

## BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF: ) GWA Docket 23-12  
)  
GUAM WATERWORKS AUTHORITY'S )  
UGUM SURFACE WATER TREATMENT ) **ORDER**  
PLANT REHABILITATION )  
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### INTRODUCTION

This matter comes before the Guam Public Utilities Commission ["PUC"] pursuant to the Petition of the Guam Waterworks Authority ["GWA"] for PUC Review and Approval of GWA's Contract Award to Sumitomo Mitsui Construction Company, Ltd. ["Sumitomo"] for the Rehabilitation and Upgrade of GWA's Ugum Plant.<sup>1</sup>

### BACKGROUND

In GWA Docket 23-01, the PUC authorized GWA to issue an Invitation for Bid to Procure Construction Services and Supplies to Rehabilitate the Ugum Surface Water Treatment Plant.<sup>2</sup> The Ugum Surface Water Treatment Plant ["Ugum SWTP"] produces surface water to serve Guam's Southern water system.<sup>3</sup> 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.<sup>4</sup> In December 2022, GWA issued IFB-05-ENG-2023, but received no bids for the Ugum Plant's Rehabilitation Construction Project.<sup>5</sup> GWA then

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<sup>1</sup> GWA Petition, GWA Docket 23-12, dated September 18, 2023, at p. 1.

<sup>2</sup> PUC Order, GWA Docket 23-01, dated November 29, 2022.

<sup>3</sup> GWA Petition, GWA Docket 23-01, dated November 10, 2022, at p. 1.

<sup>4</sup> Id at pgs. 1-2.

<sup>5</sup> GWA Petition, GWA Docket 23-12, dated September 18, 2023, at p. 1.



issued a re-bid package on May 2, 2023, as IFB-08-ENG-2023.<sup>6</sup> Only two bidders submitted bids; Sumitomo Mitsui Construction Company was the lowest priced, responsive and responsible bidder, submitting a base bid of \$9,188,777.00.<sup>7</sup>

The Guam Consolidated Commission on Utilities [“CCU”] authorized the management of GWA to accept the bid from Sumitomo Mitsui Construction Company Ltd. and authorized it to enter a contract with Sumitomo for \$9,188,777.00.<sup>8</sup> GWA now requests that the PUC approve its contract award to Sumitomo for \$9,188,777.00.

The Administrative Law Judge [“ALJ”] filed his Report in this Docket dated September 22, 2023.<sup>9</sup> The PUC adopts the recommendations and conclusions in the Report.

### **DETERMINATIONS**

#### **1. GWA’s Contract Review Protocol**

GWA indicates that the Sumitomo Contract will cost \$9,188,777.00. GWA further requests a 10% contingency of \$918,877.70, for a total authorized award amount of \$10,107,654.70.<sup>10</sup> The GWA Contract Review Protocol requires that the PUC must review “[A]ll professional service procurements in excess of \$1,000,000...”.<sup>11</sup> In addition, GWA indicates that the Sumitomo contract will be funded by GWA revenue

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<sup>6</sup> Id.

<sup>7</sup> Id. at pgs. 1-2.

<sup>8</sup> Guam Consolidated Commission on Utilities, GWA Resolution No. 41-FY2023, dated August 29, 2023 attached to the GWA Petition as Exhibit B-001 through Exhibit B-004.

<sup>9</sup> ALJ Report, GWA Docket 23-12, dated September 22, 2023.

<sup>10</sup> GWA Petition at p. 2.

<sup>11</sup> Contract Review Protocol for Guam Waterworks Authority, Administrative Docket, Docket 00-04, dated October 27, 2005, at Par. 1(c).



funds, and “a combination of both bond and USEPA grants...”.<sup>12</sup> The use of bond funds must also be approved by the PUC.<sup>13</sup>

## 2. The Need/Justification for the Contract

In GWA Docket 23-01, the PUC already determined that there was a need for the repairs and rehabilitation of the Ugum SWTP. The Ugum SWTP “is a critical water source that provides water to much of Southern Guam.”<sup>14</sup> The proposed rehabilitation “is necessary and urgent to improve plant capacity, treatment performance, and provide reliable operation of the water treatment plant.”<sup>15</sup> The project is urgently needed to provide efficient and reliable operation of the plant and continued provision of safe drinking water to GWA customers in Southern Guam.<sup>16</sup> The Ugum SWTP rehabilitation services include rehabilitation and upgrades to the raw water pumps at the river intake, settling basin, membranes, pipe gallery, generator room, backwash, neutralization tank, sludge tank, thickening system, operations and chemical building, and administration building.<sup>17</sup>

## 3. Cost

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<sup>12</sup> GWA Petition at p. 2.

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

<sup>14</sup> Guam Consolidated Commission on Utilities, GWA Resolution No. 03-FY2023, adopted and approved on October 25, 2022, attached as Exhibit B-005 through Exhibit B-009 to the GWA Petition, at Exhibit B-005.

<sup>15</sup> Id. at Exhibit B-006 to the GWA Petition.

<sup>16</sup> Issues for Decision, CCU GWA Resolution No. 41-FY2023, attached as Exhibit B-024 to the GWA Petition.

<sup>17</sup> GWA Petition, GWA Docket 23-01, at p. 3.



In the request to procure the Ugum Surface Water Treatment Plant Rehabilitation Construction Project, GWA's Owner's Representative DCA had estimated that the total cost of the project, including a 10% contingency, was \$4,626,050.00.<sup>18</sup>

After no bids were received for the initial procurement, GWA rebid the project; the lowest bid received from Sumitomo was \$9,188,777.00. GWA has requested a 10% contingency of \$918,877.70, which would bring the total award to \$10,107,654.70.<sup>19</sup> With regard to the price increase for the project, GWA states as follows: "...considering the first no-bid results, the number of bidders who responded to the re-bid, the close re-bid amounts, and the critical need to immediately refurbish and upgrade existing equipment and systems at the Ugum Water Treatment Plant, GWA management secured a combination of both bond and US EPA grants to fund this project."<sup>20</sup> GWA Management, taking into consideration that the lowest responsive responsible bid had exceeded the reserve funding amount, determined that reducing the scope to fit the budget and/or rebidding the project for a third time would not accomplish all needed improvements, and would ultimately serve to further delay the much-needed rehabilitation of the treatment plant and would not result in lower bids.<sup>21</sup>

The bid of Sumitomo Mitsui Construction Company is attached to the ALJ Report as Exhibit "1".<sup>22</sup>

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<sup>18</sup> ALJ Report, GWA Docket 23-01, dated November 29, 2022, at pg. 5.

<sup>19</sup> GWA Petition at p. 2.

<sup>20</sup> Id.

<sup>21</sup> Guam Consolidated Commission on Utilities, GWA Resolution No. 41-FY2023, Relative to Approval of Construction Contract for the Ugum Surface Water Treatment Plant Rehabilitation, adopted and approved on August 29, 2023, attached as Exhibit B-002 to the GWA Petition.

<sup>22</sup> Sumitomo's "Unit Price Bid Form" is attached to the GWA Petition as Exhibit B-017 through Exhibit B-023.



The breakdown of sources from which the contract award will be paid is as follows:  
2016 Bond Funds, \$4,626,050.00; USEPA Grant, \$3,847,050.00; and Unallocated Bond  
Interest from MP-PW-SWTP-03 Ugum SWTP Reliability Improvements, \$1,634,554.70,  
for a total of \$10,107,654.70.<sup>23</sup>

#### 4. The Proposed Contract

GWA has attached the proposed AGREEMENT BETWEEN OWNER AND  
CONTRACTOR FOR CONSTRUCTION CONTRACT to its Petition.<sup>24</sup> The Agreement  
provides that the work for the Ugum Water Treatment Plant Rehabilitation will be  
substantially completed within 365 calendar days from Notice to Proceed issuance.<sup>25</sup> In  
GWA Docket 23-01, the PUC determined that the contract appeared to contain adequate  
provisions to protect the interest of GWA and its ratepayers.<sup>26</sup>

### ORDERING PROVISIONS

Upon consideration of the record herein, the Petition of GWA for PUC Review and  
Approval of GWA's Contract Award to Sumitomo Mitsui Construction Company, Ltd.  
["Sumitomo"] for the Rehabilitation and Upgrade of GWA's Ugum 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:

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<sup>23</sup> GWA's Response to Information on GWA Petition, Docket 23-12, dated September 21, 2023.

<sup>24</sup> GWA Petition at Exhibit A-001 through Exhibit A-009.

<sup>25</sup> Id at Exhibit A-008.

<sup>26</sup> PUC Order, GWA Docket 23-01, dated November 29, 2022, at p. 4.



1. The Contract Award of \$10,107,654.70 to Sumitomo Mitsui Construction Company, Ltd., for the Ugum Surface Water Treatment Plant Rehabilitation Project, is approved. The award includes a 10% contingency of \$918,877.70.
2. GWA is authorized to fund the award from 2016 Bond Funds in the amount of \$4,626,050.00; from a USEPA Grant in the amount of \$3,847,050.00; and from Unallocated Bond Interest from MP-PW-SWTP-03 Ugum SWTP Reliability Improvements in the amount of \$1,634,554.70.
3. 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.

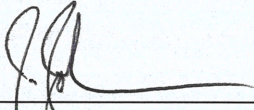
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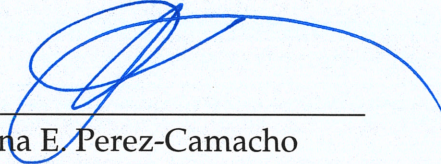
Order  
Review & Approval of  
the Ugum SWTP Rehabilitation  
GWA Docket 23-12  
September 28, 2023

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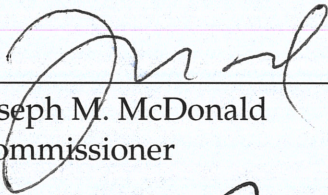
Dated this 28th day of September 2023.



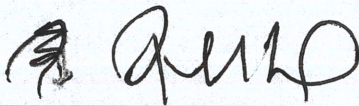
Jeffrey C. Johnson  
Chairman



Rowena E. Perez-Camacho  
Commissioner

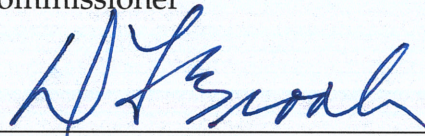


Joseph M. McDonald  
Commissioner

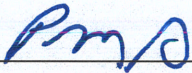


Peter Montinola  
Commissioner

Michael A. Pangelinan  
Commissioner



Doris Flores Brooks  
Commissioner



Pedro S.N. Guerrero  
Commissioner