowmeters would produce more accurate reports of water production values. Addressing the deficiencies caused by the malfunctioning meters would make it easier to track distribution system losses and improve non-revenue water calculations.¹¹

On October 25, 2021, the Administrative Law Judge [“ALJ”] filed his Report in this Docket. The PUC adopts the conclusions and recommendations therein.¹²

DETERMINATIONS

A. GWA’s Present Request for Approval

Since the PUC approval of the Groundwater Production Meter Replacement Project in January of 2020, GWA has approved Change Orders No. 1, 2, 3 and 4 to the Contract with Giant Construction Corp., which has increased the total authorized contract from \$1,379,405.00 to \$1,443,409.43. Under the current contract amount, Giant Construction Corp. has “substantially completed the replacement of the meters and above-ground discharge piping for the 30 critical production wells to include 28 production wells originally listed in the Basic Bid Schedule.”¹³ GWA now seeks approval of Change Order No. 5, to continue replacement of 15 additional critical production wells and above-ground discharge piping and meters to meet the original intent of the project: “The amount required for Change Order No. 5 is \$741,744.65. This amount includes the original bid price of \$687,960 plus an escalation cost of \$53,784.65,

¹⁰ Id., at p. 7.

¹¹ Id., at p. 8.

¹² ALJ Report, GWA Docket 22-02, dated October 25, 2021.

¹³ Petition, at p. 2.

Giant Construction Corp. represents that escalation costs of \$53,784.65 are due to the increased costs of ductile iron pressure pipe, fittings, and meters but GWA finds these costs reasonable considering the initial bid prices were from September 2019.”¹⁴

B. Contract Review Protocol

Pursuant to GWA’s Contract Review Protocol issued in Administrative Docket 00-04, “[a]ll professional service procurements in excess of \$1,000,000” require “prior PUC approval under 12 GCA §12004 [now recodified as §12105] which shall be obtained before the procurement process is begun...”¹⁵

Regarding the Groundwater Meter Replacement Project awarded to Giant Construction, GWA did seek PUC approval under the Contract Review Protocol and was authorized to enter the proposed contract for a total cost of \$1,379,405.00. Under the Contract Review Protocol, as well as pursuant to the PUC Order in GWA Docket 20-02, GWA is allowed to exceed the aggregate cost initially approved by PUC by 20% without the need for further PUC approval.¹⁶ Since the amount that GWA is seeking for approval of Change Order No. 5 is an additional amount of \$741,744.65, GWA has exceeded the 20% cost contingency provided under the Contract Review Protocol. Therefore, the additional amount of \$741,744.65 for Change Order No. 5 must be approved by the PUC.

C. Cost

If Change Order No. 5 is approved by the PUC, the total cost for the Giant Construction Contract will be as follows: (1) \$1,379,405.00 for Giant Construction’s Basic Bid, the work which has been substantially completed; and (2) the proposed Change Order No. 5 amount of \$741,744.65 (which includes an escalation cost of \$53,784.65). The approved total authorized funding amount would be \$2,185,154.08.

¹⁴ Id. at p. 3.

¹⁵ GWA’s Contract Review Protocol, Administrative Docket 00-04, p. 1, dated October 27, 2005.

¹⁶ Id., at Section 4(d).

The sources of funding for Change Order No. 5 are GWA bond funds applicable to the project and other funding sources.¹⁷ Funding for the project will come from CIP Line Item PW05-07 Meter Replacement Program, IFCIP, or any other CIP line item applicable to the project's intent.¹⁸

If the PUC approves the additional amount of \$741,744.65, GWA could exceed that amount by \$148,348.93 (20%), without the need for further PUC approval. However, if GWA sought to Approve Additive Bid No. 2 for 15 additional flowmeters, it would again have to seek PUC approval under the Contract Review Protocol.¹⁹

D. The Cost Increase for the Giant Construction Contract is justified

After the PUC approved the original contract cost of \$1,379,405.00, GWA management subsequently approved Change Orders No. 1, 2 and 3. Change Order No. 1 changed water meter Output/Input option from 2x Pulse/Switch Output, 1x Status Input, to GSM, Antenna Remote + cable 2x Pulse/Switch Output, 1x Status input. This would allow wireless communication with the meter in the absence of SCADA. Certain fittings were deleted from the project. The net increase in cost is \$21,802.27. Change Order No. 2 had no cost impact but adjusted the time for completion of the contract.

Change Order No. 3 increased the flange distance by lengthening the above ground discharge piping by excavating a portion of the exit pipe, replace existing diagonal pipe and fittings, and install concrete thrust block and backfill. Certain fittings were changed to flange type, and additional pipe support was added for the by-pass line for 30 wells. The total cost increase from these Change Orders is \$42,202.16. Change Order No. 4 increases the number of days in the contract time for completion.²⁰ These Change Orders have increased the total authorized contract value by \$64,004.43,

¹⁷ Petition, at p. 3.

¹⁸ PUC Order, GWA Docket 20-02, dated January 30, 2020, at p. 4.

¹⁹ GWA's Contract Review Protocol, Administrative Docket 00-04, p. 1, dated October 27, 2005, Section 4(d).

²⁰ See Change Orders 1,2,3, and 4, Exhibit A to Petition, Exhibit A-20 through Exhibit A-23.

from the original amount to a new total contract amount of \$1,443,409.43. These amounts are scheduled to be approved in GWA Resolution No. 02-FY2022 and appear to be reasonable.

The major cost additive or increase for which GWA seeks PUC approval is for Change Order No. 5.²¹ GWA management seeks to change the existing contract scope with Giant Construction Corporation by adding the 15 critical production wells listed in Additive Bid No. 1. To reiterate, the original Giant Construction bid included a Basic Bid, an Additive Bid No. 1, and Additive Bid No. 2. Only the Basic Bid of work for 30 deep wells of the 60 was awarded in the initial IFB. It was the funding for the Basic Bid that PUC approved in GWA Docket 20-02 in the amount of \$1,379,405.00. Here GWA is not required to rebid for Additive Bid No. 1, which includes replacement of 15 additional critical production wells and above-ground discharge pipping and meters. The original bid included provisions that if additional funding was obtained after the contract was executed, any or all Bid Items not exercised could be restored via Change Order.²²

In its original bid, the Giant Construction Corp. proposed a bid price for Additive Bid No. 1 in the amount of \$687,960.00. However, on September 22, 2021, Giant Construction advised GWA that there had been a \$53,784.65 price escalation for piping materials from the bidding date on September 27, 2019, to July 7, 2021, thus increasing the Additive Bid No. 1 price to \$741,744.65.²³ GWA has submitted to the PUC for approval proposed Change Order No. 5, which provides for a net increase in the contract amount for Giant of \$741,744.65. This amount includes the original bid price of \$687,960 plus an escalation cost of \$53,784.65. Giant Construction Corp has represented that these escalation costs of \$53,784.65 are due to the increase costs of

²¹ Petition, Change Order No. 5, at Exhibit A-06.

²² Petition, at p. 2.

²³ Petition, Correspondence from Giant Construction to GWA, dated September 22, 2021, and July 7, 2021, at Exhibit A-07 and Exhibit A-08.

ductile iron pressure pipe, fitting and meters; GWA finds these costs reasonable considering the initial bid prices were from September 2019.²⁴ GWA has demonstrated that the increased costs for the Change Orders, as well as the escalation in price for Additive Bid No. 1, are reasonable and justified.

E. Resolution No. 02-FY2022

On October 26, 2021, the Guam Consolidated Commission on Utilities approved GWA Resolution No.02-FY2022.²⁵ The CCU authorized GWA to execute Change Order No. 5 with Giant Construction Corporation in the amount of \$741,744.65, and to petition the PUC for approval of Change Order No. 5.²⁶

F. Adjustment of Contract Time

With the prior Change Orders and Change Order No. 5, the total calendar days authorized for completion of the project, commencing with the issuance of the date of the initial notice to proceed, are 839. From the Work Schedule submitted by GWA, it is anticipated that the construction on the additional 15 water wells will be completed by on or about July 11, 2022.²⁷

CONCLUSION

In GWA Docket 20-02, the PUC already determined that there is a compelling need to replace well piping and meters for well sites at various locations. Without replacement of the meters, GWA will be unable to properly measure groundwater that is produced from the wells. Properly functioning flowmeters are necessary to ensure that under-or-over reported total production volumes are mitigated.²⁸ Without properly functioning meters, GWA will be unable to track distribution system losses

²⁴ Id. at p. 3.

²⁵ Guam Consolidated Commission on Utilities, GWA Resolution No. FY2022, Relative to Approval of Change Order No. 5 for the Groundwater Production Meter Replacement Project, GWA Project No. W19-001-BND, adopted on October 26, 2021.

²⁶ Id. at p. 4 (Exhibit A-04 to the Petition).

²⁷ Id., Exhibit A-09.

²⁸ CCU Resolution No. 04-FY2020, adopted October 29, 2019, at p. 1.

and improve non-revenue water calculations. Reduction of non-revenue water loss has been a major goal of the PUC in recent GWA rate cases.²⁹

ORDERING PROVISIONS

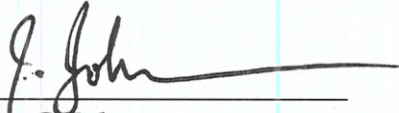
Upon consideration of the record herein, the Petition of GWA, the ALJ Report, and for good cause shown, on motion duly made, seconded, and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby **ORDERS** that:

1. GWA's Petition is approved.
2. GWA is authorized to enter into Change Order No. 5 with Giant Construction Corporation, for the amount of \$741,744.65 (Additive Bid No. 1). The total approved cost of the contract between GWA and Giant Construction now totals \$2,185,154.08.
3. As to the additional cost of \$741,744.65 for Additive Bid No. 1, the usual cost contingency of 20% indicated in GWA's Contract Review Protocol shall apply.
4. GWA 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.

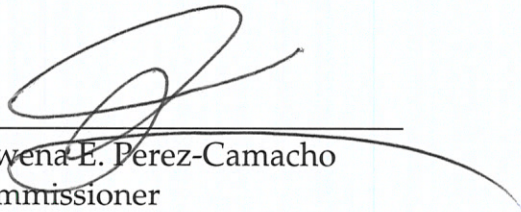
²⁹ See PUC FY20 RATE DECISION, GWA Docket 19-08, dated February 27, 2020, at p. 5.

Order
Approval for Change Order No. 5
with Giant Construction Corp.
GWA Docket 22-02
October 28, 2021

Dated this 28th day of October 2021.



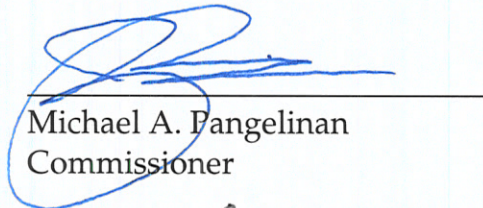
Jeffrey C. Johnson
Chairman



Rowena E. Perez-Camacho
Commissioner



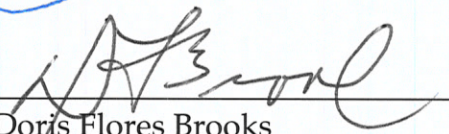
Joseph M. McDonald
Commissioner



Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner



Doris Flores Brooks
Commissioner

Pedro S.N. Guerrero
Commissioner