BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:	)	PAG Docket 22-05
PETITION OF THE PORT AUTHORITY OF GUAM FOR PUC REVIEW AND APPROVAL OF THE INVITATION FOR BID (IFB) PROCUREMENT CONTRACT AWARD TO SUMITOMO MITSUI CONSTRUCTION COMPANY FOR THE REBID OF THE CONSTRUCTION REHABILITATION OF HOTEL WHARF AND HIGHWAY 11 ROADWAY RECONSTRUCTION (CONSTRUCTION PROJECT), IFB-PAG-CIP 022-002	)	ALJ REPORT

INTRODUCTION

This matter comes before the Guam Public Utilities Commission ["PUC"] pursuant to the June 9, 2022, Port Authority of Guam ["PAG"] Petition for Review and Approval of the Procurement Contract Award to Sumitomo Mitsui Construction Company for the Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction, IFB-PAG-CIP 022-002.[1]

BACKGROUND

1. The Procurement Process for the Hotel Wharf Rehabilitation Project

The first bid on the Construction Rehabilitation of Hotel Wharf and Highway 11 Roadway Construction was issued on July 26, 2021. However, by the deadline,

[1] PAG Petition, PAG Docket 22-05, dated June 9, 2022.

September 13, 2021, no bids had been submitted. The Port determined that it would rebid the IFB.[2]

On October 27, 2021, PAG issued the Rebid of the Construction Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction, IFB-PAG-CIP 022-002.[3] At the bid opening on January 28, 2022, only one company submitted a bid: Sumitomo Mitsui Construction Company ["SMCC"]. PAG determined that the only responsible and responsive bidder with the lowest price was SMCC, with a submitted bid amount of $59,683,065.00.[4]

Upon further review and consideration of the price, the Port General Manager determined that the Port would seek to negotiate the price, scope of work, specifications, and terms and conditions of the Project in accordance with Title 2 GARR, Division 4, Chapter 3, §§3102(c)(1)(C) and 3112(c) [Negotiation in Sole Source Procurement].[5]

On June 9, 2022, the Port and SMCC, after months of negotiation, agreed to "SMCC's Revised Price Proposal for Marine Structure Works." Attached hereto as Exhibit "1" is the joint Letter of Acceptance/Notice of Intent to Award to SMCC for the Construction Rehabilitation of Hotel Wharf, which letter is signed by both parties.[6]

[2] Memorandum from General Manager to Procurement Record, Re: IFB-PAG-CIP-021 Construction Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction: Determination to Rebid.
[3] PAG Petition, at p. 1.
[4] Id.
[5] Id.
[6] Letter of Acceptance/Notice of Intent to Award [signed by Port GM and GM of SMCC] dated June 9, 2022, attached hereto as Exhibit "1".

Therein the parties agreed to break the project up into three phases. Phase 1, 2, and 3. Phase 1 included the procurement of all steel piling works materials for the Wharf (sheet piles, king piles, tie rods, dead-man piles, compression and tension piles, and other associated miscellaneous steel connections), and installation of the piles for the south wall. Phase 2 would include the installation of the west and east wall piles and other marine structures such as bulkhead concrete works (east, west and south wall), on-shore bollards, bulkhead mooring-cleat and bollard, and cell fenders. The respective negotiated costs for Phase 1 and Phase 2 are $39,485,672.00 and $6,846,223.00, for a total of $46,331,895.00.[7]

Phases 1 and 2 are mandatory scope requirements which must be completed "on or before the TIGER grant Period of Performance of May 31, 2024.[8] Phase 2 is a mandatory Option to be awarded within one (1) year from the Notice to Proceed of Phase 1. Phase 3, which includes the Highway 11 Roadway Reconstruction and other "off-site" works, is "optional" and will be evaluated and awarded upon available funding.[9]

The parties agreed to a "performance period of seven hundred thirty-five (735) calendar days from the issuance of the Notice to Proceed.[10]

2. The Hotel Wharf Rehabilitation Project

The Construction Rehabilitation of Hotel Wharf involves "the repair and upgrade of Hotel Wharf with a new bulkhead with a modern mooring and fendering system, utilities and upland pavement…".[11]

[7] Id.
[8] Id. at p. 2.
[9] Id.
[10] PAG Petition at p. 2.

Hotel Wharf was built between 1948-1953 and was used by the Navy as a munitions wharf during the Vietnam conflict until it was formally transferred to the Government of Guam in October 1989. The Government of Guam subsequently operated the wharf as a passenger vessel facility, and boat charter operators also used the wharf. The wharf was also used for the import of cars and light trucks, and the export of scrap metal. It stopped being used as a commercial wharf in December 2001.[12]

A good description of the scope of work for the construction rehabilitation by the contractor is set forth in the Hotel Wharf Technical Specifications:

> "The proposed construction involves replacement of existing wharf structures and roadway in essentially their current locations. Wharf replacement involves construction of a new sheet pile bulkhead retaining wall and sheet pile cap with supporting structures and a new concrete surface while preventing the existing wharf from collapsing into Apra Harbor…
>
> Both the wharf construction and the roadway construction will involve the construction of or replacement of underground utilities. Utilities under the roadway will include water line replacement, stormwater piping, and empty data transmission conduit. Utilities within the wharf area will include electrical for power and lighting, potable water with capped stub outs to support future construction, fire main with supporting tank and pump station, stormwater with oily water separator(s), sanitary lines with holding tank and manholes to support future construction, and empty data communications conduit terminating in handholes to support future construction…

[11] Letter to Leevin T. Camacho, Attorney General of Guam, from Rory J. Respicio, General Manager of the Port of Guam, Re: Notification of Procurement over $500,000 (Form 12) for IFB-PAG-CIP-022-002 Rebid of the Construction Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction, dated October 14, 2021, at p. 1.

[12] William F. Jeffrey, Ph.D. (Maritime Archeologist and Assistant Professor, University of Guam), Final Technical Report (Underwater Archeology Survey for the Hotel Wharf and Access Road Maintenance and Repair project Cabras Island, Apra Harbor, Guam), July 2020, at p. 41.

Wharf structural components will include new sheet pile retaining wall bulkheads, sheet pile "deadmen" walls, better piles, and tie-rods. Additional structural components include mooring bollards on the wharf, two mooring bollards with concrete foundations supported by piles along the edge of the access roadway east and west of the wharf, and concrete decking/pavement for the first 100 feet adjacent to the pierhead line in the ship unloading zone. Structural fill will be placed in the area between the existing and new bulkheads.

Dredging is not a component of the current project but was a design consideration to allow for deeper draft vessels to utilize the wharf in the future. Sheet piling will be thicker and deeper than the original in order to allow for future dredging along the pierhead line.

The upland surface will be impervious with the area outside the 100 feet ship unloading zone consisting of asphalt pavement. Surface runoff will outfall to Apra Harbor after treatment by oil water separator and filtration systems. Surface runoff from the new access roadway will be collected in bioswales for natural filtration prior to outfalling to Apra Harbor through underground stormwater pipes.

Project demolition components include the removal of surface facilities (sheds and trailers) and dilapidated structure including fencing, cleats, rubber fenders, and mooring bollards. It also includes the removal of asphalt and concrete foundations and concrete pavements, and the partial demolition of existing bulkheads and concrete caps. Excavation to install new tied rods and utilities and make roadway drainage improvements is not currently expected to result in the disposal of unsuitable materials. However, in the event unsuitable materials are detected once construction gets underway, proper disposal and replacement with clean materials and structural fills would be a requirement."[13]

[13] WSP USA Inc., Port of Guam Hotel Wharf Technical Specifications, submitted on July 20, 2021.

SMCC submitted a detailed Proposal as to how it intends to carry out the Construction Rehabilitation of Hotel Wharf. A portion of that proposal concerning Hotel Wharf is attached hereto as Exhibit "2".[14]

3. Action by the Port Board of Directors

The Port Authority Board of Directors plans to consider approval of the procurement contract award to Sumitomo Mitsui Construction Company for the Construction Rehabilitation of Hotel Wharf at its meeting on June 16, 2022. A draft resolution has been prepared that would approve the bid award. A PAG Board Resolution will be submitted to the PUC upon approval.[15] If the PAG Board of Directors approves the procurement award and submits a Resolution to the PUC before its meeting on June 16, 2022, the PUC may appropriately consider the matter.

ANALYSIS

1. PAG's Contract Review Protocol.

PAG has indicated that the revised cost of this project is $46,331,895.00. As will be discussed, PAG intends to fund the project through Grant, Bond, and local revenue funds. Pursuant to PAG's current Contract Review Protocol, professional service contracts in excess of $1,000,000, and projects using bond funds, must be approved by the PUC.[16] This contract award must be reviewed by the PUC.

[14] Submission of Sumitomo Mitsui Construction Co., Ltd., for IFB-PAG-CIP-022-002, Rebid of the Construction of Hotel Wharf and Highway 11 Roadway Construction, dated January 28, 2022.
[15] Phone Conversation between Port Authority General Manager Rory Respicio and PUC ALJ Fred Horecky on June 9, 2022.
[16] Contract Review Protocol, PAG Docket 09-01, Par. 1(c) and (d), at p. 1.

2. PAG has established that there is a Need for the Hotel Wharf Construction Rehabilitation Project.

There is clearly a need for the Hotel Wharf construction rehabilitation project. Such need has been recognized by the Port for many years in its Master Plans.

On April 19, 2021, the Port issued its "Determination of Need" ["DON"] for the Hotel Wharf Rehabilitation Project.[17] The DON indicates that the Port Authority operates the only commercial seaport in Guam, as the primary seaport in Micronesia, and serves as a trans-shipment hub for the entire Western Pacific Region. It currently handles over two (2) million tons of cargo per year.[18] Continuity of commerce and the sustainment of uninterrupted marine transportation into Guam and the Micronesian region is contingent upon the dependability and resiliency of Port assets and infrastructure.[19]

The DON states as follows regarding the rehabilitation and upgrade of Hotel Wharf:

> "The rehabilitation and upgrade of Hotel Wharf and the repair of the access roadway that leads to the facility is a capital improvement project that will provide additional infrastructural support, expanded laydown area, and augmented operational capacity to the main container yard. The Port currently has three (3) berths to accommodate container ships, general and unitized cargo vessels, and passenger ships. With the anticipated 2023-2024 peak in military buildup construction, NAVFAC Marianas' forecast revealed that there will be a substantial increase in container and breakbulk cargo volume in the main container yard."[20]

[17] Rory J. Respicio, General Manager, "Determination of Need", Hotel Wharf Rehabilitation and Access Roadway Repair Project, dated April 19, 2021.
[18] Id.
[19] Id.
[20] Id.

> Because of its off-site location, it was determined back in 2013 that Hotel Wharf would be a perfect site to serve as an alternate loading and off-loading berth that will alleviate the congestion at F3-F6 during the peak of buildup related activities. Examples of specific special cargos that can be handled at the rehabilitated Hotel Wharf include, but are not limited to: 1) aggregate, 2) special imported construction materials, 3) Roll On/Roll Off (RORO), 4) research vessels, 5) passenger vessels, and 5) military support vessels, if requested.[21]

3. In various Public Laws, the Guam Legislature has approved the Hotel Wharf Construction Rehabilitation and Funding for the Project.

In a series of Public Laws, the Guam Legislature has approved the H-Wharf project. In Public Law 32-155, the Guam Legislature approved certain capital improvement projects included in the Port Master Plan update of 2013. The Legislature recommended that "the Port focus near term" on certain "sustainability projects", which included the H-Wharf. Such project was deemed to be "**critical to preserving marine industrial capabilities in the CIP schedule**."[22] (emphasis added).

In Public Law 34-70, the Guam Legislature authorized the Port Authority to issue revenue bonds for the purpose of financing certain improvements. The Legislature recognized its intent "to provide funding for Capital Improvement Projects, which include the rehabilitation of "H" Wharf and Access Road…."[23] The Legislature also authorized the Port to finance: "local match for the Transportation Investment Generating Economic Recovery (TIGER) grant program funding for rehabilitation of "H" Wharf and access road in the approximate amount of $14,200,000…"[24]

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[21] Id.
[22] See Public Law No. 32-155, "An Act to Approve and Adopt the Capital Improvement Projects (CIP) Schedule….", Section 1, enacted May 21, 2014.
[23] See Public Law No. 34-70, Section 1, enacted December 7, 2017.
[24] Id., at Section 4(a)(1).

In Public Law No. 35-44, the Guam Legislature reprogrammed bond funds and approved the amount of $13,774,255 for rehabilitation of "H" Wharf and the access road.[25]

4. The Parties have exercised best efforts in negotiating the Project Scope and reaching a reasonable Amount for the Contract Award.

As set forth above in the Background section, the parties engaged in negotiations to reach "a fair and reasonable works and price agreed by both parties."[26] A copy of the Revised Price Proposal for Marine Structure Works is attached hereto as Exhibit "3".[27] As a result of the negotiations, the parties have reduced the bid amount from $59,683,065.00 to $46,331,895.00. The scope has also been changed to focus on the construction rehabilitation of Hotel Wharf.

Currently, the Port has a total of $20,277,248.39 for the Hotel Wharf Construction Rehabilitation. $10,000,000 is from the Tiger Grant; the Port's matching share from bond funds is $10,277,248.39. The Guam Legislature had approved over $13M for the Hotel Wharf project, but over $3M of that amount was for the Highway 11 Roadway Reconstruction.[28] As such, there is a shortfall of $26,054,646.61 to fund Phase 1 and Phase 2.[29]

[25] Public Law No. 35-44, Section 2(a)(1), enacted October 16, 2019.
[26] Sumitomo Mitsui Construction Co., Ltd., Revised Price Proposal for Marine Structure Works, dated May 18, 2022, at p. 1.
[27] Id.
[28] Phone Conversation between PAG GM Rory Respicio and PUC ALJ Fred Horecky on June 13, 2022.
[29] Inter-Office Memorandum from Clarance V. Lagutang, CIP Coordinator, to Rory J. Respicio General Manager, re: Request for Supplemental Budget for the Account No. C22B001.1783.1 for Construction Rehabilitation of the Hotel Wharf and Highway 11 Road Construction Phase 1 and 2, dated June 9, 2022.

The Port has already developed a funding plan for the shortfall:

"Hotel Wharf and Highway Route 11 Road Construction Phase 1 and 2

46,331,895

LESS: Current Budget		
MARAD Funding	10,000,000	
Bond Funding	10,277,249	
Total FY22 Budget	20,277,249	
Project Shortfall	26,054,646	
Proposed Funding Source for Shortfall:		
General Reserve Account	15,000,000	
FY23 CIP Budget	3,000,000	
FY24 CIP Budget	3,000,000	
Bond Capital Improvement Reserve		5,054,646
Total Proposed Funding Source		26,054,646
Balance	0."[30]	

A formal request from the Financial Affairs Controller to the General Manager for such funding has already been made.[31]

[30] Email from PAG Financial Affairs Controller Jose B. Guevara III to PAG GM Rory Respicio, and attached Request for Supplemental Budget, Hotel Wharf, dated June 13, 2022
[31] Id.

The $15,000.00 is in the Port General Reserve Fund; these funds are American Rescue Plan Act Funds that were transferred by the government of Guam to PAG in February 2022.[32]

The Port Board of Directors has also authorized the Port General Manager to utilize Port Revenues, unrestricted Port funds and/or other revenues and federal grants to supplement the short-fall funding of the revenue bond projects.[33]

This project is very expensive; costs have been impacted by world economic conditions, inflation, and supply chain issues. Cost for materials such as steel have been soaring. However, for many years the Port of Authority, the Federal Maritime Administration, and the Guam Legislature have recognized that the construction rehabilitation of Hotel Wharf must be accomplished.

As was the case with the Port's Waterline Replacement Project, it is not likely that a rebid of this project would lead to any lesser of a price proposal.[34] There were no price submittals upon the original bid for this project, and only one, that of SMCC, for the Rebid. The parties have done their best to negotiate a fair and reasonable price.

5. SMCC is eminently qualified to perform the Contract.

From the bid submittal, it appears that SMCC is "a leading Japanese construction company with operations that span the globe." Its 2021 assets approach $3 Billion. It

[32] Inter-Office Memorandum from PAG Financial Affairs Controller Jose B. Guevara III to PAG GM Rory Respicio Re: Request for Transfer—Bank of Guam, dated March 15, 2022.
[33] Port Board of Directors Resolution No. 2021-07, Relative to Authorizing the General Manager to Use Port Revenues, Port Unrestricted Funds and/or Other Revenues and Federal Grants to Supplement the Funding of Revenue Bond Projects, All of which Shall Remain Subjected to Procurement and Public Utilities Statutory Requirements, dated July 29, 2021.
[34] See ALJ Report, PAG Docket 22-02, dated February 14, 2022, at pgs. 7-8.

has available bonding capacity on Guam of $100,000,000. It has done many major works involving Piling and Deep-Water Area Works. It has performed a substantial number of projects on Guam, including Guam Waterworks Authority projects such as Construction of Agat Santa Rita Wastewater Treatment Plant replacement, Phase II, various pipeline, water main and pumpstation projects for GWA, Guam Airport and Guam Power Authority projects and many private sector projects. Some of its main project engineers and managers have extensive experience with projects in Guam.

6. The Proposed Agreement for the Hotel Wharf Construction Rehabilitation protects the Interests of the Port and Ratepayers.

The Port has provided a proposed Agreement between the Port and SMCC.[35] In accordance with the IFB, SMCC is required to provide a bid guarantee of not less than fifteen percent [15%] of the total bid amount for which an award can be made. SMCC is also required to provide the Port with an executed performance and payment bond in an amount at least equal to one hundred percent [100%] of the accepted bid as security for the faithful performance of the contract and security for the payment of all persons performing labor and furnishing materials in connection with the contract.[36]

The proposed Agreement contains adequate provisions to protect the interests of the Port and its customers. The Agreement provides that PAG may terminate or modify the Agreement "**based upon a lack of funding.**" PAG may terminate the Agreement for "default" or "cause."[37] There is a "indemnification" clause which protects the Port.[38]

[35] The Port transmitted a copy of the Agreement to the PUC on June 10, 2022 [AGREEMENT BETWEEN JOSE D. LEON GUERRERO COMMERCIAL PORT AND SUMITOMO MITSUI CONSTRUCTION CO., LTD.].
[36] IFB-PAG-CIP-022-002, Vol. 2, Bid Guarantee and Performance and Payment Bond.
[37] AGREEMENT BETWEEN JOSE D. LEON GUERRERO COMMERCIAL PORT AND SUMITOMO MITSUI CONSTRUCTION CO. LTD., par. 4 at pgs. 4-7.
[38] Id., at par. 12.

There are "liquidated damages" provisions which require the Contractor to pay $4,000.00 per day to the Port for each day beyond the expiration of 735 calendar days from issuance of a Notice to Proceed by the Port.[39]

RECOMMENDATION

For the reason set forth herein, the Administrative Law Judge recommends that the PUC approve the contract award to Sumitomo Mitsui Construction Company for the amount of $46,331,895.00. Before it approves the award, the Port will have to certify that there are available funds for the project.

The Port has established that there are funds available to pay for the Hotel Wharf Project. The PAG General Manager has indicated that the Port will not seek any rate or tariff increases in FY23 and FY24.[40] In accepting $15M in American Recovery Act Funds for this project, the Port agreed that it would not seek a rate increase. Therefore, this is not a contract award that will increase rates.

This project will assist PAG in further modernizing the Port infrastructure and facilities. A Proposed Order is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 14th day of June 2022.

Frederick J. Horecky
Chief Administrative Law Judge

[39] Id., at par. 2.2, Liquidated Damages.
[40] Representation by the Port GM in a Phone Conversation with PUC ALJ Horecky on June 13, 2022.

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Lieutenant Governor

June 9, 2022

Mr. Takeyuki Shiino
General Manager, Sumitomo Mitsui Construction Company
P.O. Box 9670
Tamuning, Guam 96931
T. 671.649.7521
Email: tksiino@smcon.co.jp

Sub: **Letter of Acceptance/Notice of Intent to Award to Sumitomo Mitsui Construction Company for the Construction Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction (Invitation for Bid IFB-PAG-CIP-022-002)**

Hafa Adai Mr. Shiino,

The Port Authority of Guam (Port) would like to thank you and your team for your patience and cooperation during our cost negotiation efforts – it has truly been a collaborative effort by both parties.

On February 24, 2022, Sumitomo Mitsui Construction Company (SMCC) agreed to and signed a Letter to Negotiate the price, specifications, scope of work, terms and conditions for the above referenced Invitation for Bid (IFB). This request was made by the Port in accordance with Title 2 GARR, Division 4, Chapter 3 § 3102(c)(1)(C) which allows the Port to reject your bid offer and apply the sole source procurement method wherein both parties may negotiate a fair and reasonable price, as well as the respective terms and conditions, for this project.

On March 4, 2022, the Port's team, together with the Port's Construction Manager GHD, Inc., officially met with SMCC to initiate and explain the sole source negotiation process. The Port subsequently met with SMCC again on May 17, 2022, June 3, 2022, and June 9, 2022, to continue cost negotiations. Specifically, the Port negotiated with and requested that SMCC revise their cost structure into a phased approach, with the wharf/marine structure being highest priority, in order to keep within the Port's available budget.

On May 18, 2022, the Port received SMCC's "Revised Price Proposal for Marine Structure Works." SMCC therein proposed a three (3) phased approach:

Phase 1: **$39,485,672.00**
- Procurement of all steel piling works materials for the wharf (sheet piles, king piles, tie rods, dead-man piles, compression and tension piles, and other associated miscellaneous steel connections), and installation of the piles for the south wall.

Phase 2: **$6,846,223.00**
- Installation of the west and east wall piles and other marine structures such as bulkhead concrete works (east, west, and south wall), on-shore bollards, bulkhead moorings – cleat and bollard, and cell fenders.

Phase 3: **$14,616,630.00**
- All off-site works and remaining works specified in the IFB.

EXHIBIT "1"

Please note that Phases 1 and 2 are mandatory scope requirements and must be executed and completed on or before the TIGER grant Period of Performance of May 31, 2024, and is required for US Coast Guard's approval of a "complete and usable" Port asset.

Therefore, in consideration of your offer, and after evaluating the importance of this project, I am accepting your May 18, 2022, offer (Reference No: LT-22-019), **Phase 1 and Phase 2 only**, for a total award of **$46,331,895.00**, with Phase 2 as a mandatory Option to be awarded within one (1) year from the Notice to Proceed of Phase 1. Phase 3 will also be optional but will be reevaluated and awarded upon available funding.

Thus, I agree and accept your offer of **Forty-Six Million, Three Hundred Thirty-One Thousand, Eight Hundred Ninety-Five Dollars and 00/100 ($46,331,895.00)** for IFB-PAG-CIP-022-002 Construction Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction. Furthermore, the terms and conditions, period of performance, scope of work and specifications will remain the same as agreed to in the original IFB and be adhered to.

Should you concur and accept this letter, please consider this the **Notice of Intent to Award** and please provide your Performance and Labor Material bonding as soon as possible to the Port. We will be presenting this contract award request to our Board of Directors and the Public Utilities Commission for approval on June 16, 2022. Upon approval the Port will then formulate the final contract agreement for signature by both parties.

By affixing your signature on the bottom of the page, you agree to the negotiated price and all terms and conditions for this project.

Should you have any questions, please feel free to contact Mr. Steven P. Muna at spmuna01@portofguam.com or by calling 477-5931 extension 340.

Respectfully,

RORY J. RESPICIO
General Manager

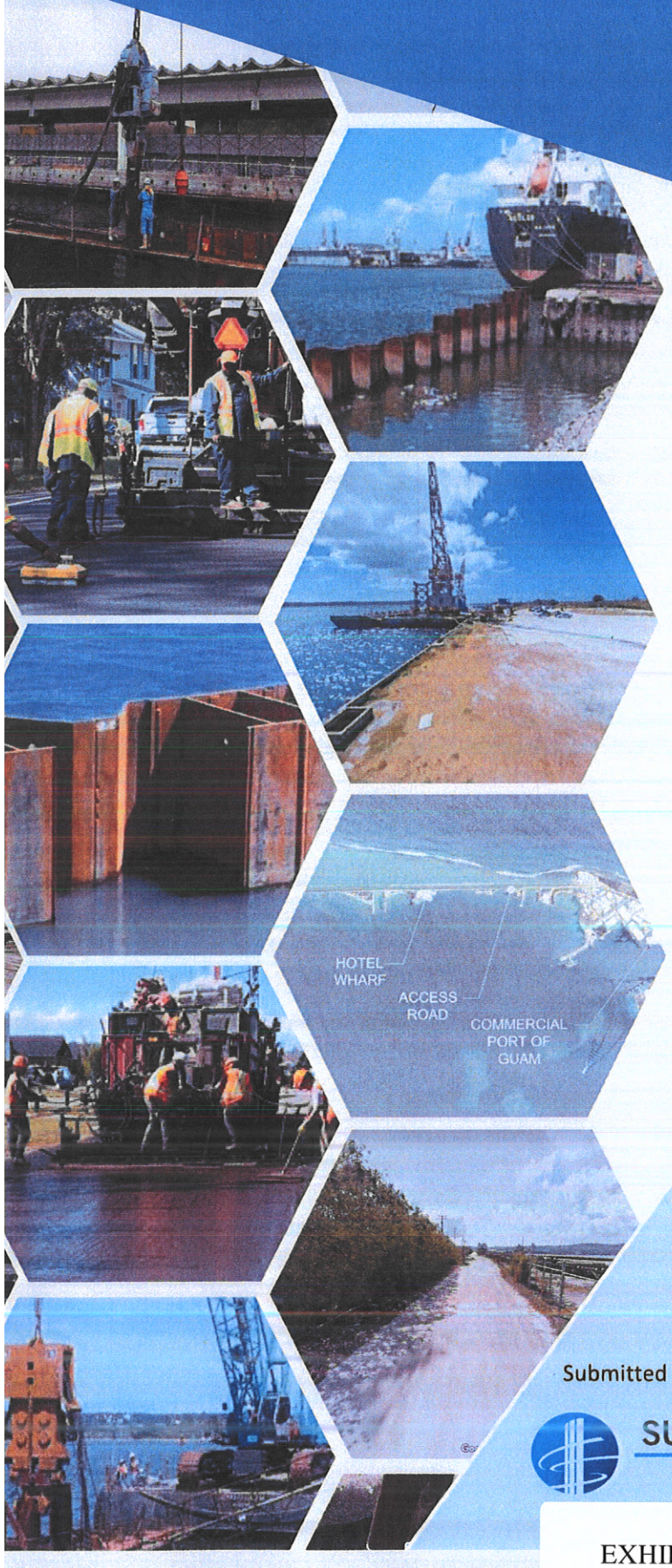
Concurred and Accepted by:

Mr. Takeyuki Shiino
General Manager
Sumitomo Mitsui Construction Company

Cc: Procurement file

IFB-PAG-CIP-022-002

REBID OF THE CONSTRUCTION OF HOTEL WHARF AND HIGHWAY 11 ROADWAY RECONSTRUCTION



Date: JANUARY 28, 2022 @ 2:00 PM (ChST)

Attn:

Mr. RORY J. RESPICIO
GENERAL MANAGER
PORT AUTHORITY OF GUAM
1026 CABRAS HIGHWAY
SUITE 201, PITI, GUAM 96925

Submitted by:

SUMITOMO MITSUI CONSTRUCTION CO.,LTD.
Guam Office : P. O. Box 9670 Tamuning, Guam 96931
Tel: +1- (671) 649-7521~24 Fax: +1- (671) 649-7550

EXHIBIT "2"

project pushes on.

SMCC Project Staff Organizational Chart is shown in Page 15 of this Technical Approach Proposal. It clearly shows the hierarchy and lines of authority within the Construction Team and their respective roles in performing all the work required for this project.

II. CONSTRUCTION APPROACH:

This Construction Approach is put together to show SMCC's capacity to perform and complete all works required for this project and to meet owner's expectation. Assuming issuance of **Notice to Proceed (NTP)** by **February 26, 2022**, SMCC shall begin works from Day 1 through preparation of pre-construction phase submittals and to prepare Organizational Chart, Schedule, List of Critical long lead items, and Submittals procedures while Contract and Building permit is in process.

The necessary documents will be processed and submitted to obtain the necessary Building Permit, and review in detail of other permits requirements obtained by client/owner.

Arrange partnering workshop by inviting all Project team members and various involved agencies that provided permit conditions and permit approval, and as well as coordination with law enforcements including the National Coast Guards. In the workshop, the project team will present the timeline of project, various moment, permit compliance and timelines schedule in and out of project.

The physical mobilization to site shall begin on the 3rd month (or earlier, depending on release of all required permits) and the Route 11 road works will begin at the 4th month of this project, after installing the necessary BMP's and environment protection in place, while procuring materials for wharf work and road reconstruction work.

Mobilization of stage 2 for wharf work will begin on the 4th and 5th month of this project and expected delivery of first shipment of King Piles, Batter Piles and PZ Sheet Piles are by the end of the 6th month period. During preparation time, all necessary turbidity curtains, oil booms, safety measures, initial water quality monitoring, and biological check shall be carried out and performed.

The Steel King Pile, Batter Piles and PZ Sheet Pile material shall be received at site and stored appropriately with dunnage to avoid any permanent deflection, secured and protected at site.

During Piling works, utmost observation and safety will be exercised for existing wharf facility. For piling equipment moment necessary strengthening of base of wharf will be carried out.

The Seabed debris and coral samples shall be inspected by divers and the debris shall be removed.

The piling works, including Deadman piles, is expected to take about 6 to 7 months from the 6th month of this project. This will be carried out by two piling groups. The piling works will start at the south side (west to east), including Deadman, and followed with return segment of west and east sheet piling. Then, piling crew will move to installation of bollard foundation and Fire Water Tank Reservoir required pile foundations. Two crews will begin bulkhead concrete works while other crews carry out pile cutting, and Tie rod works simultaneously.

Construction of the Fire Water Tank/Reservoir works, Pump room, Storm drainage, Sewer line, Precast structures, electrical and mechanical work shall be carried out in a timely manner from deep items to shallow ones.

Subgrade preparation for road and PCC works will begin after all underground structures and facilities are completed and then begin PCC pavement followed by Hot Mix Asphalt Concrete Pavement.

The fencing, gates, and light pole works will be carried out concurrently with pavement base preparation works.

One of the most important part of the project – final submittal drawings, operation manual, maintenance manual, inspection records, and environmental reports shall be submitted at the time of final inspection for Owner's record.

SMCC like to take this project as provided partners, completed in time, and in a win-win situation with owner – Port Authority of Guam.

III. CONSTRUCTION PHASING & METHODOLOGY:

The project primary major part of work is waterfront wharf work which involves deep King pile and Sheet piling works. The construction will be phased at first on South Side, West side and followed with the East side.

Upon completion of waterfront piling, the bollard piling and reservoir piling work will be commenced. All piling works will be completed before any adjacent concrete works to start to avoid vibration to initial curing time of concrete.

All underwater debris within project construction limit will be removed and coral sampling and environmental items meeting permit requirement will be carried out before commencing any piling works. Net placing to catch falling debris will be constructed and/or erected and maintained throughout the Wharf Works.

The key element for state of the art - installation of pile guiding. The guide can be a 2 level template frame, or a leader mast attached to the pile driving machine. In this project due to site condition template frame will be adopted. The rigid template with two guide level is used in this king pile driving as in **Figure 3.1**.

Figure 3.1 Template and Detail of Guide

The template shall be placed closer to required pile top level as possible by supporting to initially additional separate piles as needed and be secured firmly against shifting. Depending on site condition, templates have space for 5 to 9 king piles as in **Figure 3.2**. Afterwards the King piles driven in to the ground as in **Figure 3.2** and step 1 starting preferably with a vibratory hammer adopting the pilgrim's step driving sequence. Depending on the substrata conditions and required driving depth, a second driving phase with a required powered impact hammer may be applied. Driving to final depth resumes after the removal of the driving templates. The equipment to be used is BSP International Foundation (CX Hydraulic Pile Driving Hammer) 7,000kg (7 tons)or 9,000kf (9 tons) hydraulic hammer with HPH 2400 Dawson hammer c/w power pack or International Construction Equipment (ICE) Model 44B (Driving Force 207 tons) or Model 52B (Driving Force 231 tons)hydraulic vibro-hammer. Generally, intermediate sheet piles are pitched and after the installation of king piles completed.

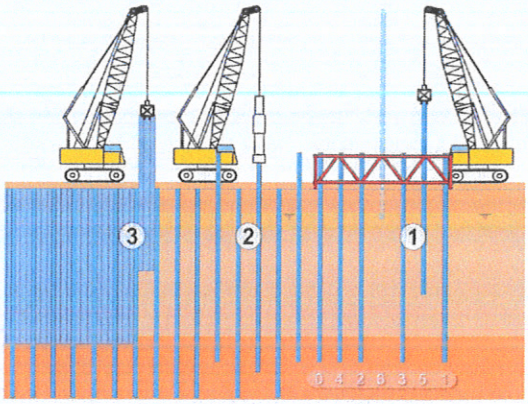


Figure 3.2 Installation Procedure: Driving template and Pilgrims' Step Driving Sequence

For improved methodology and to be successful in driving to required position, it is recommended to use partially crimped pairs of sheet piles. The specific crimping of the interlocks increases the stiffness at the top sheet piles and facilitates as in the installation process **(Figure 3.3)**. At the bottom of sheet piles, still flexible enough to accommodate the driving tolerances of the King Piles, The use of double clamps shall be adopted to achieve the best installation performance.

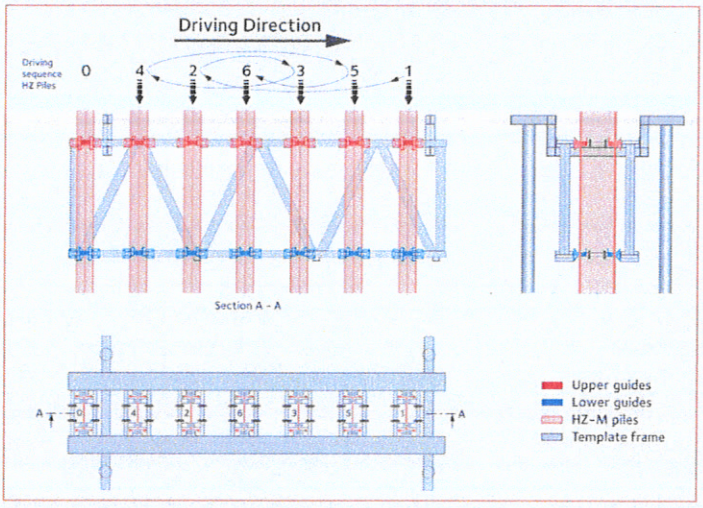
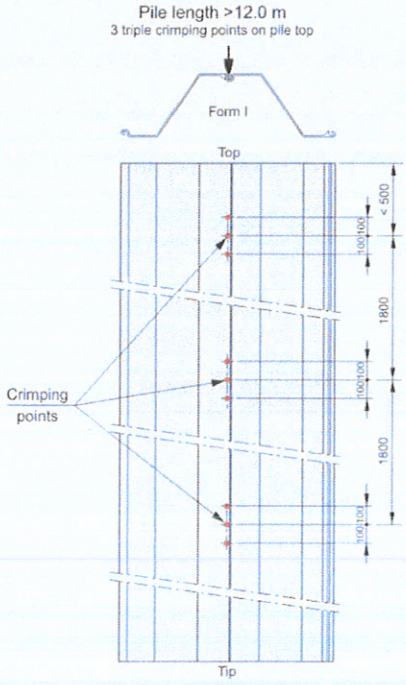


Figure 3.2 *Continued..* Installation Procedure: Driving template and Pilgrims' Step Driving Sequence



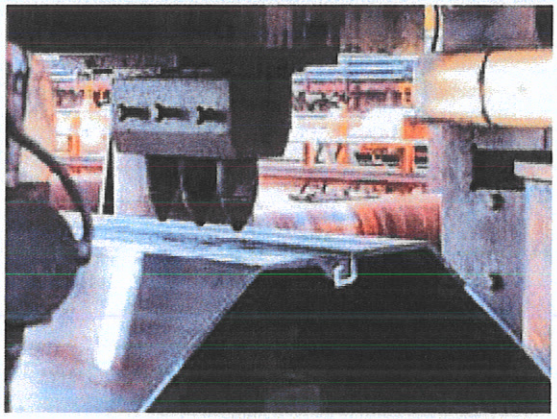


Figure 3.3 *Special Crimping pattern for PZ infill sheet piles and crimping at the rolling mill.*

Sheet Piling Sequence of Installation:

1) The dead man sheet pile for east and west return wall consist of PZ40 sheet pile wall system.
2) The PZ40 sheet pile will be supplied in pairs and factory crimped and pre-joined to the required length at site.
3) The dead man sheet pile for east and west return wall shall be installed by panel method. By using BSP 7t or BSP 9T Hydraulic Hammer with HPH 2400 Dawson hammer c/w power pack or International Construction Equipment (ICE) Model 44B (Driving Force 207 tons) or Model 52B (Driving Force 231 tons) hydraulic vibro-hammer.
4) Install two tier guide frames for pitching of PZ40 sheet piles.
5) Pitch and plum the first pair of PZ40 sheet pile. Refer to **Figure 3.4** – Panel Method of Driving Sheet Piles (Step 1).
6) Drive 1st pair – carefully and accurately pitch remainder of panel (**Figure 3.4** – Step 2).
7) Ensure last pair are accurately positioned and plumbed, drive last pair to 1st level guide (**Figure 3.4** – Step 3).
8) Drive remainder of panel by working backwards towards 1st pair (**Figure 3.4** – Step 4).
9) Complete part driven 1st panel in order to proceed with 2nd panel and 3rd panel (**Figure 3.4** – Step 5).
10) Commence pitching 2nd panel. Last pair of 1st panel become 1st pair of 2nd panel. Gates supported by hanging or bolting to last driven pair (**Figure 3.4** – Step 6).
11) 1st panel driven to final level in stages. Last pair of 2nd panel plumbed and driven accurately. The lower frame is usually left in position after removal of the upper frame until driving is progressed sufficiently for it to be removed (Figure 3.4 – Step 7).

12) 1st panel completed, 2nd panel part driven, 3rd panel pitched. Last pair of 2nd panel become 1st pair of 3rd panel.
13) Pitching is carried out by ICE 44B/52B vibro hammer until refusal and driving with BSP 7t/9t hydraulic hammer after pitching refusal.

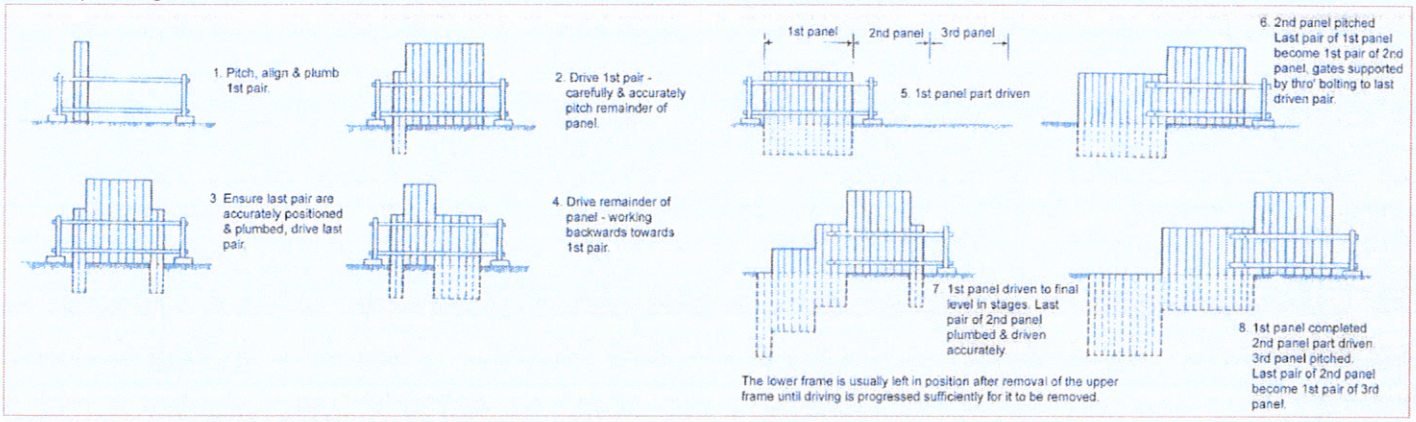


Figure 3.4 Panel Method of Driving Sheet piles.

Installation of Batter piles for Bulkhead Deadman Wall and Bollard Foundation:

1) The main bulkhead dead man pile consist of W18 batter pile and bollard foundation consist of OD18in steel pipe batter pile.
2) The W18 and OD18in piles will be supplied from factory and pre-joined to the required length at site
3) A two tier temporary staging will be installed for supporting the pitched batter pile. Refer to **Figure 3.5** – Batter Pile Temporary Staging. By using BSP 7t or BSP 9T Hydraulic Hammer with HPH 2400 Dawson hammer c/w power pack or International Construction Equipment (ICE) Model 44B (Driving Force 207 tons) or Model 52B (Driving Force 231 tons) hydraulic vibro-hammer.
4) After completing the batter pile temporary staging, the W18 and OD18in pile will be lifted and pitched into the predetermined position and batter guided by steel H-beams.
5) After pitching the W18 and OD18in steel pile, we will vibrate the pile to refusal using an ICE 44B/52B hydraulic vibration hammer.
6) After achieving refusal, a BSP 7t/9t or HPH-2400 hydraulic hammer will be used to drive to the required set computed by HILEY formula.
7) Once the required set is achieved, the temporary staging will be removed and relocated to the next location.
8) The temporary staging can be designed to drive a few set of piles and not necessarily individual piles.
9) Details of temporary staging will be finalized on award of contract.

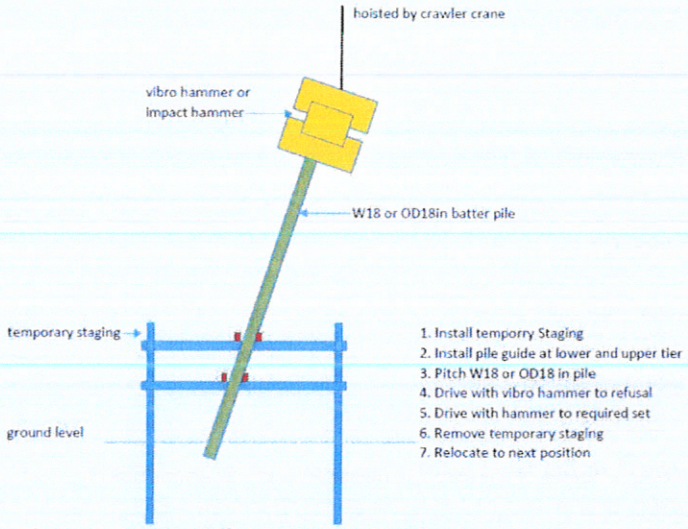
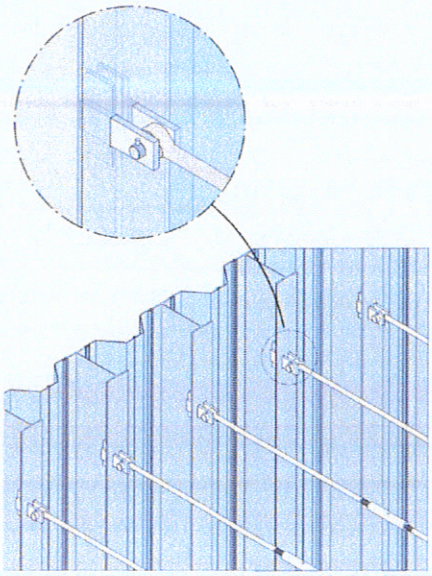


Figure 3.5 *Batter Pile Temporary Staging*

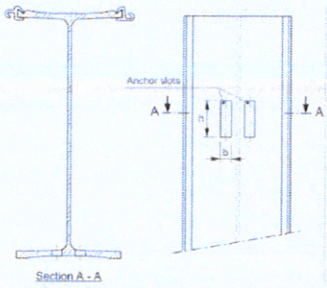
Installation of Tie Rods:

1) Excavate the ground level below the tie rod soffit as per design level.
2) Cut the anchor slot at the W36 King pile at the tie rod level for "T" Connector **(Figure 3.6)**
3) The bulkhead dead man capping beam is cast with a cast in sleeve (3" galvanized pipe sleeve) for tie rod entry at the



required level.

4) Install the front tie rod to the T-connector at the W36 bulkhead wall.
5) Install the back tie rod through the capping beam and connect it with the front tie rod with provided coupling.
6) After connecting the front and back tie rod, preload with the required load for the tie rods at the capping beam end and install the capping nut.



7) Repeat the above steps until all the tie rods for the bulkhead is completed.
8) For the return wall dead man, install walers and cut holes in the PZ40 sheet piles for tie rod entry at the required level.
9) After cutting tie rod entry hole and install walers, we are ready for tie rod installation for the return wall.
10) Install the front tie rod to the T-connector at the W36 return wall.
11) Install the back tie rod through the PZ40 cut sheet piles and walers. Connect it with the front tie rod with provided coupling.
12) After connecting the front and back tie rod, preload with the required load for the tie rods at the capping beam end and install the capping nut.

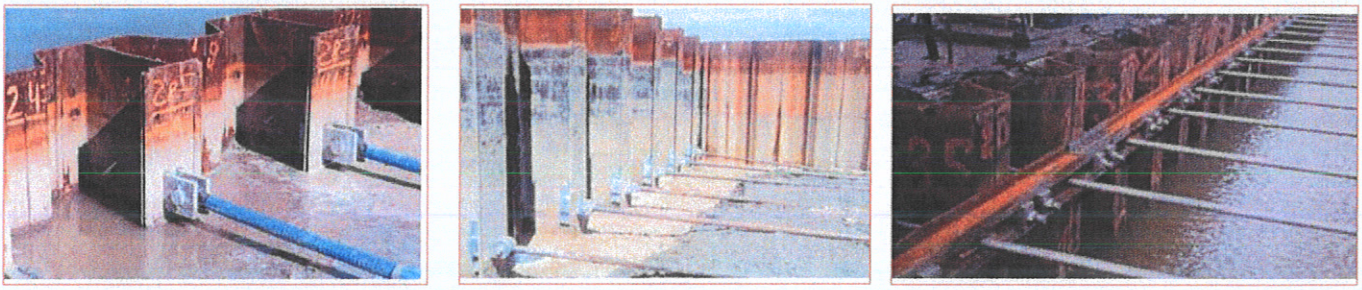


Figure 3.6 ***Special Tie-Rod Connection with T-Connector for the King Pile.***

IV. METHODS OF PROCUREMENT & PROCUREMENT SCHEDULE

Sumitomo Mitsui Construction Co., Ltd. utilizes competitive price solicitations for subcontractor work, open to contractors meeting the requirement of licensure, experience and qualifications, work history, availability and references. We also procure equipment rental services utilizing similar criteria.

Materials and equipment purchases are procured utilizing competitive proposals and pricing through qualified suppliers or distributors. Sole source procurement is utilized when exclusive sources control the distribution of products for this region.

SMCC encourages on island small business, disadvantaged, minority-owned, veteran-owned and HUBZone enterprises to participate in our solicitations for goods and services.

Up on the start of the project and up to end of the project requirements, SMCC will develop and update a procurement schedule. This is to ensure that long lead items, critical materials, tools and equipment are addressed early and to act as a guide to any procurement team, to keep track to meet deadlines and avoid overspending by use of non-competitive price of materials from vendors/suppliers and ensure critical project schedule are not delayed due to unavailability of the required materials.

Procurement Schedule will also be discussed in the weekly progress meeting to give an opportunity for all involved parties or

stakeholders to discuss particular procurement requirements, schedule and provide relevant inputs to work and construction schedules. This will also provide the construction team to schedule environmental monitoring of the Hazard Analysis and Critical Control Plan (HACCP) to make sure deliveries of off-site material to the jobsite are monitored and inspected to avoid and prevent the spread of invasive species to the project site.

V. SCHEDULE MANAGEMENT

If this project gets awarded to SMCC, We are committed to begin on time as construction permit application documents are in process by PAG/CM and anticipated to be approved prior to the project specified start date. This date is crucial to start of work and to be able to process all the necessary needed permits and plan ahead of project required submittals and reviews.

Sumitomo Mitsui Team approach is **PROACTIVE** in scheduling. Our experience shows us that predictable project outcomes depend on current and accurate information, communication, and teamwork. We focus at great length to produce an initial target schedule incorporating requirements from all parties including owners, designers, subcontractors, suppliers and end users. This establishes the baseline schedule that serves as a measuring point for the entire project. By focusing on the initial scheduling plan we have essentially minimized the potential problems that will slow down the project.

The Primavera (P6) Program developed schedule and its critical paths will be used as a tool to drive deliveries and installation sequences. Any problems or issues will be addressed accordingly and the schedule will be adjusted to reflect the changes, if necessary. We will update the current schedule and review it against the baseline schedule to identify potential conflicts or impacts due to the latest adjustments. The schedule will then be discussed with the Owner and Subcontractors reviewing possible solutions to minimize the impacts and take proactive steps necessary to ensure that the project will be delivered on time and within contract budget. Utilizing the H-2B workers as permitted in bidding documents , SMCC will exercise to keep the timeline of project. At present, SMCC has on board H-2B Visa Workers working on our current military project and can be mobilized to the project in short period notice, upon getting the necessary documents to get approval from Department of Labor (DOL). H-2B Visa workers after approval. To support further on the required workforce for this project, the additional H-2B trade workers will be arranged at the earliest timing after Contract Award, while pre-construction works is being processed, and will undergo the process within about 3~4 months period and will be on site in time for the scheduled wharf works.

We will assemble 21-day (3-week) look-ahead schedules to be presented weekly at the regular coordination meetings. The schedule will be used as a tool to plan our work, schedule deliveries and to finalize installation sequences. It will also be used to compare short-term progress against the project baseline schedule.

In addition to owned on-island equipment, some special equipment shall be mobilized from other countries SMCC Branch Offices in timely manner. The procurement of long lead items of waterfront materials will be finalized at the earliest, provide submittals, seek approval and other within two months in to the project to get it delivered on time to meet schedule

Our project schedule will include and define:

- Critical Milestone Dates
- Submittal Delivery Dates
- Schedule Of Values
- Cost-Loading
- Wharf Works
- Fire Water Tank Works
- Equipment Installation Methods Schedule
- Long-Lead Procurement Items
- Multiple Tasks Coordination Items
- Clearly Defined Critical Paths

SMCC Schedule management requires the active participation and involvement of all the project team and to remain to be informed about the status of the project and any delays that may impact critical and important schedule in the performance of the construction work.

SUMITOMO MITSUI CONSTRUCTION CO.,LTD.
Guam Office : P. O. Box 9670 Tamuning, Guam 96931
Tel: +1- (671) 649-7521~24 Fax: +1- (671) 649-7550

Reference No: LT-22-019

May 18, 2022

TO: **MR. RORY J. RESPICIO**
General Manager
PORT AUTHORITY OF GUAM (PAG)
Jose D. Leon Guerrero Commercial Port
1026 Cabras Highway, Suite 201,
Piti, Guam 96925

THRU: **MR. CLARENCE LAGUTANG**
Capital Improvements Project Coordinator
PORT AUTHORITY OF GUAM (PAG)

ATTENTION: **MR. BRYAN RYLEY**
Sr. Construction Manager, CCM
GHD INC.
865 S. Marine Corps Drive,
Suite 202, Tamuning, Guam, 96913

PROJECT: **CONSTRUCTION REHABILITATION OF HOTEL WHARF AND HIGHWAY 11 ROAD RECONSTRUCTION**
IFB NO: PAG CIP-02-002

SUBJECT: **REVISED PRICE PROPOSAL FOR MARINE STRUCTURE WORKS**

Dear Mr. Respicio,

We appreciate the opportunity to bid for this project. We understand that SMCC is the sole bidder and that we have undergone sole source negotiation for a fair and reasonable works and price agreed by both parties.

SMCC understands that Port Authority of Guam (PAG) has limited funds for the complete Construction Rehabilitation of Hotel Wharf and that the PAG Members together with the Construction Manager (GHD,Inc) have gone into discussion of possibility of phase works to complete the project.

EXHIBIT "3"

We are pleased to submit our "Revised Price Proposal for Phase 1 Work" in the amount of **US Dollars Thirty Nine Million, Four Hundred Eighty Five Thousand, Six Hundred Seventy Two and No Cents ($39,485,672.00)** for the procurement of all steel piling works materials for Hotel Wharf (Sheet Piles, King Piles, Tie Rods, Deadman piles-Compression & Tension Piles and other associated miscellaneous steel connections), and installation of the piles for the south wall (including deadman piles) (see attached phase 1 & 2 proposed plan works) to accommodate available budget. Please see below inclusions and exclusions for proposed Phase 1 works.

Phase 1 Inclusions:

1. Mobilization for Phase 1 & 2 (as indicated in the attached schedule)
2. Insurance & Bonds for Phase 1 & 2 only
3. Erosion Control (for On-site)
4. Environmental Protection and Permit (for On-site)
5. Demolition (for On-site)
6. Marine Structures
    a. Procurement of all Steel Piling Materials(Sheet Piles, King Piles, Tie Rods, Deadman piles-Compression & Tension Piles and other associated miscellaneous steel connections)
    b. Sheet Piling works for South Wall Only (including deadman piles) (see attached phase 1 & 2 proposed plan)
7. Project Closeout for Phase 1 & 2

Phase 1 Exclusions:

1. Marine Structures (for Remaining Works)
    a. Sheet Piling works for (West & East Wall)
    b. On-Shore Bollard (Bollard 1~4) including Pile Foundation
    c. Bulkhead moorings (Cleats & Bollards)
    d. Cell Fenders
    e. Return Wall - West & East Bulkhead Conc. Works
    f. South Wall - Bulkhead Conc. Works

2. All of Off-Site and On-site Related Works except indicated above Inclusions Item 3~5(see below):
   a. Mobilization (for Phase 3)
   b. Insurance & Bond (for Phase 3)
   c. Erosion Control (for Off-Site)
   d. Environmental Protection and Permit (for Off-Site)
   e. Demolition
   f. Sanitary Sewer
   g. Storm Water System (On-Site & Off-Site)
   h. Water System (On-Site & Off-Site)
   i. Electrical & Communication (On-Site & Off-Site)
   j. Utility Building
   k. Fire System
   l. Water Storage Reservoir
   m. Temporary Traffic Control
   n. Sanitary Sewer Forced Main line
   o. Subgrade Preparation and Paving (On-Site Wharf)
   p. Subgrade Preparation (Off-Site Highway 11)
   q. Fencing
   r. Signing & Pavement Markers (For On-Site and Off-Site)
   s. Project Closeout (for remaining works)

Our revised price for phase 1 work includes the material price increase quoted by NUCOR (steel material supplier)amounting to **$413,969** due to the volatility of steel prices (see attached NUCOR quotation) and we have assumed the amount of **$424,335** for 4% Contingent on the steel quoted price in consideration of the timing of project award and placement of order. We have considered only the direct cost for the increase in price material.

Also included in this revised price is the increase in shipping cost rates, material handling and storage of these steel materials at site amounting to **$427,156** (See attached comparison in Piling Material attachment).

SMCC would like to complete the whole marine structures based on available funds of PAG of $40 Million. However, given the current market price and increase in fuel rates, that we are unable

to provide the said works for complete marine structures within the allotted budget. As such, we have come up with this revised pricing proposal which includes the procurement of all the steel pile materials in order to avoid further cost increases related to changes in market steel price and install the sheet piles required for the south wall (including deadman piles)(see attached Phase 1 & 2 Proposed plan sketch). This, however, will still require the next phase 2 works to install the west and east wall piles and other marine structures such as Bulkhead Concrete Works (East, West & South Wall), On-Shore Bollards, Bulkhead Moorings- Cleat & Bollard, and Cell Fenders. SMCC assumes at this time that phase 2 work will be awarded no later than One (1) Year from the start of Phase 1 work to avoid incurring additional costs and also to complete all the Marine Structures for this project.

SMCC assumes that phase 3 works (all of off-site works and remaining works specified in original bid) shall be awarded within a reasonable time to complete the overall project and within PAG's ability to secure additional funds for the remaining phase 3 works.

We sincerely appreciate this opportunity to work with PAG and look forward to your review of our proposal. Please do not hesitate to contact us for any clarification and further discussions.

Very Truly Yours,

Takeyuki Shiino
General Manager
Sumitomo Mitsui Construction Co., Ltd.
Guam Office

CONSTRUCTION REHABILITATION OF HOTEL WHARF AND HIGHWAY 11 ROADWAY RECONSTRUCTION

Bid Date: January 28, 2022

ITEM NO.	DESCRIPTION	TOTAL BID AMOUNT	SMCC BREAKDOWN OF COST		
			Phase 1	Phase 2	Phase 3 *(For Ref. Only)*
1.0	Mobilization	1,362,809.00	1,027,694.00		335,115.00
2.0	Insurance & Bonds	537,145.00	381,340.00		155,805.00
3.0	Erosion Control:				
3.1	On-site	30,162.00	30,162.00		
3.2	Off-site	37,118.00			37,118.00
4.0	Environmental Protection and Permit				
4.1	On-site	1,549,705.00	1,549,705.00		
4.2	Off-site	134,679.00			134,679.00
5.0	Demolition				
5.1	On-site	1,187,491.00	1,187,491.00		
5.2	Off-site	25,890.00			25,890.00
6.0	Marine Structures (Steel Materials & Piling	40,767,476.00	*33,921,253.00*	*6,846,223.00*	-
	All Steel Materials (Piles, King Piles, Tie Rod, etc) and Sheet Piling Works (South Wall)		33,921,253.00		
	Sheet Piling Works (West Wall & East Wall)			4,195,261.00	
	On-Shore Bollard (Bollard 1,2,3, & 4) incl. Pile Fdn			287,074.00	
	Bulkead Moorings - Cleat & Bollard			202,675.00	
	Fenders			579,664.00	
	Return Wall - West - Bulkhead Conc. Works			267,619.00	
	Return Wall - East - Bulkhead Conc. Works			259,629.00	
	South Wall - Bulkhead Conc. Works			1,054,301.00	
7.0	Sanitary Sewer	381,492.00			381,492.00
8.0	Stormwater System				-
8.1	On-site	1,111,758.00			1,111,758.00
8.2	Off-site	317,528.00			317,528.00
9.0	Water System				-
9.1	On-site	431,660.00			431,660.00
9.2	Off-site	614,937.00			614,937.00
10.0	Electrical & Communication				-
10.1	On-site	1,119,653.00			1,119,653.00
10.2	Off-site	331,710.00			331,710.00
11.0	Utility Building	416,306.00			416,306.00
12.0	Fire System	867,823.00			867,823.00
13.0	Water Storage Reservoir	2,745,734.00			2,745,734.00
14.0	Temporary Traffic Control	54,501.00			54,501.00
15.0	Sanitary Sewer Forced Main	145,431.00			145,431.00
16.0	Subgrade Preparation and Paving (on-site	3,259,111.00			3,259,111.00
17.0	Subgrade Preparation (off-site Highway 11)	162,077.00			162,077.00
18.0	Paving (Off-Site Highway 11)	1,475,806.00			1,475,806.00
19.0	Fencing	407,044.00			407,044.00
20.0	Signing & Pavement Markers				-
20.1	On-site	10,264.00			10,264.00
20.2	Off-site	55,506.00			55,506.00
21.0	Project Closeout	142,249.00	122,567.00		19,682.00
	TOTAL:	$ 59,683,065.00	$ 38,220,212.00	$ 6,846,223.00	$ 14,616,630.00
	Original Bid Price		$ 59,683,065.00		

	Summary		
	Phase 1	Phase 2	Phase 3 *(For Reference Only)*
Breakdown from Above	$ 38,220,212.00	$ 6,846,223.00	$ 14,616,630.00
Increase in Pile Material Manufacturer Quoted Price	$ 413,969.00		
Contingent Cost (assumed) for Increase in Material Price at placement of Order	$ 424,335.00		
Increase in Shipping Cost Rates, Material Handling of Steel , Storage at site	$ 427,156.00		
Phase 1 & 2 (Total Amount)	$ 39,485,672.00	$ 6,846,223.00	
Phase 3 (Future works) for Reference only			$ 14,616,630.00

(above Phase 3 is for reference only of remaining amount works subject to material & subprice update at time of award)