



**GUAM PUBLIC UTILITIES COMMISSION
SPECIAL MEETING
November 29, 2022
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA**

MINUTES

The Guam Public Utilities Commission ("PUC") conducted a special meeting commencing at 6:30 p.m. on November 29, 2022, pursuant to due and lawful notice. **Commissioners Jeffrey C. Johnson, Peter Montinola, Joseph McDonald, Doris Flores-Brooks, and Pedro Guerrero** were in attendance. The following matters were considered at the meeting under the agenda included as *Attachment "A"* hereto.

1. Approval of Minutes of September 22 and October 27, 2022.

The Chairperson announced that the first item of business on the agenda was the approval of the minutes of September 22, 2022. Commissioner Montinola moved to approve the minutes of the September 22, 2022 meeting subject to corrections, which motion was seconded by Commissioner McDonald. The motion passed unanimously. The Chairperson announced that the next item was the approval of the minutes of October 27, 2022. Commissioner Montinola moved to approve the minutes of the October 27, 2022 meeting subject to corrections, which motion was seconded by Commissioner McDonald. The motion to approve the minutes of October 27, 2022 was passed unanimously.

2. Guam Solid Waste Authority.

The Chairperson announced that the next item of business on the agenda was Guam Solid Waste Authority ("GSWA") Docket 23-02, Petition for Approval of the Award to Pacific Human Resources Services ("PHRS") for Temporary Staffing Services, ALJ Report, and Proposed Order. ALJ Frederick Horecky stated that GSWA filed an amended Petition supported by GSWA Board of Directors Resolution Number 2023-005, regarding the contract for temporary staffing services with PHRS, which is a company that connects jobs seekers to business, for temporary or contract work, as employees under PHRS. Furthermore, that these temporary employees are essential to the daily operations of GSWA and have been since October of 2009, when the federal receiver at the time, Gershman Brickner & Bratton entered a written contract with PHRS to supplement the agency staff, and fill the positions of sanitation workers, heavy equipment operators and other jobs.

ALJ Horecky further stated that GSWA issued its invitation for bid for temporary staffing services on June 30, 2022 and that there were only two bidders, with PHRS being

determined the lowest responsive and responsible bidder. Based on PHRS' bid, the board of directors for GSWA determined that the contract award should be for a term of three (3) years beginning October 1, 2022 and ending on September 30, 2025; that subject to the availability of funds, the contract will be paid from GSWA operation funds at a cost of \$2,002,000 to be distributed as follows: 1st year the total of \$1.1 million, 2nd year the total of \$451,000, and 3rd year the total of \$451,000.

ALJ Horecky concluded that due to the physically laborious nature of the work and GSWA's previous attempts to recruit for these positions through the Government of Guam recruitment process, which has proved inefficient and of little success, the use of a temporary staffing agency is necessary for GSWA and also beneficial to ratepayers, as this contract is GSWA's good faith effort at reducing costs.

ALJ Horecky recommended that the PUC approve the contract. GSWA GM Irv Slike stated that due to many trucks being under intense maintenance, GSWA was down to three (3) trucks and considered doing double shifts for four to five days with the possibility of collection on Saturdays; that until the complement of 10 working trucks is available, a temporary (staffing) contract is necessary.

A discussion ensued between the Commissioners Montinola, Flores-Brooks, GSWA GM Slike, PHRS' Vice President Vincent Leon Guerrero and Assistant Attorney General Sandra Miller concerning how many trucks are currently operational, current shift work, the turnaround rate for PHRS employees versus the GovGuam employees, current employees in both PHRS and GSWA, information on wages, differences in benefits and wages for PHRS employees and Government of Guam workers, PHRS' role in administrative action and disciplinary measures, and the contract period. Commissioner Montinola moved to approve the draft order granting the petition which motion was seconded by Commissioner Guerrero, and the motion passed unanimously.

3. Guam Power Authority.

The Chairperson announced that the next item of business on the agenda was Guam Power Authority ("GPA") Docket 23-02, Petition for Approval of Engineering Procurement and Construction Management ("EPCM") Contract with Stanley Consultants, ALJ Report, and Proposed Order. ALJ Alcantara stated that the EPCM has been long involved with the new powerplant project from the beginning. The contract's work has included preparing for procurement for the new powerplant, assistance with the land acquisition, rezoning efforts among other activities. ALJ Alcantara stated that back in June of 2021, GPA petitioned the PUC because its contract was expiring and up for approval to procure a new EPCM contractor that would provide the same consulting and engineering services related to construction and the commissioning of the new powerplant and develop procurement for the infrastructure required for LNG at the new powerplant. The PUC approved GPA's request and then GPA issued an RFP, which solicited proposals for this new EPCM contractor and that according to GPA, the RFP was cancelled because of a lack of open competition.

ALJ Alcantara continued that the RFP was issued in March of this year and thereafter GPA's procurement team ranked Stanley Consultants highest out of the four proposals that were submitted. The proposed contract submitted by GPA made it clear that this is a task-based contract where GPA will call upon the task and negotiate a price, scope, and schedule with Stanley Consultants. Stanley will also provide technical review of the powerplant and pipeline documents which include construction drawings, equipment and technical specifications, design criteria and construction plans.

During the construction phase of the new powerplant, Stanley will provide regular site inspections to confirm project progress and perform certain contract obligations. Stanley will also monitor the construction of the pipelines and will manage the project through weekly and monthly meetings. Stanley is also primarily responsible for the provision of engineering and design services, procuring contract and suppliers and contractors. Stanley will manage the construction phase of the project serving as GPA's construction manager inasmuch as Stanley will supervise and coordinate all the suppliers, construction contractors and other contractors doing work at the project.

With regard to the contract, ALJ Alcantara reported that it is for an initial three-year term with an option to extend the contract for additional two 2-year terms; that the contract contains a termination provision that allows GPA to terminate the contract for convenience; that the contract contains a standard provision which requires Stanley to indemnify and hold GPA harmless from any claim, lawsuit, or liability related to the services; that the contract also contains a prohibition of the assignment of the contract without GPA's consent; and that it requires Stanley to carry appropriate insurance and licenses to do its work in Guam.

GPA estimates the budget for the contract as follows: About \$2.2 million for fiscal year 2023, about \$2.8 million for fiscal year 2024, and about \$1 million for fiscal year 2025, for a total cost of about \$6.2 million for the initial three-year term of the contract. Specifically, ALJ Alcantara stated the work contemplated under the contract will include program management which ranges from \$157,000 to \$222,000 per year, on-site project management presence which ranges from \$217,000 to \$723,000 per year, technical reviews from \$116,000 to \$278,000 per year, and assistance from other consultants in its team for procurement support, ULSD consulting, environmental and civil work, which ranges from \$27,000 to about \$169,000 per year.

ALJ Alcantara further stated that GPA has indicated that this contract will be funded internally through its revenues.

ALJ Alcantara found that the subject contract is reasonable and necessary, and that based on prior history with EPCM, these types of contractors are vital to successful commissioning of the new powerplant to ensure that the powerplant is safe and efficient, and he recommended that the PUC approve the EPCM contract with Stanley consultants at the price indicated by GPA.

GPA GM John Benavente stated that the Ukudu powerplant is very strategic to reducing cost; that when the new powerplant is completed, the LEAC is going to go down to about fifty percent of what it is today; and, that GPA did bid out the powerplant and has very specific specification requirements. GPA GM Benavente then introduced management support Jennifer Sablan, and stated that due to lack of engineers, this EPCM contract will provide the necessary engineers to “handle the complexity” of current GPA projects.

A discussion ensued between Commissioners Johnson, Montinola, Flores-Brooks, Guerrero and GPA GM Benavente concerning GPA’s progress with the new powerplant and pipelines, transportation and storage of materials, additional clarity on the consulting contract, safety and protocol measures, and fuel information.

Commissioner Guerrero moved to approve the draft order granting the petition, which motion was seconded by Commissioner Montinola, and the motion passed unanimously.

- **GPA Docket No. 23-03**

The Chairperson announced that the next item of business on the agenda was GPA Docket 23-03, Petition for Approval of Property Insurance Contract Extension with DB Insurance Company, PUC Counsel Report, and Proposed Order. PUC Legal Counsel Anthony Camacho stated that GPA is asking the PUC to approve the second one-year extension of GPA’s contract with DB Insurance Company, through its local agent, AM Insurance, and gave a summary of the previous 2018 contract, when the PUC approved the initial term of the contract for three (3) years for \$4.3 million per year with the possibility of two 1-year extensions.

PUC Counsel Camacho stated that the PUC approved the first extension on October 28, 2021 for \$5.7 million, which expired on November 1, 2022; that GPA is now requesting the second 1-year extension, but for \$7 million; that while the PUC can exercise its power to deny the petition due to GPA filing the petition for extension late and after the expiration, that it was in the best interest to approve this request for extension so GPA has insurance coverage and to protect the ratepayers from assuming any costs should a catastrophic incident occur during the time GPA is without coverage, and he recommended that the PUC approve GPA’s request for contract extension.

GPA GM Benavente stated that the untimely petition was due to worldwide insurance issues and events and negotiations. A discussion ensued between the Chairperson, PUC Counsel Camacho, Commissioners Flores-Brooks, Montinola, McDonald, GPA GM Benavente and Representative Kim concerning the specific amount for approval, contingency percentage rate, increase due to increased inventory of GPA assets and inflation, the CCU, next year’s IFB and the need for underwriters.

Commissioner Guerrero moved to approve the draft order approving the contract extension, which motion was seconded by Commissioner Montinola, and the motion passed unanimously.

4. Guam Waterworks Authority.

The Chairperson announced that the next item of business on the agenda was Guam Waterworks Authority ("GWA") Docket 23-01, Petition for Approval of Procurement for Rehabilitation of the Ugum Surface Water Treatment Plant, ALJ Report, and Proposed Order. ALJ Horecky stated that the Ugum Water Treatment Plant produces surface water and serves Guam's southern water system. The Ugum plant treats the Ugum river water and then pumps the river's water into storage reservoirs to serve the island's southern reservoirs. The plant was originally constructed in 1991 and retrofitted and modernized from 2007 to 2010. Today, the Ugum plant operates a membrane filtration treatment system. Based upon GWA's master plan from 2015 and three assessments by professional engineering firms; that includes Brown and Caldwell in 2015, Dupont in 2021, and most recently Duenas-Camacho & Associates, DCA, in 2022, the plant's present condition limits its capability, operability, and reliability.

GWA seeks PUC approval to procure construction, services, and material in support of the needed Ugum rehabilitation. In support of this petition, GWA has provided a detailed estimate of the cost for the project and the services needed to be performed. The total cost estimated is over \$4.626 million. As to the need and justification for the procurement, DCA conducted an assessment of the Ugum plant from June to August 2021. Based upon its assessment, DCA prepared a scope of work and a cost estimate of the needed capital improvements to the Ugum plant and the raw river intake facility. The DCA report includes findings of failing equipment and equipment beyond repair requiring immediate replacement. The Ugum rehabilitation services include rehabilitation and upgrades to the raw water pumps at the river intake, rehabilitation and upgrades to the settling basins, its membranes, pipe galleries, generator room backwash, neutralization tanks, sludge tank, thickening system, operations in chemical building, and administration building.

ALJ Horecky reported that the Guam CCU has concluded that the Ugum plant is, "A critical water source which provides water to much of Southern Guam. The proposed rehabilitation is necessary and urgent to improve plant capacity, treatment performance, and provide reliable operation of the water treatment plant." Further, the CCU did pass GWA Resolution 03-FY2023 which found that the rehabilitation of the Ugum Surface Water Treatment Plant is necessary to ensure the efficient operation and continued provision of safe drinking water to GWA customers in Southern Guam.

ALJ Horecky concluded that based upon the documentation of the record, GWA has justified the issuance of an IFB to procure construction services and supplies to rehabilitate the Ugum plant, and he recommended that the PUC approve the order approving GWA's petition for approval of procurement for rehabilitation of the Ugum surface water treatment plant.

GWA GM Miguel Bordallo stated that the Ugum Surface Water Treatment Plant is in need of significant rehabilitation and replacement of major equipment and components throughout the plant for all the processes that occur. A discussion ensued between the Commissioner Flores-Brooks and GWA GM Bordallo regarding life expectancy of new equipment and the plant, and funding through bonds.

Commissioner Montinola moved to approve the GWA 23-01 petition, which motion was seconded by Commissioner Guerrero, and the motion passed unanimously.

- **GWA Docket No. 23-02**

The Chairperson announced that the next item of business on the agenda was GWA Docket 23-02, Petition for Approval of Contract Extension for Wastewater Chemicals for the Water Treatment Plants, ALJ Report, and Proposed Order. ALJ Alcantara stated that GWA is petitioning PUC's approval to extend its contracts for wastewater chemicals, in particular its contract with JMI Edison for the purchase of anionic polymer and cationic polymer; and its contract with Total Chemical for the purchase of organic coagulant aluminum chlorohydrate or ECH.

ALJ Alcantara stated that back in 2019, GWA issued an invitation for bid soliciting these chemicals to operate its wastewater treatment plant. Subsequently, the PUC authorized GWA to enter into these contracts with JMI Edison and with Total Chemical. Initially, the JMI Edison contract was approved for a three-year term at a cost not to exceed \$1,064,052.53 and the Total Chemical for another three-year term at a cost not to exceed about \$2.6 million; that in both contracts, there is an extension provision that provides for two 1-year additional extension subject to PUC approval.

In its petition, GWA is requesting authorization to exercise a year-long option for both contracts since the initial three-year term will expire at the end of December; furthermore, that GWA seeks approval of the contract extension because of its continued need to purchase these chemicals for its daily operation and maintenance of the Northern District, Hagåtña, and Agat-Santa Rita wastewater treatment plants and because GWA is required to use these chemically-enhanced treatments at both the Northern District Wastewater Treatment Plant and the Hagåtña Wastewater Treatment Plant to remain in compliance with the November 11, 2011 court order issued in federal court.

ALJ Alcantara further stated that GWA submits that the cost for the additional year for the JMI Edison contract is estimated at \$392,000.00 and that the cost for the additional year with Total Chemical is estimated at \$1.3 million; that GWA also indicated to ALJ Alcantara that the cost for the contracts authorized in GWA Docket 19-11, has not yet been exceeded; that these costs particularly include about \$225,000 for a year's supply of cationic polymer, about \$1.3 million per year for DCH, and about \$137,000.00 per year for the anionic polymer; that as indicated in the report, these chemicals are widely used for the wastewater treatment and are absolutely indispensable and required for GWA's daily

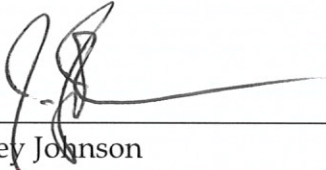
wastewater operations and to keep GWA in compliance with federal laws, permits, and guidelines.

ALJ Alcantara concluded by recommending the PUC approve the year-long contract extensions with JMI Edison and with Total Chemical for the amounts indicated in the report.

GWA GM Miguel Bordallo reiterated GWA's need for approval in this docket. A discussion ensued between ALJ Alcantara, Chairperson Johnson, Commissioner Flores-Brooks, Montinola, GWA Counsel Theresa Rojas, and GWA GM Bordallo regarding costs, environmental impact, chemical regulations, the new Northern Wastewater Treatment Plant, the new biological oxidation process, GWA's participation in COVID wastewater surveillance and future surveillance on other biological hazards.

Commissioner Montinola expressed gratitude to GWA for keeping Guam's water up to standards and moved to approve the GWA 23-02 petition, which motion was seconded by Commissioner McDonald. The motion passed unanimously.

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 special business meeting, commencing at 6:30 p.m. on November 29, 2022, Suite 703, GCIC Building, 414 W. Soledad Ave., Hagatna.

The following business will be transacted:

Agenda

1. **Call to Order**
2. **Approval of Minutes of September 22, 2022, and October 27, 2022**
3. **Guam Solid Waste Authority**
 - **GSWA Docket 23-02, Petition for Approval of the Award to Pacific Human Resource Services Inc. for Temporary Staffing Services, ALJ Report, and Proposed Order**
4. **Guam Power Authority**
 - **GPA Docket 23-02: Petition for Approval of Engineering, Procurement and Construction Management (EPCM) Contract with Stanley Consultants, Inc., ALJ Report, and Proposed Order**
 - **GPA Docket 23-03, Petition for Approval of Property Insurance Contract Extension with DB Insurance Co. Ltd., PUC Counsel Report, and Proposed Order**
5. **Guam Waterworks Authority**
 - **GWA Docket 23-01, Petition for Approval of Procurement for Rehabilitation of Ugum Surface Water Treatment Plant, ALJ Report, and Proposed Order**
 - **GWA Docket 23-02, Petition for Approval of Contract Extension for Wastewater Chemicals for the Water Treatment Plants, ALJ Report, and Proposed Order**
6. **Adjournment**

Further information about the meeting may be obtained from the PUC's Administrator Lou Palomo at 671-472-1907. 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.

GSWA Docket 23-02

ALJ REPORT

This matter came before the Guam Public Utilities Commission [PUC] pursuant to the Petition for Review and Approval of the Award and Contract to Pacific Human Resources Services [“PHRS”] for Temporary Staffing Services.¹ GSWA’s initial Petition was filed on October 14, 2022 and was supported by GSWA Board of Directors Resolution No. 2022-013. However, GSWA filed an Amended Petition herein on November 17, 2022.² The Amended Petition is now supported by GSWA Board of Directors Resolution No. 2023-005.³ GSWA Board of Directors Resolution No. 2023-005 supersedes GSWA Board of Directors Resolution No. 2022-013.⁴

The Administrative Law Judge [“ALJ”] adopts the BACKGROUND Section in GSWA’s Petition for Contract Review and Approval as follows:

⁴ GSWA Amended Petition, GSWA Docket 23-02 dated November 17, 2022, at p. 3.

“PHRS is a private company that connects job seekers to businesses for temporary or contract work. On or about October 8, 2009, Gershman Brickner & Bratton Inc. (GBB), in its capacity as the federal Receiver for GSWA, entered into a written contract with PHRS to provide temporary workers to supplement the agency’s staff and fill the positions of Sanitation Workers, Equipment Operators, Heavy Equipment Mechanic Leader, Administrative Assistants, and Customer Service Representatives.

Although the temporary workers filled roles at GSWA and did their work at and on behalf of the agency, they were not GSWA employees. Rather, they remained employees of PHRS and did not acquire any of the benefits or civil service status afforded to employees of the government of Guam. Nevertheless, the positions filled by the temporary worker were, and still are, essential to the day-to-day operations of GSWA. Over the years since 2009, the contract with PHRS was extended and renewed with the approval of the District Court of Guam. The latest renewal expired on September 30, 2022.

Earlier this summer on June 20, 2022, and prior to the contract expiration date of September 30, GSWA issued Invitation to Bid (ITB) No. GSWA-005-22 for Temporary Staffing Services. Although six prospective bidders expressed interest in the solicitation, only two bids were received by the submission deadline of August 1, 2022. The two bidders were PHRS and Allied Human Resources.

The bids were publicly opened on the same date of August 1, and PHRS was determined to be the lowest responsive and responsible bidder. On September 14, 2022, GSWA issued a Notice of Intent to Award to PHRS.

Based upon PHRS’s bid, GSWA has determined that the contract award shall be for a term of three (3) years beginning October 1, 2022 and ending on September 30, 2025. Subject to the availability of funds, the contract shall be paid the GSWA Operations Fund at a cost of \$2,002,000.00 broken down as follows:

Year 1: \$1,100,000.00;
Year 2: \$451,000.00; and
Year 3: \$451,00.00.

On November 17, 2022, the award was approved by the GSWA Board of Directors in its Resolution No. 2023-005.... Resolution No. 2023-005 amends and supersedes Resolution No. 2022-013 which was approved by the Board on or about September 22, 2022, and which provided for a more expensive contract with a longer term and scope of work.

Since the opening of the bids on August 1, and the giving of a notice of intent to award the contract to PHRS on September 14, 2022, no procurement protest has been filed and the 14-day period for under 5 GCA § 5425(a) has long since passed.”⁵

DISCUSSION

1. GSWA’s Contract Review Protocol

GSWA indicates that the cost of the PHRS Contract will be approximately \$2M for a term of three years.⁶ All professional service contracts, or any other contract or obligation, in excess of \$750,000.00, require prior PUC approval.⁷ This proposed award and contract must be reviewed by the PUC.

2. Project Description and Scope of Services

⁵ Id. at pgs. 2-3.

⁶ GSWA Amended Petition at p. 2.

⁷ 12 GCA §12105 and the Contract Review Protocol for the Guam Solid Waste Authority, GSWA Docket 19-02 & Administrative Docket, par. 1(d) and par. 1(e).

The IFB provides the following Scope of Services:

“The Contractor shall be responsible for performing all work as outlined in the specifications.

1. Provide GSWA with Temporary Staffing Services which will include all employee recruitment, retention, processing and releasing services for the term of the contract, including, at a minimum:
 - a. Advertising, recruiting, and processing employees;
 - Specifications for each position is attached as Exhibit A – Job Descriptions
 - b. Background screening, drug testing, and other applicable evaluation;
 - c. Comply with the requirements of local and Federal Drug-Free workplace;
 - d. Comply with federal and local laws as an equal opportunity employer;
 - e. Pay employees and administer and maintain all employment and payroll records, payroll processing, tax withholding, worker’s compensation, remittance of payroll and taxes, including the provision for the distribution of payroll time-sheets and checks;
 - f. Administration, maintenance of, and compliance with all employee eligibility verification;
2. Bidder must have the ability to provide the services required:
 - a. Assign sufficient personnel to meet GSWA needs;
 - Estimated No. of Personnel for Each Category:

Position Title	Job Site	Estimated No. of Personnel Needed
Sanitation	GSWA Office	27

Worker	Residential Transfer Station	2
Equipment Operator	GSWA Main Office	5
Customer Service Representative	GSWA Main Office	2
Administrative Assistant	GSWA Main Office	2
Buyer	GSWA Main Office	1

- b. Maintain the flexibility to expand, reduce, or shift staffing categories;
- c. Require employees to comply with GSWA policies and procedures;
- d. Take disciplinary actions involving any misconduct of any employee;
- e. Remit invoices to GSWA for services rendered; and
- f. Collect, maintain, retain, and make available all documentation with providing the services.”⁸

3. The “Need” for the PHRS Contract

On April 12, 2022, GSWA issued a Determination of Need Re: Temporary Staffing Services. Therein GSWA stated: “GSWA has acquired the services of a temporary staffing agency since 2009 to fulfill essential job positions..... Due to the nature of the work, GSWA experiences high employment turnover rates for the laborious positions and finds the constant need to replace personnel. GSWA has attempted to recruit for

⁸ PROCUREMENT RECORD, Invitation for Bid IFB No. GSWA-005-12, Temporary Staffing Services, filed by GSWA with the PUC on October 14, 2022, at p. 35.

these positions through the Government of Guam recruitment process which has proven to be inefficient and has found little success. The use of a temporary staffing agency is necessary for GSWA Operations.”⁹

In its initial Petition, GSWA contended that the temporary services procured by the contract with PHRS are essential and critical to the day-to-day operations of GSWA: “most especially, the positions of Sanitation Worker and Equipment Operator are physically laborious and hazardous to health. The nature of the work makes it difficult to recruit and retain permanent employees.”¹⁰ GSWA concludes that “the contract with PHRS seeks services that are essential to the operation of GSWA and in turn, critical to maintaining the health, safety and welfare of the public.”¹¹

In Its IFB, GSWA originally sought to have the Bidder provide sanitation workers, equipment operators, customer service representatives, administrative assistants, and a buyer.¹² However, in its Amended Petition, GSWA indicates that “the only positions covered will be the employment of temporary Sanitation Workers and Equipment Operators. These particular positions are especially critical due to the laborious and hazardous nature of the work which makes it difficult to retain permanent employees.”¹³

⁹ PROCUREMENT RECORD, Invitation for Bid IFB No. GSWA-005-12, Temporary Staffing Services, filed by GSWA with the PUC on October 14, 2022, at p. 396.

¹⁰ GSWA Petition at p. 3.

¹¹ Id. at p. 4.

¹² PROCUREMENT RECORD, Invitation for Bid IFB No. GSWA-005-12, Temporary Staffing Services, filed by GSWA with the PUC on October 14, 2022, at p. 35.

¹³ GSWA Amended Petition at p. 4.

In a letter dated February 23, 2022 from GSWA to the Director, Department of Administration, GSWA indicated that it has been unsuccessful in recruiting for important positions such as Sanitation Worker and Equipment Operator. As of February 22, 2022, GSWA had 33 current open temporary positions; however, based upon qualified applications received, GSWA would potentially only be able to meet one-fifth of its labor needs.¹⁴ A true and correct copy of the letter from GSWA to the Director of Administration is attached hereto as Exhibit "1".

GSWA has demonstrated a pressing and urgent need to contract with PHRS for the hiring of Sanitation workers and Heavy Equipment Operators.

4. Beneficial Improvements to the PHRS Contract

After it had filed its initial Petition, GSWA Management decided to make several substantial changes to the PHRS Contract. In its initial Petition, GSWA anticipated that the cost of the PHRS Contract would be \$2M for an initial three-year term, plus an additional \$4M for two additional 1-year options (a total cost of \$6M).¹⁵ GSWA has now shortened the term of the contract to three years rather than five years.¹⁶ The cost of the three (3) year contract will be roughly \$2M, a reduction of \$4M in cost.¹⁷

Furthermore, effective January 2, 2023, the positions of Customer Service Representatives and other administrative employees shall be ended and removed from the contract; thereafter the positions covered by the contract shall be limited for the

¹⁴ PROCUREMENT RECORD, Invitation for Bid IFB No. GSWA-005-12, Temporary Staffing Services, filed by GSWA with the PUC on October 14, 2022, at pgs. 219-220.

¹⁵ GSWA Petition at p. 2.

¹⁶ GSWA Board Resolution No. 2023-005, Relative to Amending the Petition to the Public Utilities Commission (PUC) for Approval of the Award to Pacific Human Resource Services Inc. for Temporary Staffing Services, adopted and approved on November 17, 2022, at p. .

¹⁷ Id., at p. 1.

remainder of the term to the employment of temporary Sanitation Workers and Equipment Operators.¹⁸

The GSWA Board of Directors approved the contract award to PHRS for a three-year term beginning October 1, 2022 and ending September 30, 2025. The Board authorized GSWA Management to petition the PUC for review and approval of the award to PHRS Inc. for Temporary Staffing Services.¹⁹ The new proposed contract decreases the cost, shortens the term, and reduces the number of employees that PHRS will hire. The cost-saving measures approved by the Board are in the interest of GSWA and the ratepayers.

5. GSWA's Authorization to Enter the Contract

The present law seems to indicate a preference that GSWA transition away from “non-Government of Guam” employees hired through contract no later than three years from the date of “turnover”, which was April of 2019.²⁰

However, the “Transition” provisions in 10 GCA §51A118 refer to the retention or hiring by GSWA of non-government employees through employment contracts. Here GSWA is not hiring non-government employees through contracts but contracting with PHRS to hire such employees and provide employment services. The provision refers to the transition of contracts from the receivership to the autonomous GSWA, and how such contracts will be dealt with. However, in this matter the GSWA Board now plans to enter a new contract for the provision of employment services. PHRS will hire the employees, not GSWA. Therefore, the Transition provisions do not appear to be applicable.

¹⁸ Id. at p. 2.

¹⁹ Id.

²⁰ See 10 GCA §51A118.

In accordance with 10 GCA §51A104(10), GSWA shall have and exercise the power to “control, operate, improve, equip, maintain, repair, review, replace, reconstruct, alter and insure that the solid waste management system is compliant with any applicable zoning, building, environmental and health regulations of Guam.”²¹ Furthermore, GSWA has the power to enter into contracts and execute all instruments “necessary or convenient in the exercise of its powers.”²² GSWA’s contract with PHRS is based upon “necessity.” This contract is “necessary.” Without the contract, GSWA has demonstrated that it would likely be unable to carry out its functions due to an inability to hire Sanitation Workers and Heavy Equipment Operators. The contract is justified under GSWA’s contract powers and the doctrine of necessity.

The ALJ notes that the Director of Administration approved the Temporary Staffing Services Contract on April 13, 2022. A copy of the Director’s letter is attached hereto as Exhibit “2”.

RECOMMENDATION AND CONCLUSION

Based upon the documentation provided, the ALJ finds that the PHRS contract is reasonable and necessary to enable GSWA to maintain its trash collection services. The positions of Sanitation Worker and Equipment Operator are essential and critical for GSWA’s operations. GSWA has made prudent efforts to reduce the term and cost of this contract, as well as limiting the contract to the two categories of employees (Sanitation Workers and Equipment Operators). The ALJ recommends that the PUC approve the award and contract to PHRS for Temporary Staffing Services and authorize

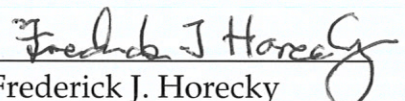
²¹ 10 GCA §51A104(10).

²² 10 GCA §51A104(5).

GSWA to expend for such contract the sum of \$2,002,000.00 in accordance with the Year 1, 2, and 3 breakdowns indicated in GSWA's Petition.

A Proposed Order is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 21st day of November 2022.


Frederick J. Horecky
Chief Administrative Law Judge



GUAM SOLID WASTE AUTHORITY

LOURDES A. LEON GUERRERO
IRVIN SLIKE
Governor of Guam
General Manager

JOSHUA F. TENORIO
Lt. Governor of Guam



February 23, 2022

To: Director, Department of Administration
From: Assistant General Manager, Guam Solid Waste Authority
Subject: Request for Availability of Temporary Staffing Services

Hafa Adai Director Birn,

Since 2009, GSWA has acquired the services of a temporary staffing agency to fulfill essential job positions. Due to the nature of our work, GSWA experiences high employment turnover rates for the laborious positions and finds the constant need to replace personnel. In 2021, turnover rate for Sanitation Workers was at 38%.

Additionally, GSWA has found little success in its attempts to recruit for these important positions through the current recruitment process which has proven to be inefficient. This, if continued, will be a detriment to operations.

On October 25, 2021, GSWA opened and advertised for a Heavy Equipment Mechanic Leader and, to date, has not received any applications. On January 2, 2022, GSWA had opened several job announcements to create a pool of applicants for the positions of Sanitation Worker, Equipment Operator, Heavy Equipment Mechanic Leader, Customer Service Representative, and Administrative Assistant.

The job announcements were advertised on the GSWA Website and in Newspapers of public circulation such as the Pacific Daily News and Guam Daily Post on December 3, 2021, January 2, 2022, and February 25, 2022.

As of February 22, 2022, GSWA has received the following responses to the job announcements which we believe to be an insufficient amount to replace the current 33 temporary positions.

Job Title	Applications Received	Qualified Applicants	Unqualified Applicants	Incomplete Submissions
Sanitation Worker	4	2	2	0
Equipment Operator	5	2	2	1
Heavy Equipment Mechanic Leader	0	0	0	0
Administrative Assistant	11	4	4	3
Customer Service Representative	13	7	4	2

We will seek to hire the seven identified qualified candidates; however, potentially only a fifth of our labor needs would have been met in 90 days of advertising and more time with selection.

546 N. MARINE CORPS DRIVE, TAMUNING, GU 96913 * TEL: 671-646-3111 | FAX: 671-649-3777
<https://www.guamsolidwasteauthority.com/>

EXHIBIT "I"



GUAM SOLID WASTE AUTHORITY

LOURDES A. LEON GUERRERO
IRVIN SLIKE
Governor of Guam
General Manager

JOSHUA F. TENORIO
Lt Governor of Guam



With the current contract ending in May 2022 and future projects in mind, GSWA plans to solicit proposals from qualified, responsible, and responsive firms to provide GSWA with the following services:

1. Provide employees based on the specific skill sets required when needed:
 - a. Knowledge of administrative and clerical procedures
 - b. Knowledge of systems such as Microsoft Word and Excel spreadsheets
 - c. Knowledge of business and management principles involved in strategic planning, resource allocation, human resource modeling, leadership technique, production methods and coordination of people and resources
 - d. Proficient in stenography and transcription
 - e. Process contract and Personnel Action Forms, maintain and audit employee time work/time missed records, analyze payroll data and prepare journal entries
 - f. Ability to design forms
 - g. Ability to manage files and records
2. Provide Staffing Services for temporary employees
 - a. Accommodate payroll services
 - i. Employer of record
 - ii. Time cards
 - iii. Payment to employee
 - iv. Tax withholding
 - v. Worker's compensation
 - vi. And all other activities associated with employee management to comply with local and Federal laws
3. Provide human resource and business consulting services
 - a. Conducting outreach and orientation in the community and each district
 - b. Facilitate meetings and strategic planning
 - c. Provide additional services as required

Therefore, pursuant to 5GCA § 5249 (e) and 2 GAR, Div. 4 § 3114 (c), GSWA is hereby submitting a reasonable inquiry on the availability of personnel and/or resources to perform the services required under the proposed contract.

We kindly request your expeditious review and response. If there is any additional information that GSWA needs to provide to assist with our request, please do not hesitate to contact me at 671-646-3239 or email at irvin.slike@gswa.guam.gov. We look forward to hearing from you soon.

Sincerely,

Irvin Slike
GSWA General Manager



EDWARD M. BIRN
Director (Direktot)
BERNADINE C. GINES
Deputy Director (Sigundo Direktot)

**DEPARTMENT OF
ADMINISTRATION**
DIPATTAMENTON ATMENESTRASION
DIRECTOR'S OFFICE
(Ufisinan Direktot)
Telephone (Telfon) (671) 475-1101/1250



LOURDES A. LEON GUERRERO
Governor (Maga'ähga)
JOSHUA F. TENORIO
Lt. Governor (Sigundo Maga'ähhi)

April 13, 2022

Memorandum

To: General Manager, Guam Solid Waste Authority
From: Director of Administration
Subject: Extension of Temporary Staffing Services Contract

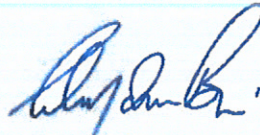
Hafa Adai Mr. Slike:

Thank you for your memorandum of March 31, 2022.

Department of Administration has no objection to an extension of the current contract with the assurance that GSWA will follow procurement statutes and regulations.

Since this matter has been an issue reported in the Single Audit, GSWA should respond to the Finding accordingly, with this correspondence.

Si Yu'os Ma'ase!



EDWARD M. BIRN

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

The Application of the Guam Solid Waste
Authority for Review and Approval of the
Award and Contract to Pacific Human
Resources Services for Temporary Staffing
Services

GSWA Docket 23-02

ORDER



INTRODUCTION

This matter came before the Guam Public Utilities Commission [PUC] pursuant to the Petition for Review and Approval of the Award and Contract to Pacific Human Resources Services [“PHRS”] for Temporary Staffing Services.¹ GSWA’s initial Petition was filed on October 14, 2022 and was supported by GSWA Board of Directors Resolution No. 2022-013. However, GSWA filed an Amended Petition herein on November 17, 2022.² The Amended Petition is now supported by GSWA Board of Directors Resolution No. 2023-005.³ GSWA Board of Directors Resolution No. 2023-005 supersedes GSWA Board of Directors Resolution No. 2022-013.⁴

BACKGROUND

The PUC adopts the BACKGROUND Section in GSWA’s Petition for Contract Review and Approval as follows:

¹ GSWA Petition, GSWA Docket 23-02, dated October 14, 2022.

² GSWA Amended Petition, GSWA Docket 23-02, dated November 17, 2022.

³ GSWA Board of Directors Resolution No. 2023-005, Relative to Amending the Petition to the Public Utilities Commission (PUC) for Approval of the Award to Pacific Human Resource Services Inc. for Temporary Staffing Services, adopted and approved on November 17, 2022.

⁴ GSWA Amended Petition, GSWA Docket 23-02 dated November 17, 2022, at p. 3.

“PHRS is a private company that connects job seekers to businesses for temporary or contract work. On or about October 8, 2009, Gershman Brickner & Bratton Inc. (GBB), in its capacity as the federal Receiver for GSWA, entered into a written contract with PHRS to provide temporary workers to supplement the agency’s staff and fill the positions of Sanitation Workers, Equipment Operators, Heavy Equipment Mechanic Leader, Administrative Assistants, and Customer Service Representatives.

Although the temporary workers filled roles at GSWA and did their work at and on behalf of the agency, they were not GSWA employees. Rather, they remained employees of PHRS and did not acquire any of the benefits or civil service status afforded to employees of the government of Guam. Nevertheless, the positions filled by the temporary worker were, and still are, essential to the day-to-day operations of GSWA. Over the years since 2009, the contract with PHRS was extended and renewed with the approval of the District Court of Guam. The latest renewal expired on September 30, 2022.

Earlier this summer on June 20, 2022, and prior to the contract expiration date of September 30, GSWA issued Invitation to Bid (ITB) No. GSWA-005-22 for Temporary Staffing Services. Although six prospective bidders expressed interest in the solicitation, only two bids were received by the submission deadline of August 1, 2022. The two bidders were PHRS and Allied Human Resources.

The bids were publicly opened on the same date of August 1, and PHRS was determined to be the lowest responsive and responsible bidder. On September 14, 2022, GSWA issued a Notice of Intent to Award to PHRS.

Based upon PHRS’s bid, GSWA has determined that the contract award shall be for a term of three (3) years beginning October 1, 2022 and ending on September 30, 2025. Subject to the availability of funds, the contract shall be paid the GSWA Operations Fund at a cost of \$2,002,000.00 broken down as follows:

Year 1: \$1,100,000.00;
Year 2: \$451,000.00; and
Year 3: \$451,00.00.

On November 17, 2022, the award was approved by the GSWA Board of Directors in its Resolution No. 2023-005.... Resolution No. 2023-005 amends and supersedes Resolution No. 2022-013 which was approved by the Board on or about September 22, 2022, and which provided for a more expensive contract with a longer term and scope of work.

Since the opening of the bids on August 1, and the giving of a notice of intent to award the contract to PHRS on September 14, 2022, no procurement protest has been filed and the 14-day period for under 5 GCA § 5425(a) has long since passed.”⁵

The Administrative Law Judge [“ALJ”] filed his Report dated November 21, 2022, in this Docket.⁶ The PUC adopts the conclusions and recommendations in the Report.

DETERMINATIONS

1. GSWA’s Contract Review Protocol

GSWA indicates that the cost of the PHRS Contract will be approximately \$2M for a term of three years.⁷ All professional service contracts, or any other contract or obligation, in excess of \$750,000.00, require prior PUC approval.⁸ This proposed award and contract must be reviewed by the PUC.

⁵ Id. at pgs. 2-3.

⁶ ALJ Report, GSWA Docket 23-02, dated November 21, 2022.

⁷ GSWA Amended Petition at p. 2.

⁸ 12 GCA §12105 and the Contract Review Protocol for the Guam Solid Waste Authority, GSWA Docket 19-02 & Administrative Docket, par. 1(d) and par. 1(e).

2. Project Description and Scope of Services

The IFB provides the following Scope of Services:

“The Contractor shall be responsible for performing all work as outlined in the specifications.

1. Provide GSWA with Temporary Staffing Services which will include all employee recruitment, retention, processing and releasing services for the term of the contract, including, at a minimum:
 - a. Advertising, recruiting, and processing employees;
 - Specifications for each position is attached as Exhibit A – Job Descriptions
 - b. Background screening, drug testing, and other applicable evaluation;
 - c. Comply with the requirements of local and Federal Drug-Free workplace;
 - d. Comply with federal and local laws as an equal opportunity employer;
 - e. Pay employees and administer and maintain all employment and payroll records, payroll processing, tax withholding, worker’s compensation, remittance of payroll and taxes, including the provision for the distribution of payroll time-sheets and checks;
 - f. Administration, maintenance of, and compliance with all employee eligibility verification;
2. Bidder must have the ability to provide the services required:
 - a. Assign sufficient personnel to meet GSWA needs;
 - Estimated No. of Personnel for Each Category:

Position Title	Job Site	Estimated No. of

		Personnel Needed
Sanitation Worker	GSWA Office	27
	Residential Transfer Station	2
Equipment Operator	GSWA Main Office	5
Customer Service Representative	GSWA Main Office	2
Administrative Assistant	GSWA Main Office	2
Buyer	GSWA Main Office	1

- b. Maintain the flexibility to expand, reduce, or shift staffing categories;
- c. Require employees to comply with GSWA policies and procedures;
- d. Take disciplinary actions involving any misconduct of any employee;
- e. Remit invoices to GSWA for services rendered; and
- f. Collect, maintain, retain, and make available all documentation with providing the services.”⁹

3. The “Need” for the PHRS Contract

On April 12, 2022, GSWA issued a Determination of Need Re: Temporary Staffing Services. Therein GSWA stated: “GSWA has acquired the services of a temporary

⁹ PROCUREMENT RECORD, Invitation for Bid IFB No. GSWA-005-12, Temporary Staffing Services, filed by GSWA with the PUC on October 14, 2022, at p. 35.

staffing agency since 2009 to fulfill essential job positions..... Due to the nature of the work, GSWA experiences high employment turnover rates for the laborious positions and finds the constant need to replace personnel. GSWA has attempted to recruit for these positions through the Government of Guam recruitment process which has proven to be inefficient and has found little success. The use of a temporary staffing agency is necessary for GSWA Operations.”¹⁰

In its initial Petition, GSWA contended that the temporary services procured by the contract with PHRS are essential and critical to the day-to-day operations of GSWA: “most especially, the positions of Sanitation Worker and Equipment Operator are physically laborious and hazardous to health. The nature of the work makes it difficult to recruit and retain permanent employees.”¹¹ GSWA concludes that “the contract with PHRS seeks services that are essential to the operation of GSWA and in turn, critical to maintaining the health, safety and welfare of the public.”¹²

In Its IFB, GSWA originally sought to have the Bidder provide sanitation workers, equipment operators, customer service representatives, administrative assistants, and a buyer.¹³ However, in its Amended Petition, GSWA indicates that “the only positions covered will be the employment of temporary Sanitation Workers and Equipment Operators. These particular positions are especially critical due to the laborious and hazardous nature of the work which makes it difficult to retain permanent employees.”¹⁴

¹⁰ PROCUREMENT RECORD, Invitation for Bid IFB No. GSWA-005-12, Temporary Staffing Services, filed by GSWA with the PUC on October 14, 2022, at p. 396.

¹¹ GSWA Petition at p. 3.

¹² Id. at p. 4.

¹³ PROCUREMENT RECORD, Invitation for Bid IFB No. GSWA-005-12, Temporary Staffing Services, filed by GSWA with the PUC on October 14, 2022, at p. 35.

¹⁴ GSWA Amended Petition at p. 4.

In a letter dated February 23, 2022 from GSWA to the Director, Department of Administration, GSWA indicated that it has been unsuccessful in recruiting for important positions such as Sanitation Worker and Equipment Operator. As of February 22, 2022, GSWA had 33 current open temporary positions; however, based upon qualified applications received, GSWA would potentially only be able to meet one-fifth of its labor needs.¹⁵ A true and correct copy of the letter from GSWA to the Director of Administration is attached to the ALJ Report as Exhibit “1”.

GSWA has demonstrated a pressing and urgent need to contract with PHRS for the hiring of Sanitation workers and Heavy Equipment Operators.

4. Beneficial Improvements to the PHRS Contract

After it had filed its initial Petition, GSWA Management decided to make several substantial changes to the PHRS Contract. In its initial Petition, GSWA anticipated that the cost of the PHRS Contract would be \$2M for an initial three-year term, plus an additional \$4M for two additional 1-year options (a total cost of \$6M).¹⁶ GSWA has now shortened the term of the contract to three years rather than five years.¹⁷ The cost of the three (3) year contract will be roughly \$2M, a reduction of \$4M in cost.¹⁸

¹⁵ PROCUREMENT RECORD, Invitation for Bid IFB No. GSWA-005-12, Temporary Staffing Services, filed by GSWA with the PUC on October 14, 2022, at pgs. 219-220.

¹⁶ GSWA Petition at p. 2.

¹⁷ GSWA Board Resolution No. 2023-005, Relative to Amending the Petition to the Public Utilities Commission (PUC) for Approval of the Award to Pacific Human Resource Services Inc. for Temporary Staffing Services, adopted and approved on November 17, 2022, at p. .

¹⁸ Id., at p. 1.

Furthermore, effective January 2, 2023, the positions of Customer Service Representatives and other administrative employees shall be ended and removed from the contract; thereafter the positions covered by the contract shall be limited for the remainder of the term to the employment of temporary Sanitation Workers and Equipment Operators.¹⁹

The GSWA Board of Directors approved the contract award to PHRS for a three-year term beginning October 1, 2022 and ending September 30, 2025. The Board authorized GSWA Management to petition the PUC for review and approval of the award to PHRS Inc. for Temporary Staffing Services.²⁰ The new proposed contract decreases the cost, shortens the term, and reduces the number of employees that PHRS will hire. The cost-saving measures approved by the Board are in the interest of GSWA and the ratepayers.

5. GSWA's Authorization to Enter the Contract

The present law seems to indicate a preference that GSWA transition away from "non-Government of Guam" employees hired through contract no later than three years from the date of "turnover", which was April of 2019.²¹

However, the "Transition" provisions in 10 GCA §51A118 refer to the retention or hiring by GSWA of non-government employees through employment contracts. Here GSWA is not hiring non-government employees through contracts but contracting with PHRS to hire such employees and provide employment services. The provision refers to the transition of contracts from the receivership to the autonomous GSWA, and how such contracts will be dealt with. However, in this matter the GSWA Board now plans to

¹⁹ Id. at p. 2.

²⁰ Id.

²¹ See 10 GCA §51A118.

enter into a new contract for the provision of employment services. PHRS will hire the employees, not GSWA. Therefore, the Transition provisions do not appear to be applicable.

In accordance with 10 GCA §51A104(10), GSWA shall have and exercise the power to “control, operate, improve, equip, maintain, repair, review, replace, reconstruct, alter and insure that the solid waste management system is compliant with any applicable zoning, building, environmental and health regulations of Guam.”²² Furthermore, GSWA has the power to enter into contracts and execute all instruments “necessary or convenient in the exercise of its powers.”²³ GSWA’s contract with PHRS is based upon “necessity.” This contract is “necessary.” Without the contract, GSWA has demonstrated that it would likely be unable to carry out its functions due to an inability to hire Sanitation Workers and Heavy Equipment Operators. The contract is justified under GSWA’s contract powers and the doctrine of necessity.

The Director of Administration approved the Temporary Staffing Services Contract on April 13, 2022. A copy of the Director’s letter is attached to the ALJ Report as Exhibit “2”.

ORDERING PROVISIONS

After careful review and consideration of the above determinations, the Petition of GSWA for Review and Approval of the Award and Contract to Pacific Human Resources Services [“PHRS”] for Temporary Staffing Services, the ALJ Report, and the record herein, for good cause shown, and on motion duly made, seconded, and carried

²² 10 GCA §51A104(10).

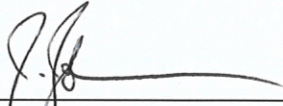
²³ 10 GCA §51A104(5).

by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY
ORDERS** that:

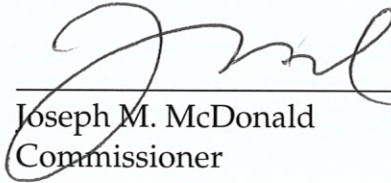
1. The award and contract to PHRS for Temporary Staffing Services in Bid IFB No. GSWA-005-12, beginning October 1, 2022 and ending September 30, 2025, is approved.
2. GSWA is authorized to expend up to the amount of \$2,002,000.00 for the contract in accordance with the Year 1, 2, and 3 breakdowns indicated in GSWA's Petition.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

Dated this 29th day of November, 2022.



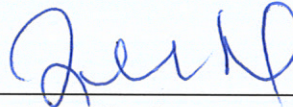
Jeffrey C. Johnson
Chairman



Joseph M. McDonald
Commissioner



Doris Flores Brooks
Commissioner



Peter Montinola
Commissioner



Pedro S.N. Guerrero
Commissioner

BEFORE THE PUBLIC UTILITIES COMMISSION

IN RE: PETITION FOR APPROVAL) OF EPCM CONTRACT WITH) STANLEY CONSULTANTS,) INC. BY GUAM POWER) AUTHORITY)	GPA DOCKET 23-02 ALJ REPORT
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INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the November 4, 2022 Petition (the “Petition”) for approval of the contract for Engineering, Procurement and Construction Management (“EPCM”) with Stanley Consultants, Inc. (“Stanley”), filed by the Guam Power Authority (hereinafter referred to as “GPA”).

BACKGROUND

The PUC is very much familiar with the “history of involvement with the EPCM contract.”¹ Back in GPA Docket 15-05, the PUC authorized GPA to “procure an Engineering, Procurement and Construction Management contractor for a new combined cycle plant, and authorized the expenditure . . . for such engineering and consulting services”² In GPA Docket 18-09, the PUC highlighted the depth of the contractor’s work, which included preparing the procurement of a 180MW power plant, assistance with the land acquisition for the new plant, including rezoning efforts.³ As a result, the PUC approved a two-year extension on the EPCM contract, to include work related to the “project management” for the new power plant during the term of the construction, plus all

¹ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

² PUC Order, GPA Docket 15-05, p. 9 (Oct. 27, 2016).

³ PUC Order, GPA Docket 18-09, p. 2 (Mar. 29, 2018).

regulatory support, which included the preparation of a rate impact study.⁴ In GPA Docket 21-01, the PUC again highlighted that such work “is extremely important to ensure the commissioning of a safe and efficient plant”; and that “shortchanging the funding for such services would be highly risky.”⁵

In June 2021, GPA petitioned the PUC for approval to procure a new EPCM that would provide consulting services related to the construction and commissioning of the new power plant, and develop procurement for the infrastructure required to receive liquefied natural gas (“LNG”) at the new power plant.⁶ On July 29, 2021, in GPA Docket 21-13, the PUC approved GPA’s request.

Subsequently, GPA issued RFP 21-010, which solicited proposals for a new EPCM contract.⁷ However, the RFP was canceled due to a lack of “open competition”; and so the RFP was issued again in March of 2022. Thereafter, GPA’s procurement personnel ranked Stanley highest out of four proposals submitted.⁸ In Resolution No. FY2023-01, issued by the Consolidated Commission on Utilities (the “CCU”), the CCU authorized GPA to petition the PUC for approval of the proposed contract with Stanley for engineering and technical consulting services related to the construction and commissioning of the Ukudu Power Plant at an estimated total cost of \$6,241,727.00.⁹

⁴ PUC Order, GPA Docket 18-09, pp. 5-6 (Nov. 29, 2018).

⁵ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

⁶ PUC Order, GPA Docket 21-13, p. 3 (July 29, 2021).

⁷ Resolution No. FY2023-01, p. 1.

⁸ Resolution No. FY2023-01, p. 1.

⁹ Resolution No. FY2023-01, p. 2.

DISCUSSION

1. GPA's Contract Review Protocol

Pursuant to 12 G.C.A. §12105, GPA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Accordingly, GPA's Contract Review Protocol requires that "[a]ll professional service procurements in excess of \$1,500,000" require "prior PUC approval . . . which shall be obtained before the procurement process is begun."¹⁰

2. Scope of Work and Proposed Contract

a. Scope of Work

Based on the proposed contract submitted by GPA, the parties have made it clear that this is a "task-based contract" where "GPA will call upon a task and negotiate a price, scope and schedule" with Stanley.¹¹ Further, based on the Scope of Work attached to CCU Resolution No. FY2023-01, Stanley will provide technical review of the power plant and pipeline documents, which include construction drawings, equipment and technical specifications, designs criteria, and construction plans. During construction of the power plant, Stanley will further provide regular site inspections to confirm project progress and performance of contract obligations. Stanley will also monitor the construction of the pipelines; and will management the projects through weekly and monthly meetings.

Moreover, as indicated in the RFP, Stanley will be responsible for the provision of engineering and design services; shall procure contracts with suppliers and contractors as GPA's agent; and shall manage the construction phase of the project, serving as GPA's

¹⁰ GPA's Contract Review Protocol ("GPA CRP"), Administrative Docket 00-04, p. 1 (Feb. 15, 2008) (emphasis in original).

¹¹ Proposed Contract, p. 1.

Construction Manager, inasmuch as it shall supervise and coordinate all of the suppliers, construction contractors and other contractors.¹²

b. Contract Term and Other Provisions, and Funding

Based on the proposed contract submitted by GPA, this contract will have a three-year initial term with an option to extend the contract for two additional two-year terms.¹³ In addition, the proposed contract contains a termination provision that allows GPA to terminate the contract for convenience by giving Stanley written notice of such termination.¹⁴

The proposed contract contains a standard indemnity provision requiring Stanley to indemnify and hold GPA harmless from any claim, lawsuit, or liability related to its services.¹⁵ The proposed contract also prohibits the assignment of the contract absent GPA's consent.¹⁶ In addition, the proposed contract requires Stanley to carry appropriate insurance and licenses to do business in Guam.¹⁷

c. Cost and Funding

According to GPA, it estimates the budget for the contract as follows: \$2,198,121.00 for FY2023; \$2,848,030.00 for FY2024; and \$1,095,576.00 for FY2025; for a total cost of \$6,241,727.00.¹⁸ GPA has indicated that this contract will be funded internally through its revenues.

¹² Proposed Contract, p. 2.

¹³ Proposed Contract, p. 2.

¹⁴ Proposed Contract, p. 3.

¹⁵ Proposed Contract, p. 4.

¹⁶ Proposed Contract, p. 3.

¹⁷ Proposed Contract, p. 5.

¹⁸ Resolution No. FY2023-01, p. 1.

RECOMMENDATION AND CONCLUSION

Based on the record before the Commission, the ALJ finds that the subject contract is reasonable, prudent, and necessary. Based on the history outlined above, an EPCM is vital to GPA's successful commissioning of the new power plant. This Commission has consistently determined that the work of an experienced EPCM "is extremely important to ensure the commissioning of a safe and efficient plant"; and that "shortchanging the funding for such services would be highly risky."¹⁹ As indicated in GPA Docket 21-13, GPA needs "consulting support for the new power plant contract for Owner's Engineer support and other technical assistance for the construction and commissioning of the new power plant targeted for completion by end of 2023 and no later than April 2024"²⁰ Accordingly, based on this record, the ALJ recommends that the PUC approve the Petition and, accordingly, authorize GPA to enter into an Engineering Procurement and Construction Management contract with Stanley for engineering and technical consulting services related to the commissioning of the new Ukudu Power Plant. A proposed Order is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 23rd day of November, 2022.



JOEPHET R. ALCANTARA
Administrative Law Judge

P223050.JRA

¹⁹ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

²⁰ Resolution No. 2021-14, Consolidated Commission on Utilities, pp. 1-2 (May 25, 2021).

BEFORE THE PUBLIC UTILITIES COMMISSION

**IN RE: PETITION FOR APPROVAL)
OF EPCM CONTRACT WITH)
STANLEY CONSULTANTS,)
INC. BY GUAM POWER)
AUTHORITY)**

GPA DOCKET 23-02

ORDER



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the November 4, 2022 Petition (the “Petition”) for approval of the contract for Engineering, Procurement and Construction Management (“EPCM”) with Stanley Consultants, Inc. (“Stanley”), filed by the Guam Power Authority (hereinafter referred to as “GPA”).

On November 23, 2022, the Administrative Law Judge of the PUC (the “ALJ”) assigned to this matter filed an ALJ Report that included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

DETERMINATIONS

The PUC is very much familiar with the “history of involvement with the EPCM contract.”¹ Back in GPA Docket 15-05, the PUC authorized GPA to “procure an Engineering, Procurement and Construction Management contractor for a new combined cycle plant, and authorized the expenditure . . . for such engineering and consulting

¹ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

services”² In GPA Docket 18-09, the PUC highlighted the depth of the contractor’s work, which included preparing the procurement of a 180MW power plant, assistance with the land acquisition for the new plant, including rezoning efforts.³ As a result, the PUC approved a two-year extension on the EPCM contract, to include work related to the “project management” for the new power plant during the term of the construction, plus all regulatory support, which included the preparation of a rate impact study.⁴ In GPA Docket 21-01, the PUC again highlighted that such work “is extremely important to ensure the commissioning of a safe and efficient plant”; and that “shortchanging the funding for such services would be highly risky.”⁵

In June 2021, GPA petitioned the PUC for approval to procure a new EPCM that would provide consulting services related to the construction and commissioning of the new power plant, and develop procurement for the infrastructure required to receive liquefied natural gas (“LNG”) at the new power plant.⁶ On July 29, 2021, in GPA Docket 21-13, the PUC approved GPA’s request.

Subsequently, GPA issued RFP 21-010, which solicited proposals for a new EPCM contract.⁷ However, the RFP was canceled due to a lack of “open competition”; and so the RFP was issued again in March of 2022. Thereafter, GPA’s procurement personnel ranked

² PUC Order, GPA Docket 15-05, p. 9 (Oct. 27, 2016).

³ PUC Order, GPA Docket 18-09, p. 2 (Mar. 29, 2018).

⁴ PUC Order, GPA Docket 18-09, pp. 5-6 (Nov. 29, 2018).

⁵ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

⁶ PUC Order, GPA Docket 21-13, p. 3 (July 29, 2021).

⁷ Resolution No. FY2023-01, p. 1.

Stanley highest out of four proposals submitted.⁸ In Resolution No. FY2023-01, issued by the Consolidated Commission on Utilities (the “CCU”), the CCU authorized GPA to petition the PUC for approval of the proposed contract with Stanley for engineering and technical consulting services related to the construction and commissioning of the Ukudu Power Plant at an estimated total cost of \$6,241,727.00.⁹

DISCUSSION

1. GPA’s Contract Review Protocol

Pursuant to 12 G.C.A. §12105, GPA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Accordingly, GPA’s Contract Review Protocol requires that “[a]ll professional service procurements in excess of \$1,500,000” require “prior PUC approval . . . which shall be obtained before the procurement process is begun.”¹⁰

2. Scope of Work and Proposed Contract

a. Scope of Work

Based on the proposed contract submitted by GPA, the parties have made it clear that this is a “task-based contract” where “GPA will call upon a task and negotiate a price, scope and schedule” with Stanley.¹¹ Further, based on the Scope of Work attached to CCU Resolution No. FY2023-01, Stanley will provide technical review of the power plant and pipeline documents, which include construction drawings, equipment and technical

⁸ Resolution No. FY2023-01, p. 1.

⁹ Resolution No. FY2023-01, p. 2.

¹⁰ GPA’s Contract Review Protocol (“GPA CRP”), Administrative Docket 00-04, p. 1 (Feb. 15, 2008) (emphasis in original).

¹¹ Proposed Contract, p. 1.

specifications, designs criteria, and construction plans. During construction of the power plant, Stanley will further provide regular site inspections to confirm project progress and performance of contract obligations. Stanley will also monitor the construction of the pipelines; and will management the projects through weekly and monthly meetings.

Moreover, as indicated in the RFP, Stanley will be responsible for the provision of engineering and design services; shall procure contracts with suppliers and contractors as GPA's agent; and shall manage the construction phase of the project, serving as GPA's Construction Manager, inasmuch as it shall supervise and coordinate all of the suppliers, construction contractors and other contractors.¹²

b. Contract Term and Other Provisions, and Funding

Based on the proposed contract submitted by GPA, this contract will have a three-year initial term with an option to extend the contract for two additional two-year terms.¹³ In addition, the proposed contract contains a termination provision that allows GPA to terminate the contract for convenience by giving Stanley written notice of such termination.¹⁴

The proposed contract contains a standard indemnity provision requiring Stanley to indemnify and hold GPA harmless from any claim, lawsuit, or liability related to its services.¹⁵ The proposed contract also prohibits the assignment of the contract absent

¹² Proposed Contract, p. 2.

¹³ Proposed Contract, p. 2.

¹⁴ Proposed Contract, p. 3.

¹⁵ Proposed Contract, p. 4.

GPA's consent.¹⁶ In addition, the proposed contract requires Stanley to carry appropriate insurance and licenses to do business in Guam.¹⁷

c. Cost and Funding

According to GPA, it estimates the budget for the contract as follows: \$2,198,121.00 for FY2023; \$2,848,030.00 for FY2024; and \$1,095,576.00 for FY2025; for a total cost of \$6,241,727.00.¹⁸ GPA has indicated that this contract will be funded internally through its revenues.

RECOMMENDATION AND CONCLUSION

Based on the record before the Commission, the ALJ finds that the subject contract is reasonable, prudent, and necessary. Based on the history outlined above, an EPCM is vital to GPA's successful commissioning of the new power plant. This Commission has consistently determined that the work of an experienced EPCM "is extremely important to ensure the commissioning of a safe and efficient plant"; and that "shortchanging the funding for such services would be highly risky."¹⁹ As indicated in GPA Docket 21-13, GPA needs "consulting support for the new power plant contract for Owner's Engineer support and other technical assistance for the construction and commissioning of the new power plant targeted for completion by end of 2023 and no later than April 2024"²⁰ Accordingly, based on this record, the ALJ recommends that the PUC approve the Petition

¹⁶ Proposed Contract, p. 3.

¹⁷ Proposed Contract, p. 5.

¹⁸ Resolution No. FY2023-01, p. 1.

¹⁹ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

²⁰ Resolution No. 2021-14, Consolidated Commission on Utilities, pp. 1-2 (May 25, 2021).

and, accordingly, authorize GPA to enter into an Engineering Procurement and Construction Management contract with Stanley for engineering and technical consulting services related to the commissioning of the new Ukudu Power Plant.

The Commission hereby adopts the findings in the November 23, 2022 ALJ Report and therefore issues the following.

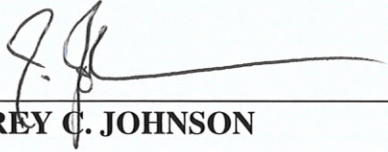
ORDERING PROVISIONS

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. GPA is authorized to enter into an Engineering Procurement and Construction Management contract with Stanley for engineering and technical consulting services related to the commissioning of the new Ukudu Power Plant for a total cost of \$6,241,727.00.
3. GPA 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. §§ 12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

SO ORDERED this 29th day of November, 2022.

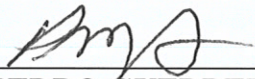


JEFFREY C. JOHNSON
Chairman

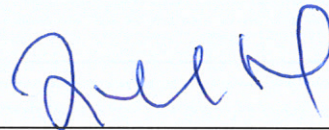
ROWENA E. PEREZ-CAMACHO
Commissioner



JOSEPH M. MCDONALD
Commissioner

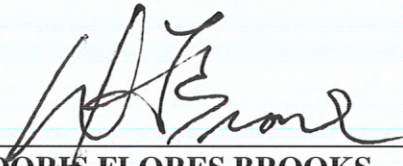


PEDRO GUERRERO
Commissioner



MICHAEL A. PANGELINAN
Commissioner

PETER MONTINOLA
Commissioner



DORIS FLORES BROOKS
Commissioner

P223051.JRA

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:

GPA DOCKET 23-03

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

PUC COUNSEL REPORT

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 expired on November 1, 2021, GPA exercised its right to extend the term for one year which will expire on November 1, 2022, and GPA requests that the PUC approve GPA's exercise of a second (1) year extension of the contract beginning November 2, 2022 and ending on November 1, 2023 that will cost \$7,062,144 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 23-03, filed October 31, 2022. (Petition).

² Id., at 1 and 4. [NOTE: This report cites the PDF numbers because the numbers used in the Petition and its exhibits are not continuous].

³ Id., at 3.

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. On or about October 28, 2021 the PUC approved GPA's first extension of the insurance contract with an annual renewal premium of \$5,777,567 for the policy period covered between November 2, 2021 and November 1, 2022.⁹

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.

⁹ PUC Order dated October 28, 2021, GPA Docket No. 22-01 at 4.

12. On October 25, 2022 the CCU adopted Resolution No. FY2023-02 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 \$7,062,144 for the policy period covered between November 2, 2022 and November 1, 2023 subject to the PUC's approval.¹⁰

ANALYSIS

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.¹¹ Here, the contract's total cost so far is \$18,842,567, 20% of that amount is \$3,768,513.40 and the \$7,062,144 cost of the second extension year exceeds that amount. Therefore, the PUC Contract Review Protocol requires GPA to obtain the PUC's prior approval for the second 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 \$7,062,144 cost of the second one-year extension is reasonable. The \$7,062,144 cost is \$2,707,144 higher than the contract's initial three-year term, which was \$4,355,000 for each of those years, and it is \$1,284,577 higher than the \$5,777,567 cost of the first one-year extension. GPA states that the higher price for the second one-year extension is caused by challenging conditions in the insurance market and fewer insurance companies participating in the power 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. Even with an extension of the first one-year term, GPA has 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 second 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.

¹⁰ Petition at 4.

¹¹ PUC Order, Administrative Docket, filed on February 15, 2008 at 4.

17. Based on the foregoing, the second one-year extension of GPA's Property Insurance Contract with DB Insurance Co., Ltd., is reasonable, prudent, and necessary.

RECOMMENDATION

18. Counsel recommends that the PUC approve the second one-year extension of GPA's Property Insurance Contract with DB Insurance Co., Ltd., for the policy period beginning November 2, 2022 and ending on November 1, 2023.
19. A Proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 23rd day of November, 2022.



Anthony R. Camacho, Esq.
PUC Legal Counsel

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:)

GPA DOCKET 23-03)

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

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 expired on November 1, 2021, GPA exercised its right to extend the term for one year which will expire on November 1, 2022, and GPA requests that the PUC approve GPA’s exercise of a second (1) year extension of the contract beginning November 2, 2022 and ending on November 1, 2023 that will cost \$7,062,144 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 23-03, filed October 31, 2022. (Petition).

² Id., at 1 and 4. [NOTE: This report cites the PDF numbers because the numbers used in the Petition and its exhibits are not continuous].

³ Id., at 3.

- 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. On or about October 28, 2021 the PUC approved GPA's first extension of the insurance contract with an annual renewal premium of \$5,777,567 for the policy period covered between November 2, 2021 and November 1, 2022.⁹

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.

⁹ PUC Order dated October 28, 2021, GPA Docket No. 22-01 at 4.

12. On October 25, 2022 the CCU adopted Resolution No. FY2023-02 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 \$7,062,144 for the policy period covered between November 2, 2022 and November 1, 2023 subject to the PUC's approval.¹⁰
13. PUC Legal Counsel issued his report herein on November 23, 2022.
14. GPA requests that the PUC approve GPA's exercise of the second one-year extension of the contract beginning November 2, 2022 and ending on November 1, 2023 that will cost \$7,062,144 for that coverage period.

DETERMINATIONS

15. 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.¹¹ Here, the contract's total cost so far is \$18,842,567, 20% of that amount is \$3,768,513.40 and the \$7,062,144 cost of the second extension year exceeds that amount. Therefore, the PUC Contract Review Protocol requires GPA to obtain the PUC's prior approval for the second 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.
16. The \$7,062,144 cost of the second one-year extension is reasonable. The \$7,062,144 cost is \$2,707,144 higher than the contract's initial three-year term, which was \$4,355,000 for each of those years, and it is \$1,284,577 higher than the \$5,777,567 cost of the first one-year extension. GPA states that the higher price for the second one-year extension is caused by challenging conditions in the insurance market and fewer insurance companies participating in the power 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.
17. The contract extension is prudent. Even with an extension of the first one-year term, GPA has an insufficient amount of time to prepare a new property insurance solicitation, issue it, receive responses, and award a new property insurance

¹⁰ Petition at 4.

¹¹ PUC Order, Administrative Docket, filed on February 15, 2008 at 4.

contract. Hence, it is more prudent for GPA to exercise the second one (1) year extension of the contract instead of issuing a solicitation for a new contract.

18. The contract extension is necessary. As stated above, GPA is required by its Bond Indenture Agreements to maintain property insurance coverage.
19. Based on the foregoing, the second one-year extension of GPA's Property Insurance Contract with DB Insurance Co., Ltd., is reasonable, prudent, and necessary.

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 the second one-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, 2022, to November 1, 2023, 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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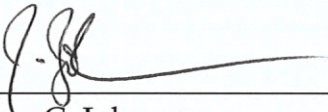
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Order
Petition for Approval of
Property Insurance Contract
Extension With DB Insurance Co., Ltd.
GPA Docket 23-03
November 29, 2022

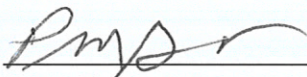
Dated this 29th day of November, 2022.




Jeffrey C. Johnson
Chairman

Rowena E. Perez-Camacho
Commissioner

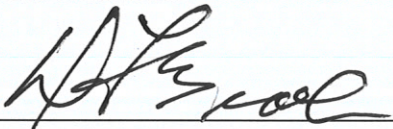
Michael A. Pangelinan
Commissioner



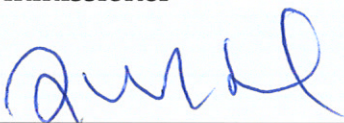
Pete Guerrero
Commissioner



Joseph M. McDonald
Commissioner



Doris Flores Brooks
Commissioner



Peter Montinola
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:) GWA Docket 23-01
)
PETITION TO AUTHORIZE THE GUAM)
WATERWORKS AUTHORITY TO ISSUE) **ALJ REPORT**
A COMPETITIVE BID TO)
REHABILITATE THE UGUM SURFACE)
WATER TREATMENT PLANT)
_____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission [“PUC”] pursuant to the Petition of the Guam Waterworks Authority [“GWA”] for PUC Approval of GWA’s Issuance of an Invitation for Bid [“IFB”] to Procure Construction Services and Supplies to Rehabilitate the Ugum Surface Water Treatment Plant [“Ugum SWTP”].¹

BACKGROUND

The Ugum Service Water Treatment Plant [“Ugum SWTP”] produces surface water to serve Guam’s southern water system.² The Ugum SWTP treats the Ugum River water and then pumps the river’s water into storage reservoirs to serve the island’s southern residents.³ The plant was originally constructed in 1991 and retrofitted and modernized from 2007-2010. Today the Ugum SWTP operates a membrane filtration treatment system.⁴

¹ GWA Petition, GWA Docket 23-01, dated November 10, 2022.

² Id., at p. 1.

³ Id. at p. 1-2.

⁴ Id., at p. 2.

Based upon GWA's Master Plan (2015), and three assessments by professional engineering firms (Brown and Caldwell in 2015, Du Pont in 2021, and most recently by Duenas Camacho and Associates ["DCA"] in 2022), the aging plant's existing equipment and systems need major infrastructure improvements and refurbishment.⁵

The 2022 DCA assessment concluded that the plant is currently in operating condition "but requires significant rehabilitation work and materials to continue providing safe drinking water to GWA customers in southern Guam."⁶ The plant's present condition limits its capability, operability, and reliability.⁷

GWA seeks PUC approval to procure construction services and material in support of the needed Ugum SWTP rehabilitation.⁸ In support of its Petition, GWA has provided a detailed estimate of the cost for the project and the services needed to be performed.

The total cost estimated is \$4,626,050.00.⁹ In addition, on November 15, 2022, GWA submitted Draft Procurement Bid Documents relative to the Ugum SWTP

Rehabilitation.¹⁰

DISCUSSION

1. GWA's Contract Review Protocol

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Id., at pgs. 2-3.

⁹ Email from Theresa Rojas, GWA Counsel, to Fred Horecky, PUC ALJ, dated November 11, 2022, re: "Cost Estimate, Ugum SWTP Rehabilitation".

¹⁰ Email from Theresa Rojas, GWA Counsel, to Fred Horecky, PUC ALJ, dated November 15, 2022, with Procurement Bid Documents attached.

GWA indicates that “this respective procurement is estimated to exceed expenses of \$1,000,000.00 based on cost estimates received of \$4,626,050.00.”¹¹ The GWA Contract Review Protocol requires that the PUC must review “All professional service procurements in excess of \$1,000,000...”.¹² The proposed procurement must be approved by the PUC “before the procurement process is begun.”¹³

2. The Need/Justification for the Procurement

DCA conducted an assessment of the Ugum SWTP from June to August 2021.¹⁴ DCA, based upon its assessment, prepared a scope of work and cost estimate of the needed capital improvements to the Ugum SWTP and Raw River Intake Facility. The Scope of Work is attached hereto as Exhibit “1”.¹⁵ The DCA 2022 Report includes findings of failing equipment and equipment beyond repair requiring immediate replacement.¹⁶

The Ugum SWTP rehabilitation services includes rehabilitation and upgrades to the raw water pumps at the river intake, settling basins, membranes, pipe gallery, generator room, backwash, neutralization tank, sludge tank, thickening system, operations and chemical building, and administration building.¹⁷

¹¹ GWA Petition, GWA Docket 23-01, dated November 10, 2022, at p. 3.

¹² Contract Review Protocol for Guam Waterworks Authority, Administrative Docket, Docket 00-04, dated October 27, 2005, at Par. 1(c)

¹³ *Id.*, at Par. 1.

¹⁴ GWA Petition, GWA Docket 23-01, dated November 10, 2022, at p. 11.

¹⁵ Exhibit “1”, Scope of Work prepared by GWA, attached to the GWA Petition as Exhibit A-8 through A-11.

¹⁶ *Id.*

¹⁷ GWA Petition, GWA Docket 23-01, at p. 3.

The Guam Consolidated Commission on Utilities has concluded that the Ugum SWTP “is a critical water source which provides water to much of southern Guam”¹⁸: “The proposed rehabilitation is necessary and urgent to improve plant capacity, treatment performance, and provide reliable operation of the water treatment plant.”¹⁹

3. The Proposed Contract Form

Included in its bid procurement documents, GWA has submitted a draft “AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE).”²⁰ After completion of the procurement process and the award of a contract, GWA will seek PUC approval for the final contract and amounts to be awarded.²¹ An initial review indicates that the draft contract appears to contain adequate provisions to protect the interest of GWA and its ratepayers. Those include liquidated damages²², Performance and Payment Bonds²³, Insurance requirements²⁴, Mediation and Claims Resolution process²⁵, and Termination for Cause or Convenience²⁶.

4. Cost

¹⁸ GWA Resolution No. 03-FY2023, Relative to Requesting Approval to Procure Construction Services Relative to the UGUM Service Water Treatment Plant Rehabilitation, adopted and approved on October 25, 2022, at Exhibit A-1.

¹⁹ Id. at Exhibit A-2.

²⁰ Email from Theresa Rojas, GWA Counsel, to Fred Horecky, PUC ALJ, dated November 15, 2022, Procurement Bid Documents at p. 57.

²¹ GWA Petition, GWA Docket 23-01, at p. 4.

²² Email from Theresa Rojas, GWA Counsel, to Fred Horecky, PUC ALJ, dated November 15, 2022, Procurement Bid Documents at p. 58.

²³ Id., at pgs. 60-66.

²⁴ Id., at pgs. 89-95.

²⁵ Id., at pgs. 116-118.

²⁶ Id., at pgs. 131-133.

At present, DCA has estimated a grand total cost for this project of \$4,205,456.95 (not including the requested 10% contingency). A true and correct of the Ugum Procurement Cost Estimate is attached hereto as Exhibit “2”.²⁷

In its cost estimate, DCA has also added a ten percent (10%) contingency of \$420,550.00 bringing the total estimated cost to \$4,626,050.00. However, the PUC need not determine the cost at the present time or make any authorization concerning the allowable cost for this procurement. When GWA returns to the Commission for approval of the award and contract, the PUC will make its determination concerning total allowable cost for the project.

5. Board Resolution

In GWA Resolution No. 03-FY2023, the Guam Consolidated Commission on Utilities [“CCU”] found that “rehabilitation of the Ugum Surface Water Treatment Plant is necessary to ensure the efficient operation of the plant and the continued provision of safe drinking water to GWA customers in Southern Guam.”²⁸ The CCU authorized GWA management to submit a petition to the PUC for approval of the procurement of materials and construction services for the rehabilitation of the Ugum SWTP.²⁹

RECOMMENDATION AND CONCLUSION

²⁷ Email from Theresa Rojas, GWA Counsel, to Fred Horecky, PUC ALJ, dated November 11, 2022, Procurement Cost Estimate.

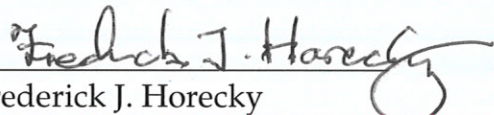
²⁸ GWA Resolution No. 03-FY2023, Relative to Requesting Approval to Procure Construction Services Relative to the Ugum Service Water Treatment Plant Rehabilitation, adopted and approved on October 25, 2022, at Exhibit A-2.

²⁹ Id. at Exhibit A-3.

Based upon the documentation in the record, GWA has justified the issuance of an IFB to procure construction services and supplies to rehabilitate the Ugum Service Water Treatment Plant. Having reviewed the Petition of GWA and the procurement documents presented, the ALJ concludes that the PUC should approve and authorize the issuance of the Invitation for Bid for the rehabilitation project. Once the procurement process has been completed, the PUC will have a further opportunity to assess the proposal presented and its cost.

A Proposed Order is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 21st day of November, 2022.


Frederick J. Horecky
Chief Administrative Law Judge

0 - GENERAL CONDITIONS						
Label	Description	Quantity	Pay Type	Unit Price	Bid Price	Spec. Section
0-A	Mobilization/Demobilization, permitting, Insurance, Bonds and contractors administration	1	LS	\$	\$ 269,069.60	General Conditions
Sub-total - General Conditions					\$ 269,069.60	
1 - RIVER INTAKE						
Label	Description	Quantity	Pay Type	Unit Price	Bid Price	Spec. Section
1-A	Remove pumps/motors #1 and #3 (outer left and right pumps) and replace with new pumps/motors, including accessories, complete in place	1	LS	\$	\$ 240,000.00	432321.13
1-B1	Remove existing MCC for pump #1 and install new VFD including accessories, complete in place	1	LS	\$	\$ 11,000.00	262923
1-B2	Remove existing VFD screens for pump #2 and pump #3 and replace with new complete in place	1	LS	\$	\$ 10,000.00	262923
1-C	Remove existing flow meter and replace with new complete in place	1	LS	\$	\$ 10,000.00	407113
1-D	Remove two (2) existing filters, piping, and fittings from the flange connection at the main discharge piping, install two (2) blind flanges to flange ends of the remaining main discharge piping, demolished pipe/fittings to be disposed of at the site.	1	LS	\$	\$ 7,500.00	17320
Sub-total - RIVER INTAKE					\$ 278,500.00	
2 - SETTLING BASINS						
Label	Description	Quantity	Pay Type	Unit Price	Bid Price	Spec. Section
2-A	Remove two (2) existing automatic sluice gates for flocculation basins and replace with new manually operated sluice gates, (work will require draining of water inside the basins), including accessories, complete in place	1	LS	\$	\$ 40,000.00	400557

2-B	Remove eight (8) existing automatic sluice gates for sedimentation tanks and replace with new manually operated sluice gates, (work will require draining of water inside the tanks), including accessories, complete in place	1	LS	\$	\$ 160,000.00	400557
2-C	Remove and replace sludge collection system (chain and flight) at two (2) contact basins and two (2) recycle basins, including accessories, complete in place	1	LS	\$	\$ 272,000.00	464311
2-D	Remove accumulated sludge inside the tank including disposal to Inarajan WTP drying beds	533	CYD	\$	\$ 63,960.00	22100
Sub-total - SETTLING BASINS					\$ 535,960.00	
3 - MEMBRAN ES						
Label	Description	Quantity	Pay Type	Unit Price	Bid price	Spec. Section
3-A	Provide the following spare parts delivered to the job site, inclusive of taxes and other miscellaneous fees.				\$1,318,380.00	See report
3-A1	Membrane Module, Spare S10N PVDF	864	EA	\$	\$	
3-A2	Manifold, Clover Top CS Nylon SS Stud-119006	220	EA	\$	\$	
3-A3	Manifold, Clover Bottom GFPP Duraprop	220	EA	\$	\$	
3-A4	Clip, Clover Module CS/CSII	870	EA	\$	\$	
3-A5	Gasket, Bottom Clover EPDM 9710 3 Hole	220	EA	\$	\$	
3-A6	O-Ring, EPDM 9710 148.6MMx5.7MM Blue DT	100	EA	\$	\$	

3-A7	O-Ring, EPDM 9710 BS352 WRC Blue Dot	220	EA	\$	\$	
3-A8	Assembly, Valve MLD FILT ISOL Rack	220	EA	\$	\$	
3-A9	Nut, Hex M8x1.25MM 316SS 6H 800MPA	2000	EA	\$	\$	
3-A10	Washer, Spring M8x3.75MM Thk 316SS	2000	EA	\$	\$	
3-A11	Washer, Flat M8x17MM OD 316SS	2000	EA	\$	\$	
3-A12	Assembly, Insert CS NLY-GRP Rack Sea	220	EA	\$	\$	
3-A13	9 Clover stainless Steel Membrane Racks	24	EA	\$	\$	
3-A15	On-Site Manufacturer's Technical Field Service for 10 days, including travel and all miscellaneous expenses	1	LS	\$	\$	
3-B	Remove two (2) existing electric chain hoists and replace with two (2) 1-ton variable speed hoists with single controller each, including necessary electrical work, complete in	1	LS	\$	\$ 18,000.00	412223.19
3-C	Remove and replace the rusted existing steel angle iron and plates between Cell #1 and Cell #2. Contractor to submit shop drawings for approval	1	LS	\$	\$ 25,000.00	55000
Sub-total - MEMBRANES					\$1,361,380.00	
4 - PIPE GALLERY/ GENERATOR ROOM						
Label	Description	Quantity	Pay Type	Unit Price	Bid Price	Spec. Section
4-A	Remove and replace existing aluminum access doors, jambs, and hardware in the piping room and in the generator room, complete in place.	1	LS	\$	\$ 7,500.00	81116
4-B	Provide spare Bray butterfly valves, pneumatic actuators, and status monitors as follows:				\$ -	400564

4-B1	16" Flanged Butterfly Valve, Series 30/31, complete with accessories	2	EA	\$	\$ 24,000.00	
4-B2	14" Flanged Butterfly Valve, Series 30/31, complete with accessories	3	EA	\$	\$ 24,000.00	
4-B3	12" Flanged Butterfly Valve, Series 30/31, complete with accessories	4	EA	\$	\$ 28,000.00	
4-B4	10" Wafer Style Butterfly Valve, Series 30/31, complete with accessories	2	EA	\$	\$ 14,000.00	
4-B5	8" Wafer Style Butterfly Valve, Series 30/31, complete with accessories	4	EA	\$	\$ 20,000.00	
4-B6	4" Wafer Style Butterfly Valve, Series 30/31, complete with accessories	2	EA	\$	\$ 6,000.00	
4-B7	2" Wafer Style Butterfly Valve, Series 30/31, complete with accessories	3	EA	\$	\$ 1,500.00	
4-B8	Pneumatic Actuator Part #92-2100-11300-532	5	EA	\$	\$ 6,000.00	
4-B9	Pneumatic Actuator Part #92-1600-11300-532	4	EA	\$	\$ 4,800.00	
4-B10	Pneumatic Actuator Part #92-1270-11300-532	2	EA	\$	\$ 2,400.00	
4-B11	Pneumatic Actuator Part #92-1190-11300-532	2	EA	\$	\$ 2,400.00	
4-B12	Pneumatic Actuator Part #92-1180-11300-532	4	EA	\$	\$ 4,800.00	
4-B13	Pneumatic Actuator Part #92-0630-11300-532	4	EA	\$	\$ 4,800.00	
4-B14	Status Monitors Part #50-0406-12610-532	14	EA	\$	\$ 2,800.00	
Sub-total - PIPE GALLERY/ GENERATOR ROOM					\$ 153,000.00	
5 - BACKWASH						
H						

Label	Description	Quantity	Pay Type	Unit Price	Bid Price	Spec. Section
5-A	Remove existing submersible transfer pumps and install new, see specs.	2	EA	\$	\$ 17,000.00	431311
5-B	Remove existing level sensor/level monitor and replace with new, see specs.	3	EA	\$	\$ 7,500.00	407276
5-C	Remove existing mixer and replace with new, see specs	1	EA	\$	\$ 10,000.00	464123
5-D	Remove existing flow meter and replace with new meter complete with screen cover protection	1	EA	\$	\$ 7,500.00	407113
5-E	Remove accumulated sludge inside the tank including disposal to Inarajan WTP drying beds	46	CYD	\$	\$ 5,520.00	22100
Sub-total - BACKWASH					\$ 47,520.00	
6 - NEUTRALI ZATION TANK/SLU DGE TANK						
Label	Description	Quantity	Pay Type	Unit Price	Bid Price	Spec. Section
6-A	Replace submersible pump and nozzles within the tank (complete in place)	1	LS	\$	\$ 8,500.00	431311
6-B	Replace pH/Orp Meter	1	EA	\$	\$ 5,000.00	407513
6-C	Remove existing level sensor/level monitor and replace with new, see specs.	1	EA	\$	\$ 5,000.00	407276
6-D	Remove accumulated sludge inside the tank including disposal to Inarajan WTP drying beds	84	CYD	\$	\$ 10,836.00	22100
Sub-total - NEUTRALI ZATION TANK/SLU DGE TANK					\$ 29,336.00	


**7 -
THICKENER
SYSTEM**

Label	Description	Quantity	Pay Type	Unit Price	Bid Price	Spec. Section
7-A	Remove existing thickener assembly and replace with new inclusive of complete drive assembly, with gear motor and weatherproof drive torque control. Drive unit is completely factory assembled, calibrated and tested, Walkway, beam supported (half the diameter), 36" wide with aluminum I-bar flooring, Center Drive platform, Aluminum handrail, Feedwell, Rake arms with plow blades and pickets, Operation and Maintenance manuals, Torque tube, Influent pipe, Finish paint, Weirs, FRP, Field service 2 days/1 trip	1	LS	\$	\$ 180,000.00	See report
7-B	Remove two (2) existing thickener pumps and replace with new pumps, see specs	1	LS	\$	\$ 20,000.00	432357
7-C	Remove accumulated sludge inside the tank including disposal to Inarajan WTP drying beds	125	CYD	\$	\$ 15,000.00	22100
Sub-total - THICKENER SYSTEM					\$ 215,000.00	

8 - OPERATIONS/CHEMICAL BUILDING

Label	Description	Quantity	Pay Type	Unit Price	Bid Price	Spec. Section
8-A	Remove existing flow meter at sodium hydroxide feed system and replace with new	1	EA	\$	\$ 7,000.00	407513
8-B	Remove existing chemical pumps and replace with new for proper dosages	5	EA	\$	\$ 15,000.00	463342

8-C	Remove existing hydraulic lift and replace with new	1	LS	\$	\$ 15,000.00	See Report
Sub-total - OPERATIONS/CHEMICAL BUILDING					\$ 37,000.00	
9 - ADMINISTRATION BUILDING						
Label	Description	Quantity	Pay Type	Unit Price	Bid price	Spec. Section
9-B	Remove front door entrance and replace with new 3ft-8.5" wide, aluminum swing door	1	LS	\$	\$ 3,000.00	81116
9-C	Renovate existing restrooms in the first and second floors. Renovation includes replacement of toilet bowls, sinks, and exhaust fans, complete in place.	1	LS	\$	\$ 24,000.00	102813
9-D	Remove leaking roof hatch cover at the Control Room and cover the opening with concrete.	1	LS	\$	\$ 6,000.00	See Report
Sub-total - ADMINISTRATION BUILDING					\$ 33,000.00	
BID PRICE TOTAL OF ALL ITEMS					\$ 2,959,765.60	
Overhead					\$ 295,976.56	
Profit					\$ 147,988.28	
Contingency					\$ 591,953.12	
GRT					\$ 209,773.39	
TOTAL					\$ 4,205,456.95	

Ugum Procurement					
Talofofo Guam					
25-Apr-22					
Estimate					
Item No.	Description (BASIC BID)	Qty	Unit	Unit Cost	Total Cost
0	GENERAL CONDITIONS		EA		\$ 269,069.60
1	RIVER/INTAKE		EA		\$ 278,500.00
2	SETTLING BASINS		EA		\$ 535,960.00
3	MEMBRANES		EA		\$ 1,361,380.00
4	PIPE GALLERY		EA		\$ 153,000.00
5	BACKWASH		EA		\$ 47,520.00
6	NEUTRALIZATION		EA		\$ 29,336.00
7	THICKENER		EA		\$ 215,000.00
8	OPERATIONS/CHEMICAL		EA		\$ 37,000.00
9	ADMIN		EA		\$ 33,000.00
	SUB-Total				\$ 2,959,765.60
	Overhead	1	ea	5%	\$ 147,988.28
	Profit	1	ea	10%	\$ 295,976.56
	Contingency			20%	\$ 591,953.12
	GRT	1	ea	5%	\$ 209,773.39
	Grand Total				\$ 4,205,456.95
					

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:) GWA Docket 23-01
)
PETITION TO AUTHORIZE THE GUAM)
WATERWORKS AUTHORITY TO ISSUE) **ORDER**
A COMPETITIVE BID TO)
REHABILITATE THE UGUM SURFACE)
WATER TREATMENT PLANT)
_____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission [“PUC”] pursuant to the Petition of the Guam Waterworks Authority [“GWA”] for PUC Approval of GWA’s Issuance of an Invitation for Bid [“IFB”] to Procure Construction Services and Supplies to Rehabilitate the Ugum Surface Water Treatment Plant [“Ugum SWTP”].¹

BACKGROUND

The Ugum Service Water Treatment Plant [“Ugum SWTP”] produces surface water to serve Guam’s southern water system.² The Ugum SWTP treats the Ugum River water and then pumps the river’s water into storage reservoirs to serve the island’s southern residents.³ The plant was originally constructed in 1991 and retrofitted and modernized from 2007-2010. Today the Ugum SWTP operates a membrane filtration treatment system.⁴

¹ GWA Petition, GWA Docket 23-01, dated November 10, 2022.

² Id., at p. 1.

³ Id. at p. 1-2.

⁴ Id., at p. 2.

Based upon GWA's Master Plan (2015), and three assessments by professional engineering firms (Brown and Caldwell in 2015, Du Pont in 2021, and most recently by Duenas Camacho and Associates ["DCA"] in 2022), the aging plant's existing equipment and systems need major infrastructure improvements and refurbishment.⁵

The 2022 DCA assessment concluded that the plant is currently in operating condition "but requires significant rehabilitation work and materials to continue providing safe drinking water to GWA customers in southern Guam."⁶ The plant's present condition limits its capability, operability, and reliability.⁷

GWA seeks PUC approval to procure construction services and material in support of the needed Ugum SWTP rehabilitation.⁸ In support of its Petition, GWA has provided a detailed estimate of the cost for the project and the services needed to be performed. The total cost estimated is \$4,626,050.00.⁹ In addition, on November 15, 2022, GWA submitted Draft Procurement Bid Documents relative to the Ugum SWTP Rehabilitation.¹⁰

The Administrative Law Judge ["ALJ"] filed his Report in this Docket on November 21, 2022. The PUC adopts the conclusions and recommendations set forth in the Report.¹¹

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Id., at pgs. 2-3.

⁹ Email from Theresa Rojas, GWA Counsel, to Fred Horecky, PUC ALJ, dated November 11, 2022, re: "Cost Estimate, Ugum SWTP Rehabilitation".

¹⁰ Email from Theresa Rojas, GWA Counsel, to Fred Horecky, PUC ALJ, dated November 15, 2022, with Procurement Bid Documents attached.

¹¹ ALJ Report, GWA Docket 23-01, dated November 21, 2022.

DETERMINATIONS

1. GWA's Contract Review Protocol

GWA indicates that "this respective procurement is estimated to exceed expenses of \$1,000,000.00 based on cost estimates received of \$4,626,050.00."¹² The GWA Contract Review Protocol requires that the PUC must review "All professional service procurements in excess of \$1,000,000...".¹³ The proposed procurement must be approved by the PUC "before the procurement process is begun."¹⁴

2. The Need/Justification for the Procurement

DCA conducted an assessment of the Ugum SWTP from June to August 2021.¹⁵ DCA, based upon its assessment, prepared a scope of work and cost estimate of the needed capital improvements to the Ugum SWTP and Raw River Intake Facility. The Scope of Work is attached to the ALJ Report as Exhibit "1".¹⁶ The DCA 2022 Report includes findings of failing equipment and equipment beyond repair requiring immediate replacement.¹⁷

The Ugum SWTP rehabilitation services includes rehabilitation and upgrades to the raw water pumps at the river intake, settling basins, membranes, pipe gallery, generator

¹² GWA Petition, GWA Docket 23-01, dated November 10, 2022, at p. 3.

¹³ Contract Review Protocol for Guam Waterworks Authority, Administrative Docket, Docket 00-04, dated October 27, 2005, at Par. 1(c)

¹⁴ *Id.*, at Par. 1.

¹⁵ GWA Petition, GWA Docket 23-01, dated November 10, 2022, at p. 11.

¹⁶ Exhibit "1", Scope of Work prepared by GWA, attached to the ALJ Report.

¹⁷ *Id.*

room, backwash, neutralization tank, sludge tank, thickening system, operations and chemical building, and administration building.¹⁸

The Guam Consolidated Commission on Utilities has concluded that the Ugum SWTP “is a critical water source which provides water to much of southern Guam”¹⁹: “The proposed rehabilitation is necessary and urgent to improve plant capacity, treatment performance, and provide reliable operation of the water treatment plant.”²⁰

3. The Proposed Contract Form

Included in its bid procurement documents, GWA has submitted a draft “AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE).²¹ After completion of the procurement process and the award of a contract, GWA will seek PUC approval for the final contract and amounts to be awarded.²² An initial review indicates that the draft contract appears to contain adequate provisions to protect the interest of GWA and its ratepayers. Those include liquidated damages²³, Performance and Payment Bonds²⁴, Insurance

¹⁸ GWA Petition, GWA Docket 23-01, at p. 3.

¹⁹ GWA Resolution No. 03-FY2023, Relative to Requesting Approval to Procure Construction Services Relative to the UGUM Service Water Treatment Plant Rehabilitation, adopted and approved on October 25, 2022, at Exhibit A-1.

²⁰ Id. at Exhibit A-2.

²¹ Email from Theresa Rojas, GWA Counsel, to Fred Horecky, PUC ALJ, dated November 15, 2022, Procurement Bid Documents at p. 57.

²² GWA Petition, GWA Docket 23-01, at p. 4.

²³ Email from Theresa Rojas, GWA Counsel, to Fred Horecky, PUC ALJ, dated November 15, 2022, Procurement Bid Documents at p. 58.

²⁴ Id., at pgs. 60-66.

requirements²⁵, Mediation and Claims Resolution process²⁶, and Termination for Cause or Convenience²⁷.

4. Cost

At present, DCA has estimated a grand total cost for this project of \$4,205,456.95 (not including the requested 10% contingency). A true and correct of the Ugum Procurement Cost Estimate is attached to the ALJ Report as Exhibit “2”.²⁸

In its cost estimate, DCA has also added a ten percent (10%) contingency of \$420,550.00 bringing the total estimated cost to \$4,626,050.00. However, the PUC need not determine the cost at the present time or make any authorization concerning the allowable cost for this procurement. When GWA returns to the Commission for approval of the award and contract, the PUC will make its determination concerning total allowable cost for the project.

5. Board Resolution

In GWA Resolution No. 03-FY2023, the Guam Consolidated Commission on Utilities [“CCU”] found that “rehabilitation of the Ugum Surface Water Treatment Plant is necessary to ensure the efficient operation of the plant and the continued provision of safe drinking water to GWA customers in Southern Guam.”²⁹ The CCU authorized

²⁵ Id., at pgs. 89-95.

²⁶ Id., at pgs. 116-118.

²⁷ Id., at pgs. 131-133.

²⁸ Exhibit 2 attached to the ALJ Report, Procurement Cost Estimate.

²⁹ GWA Resolution No. 03-FY2023, Relative to Requesting Approval to Procure Construction Services Relative to the Ugum Service Water Treatment Plant Rehabilitation, adopted and approved on October 25, 2022, at Exhibit A-2.

GWA management to submit a petition to the PUC for approval of the procurement of materials and construction services for the rehabilitation of the Ugum SWTP.³⁰

ORDERING PROVISIONS

Upon consideration of the record herein, the Petition of GWA for PUC Approval of an Invitation for Bid to Procure Construction Services and Supplies to Rehabilitate the Ugum Surface Water Treatment Plant, 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 is authorized to issue an Invitation for Bid to Procure Construction Services and Supplies to Rehabilitate the Ugum Surface Water Treatment Plant.
2. 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 are 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.

³⁰ Id. at Exhibit A-3.

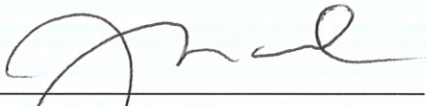
Order
Approval to Issue a Bid to
Rehabilitate the Ugum SWTP
GWA Docket 23-01
November 29, 2022

Dated this 29th day of November 2022.



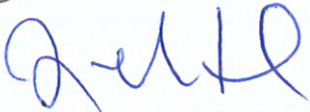
Jeffrey C. Johnson
Chairman

Rowena E. Perez-Camacho
Commissioner

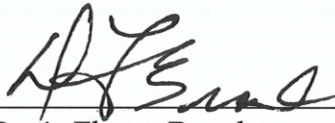


Joseph M. McDonald
Commissioner

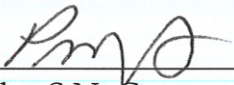
Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner



Doris Flores Brooks
Commissioner



Pedro S.N. Guerrero
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

**IN RE: PETITION FOR APPROVAL
OF CONTRACT EXTENSION
FOR WASTEWATER
CHEMICALS WITH TOTAL
CHEMICAL RESOURCES, INC.
AND JMI-EDISON**

GWA DOCKET 23-02

ALJ REPORT



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the November 18, 2022 Petition of the Guam Waterworks Authority (“GWA”) for Approval of Contracts for Wastewater Chemicals for GWA Wastewater Treatment (the “Petition”), filed by the Guam Waterworks Authority (“GWA”).

BACKGROUND

Back in 2019, GWA issued Invitation for Bid (“IFB”) 2019-17, which solicited bids for the necessary chemicals to operate GWA’s wastewater treatment plants (“WWTPs”).¹ Subsequently, the PUC authorized GWA to enter into contracts with JMI-Edison for the purchase of anionic polymer and cationic polymer, and Total Chemical for the purchase of inorganic coagulant aluminum chlorohydrate (“ACH”).² The JMI-Edison contract was approved for a three-year term and at a cost not to exceed \$1,064,053.53.³

¹ Order, GWA Docket 19-11, p. 1 (Aug. 29, 2019).

² Order, GWA Docket 19-11, p. 6.

³ Order, GWA Docket 19-11, p. 6.

The Total Chemical contract also was approved for a three-year term and at a cost not to exceed \$2,627,536.56.⁴

DISCUSSION

A. Contract Review Protocol

Pursuant to 12 G.C.A. §12105, GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. In addition, GWA's Contract Review Protocol requires that "[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"⁵

With respect to multi-year contracts, "[t]he term of a contract or obligation (procurement) will be the term stated therein, including all options for extension or renewal"; and that the "test to determine whether a procurement exceeds the \$1,000,000 threshold for the PUC review and approval (the review threshold) is the total estimated cost of the procurement, including cost incurred in any renewal options."⁶

B. GWA's Petition

In its Petition, GWA is requesting authorization to exercise an option to extend both contracts for an additional year since the initial three-year term will expire this December. As indicated in its Petition, GWA seeks approval of the contract extensions

⁴ Order, GWA Docket 19-11, p. 6.

⁵ GWA's Contract Review Protocol ("GWA CRP"), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

⁶ *Id.*, p. 2.

because of its continued need purchase chemicals for its daily operation and maintenance of its Northern District, Hagåtña, and Agat-Santa Rita wastewater treatment plants; and because it is required to use “Chemically Enhanced Treatment at both the Northern District Wastewater Treatment Plant and the Hagåtña Wastewater Treatment Plant (‘WWTP’) to remain in compliance with the November 11, 2011 Court Order for Preliminary Relief”⁷ GWA, therefore, submits that its purchase and use of these chemicals allows it to be in compliance with its federally ordered requirements.⁸

The three chemicals that are the subject of the instant petition are generally used for wastewater treatment. For instance, anionic polymers aid in filtering wastewater and for dewatering sludge; cationic polymers also aid in the clarification of water. An inorganic coagulant, like ACH, absorbs impurities, also serving to clean the wastewater.

C. Contract Extensions with JMI Edison and Total Chemical

GWA’s contract with Total Chemical for ACH and Anionic Polymer expressly provides for an “additional two (2) one (1) year term extensions” that are subject to PUC approval. Similarly, GWA’s contract with JMI-Edison for Cationic Polymer also expressly provides for an “additional two (2) one (1) year term extensions” that are subject to PUC approval.

D. Cost of the Two Contracts

GWA submits that the cost for the additional year for the JMI-Edison contract is estimated at \$392,881.34; and that the cost for the additional year for the Total Chemical

⁷ Petition, p. 1; Petition at Exhibit B (CCU Resolution No. 39-FY2019), p. 1.

⁸ Petition at Exhibit B (CCU Resolution No. 39-FY2019), p. 1.

contract is estimated at \$1,325,821.20. GWA has further submitted that the costs for the contracts authorized under GWA Docket 19-11 have not yet been exceeded. Specifically, GWA estimates expending about \$225,412.85 per year for its supply of cationic polymer.

Price per pound	Estimated use per month	Estimated annual cost
\$1.85	138,061 pounds	\$225,412.85

With respect to ACH, GWA estimates expending \$1,325,821.20 per year.

Price per pound	Estimated use per month	Estimated annual cost
\$1.65	803,528 pounds	\$1,325,821.20

And with respect to anionic polymer, GWA, estimates expending \$137,468.49 per year on its purchase of anionic polymer.

Price per pound	Estimated use per month	Estimated annual cost
\$1.23	111,763 pounds	\$137,468.49

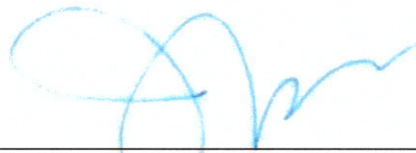
CONCLUSION

The three chemicals that are the subject of the instant Petition are widely used for wastewater treatment. As indicated here and in prior dockets, these chemicals are absolutely indispensable and required for GWA's daily wastewater operations, specifically to operate its Northern District and the Hagåtña WWTPs, along with the new Agat-Santa Rita WWTP, and to keep GWA in compliance with federal laws, permits and federal guidelines. Accordingly, the ALJ recommends that the PUC authorize the contract extension petitioned by GWA.

RECOMMENDATION

Based on the documentation provided by GWA in this docket, and for the other reasons set forth above, the ALJ recommends that the PUC authorize one-year extensions to the contracts between GWA and JMI-Edison, at cost of \$392,881.34; and between GWA and Total Chemical, at a cost of \$1,325,821.20. These contracts should be subject to the usual cost contingencies provided under the Contract Review Protocol for GWA.⁹ A proposed Order for the Commission's consideration is attached.

Dated this 28th day of November, 2022.



JOEPHET R. ALCANTARA
Administrative Law Judge

P223052.JRA

⁹ See Section 9, GWA's Contract Review Protocol, Administrative Docket 00-004, p. 1 (Oct. 27, 2005).

-BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN RE: PETITION FOR APPROVAL) GWA DOCKET 23-02
OF CONTRACT EXTENSION)
FOR WASTEWATER) ORDER
CHEMICALS WITH TOTAL)
CHEMICAL RESOURCES, INC.)
AND JMI-EDISON)
_____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the November 18, 2022 Petition of the Guam Waterworks Authority (“GWA”) for Approval of Contract Extensions for Wastewater Chemicals for GWA Wastewater Treatment (the “Petition”), filed by the Guam Waterworks Authority (“GWA”).

On November 28, 2022, the Administrative Law Judge of the PUC (the “ALJ”) assigned to this matter filed an ALJ Report that included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

DETERMINATIONS

Back in 2019, GWA issued Invitation for Bid (“IFB”) 2019-17, which solicited bids for the necessary chemicals to operate GWA’s wastewater treatment plants (“WWTPs”).¹ Subsequently, the PUC authorized GWA to enter into contracts with JMI-Edison for the purchase of anionic polymer and cationic polymer, and Total Chemical for

¹ Order, GWA Docket 19-11, p. 1 (Aug. 29, 2019).

the purchase of inorganic coagulant aluminum chlorohydrate (“ACH”).² The JMI-Edison contract was approved for a three-year term and at a cost not to exceed \$1,064,053.53.³ The Total Chemical contract also was approved for a three-year term and at a cost not to exceed \$2,627,536.56.⁴

A. Contract Review Protocol

Pursuant to 12 G.C.A. §12105, GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. In addition, GWA’s Contract Review Protocol requires that “[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”⁵

With respect to multi-year contracts, “[t]he term of a contract or obligation (procurement) will be the term stated therein, including all options for extension or renewal”; and that the “test to determine whether a procurement exceeds the \$1,000,000 threshold for the PUC review and approval (the review threshold) is the total estimated cost of the procurement, including cost incurred in any renewal options.”⁶

B. GWA’s Petition

In its Petition, GWA is requesting authorization to exercise an option to extend both contracts for an additional year since the initial three-year term will expire this

² Order, GWA Docket 19-11, p. 6 (Aug. 29, 2019).

³ Order, GWA Docket 19-11, p. 6 (Aug. 29, 2019).

⁴ Order, GWA Docket 19-11, p. 6 (Aug. 29, 2019).

⁵ GWA’s Contract Review Protocol (“GWA CRP”), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

⁶ Id., p. 2.

December. As indicated in its Petition, GWA seeks approval of the contract extensions because of its continued need to purchase chemicals for its daily operation and maintenance of its Northern District, Hagåtña, and Agat-Santa Rita wastewater treatment plants; and because it is required to use “Chemically Enhanced Treatment at both the Northern District Wastewater Treatment Plant and the Hagåtña Wastewater Treatment Plant (‘WWTP’) to remain in compliance with the November 11, 2011 Court Order for Preliminary Relief”⁷ GWA, therefore, submitted that its purchase and use of these chemicals allows it to be in compliance with its federally ordered requirements.⁸

The three chemicals that are the subject of the instant petition are generally used for wastewater treatment. For instance, anionic polymers aid in filtering wastewater and for dewatering sludge; cationic polymers also aid in the clarification of water. An inorganic coagulant, like ACH, absorbs impurities, also serving to clean the wastewater.

C. Contract Extensions with JMI Edison and Total Chemical

GWA’s contract with Total Chemical for ACH and Anionic Polymer expressly provides for an “additional two (2) one (1) year term extensions” that are subject to PUC approval. Similarly, GWA’s contract with JMI-Edison for Cationic Polymer also expressly provides for an “additional two (2) one (1) year term extensions” that are subject to PUC approval.

D. Cost of the Two Contracts

GWA submitted that the cost for the additional year for the JMI-Edison contract is estimated at \$392,881.34; and that the cost for the additional year for the Total Chemical contract is estimated at \$1,325,821.20. GWA has further submitted that the costs for the

⁷ Petition, p. 1; Petition at Exhibit B (CCU Resolution No. 39-FY2019), p. 1.

⁸ Petition at Exhibit B (CCU Resolution No. 39-FY2019), p. 1.

contracts authorized under GWA Docket 19-11 have not yet been exceeded. Specifically, GWA estimates expending about \$255,412.85 per year for its supply of cationic polymer.

Price per pound	Estimated use per month	Estimated annual cost
\$1.85	138,061 pounds	\$255,412.85

With respect to ACH, GWA estimates expending \$1,325,821.20 per year.

Price per pound	Estimated use per month	Estimated annual cost
\$1.65	803,528 pounds	\$1,325,821.20

And with respect to anionic polymer, GWA, estimates expending \$137,468.49 per year on its purchase of anionic polymer.

Price per pound	Estimated use per month	Estimated annual cost
\$1.23	111,763 pounds	\$137,468.49

CONCLUSION

The three chemicals that are the subject of the instant Petition are widely used for wastewater treatment. As indicated here and in prior dockets, these chemicals are absolutely indispensable and required for GWA's daily wastewater operations, specifically to operate its Northern District and the Hagåtña WWTPs, along with the new Agat-Santa Rita WWTP, and to keep GWA in compliance with federal laws, permits and federal guidelines. Accordingly, the ALJ recommended that the PUC authorize the contract extension petitioned by GWA.

RECOMMENDATION

Based on the documentation provided by GWA in this docket, and for the other reasons set forth above, the ALJ recommended that the PUC authorize one-year extensions to the contracts between GWA and JMI-Edison, at cost of \$392,881.34; and between

GWA and Total Chemical, at a cost of \$1,325,821.20. These contracts should be subject to the usual cost contingencies provided under the Contract Review Protocol for GWA.⁹

The Commission hereby adopts the findings in the November 28, 2022 ALJ Report and therefore issues 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; and that GWA is authorized to exercise one-year extensions to the contracts between GWA and JMI-Edison, at cost of \$392,881.34; and between GWA and Total Chemical, at a cost of \$1,325,821.20.

2. 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]


⁹ See Section 9, GWA's Contract Review Protocol, Administrative Docket 00-004, p. 1 (Oct. 27, 2005).

SO ORDERED this 29th day of November, 2022.



JEFFREY C. JOHNSON
Chairman

ROWENA E. PEREZ-CAMACHO
Commissioner

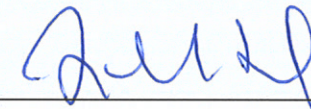


JOSEPH M. MCDONALD
Commissioner

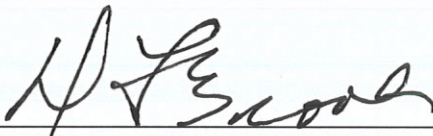


PEDRO GUERRERO
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