



BEFORE THE PUBLIC UTILITIES COMMISSION

**IN RE: PETITION FOR APPROVAL)
OF THE AWARD TO AIC)
INTERNATIONAL, INC. FOR)
THE CONSTRUCTION OF)
AGAT MARINA DOCK B)
BY PORT AUTHORITY)
OF GUAM)**

PAG DOCKET 22-04

ALJ REPORT

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the June 8, 2022 Petition for review and approval of the AIC International, Inc. (“AIC”) contract related to the Agat Marina Dock B project (the “Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”). PAG seeks PUC review and approval of the design and build contract with AIC.

BACKGROUND

The Agat Small Boat Marina (the “Agat Marina”) is comprised of four docks (Docks A through D), which provides berths for commercial and recreational boats, and live-aboard sailboats.¹ According to PAG, in 2013, the Agat Marina suffered extensive damage from Tropical Storm Wipha; and while Docks C and D, along with the Floating Dock, were repaired, no repairs were made to Dock B due to a lack of funding.² However,

¹ “Determination of Need”, Construction of the Agat Marina’s Dock B, p. 1 (Feb. 24, 2022).

² “Determination of Need”, Construction of the Agat Marina’s Dock B, p. 1.

according to PAG, Guam's Department of Agriculture has assisted PAG in securing federal funding for the project.³

On March 18, 2022, PAG issued an Invitation for Bid ("IFB") to solicit construction work for the Agat Marina Dock B project.⁴ Two firms submitted bids in response to the IFB, which were evaluated by PAG's procurement personnel.⁵ PAG's procurement personnel thereafter determined AIC to be the lowest⁶ responsive and responsible bidder.⁷ On June 7, 2022, PAG issued a Notice to Proceed ("NTP") to AIC, which indicated that the award was subject to the approval of PAG's Board of Directors and the PUC.⁸

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).

³ "Determination of Need", Construction of the Agat Marina's Dock B, p. 1.

⁴ Petition, p. 1 (June 8, 2022).

⁵ Petition, p. 1.

⁶ The second offeror submitted a bid that was about \$1,000,000.00 more than AIC's bid.

⁷ Petition, p. 1.

⁸ Petition, p. 1.

2. Scope of Work

The scope of work requires AIC to obtain the services of an A/E engineering consultant to develop plans, provide load computations and specifications with respect to the design necessary for the fabrication and installation of a new “Dock B” facility, which includes main gangways, finger slips, gussets, stainless steel connectors, marine grade aluminum frames, floatation units, steel pile rollers, mooring cleats, and utilities, among others.⁹ The designs will include electrical designs for feeder circuits, shipboard cables, circuit breakers, watertight fittings/connectors, power pedestals and other electrical appurtenances; water lines, PVC conduits, control valves, connectors, fittings, clamps, hose bibs, steel brackets and other water appurtenances.¹⁰

The scope of work further provides that during the construction phase, AIC will provide all labor, materials, tools, and equipment necessary for the “Dock B” facility, which includes the fabrication of a main walkway, finger slips, as well as work related to electrical, plumbing, carpentry, fabrication, and installation.¹¹ AIC is required to assemble the new fabricated main walkway dock and finger slips on dry land, and when finished must lower the fabricated dock system to the water.¹²

AIC will also need to replace new circuit breakers, install new power pedestals, shipboard cables, cable clamps, stainless junction boxes, water proof cable fittings and other electrical accessories; and will further need to install a new flexible water line, as

⁹ IFB, pp. 85-86 (Mar. 18, 2022).

¹⁰ IFB, p. 86.

¹¹ IFB, p. 87.

¹² IFB, p. 87.

well as install one (1) unit power pedestal. AIC must also replace all corroded anchors or provide new holes for anchors on the concrete pad landing steel plate.¹³

3. Contract Term and Cost

According to PAG, the duration of the project is 243 days, or about eight (8) months from the issuance of the NTP, beginning with the design and permitting process, and ending with the project construction.¹⁴ In addition, according to AIC's Bid, the total cost for the project is \$1,494,750.00, which is comprised of the following: \$145,821.00 for design work; \$66,110.00 for permit fees; and \$1,282,819.00 for construction costs.¹⁵

PAG has submitted that the "project is funded with Federal Funds and Port Local Funds"¹⁶ Based on PAG's procurement record, the project will be funded by a \$500,000.00 federal grant awarded by the U.S. Fish & Wildlife Service; and the remainder of the cost of the project, specifically \$994,750.00, will be internally funded by PAG.

4. AIC

Based on its bid, AIC is certainly experienced with construction design-build projects. For instance, AIC was involved in designing and constructing a Tactical Missile Maintenance Facility located in Anderson Air Force Base, Guam; and which involved the construction of new offices, three high rise bays, and installation of three 10-ton cranes, high lightning protections systems, and large fire protection system, just to name a few.

¹³ IFB, p. 88.

¹⁴ Petition, p. 1; IFB, p. 85.

¹⁵ AIC Bid ("Bid Schedule"), p. 43.

¹⁶ Petition, p. 1.

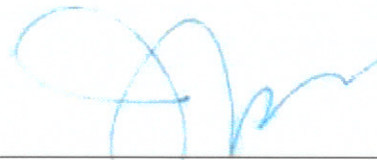
AIC was also involved with another design-build contract to restore Apra Harbor's wastewater treatment plant.

AIC's other design-build contracts include the repair of the heavy weather mooring at Alpha Wharf in Naval Base, Guam; and which involved the demolition of asphalt paving and reinforced concrete foundations and the installation of new bollards, deadman, and steel piles. Significantly, AIC was also involved in the improvement projects for the Agat Marina Docks C and D, which involved the dismantling of the existing docks and the assembly of new marine grade aluminum and stainless settle composite decking, installation of new marine cables, plumbing and painting.

RECOMMENDATION AND CONCLUSION

Based on the documents provided by PAG in this docket, and for the reasons set forth herein, the ALJ recommends that the PUC approve the proposed contract with AIC, at a cost of \$1,494,750.00. According to PAG, \$500,000.00 for the project was awarded a grant from the U.S. Fish & Wildlife Service, and \$994,750.00 will be internally funded by PAG. A proposed Order is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 14th day of June, 2022.



JOEPHET R. ALCANTARA
Administrative Law Judge

P223029.JRA

**PORT OF GUAM**

ATURIDATI / PUETTON GUAHAN

Jose D. Leon Guerrero Commercial Port

1026 Cabras Highway, Suite 201, Piti, Guam 96925

Telephone: 671-477-5931/35 Facsimile: 671-477-2689/4445

Website: www.portguam.com**Lourdes A. Leon Guerrero**
Governor of Guam**Joshua F. Tenorio**
Lieutenant Governor

DETERMINATION OF NEED

Guam Fisheries Development: Construction of the Agat Marina's Dock B

Introduction

The Port Authority of Guam (the "Authority" or "PAG") that operates the Jose D. Leon Guerrero Commercial Port ("Commercial Port" or "Port") as a public corporation and autonomous instrumentality of the government of Guam, which provides for the needs of ocean commerce, shipping, recreational and commercial boating, and navigation of the territory of Guam.

The Agat small boat marina (the "Agat Marina") is composed of four docks (Docks A through D), providing berths for commercial tourist marine activity boats, recreational boats, and live-aboard sailboats. The marina, constructed in 1992, is one of only two small-boat marinas available for local residents to berth boats, although the Gregorio D. Perez Marina aka Hagåtña Marina currently does not have any room for new boats. The Agat Marina is large enough to be able to accommodate approximately 150 vessels. Pump out service, however, is not available. Docks A and D are larger in width and are located at the ends of the marina. These docks provide berths for larger commercial tourist activity boats, charter boats, and large sailboats. Docks B and C are located in the middle of the marina and provide berths for smaller boats. Dock B can provide docking for 44 boats up to 25 feet in length. Dock B is 7 feet wide, with each finger docks 3 feet wide. Nine-inch concrete-filled steel pilings are used.

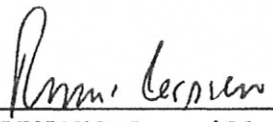
Purpose and Need

The Agat small boat marina suffered extensive damages from Tropical Storm Wipha in 2013. Department of Interior Office of Insular Affairs grant funds were used to repair the damage, but inadequate funding for the Port left Dock B unrepaired. The PAG requested assistance from Guam Department of Agriculture ("Agriculture") to repair Dock B. For the funding assistance, the PAG would only allow recreational boaters to berth at Dock B. With that condition, Agriculture agreed to first fund the initial demolition of Dock B using Sport Fish funding. With the demolition complete, Agriculture has agreed to fund the next step of replacing the Dock, providing half of the cost of replacing Dock B.

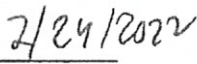
Expected Results or Benefits

Recreational boaters and fishers have limited number of berthing spots at the two public marinas. Currently, berthing spots at the Gregorio D. Perez Marina in the capital of Hagåtña are not available since all berths are occupied. The Agat Marina is the only remaining public marina available for recreational boaters to find berthing spots, but currently they have to compete with commercial boats and sailboats.

The Memorandum of Understanding (MOU) for Federal Award number **F19AF01199** and Conditional Notice to Proceed (Conditional NTP) was approved by U.S. Fish and Wildlife Services and the Guam Department of Agriculture on September 6, 2021 and subsequently on September 16, 2021.



RORY J. RESPICIO, General Manager



Date

CC: Procurement File



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
Lourdes A. Leon Guerrero
Governor of Guam
Joshua F. Tenorio
Lieutenant Governor

June 3, 2022

INTER-OFFICE MEMORANDUM

TO: General Manager

Via: Deputy General Manager, Operations
Deputy General Manager Admin & Finance

From: Contract Management Administrator 

Subject: Evaluation, Analysis and Recommendation
Invitation for Bid No. PAG-CIP-022-004 Construction of Agat Marina's Dock B

Background

The above referenced Invitation for Bid was publicly announced on March 18, 2022 in the Guam Daily Post. A pre-bid conference was held on March 24, 2022 at 10:00 a.m. in the Port's Board of Directors Conference Room and a site inspection was held the same day immediately after. The bid submittal date for Thursday, May 5, 2022 and extended to Thursday, May 19, 2022 at 2:00pm.

Fifteen (13) prospective bidders expressed their interest by registering online and downloading the bid packet from the Ports website. Two (2) bidders submitted their bid proposals prior to the established deadline. The bids were opened in the presence of the bidders and read aloud by the Procurement representatives. The results of the bid submittals are as follows:

| Bidder | Bid Amount | Variance from | |
|-------------------------|-----------------|------------------------------|----------------|
| | | Gov't. Estimate \$900,000.00 | |
| AIC International, Inc. | \$ 1,494,750.00 | \$594,750.00 | +66% approx. |
| Art Constructors, LLC | \$ 2,495,267.00 | \$1,595,267.00 | +173% approx.. |

Evaluation and Analysis

Pursuant to 5GCA §5211 (g) and as indicated in Section 12 of the Instruction to Bidders of the bid package, the contract is to be awarded to the lowest responsible, responsive bidder whose bid meets the requirements and criteria set forth in this Invitation for Bid. To determine the responsibility of bidders and is consistent with §3116 (2) of the Procurement Rules and Regulations, the bid package specified the required documents that bidders must submit with their bid price proposal. A brief summary is as follows:

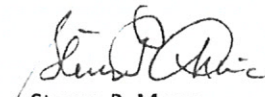
AIC International, Inc.: The firm submitted a total bid price of **\$1,494,750.00** which represents **\$594,750.00** or **approximately 66% more** than the government/designer's estimate. The firm provided all the required documents as stipulated in the bid package.

ART Constructors, LLC: The firm submitted a total bid price of **\$2,495,267.00** which represents **\$1,595,267.00** or **176% more** than the government/designer's estimate. The firm provided all the required documents as stipulated in the bid package.

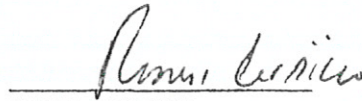
Recommendation

As a result of our review of the bid documents submitted, **AIC International, Inc.** has been determined to have met the standards of responsibility and responsiveness as outlined in the Guam Procurement Regulations and has been deemed to be the lowest responsive and responsible bidder.

Therefore, in accordance to 3109(n)(2) of the Guam Procurement Rules and Regulations, the recommendation is to award the contract to **AIC International, Inc.** in the amount of **\$1,494,750.00** for the above referenced project. Should you need to discuss this further, I will be available at your request.


Steven P. Muna

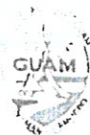
Concurrence:


RORY J. RESPICIO
General Manager

Attachment: Abstract
cc: DGM Administration and Finance
Engineering/CIP
Procurement File



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Lourdes A. Leon Guerrero
Governor of Guam
Joshua F. Tenorio
Lieutenant Governor

June 3, 2022

Mr. Anthony Stewart
Vice-President
AIC International, Inc.
P.O. Box DR
Hagatna, Guam 96932
Tel: 671 565-9142
Fax: 671-565-9145

Subject: **Notice of Intent to Award for Invitation for Bid IFB No. PAG CIP-022-004
Construction of the Agat Marina's Dock B.**

Dear Mr. Stewart

Hafa Adai and Congratulations!

The Port Authority of Guam (PAG) has completed the evaluation of your bid offering for the Port Authority of Guam's Construction of the Agat Marina's Dock B (IFB-022-004). Your firm has met the qualifying requirements with a bid of **One Million Four Hundred Ninety-Four Thousand Seven Hundred Fifty Dollars and No Cents (\$1,494,750.00)** and has been determined to be the lowest responsible and responsive bidder.

Please submit your 100% Performance and Payment Bond required within ten (10) days of acceptance of this letter so an award may be made. Failure to submit this requirement by the deadline may result in a delay of an award and issuance of a contract agreement for the above project. The Port will prepare the final contract agreement for full execution upon approval by our Board of Directors and the Public Utilities Commission. The Notice to Proceed (NTP) will be issued by our PAG Engineering Division at a scheduled pre-construction meeting after full execution of the contract agreement.

Should you have any questions, please contact Mr. Steven P. Muna, Procurement & Supply Contracts Management Administrator at 671-477-5931 ext. 340.

Record 06/08/2022

CC: Procurement File

Respectfully,

Rory J. Respicio
General Manager



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Lourdes A. Leon Guerrero
Governor of Guam
Joshua F. Tenorio
Lieutenant Governor

May 25, 2022

INTER-OFFICE MEMORANDUM

To: Rory J. Respicio, General Manager

Via: Luis R. Baza, Deputy General Manager, Administration & Finance *LB*
Vivian C. Leon, Corporate Services Manager *J*

From: Ryan J. Arriola, Commercial Specialist II *RJA*

Subject: Request for Supplemental Budget for the Account No. 50.1622.DOCKBAGT for the Construction of Agat Marina's Dock "B"

Hafa Adai! The Port is in motion to finalize the long-awaited process for the construction of Dock B, which will be solely used by recreational vessels at the Agat Small Boat Marina. The bid opening for the construction of Agat Marina's Dock B was conducted on May 18, 2022 by the Port Procurement & Supply staff. While the Port received two bidders (Art Constructors, LLC and AIC International, Inc.), the lowest bidder who responded to the procurement solicitation was AIC International, Inc. with a bid amount of **\$1,494,750.00**.

Following the demolition of Dock B in 2019, the Port estimated that the replacement of this dock is **\$900,000.00**. Since then, the Port entered into a Memorandum of Understanding (MOU) with Department of Agriculture to fund this project under the U.S. Fish & Wildlife Service grant in the amount of **\$500,000.00**, which the Port was awarded. The MOU indicated that the Port will fund the project cost if it is more than the awarded grant amount.

Additionally, the Port obtained the necessary clearances for this project. Based on the lowest bid amount, there is a shortfall of **\$994,750.00** to fund the replacement work for Dock B.

Therefore, we are hereby respectfully requesting your approval to approve additional funding of **\$996,000.00** to cover the shortfall for this project with the account number mentioned above. Once funding is approved, the Port will be able to move forward with this long-awaited project.

Your kind approval to this request is greatly appreciated. I am available to discuss this further, should you wish.
Si Yu'os Ma'ase.

Concurred by:

JOSE B. GUEVARA, III,
Financial Affairs Controller

C22F005.1782.1 → NON-STOCK PU
C22F005.1783.1 → DESIGN/
Account Number: 50.1622.DOCKBAGT CONSTRUCTION

Mr 28 6/7/22

APPROVED

☐ / ☐ DISAPPROVED

RORY J. RESPICIO, General Manager

Date: 6/8/22

Cc: Deputy General Manager, Administration & Finance
Deputy General Manager, Operations & Maintenance
Corporate Services Manager
Acting Procurement & Supply Manager
Chief Planner, Strategic Planning Division
Commercial Division

Bid Schedule

INVITATION FOR BID – IFB-PAG-CIP 022-004 CONSTRUCTION OF AGAT MARINA'S DOCK B

| BID SCHEDULE FOR PROPOSED DESIGN-BUILD FOR AGAT MARINA DOCK "B" REPLACEMENT | | | | | |
|---|---------------------------|-------------------|--------------------|-------------------------|-----------------------------|
| <u>ITEM</u> | <u>DESCRIPTION</u> | <u>QTY</u> | <u>UNIT</u> | <u>UNIT COST</u> | <u>EXTENDED COST</u> |
| 1 | CERTIFIED DESIGN | 1 | LS | | 145,821.00 |
| 2 | ALL PERMIT FEES | 1 | LS | | 66,110.00 |
| 3 | CONSTRUCTION | 1 | LS | | 1, 282,819.00 |
| - | - | - | - | | |
| - | GRAND TOTAL COST | - | - | \$ | \$ 1, 494,750.00 |
| | | | | | |
| ALL UNIT COSTS INCLUDE MATERIALS, LABOR, TOOLS, EQUIPMENT, SHIPMENT, OVERHEAD, PROFIT AND TAXES. | | | | | |
| | | | | | |
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| | | | | | |
| | | | | | |

2022

CONTRACTOR'S LICENSE

LOU LEON GUERRERO
Governor of Guam

JOSH TENORIO
Lt. Governor of Guam

Pursuant to the provisions of Chapter VII Title XI of the Government of Guam and the Rules and Regulations of the Contractors License Board, the Executive Director of Contractors hereby issues this license to:

AIC International, Inc.

To engage in the business or act in the capacity of a contractor in the following classifications

A & B

This license is the property of the Executive Director of Contractors, not transferrable, and shall be returned to the Executive Director upon demand when suspended, revoked, or invalidated for any reason. It becomes void if not renewed on or before the expiration date.

Signature of RME
RME #

Signature of LICENSEE
License # 1672

GRT # 15294
Issued: May 19, 2021

Certificate # C-0521-0179
Expires: June 30, 2022


JAMES M. CASALLO
CLB BOARD CHAIRMAN




CECIL "BUDDY" L. ORSINI
EXECUTIVE DIRECTOR

2022

CONTRACTOR'S LICENSE

LOU LEON GUERRERO
Governor of Guam

JOSH TENORIO
Lt. Governor of Guam

Pursuant to the provisions of Chapter VII Title XI of the Government of Guam and the Rules and Regulations of the Contractors License Board, the Executive Director of Contractors hereby issues this license to:

Anthony Stewart
RME For: AIC International, Inc.

To engage in the business or act in the capacity
of a contractor in the following classifications

A & B

This license is the property of the Executive Director of Contractors, not transferable, and shall be returned to the Executive Director upon demand when suspended, revoked, or invalidated for any reason. It becomes void if not renewed on or before the expiration date.

Signature of RME
RME # 4587

Signature of LICENSEE
License #

GRT #

Certificate # R-0521-0180

Issued: May 19, 2021

Expires: June 30, 2022



JAMES M. CASALLO
CLB BOARD CHAIRMAN



CECIL "BUDDY" L. ORSINI
EXECUTIVE DIRECTOR