

BOARD OF DIRECTORS

*Francisco G. Santos, Chairman
Dorothy P. Harris, Vice Chairperson
Dr. Judith P. Guthertz, Board Secretary
Conchita S.N. Taitano, Member*



Resolution No. 2022-34

**RELATIVE TO CONCURRING WITH PORT MANAGEMENT'S APPROACH
TO OVERCOME ISSUES SURROUNDING THE HOTEL WHARF PROJECT
RELATIVE TO THE BUY AMERICAN REQUIREMENTS.**

**BE IT RESOLVED BY BOARD OF DIRECTORS OF THE JOSE D. LEON GUERRERO
COMMERCIAL PORT:**

WHEREAS, the Jose D. Leon Guerrero Commercial Port (hereafter referred to as the "Port") serves as the only commercial seaport on the island of Guam and as the primary transshipment hub for other islands in the Southwestern Pacific region that includes the Commonwealth of the Northern Mariana Islands (CNMI), Federated States of Micronesia (FSM), Republic of the Marshall Islands (RMI) and Palau; and

WHEREAS, the Port handles approximately two million tons of cargo annually, which approximately 30 percent of the total cargo is military-related and remains a vital contributor to the island; and

WHEREAS, dubbed as America's "Tip of the Spear" for its strategic location, Guam is home to the U.S. Air Force, U.S. Navy, U.S. Army, U.S. Coast Guard, the Guam National Guard and several key federal agencies; and

WHEREAS, the U.S. Department of Defense (DoD) plans to relocate 5,000 Marines and their families from Okinawa, Japan to Guam, substantially increasing the military's presence on the island; and

WHEREAS, Guam's importance to military operations is evidenced by the Port's designation as the 16th Commercial Strategic Seaport with Special Consideration status by the U.S. Transportation Command (USTRANSCOM) in 2016; and

WHEREAS, because the Port plays a central role in providing critical support for our military readiness in the context of the Indo-Pacific Strategy, the Port must secure the resources to build capacity and resiliency by rehabilitating or replacing its aging facilities and equipment; and

WHEREAS, the Port has been successful in leveraging federal resources and continue with its aggressive efforts in securing funding for projects for the rehabilitation of Hotel Wharf, STS gantry crane and yard equipment replacement; pier replacement; wharf replacement, information technology improvements and Port buildings demolition and replacement; and

WHEREAS, in 2014, the design of Hotel Wharf was completed by the Port's Owner's Agent Engineer Consultants and the engineering estimates at that time was \$23,744,225; and

WHEREAS, in 2016, the Port applied to the U.S. Department of Transportation's Maritime Administration (MARAD) for a Transportation Investment Generating Economic Recovery (TIGER) grant to rehabilitate Hotel Wharf; and

WHEREAS, in 2019, MARAD provided notice to the Port of the TIGER grant award in the amount of \$10 million to the Port Authority of Guam and in the same year approved the environmental permitting for the project; and

WHEREAS, the Infrastructure Investment and Jobs Act was signed into law by President Joseph Biden in 2021 expanding funding opportunities that were subjected to Buy American Act of 1933 (BAA) requirements; and

WHEREAS, the BAA requires federal, states and local agencies to procure domestic materials and products, which two conditions must be present for the BAA to apply: (1) the procurement must be intended for public use within the United States and territories; and (2) the items to be procured or the materials from which they are manufactured must be present in the United States in sufficient and reasonably available commercial quantities of satisfactory quality; and

WHEREAS, through Public Law 34-70, the Port obtained revenue bonds to finance certain capital improvements, to include the local match for the TIGER grant program funding for Hotel Wharf rehabilitation and access road in the original amount of \$14,200,000; and

WHEREAS, the rehabilitation of Hotel Wharf project is comprised of two major components: (1) replacement of Hotel Wharf structures and adjacent upland facilities, and (2) reconstruction of the access roadway, Highway 11; and

WHEREAS, on September 13, 2021, the Port issued a procurement solicitation bid and no offers were submitted despite the fact that 28 firms registered and picked up copies of the solicitations; and



WHEREAS, one registered bidder voluntarily shared their concerns with the procurement requirements and provided rationale for their non-submission citing the following major factors: (1) the price of steel piles had skyrocketed and suppliers would not hold pricing for more than 48 hours; (2) the project's construction duration was not adequate to allow for the procurement and manufacture of specific steel pile sections with an estimated production period of 18 months and limited to a single supplier in the U.S.; and

WHEREAS, following the unsuccessful initial bid opening for the Hotel Wharf rehabilitation project, the Port and its Construction Manager developed a re-bid strategy to advance the project by amending the bid documents to be less restrictive in an offeror's past experience with similarly scoped projects and by including the original MARAD approved design and options for potential bidders' alternate design; and

WHEREAS, a second procurement solicitation bid was issued with a bid opening of January 28, 2022 in which a single bid was received in the amount of \$59,683,065.00 from Sumitomo Mitsui Construction Company (SMCC); and

WHEREAS, due to the exorbitant project amount, it was collaboratively determined by the Port and SMCC to break the project into three (3) phases and agreed to prioritize Phases 1 and 2 with a negotiated project amount of \$46,331,895.00:

- a. Phase 1 would entail procurement of all steel piling works materials for the wharf;
- b. Phase 2 would involve the installation of the west and east wall piles and other marine structures such as the bulkhead concrete works, on-shore bollards, bulkhead moorings – cleat and bollard and cell fenders; and
- c. Phase 3, which was not awarded, involved all off-site and remaining works specified in the procurement solicitation.

WHEREAS, in a letter addressed to Admiral John C. Aquilino, Commander, United States Indo-Pacific Command dated April 27, 2022, Congressman Joe Wilson, member of the House Armed Services Subcommittee on Readiness and House of Representatives of the Congress of the United States encouraged him to work with MARAD to explore possibilities on how to best secure funds appropriated in the Infrastructure Investment and Jobs Act to address the rehabilitation and resiliency of the Port of Guam's wharves, including Hotel Wharf and construction of new facilities on its terminal yard; and

WHEREAS, on July 19, 2022, the Honorable Lourdes A. Leon Guerrero, Governor of Guam wrote to Rear Admiral Benjamin R. Nicolson, Commander of the Joint Region Marianas, U.S. Naval Forces Marianas describing the challenges the Port of Guam was encountering regarding BAA requirements and requested support in providing the Port with a BAA waiver if the head of the procuring agency determines the act is inconsistent with the public interest or the cost of acquiring the domestic product is unreasonable; and

WHEREAS, on August 12, 2022, the Port General Manager provided Mr. Robert Bouchard, Director of MARAD a White Paper capturing all programmatic activities the Port had diligently performed and description of the external and unforeseen constraints the Port had encountered in order to execute and complete the Hotel Wharf Rehabilitation Project and requested MARAD's concurrence to delink the access road component of the project; and

WHEREAS, on August 29, 2022, the Port General Manager submitted a request to Mr. Bouchard, Director of MARAD for consideration of a waiver from BAA requirements for the construction materials for the rehabilitation of Hotel Wharf project and explained:

- (1) the high cost of materials and extended procurement times are felt globally and particularly in Guam which manufacturers and suppliers are only able to hold steel pricing quotations for limited periods of time, introducing risk and uncertainty to prospective bidders;
- (2) the BAA grant funding requires procurement of all materials from the United States and has resulted in limited manufacturers/suppliers and steel section availability; and
- (3) the Engineer's current design was completed in 2014 and primarily relied on steel for construction of the wharf, which is now a very volatile commodity and supply appears to be limited and quite expensive; and

WHEREAS, in his request, the Port General Manager said the BAA:

- (1) requires federal, state and local agencies to procure domestic materials and products; and two conditions must be present for the BAA to apply as follows:
 - a. the procurement must be intended for public use within the United States and its territories; and
 - b. the items to be procured or the materials from which they are manufactured must be present in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; and
- (2) the provisions may be waived if the head of the procuring agency determines the act to be inconsistent with the public interest or the cost of acquiring the domestic product is unreasonable; and
- (3) the waiver can be granted by the issuing federal entity if the following conditions are met as stipulated in the Hotel Wharf Project Grant Agreement:
 - a. the use of a U.S. product is impractical or inconsistent with the public interest;
 - b. the product is not mined, produced, or manufactured in the U.S. in sufficient or reasonably available commercial quantities of a satisfactory quality; or

- c. the use of a domestic product (in this case the cost of steel) would lead to an unreasonable increase of the total cost of the project by more than 6 percent (the BAA cost is 37% more than the non-BAA - \$9,921,422.61 vs \$6,223,836.80); and

WHEREAS, in addition to the Port’s BAA construction waiver request being compliant with the MARAD/PAG Hotel Wharf Project Grant Agreement of exceeding the 6% cost savings threshold, the non-BAA approval will result in the delivery period of the steel materials in six (6) months versus twelve (12) months for the BAA-delivery; and

WHEREAS, on October 7, 2022, the Port General Manager submitted a letter to MARAD Grants Manager David Bohnet memorializing the Port’s proposed next steps in its diligent and concerted effort to execute and complete the rehabilitation and upgrade of the Hotel Wharf project by requesting approval to: 1) descope the Access Roadway Upgrade component of the project; and 2) consider the Port’s BAA Waiver Request for construction materials; and

WHEREAS, on November 9, 2022, the Port responded to Mr. David Bohnet via email answering follow up questions presented by the Office of the Secretary regarding the Port’s October 7, 2022 request; and

WHEREAS, the Port General Manager further stated that the procurement of the much needed steel component for the Hotel Wharf project from a WTO Government Procurement Agreement (GPA) supplier appears to be a viable alternative and would be in the best interest of both the Port and MARAD that all avenues are entertained to ensure both governments practice due diligence and fiscal responsibility in the usage of public taxpayers’ monies; and

WHEREAS, on August 3, 2022, Rear Admiral B.R. Nicholson in a letter to Governor Leon Guerrero agreed wholeheartedly that further collaboration is necessary to ensure the availability of services and supports the Government of Guam’s pursuit of a BAA waiver; and

WHEREAS, Admiral Nicholson stated that, in light of several U.S. Department of Defense (DoD) critical growth programs that included the defense of Guam, the Navy’s homeporting of additional Los Angeles class attack submarines, developing a Guam Maintenance Activity in conjunction with the Pearl Harbor Naval Shipyard and planning for infrastructure in support of Singapore Air Force training activity at Anderson Air Force Base, more than ever DoD will rely on the Port to handle the tens of thousands of containerized and breakbulk shipping units of construction material supplies and commodities for the defense activities through Joint Region Marianas (JRM) and the greater Indo-Pacific Area of Responsibility (AOR); and

WHEREAS, Admiral Nicholson further stated JRM understands that: (1) the implementation of the Port’s Resiliency & Readiness Plan will modernize the Port’s aging facilities, infrastructure and equipment and better enable its capacity to serve as a central point of access to construction material supplies and commodities for defense activities; (2) the Government of Guam and the Port examined how best to achieve further modernization and determined seeking and requesting a BAA waiver is consistent with the existing guidance; (3) modernizing the Port and its equipment and improving the Port’s services will greatly benefit DoD’s operations in this critically important area of the Pacific; and

WHEREAS, through the Governor’s description of the Port Authority of Guam’s challenges to the BAA requirements, Admiral Nicholson’s office acknowledges the successful completion of the Hotel Wharf project award and proposed BAA waiver is aligned with and in the best interest of U.S. national security and supports the Government of Guam’s request; now therefore be it

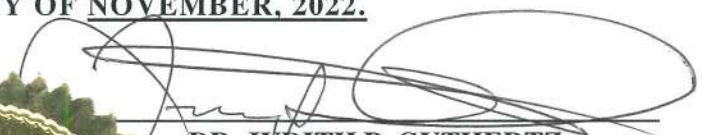
RESOLVED, together with copies of the letters described in the resolution, the Board of Directors concurs with Management’s approach to overcome issues and challenges surrounding the Hotel Wharf project relative to BAA requirements and to proceed in the direction as if the Port Authority of Guam was provided with the waiver of the BAA requirements; and be it further

RESOLVED, the Chairman certify to, and the Secretary attest to, the adoption hereof and that a copy of the resolution be transmitted to the Governor of Guam, Lt. Governor of Guam, Guam Legislative Speaker and Oversight Legislative Chairperson, US DOT Secretary Pete Buttigieg, MARAD Administrator Rear Admiral Ann Phillips (Ret.), Admiral John C. Aquilino, and Rear Admiral Benjamin Nicholson.

PASSED AND ADOPTED UNANIMOUSLY BY THE BOARD OF DIRECTORS THIS 30th DAY OF NOVEMBER, 2022.



DOROTHY P. HARRIS
ACTING CHAIRPERSON, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM



DR. JUDITH P. GUTHERTZ
SECRETARY, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM



JOE WILSON
2ND DISTRICT, SOUTH CAROLINA

ASSISTANT MINORITY WHIP

COMMITTEE:
FOREIGN AFFAIRS
RANKING MEMBER: MIDDLE EAST, NORTH
AFRICA, & INTERNATIONAL TERRORISM

ARMED SERVICES
EDUCATION & LABOR

Congress of the United States House of Representatives

April 27, 2022

COUNTIES:
AIKEN
BARNWELL
LEXINGTON
ORANGEBURG*
RICHLAND*
(*PARTS OF)

Admiral John C. Aquilino
Commander, United States Indo-Pacific Command
1000 Defense Pentagon
Washington, DC 20301

Dear Admiral Aquilino:

Recently, I had a meeting with former Guam Delegate Madeleine Z. Bordallo and the Port Authority of Guam regarding the Port's 2022 Masterplan, which is currently underway thanks to funding from the Office of Local Defense Community (OLDCC). This meeting was secured at the urging of Governor Leon Guerrero and Lt. Governor Joshua F. Tenorio.

This masterplan update primarily seeks to present to the Department of Defense (DOD) the opportunity to utilize the Jose D. Leon Guerrero Commercial Port of Guam to provide critical support for our military's readiness and the Indo-Pacific Strategy. I believe the Port of Guam should be viewed as part of the solution for the rapid discharging and deploying of military assets and its commodities in the Pacific, especially with regard to the Pacific Deterrence Initiative.

The Port of Guam has successfully completed its Port Modernization Program, made possible through \$50M funded by DOD to the Department of Transportation (DOT) to expand its terminal yard. This was due to a significant degree of DOD leadership, including the precursor to OLDCC, in making the case that the Port of Guam must expand its terminal yard otherwise it will become a chokepoint for the Guam Military Buildup.

This \$50M was deposited into a newly created account, namely the Port Enterprise Fund, and administered by DOT in 2010. I understand the Port Modernization program and all capital improvement projects funded by the \$50M appropriation have been successfully completed by the Port of Guam.

As you are aware, the Guam Military Buildup and the attendant relocation of Marines from Okinawa has over the past several years been delayed, and significantly reconfigured to meet the requirements of both DOD and the people of Guam. We need to recognize the urgent need to complete these strategic realignments and Port of Guam modernization efforts if our Indo-Pacific deterrence objectives are going to be successful.

The implementation of the Pacific Deterrence Initiative and its components, including the Guam Defense System, requires that we, once again, provide the resources to build capacity and resiliency at the Port of Guam by replacing its aging 50-year-old facilities. In particular, I have been informed there is a pressing need for the acquisition of three new STS Gantry Cranes and the hardening of its wharves.

MIDLANDS OFFICE:
1700 SUNSET BLVD. (US 378), SUITE 1
WEST COLUMBIA, SC 29169
(803) 939-0041
FAX: (803) 939-0078

1436 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4002
(202) 225-2452
FAX: (202) 225-2455
www.joewilson.house.gov

AIKEN OFFICE:
1930 UNIVERSITY PARKWAY, SUITE 1600
AIKEN, SC 29801
(803) 642-6416
FAX: (803) 642-6418

As a member of the House Armed Services Subcommittee on Readiness, I understand the significance of Guam in our INDOPACOM strategy and am committed to advocate for Guam's needs. I encourage you to work with the United States Maritime Administration (MARAD) within DOT to explore possibilities on how best to secure funds appropriated in the *Infrastructure Investment and Jobs Act* to address the rehabilitation and resiliency of the Port of Guam's wharves, including its H-Wharf, and construction of new facilities on its terminal yard.

Thank you for keeping Guam in the foremost of your considerations relative to the Indo-Pacific Strategy. I know you understand full well that the Port of Guam is a critical element in the Pacific Deterrence Initiative. It is a nexus for Indo-Pacific logistics that enables power projection across the region. The current geopolitical landscape involving Russia's war on Ukraine and the imminent threat of China's massive development of its military forces makes the island of Guam strategically important, now more than ever. This necessitates investment in not only military readiness and infrastructure on Guam, but also in the island's supporting civilian infrastructure.

I am confident that my colleagues from both sides of the aisle will continue to work together with you to ensure that our national security objectives are achieved in Guam and the Indo-Pacific region.

Thank you for your attention to this matter. Please let me know if my office may be of further assistance.

Sincerely,



JOE WILSON
Member of Congress

Appreciate your service.



DEPARTMENT OF THE NAVY
JOINT REGION MARIANAS
PSC 455 BOX 211
FPO AP 96540-1000

August 3, 2022

The Honorable Lourdes Leon Guerrero
Governor of Guam
Ricardo J. Bordallo Governor's Complex
513 W. Marine Corps Drive
Hagatna, Guam 96910
P.O. Box 2950
Hagatna, Guam 96932

**Subject: SUPPORT FOR PORT AUTHORITY OF GUAM'S RESILIENCY AND
READINESS PLAN**

Reference: Port Authority of Guam Buy American Act Challenges, and \$48 Million Grant Submission to MARAD for three new Ship-to-Shore (STS) Gantry Cranes, and support to harden wharves and replace Port's 50-year-old facilities.

Dear Governor Leon Guerrero,

Si Yu'us Ma'ase for your informative letter on the Port Authority of Guam's (PAG) Resiliency and Readiness Plan and the opportunity to offer a Department of Defense (DoD) perspective of the PAG's challenges with the Buy American Act (BAA). I agree wholeheartedly that further collaboration is necessary to ensure the availability of services, some of which DoD utilizes tremendously. We commend the Port Authority of Guam's continuing efforts to improve its capabilities through the Port's initiative to participate in the U.S. Department of Transportation Multimodal Projects Discretionary Grant programs, of which I have been a staunch supporter. My office fully supports the Government of Guam's pursuit of a BAA waiver.

The DoD has consistently supported Port initiatives to expand and maintain port capacity based on throughput requirements for Guam and the CNMI Military Relocation (aka the "Guam Buildup") as early as 2010 and sustainment of defense activities over the past 20 years. The Jose D. Leon Guerrero Commercial Port of Guam (Port) is the only full service U.S. seaport which serves the island of Guam as well as neighboring islands in Micronesia and replacement of the Port's aging gantry cranes, yard equipment, and critical infrastructure is necessary to support enhanced / increased operational capacity in support of military growth and readiness in this Area of Responsibility (AOR).

The DoD is also undertaking several critical growth programs to include Defense of Guam, the Navy's homeporting of additional Los Angeles class attack submarines, developing a Guam Maintenance Activity in conjunction with the Pearl Harbor Naval Shipyard, and planning for infrastructure in support of a Republic of Singapore Air Force training activity at Andersen Air Force Base.

Now more than ever, the DoD relies on the Port of Guam to handle many tens of thousands of containerized and breakbulk shipping units of construction material supplies and commodities for defense activities throughout JRM and the greater Indo-Pacific AOR. The strategically critical set of

programs mentioned above are a significant part of the effort by the United States working with allies and partners to maintain a free and open Indo-Pacific.

Port operational equipment are the essential moving parts of a viable and highly responsive ocean to land transportation network. This equipment and supporting facilities must be maintained in good serviceable condition but will eventually reach the end of their safe and efficient service life. Your office, in collaboration with the PAG's Resilience and Readiness Plan, have provided us with the narratives of the Port of Guam's immediate needs, Government of Guam's efforts to secure funding for priority initiatives, and the BAA challenges describing the assessment to pursue a waiver as follows:

- The use of a U.S. product is impractical or inconsistent with the public interest;
- The product is not mined, produced, or manufactured in the U.S. in sufficient and reasonable available commercial quantities of a satisfactory quality; or
- The use of a domestic product would lead to an unreasonable increase in the project's total cost by more than 25%

JRM understands that implementation of the PAG's Resiliency and Readiness Plan will modernize the PAG's aging facilities, infrastructure and equipment and better enable PAG's capability to serve as a central point of access to construction material supplies and commodities for defense activities. JRM also understands that the Government of Guam and the PAG have examined how best to achieve that modernization and have determined that seeking a BAA waiver is consistent with the existing guidance and have determined that the objective will best be achieved by requesting a waiver. From JRM's perspective, modernizing the port and its equipment and improving the PAG's services, will greatly benefit the DoD's operations in this critically important area of the Pacific.

In closing, for the reasons stated in this letter, and as reflected in your letter describing the Port Authority of Guam's challenges to the Buy American Act of 1933 (BAA) requirement, my office acknowledges that the successful completion of the award and proposed BAA waiver is in alignment with and in the best interests of U.S. National Security and my office is willing to support the Government of Guam.

If you have any questions regarding our administration of these vital, national programs, please feel free to contact my office at (671) 349-3200.

Sincerely,



B. R. NICHOLSON
Rear Admiral, U.S. Navy
Commander



PORT OF GUAM
ATURIDAT I PUETTON GUAHAN
Jose D. Leon Guerrero Commercial Port
1026 Cabras Highway, Suite 201, Piti, Guam 96925
Telephone: 671-477-5931/35 Facsimile: 671-477-2689/4445
Website: www.portguam.com



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

August 12, 2022

VIA ELECTRONIC MAIL

Mr. Robert Bouchard

Director
Office of Port Infrastructure Development
USDOT Maritime Administration
1200 New Jersey Ave, SE
Washington, DC 20590

Re: **Port Authority of Guam Rehabilitation of "H"-Wharf Project White Paper**

Dear Mr. Bouchard:

Håfa Adai! The purpose of this letter is to provide MARAD with an inside look at the Port Authority of Guam's (PAG) sincere efforts over the past couple of years to execute and complete the Hotel Wharf Rehabilitation Project.

As you are well aware, there have been external and unforeseen constraints that have contributed to the delay in the start of the project, namely: the procurement challenges, the impact of the worldwide COVID-19 pandemic to the manufacturing industry, the rising cost of construction materials, shipping delays, and the shortage of manpower resources on Guam. Although it was the collective goal of the PAG and MARAD to move the project forward as quickly and efficiently as possible, the effort was not without its challenges.

In the PAG's most recent quarterly report, we communicated that on the 2nd procurement attempt, sole offeror Sumitomo Mitsui Construction Company (SMCC) was awarded the contract with the following information:

Item	Description	Amount
1	Original Project Cost Estimate	\$23,774,255.00
2	Contractor SMCC BAA Bid Amount	\$59,683,065.00
3	Variance	\$35,908,810.00

Because of the exorbitant project amount, it was collaboratively determined by the PAG and SMCC to break up the Project into three (3) phases with the Port Prioritizing Phases 1 and 2.

Both parties negotiated and reduced the Project amount to \$46,331,895.00 with the following cost breakdown:

Item	Description	Amount
1	Phase 1	\$39,485,672.00
2	Phase 2	\$ 6,846,223.00
3	Total	\$46,331,895.00

As shared with you during our visit to Washington DC last May 2022, we are requesting MARAD's concurrence to de-link the access roadway component of the Project. Although we have identified Port funds to supplement the shortfall, we will not be able to complete Phase 3. As much as we want to fulfill the requirements of the PAG/MARAD Agreement, we do not have the financial capacity to complete the entire Scope as initially planned. The PAG is however, confident that upon completion of Phases 1 and 2, the Port of Guam will have a US Coast Guard compliant and usable facility. As funds become available, the PAG will execute Phase 3 to completion.

To support the PAG's request, we have developed the attached White Paper for your review. This document captures all programmatic activities that the PAG has diligently performed in order to move the Project forward.

Thank you in advance for your consideration. Should you have any questions or require additional information, please let me know at rjrespicio@portofguam.com or Mr. Jose G. Javellana III, Chief Planner at jgjavellana@portofguam.com.

Sincerely,



Rory J. Respicio
General Manager

Enclosure: PAG Hotel Wharf Rehabilitation Project White Paper

PAG/MARAD Rehabilitation of Hotel Wharf Project

Summary of Bid, Negotiations, and Award White Paper July 27, 2022

EXECUTIVE SUMMARY

The purpose of the Port Authority of Guam's (PAG) White Paper on the Rehabilitation of Hotel Wharf Project (hereafter referred to as the "Project") is to provide the US Department of Transportation's (USDOT) Maritime Administration (MARAD) a detailed snapshot of all project related activities, challenges, and decisions that have been collaborated within the PAG organization and with MARAD highlighting the procurement process and ultimately to the awarding of the project to the only offeror – Sumitomo Mitsui Construction Company LTD (SMCC).

On June 09, 2022, the PAG issued a Letter of Acceptance/Notice of Intent to Award to SMCC for the Project (Invitation for Bid IFB-PAG-CIP-022-002) in the amount of \$46,331,895.00. Subsequently, a ground breaking ceremony was held on July 6, 2022.

The award was for Phase 01 and 02 of three (3) phases as listed below:

- **Phase 01** – Procurement of all steel piling works' materials for the wharf (sheet piles, king piles, tie-rods, dead-man piles, compression and tension piles, and other associated miscellaneous steel connections), and installation of the south wall.

\$39,485,672.00 AWARDED

- **Phase 02** - Installation of the west and east wall piles and other marine structures such as the bulkhead concrete works (west, east, and south wall), on-shore bollards, bulkhead moorings – cleat and bollard, and cell fenders.

\$6,846,223.00 AWARDED

- **Phase 03** - All off-site works and remaining works specified in the IFB.

\$14,616,630.00 NOT AWARDED

Through collaboration with MARAD, PAG (Owner), GHD (Construction Manager) and SMCC (Contractor), a construction phasing plan was developed, optimizing budget, priorities, and schedule. The following summarizes PAG's efforts and commitment to advance this project to award and commence construction.

A. PROJECT BACKGROUND

The Project is a very important initiative to the Jose D. Leon Guerrero Commercial Port of Guam (Port) and to the island of Guam. The Project rebuilds the approximate 500-foot structure with a new sheet pile bulkhead retaining wall. The new structure will provide alternate offloading and staging areas for specific cargo (RORO, aggregates and construction materials), accommodate additional berthing space for military operations, commercial activities, research vessels, and passenger and cruise ship operations. The Project's completion will help mitigate impacts resulting from conflicting mix of vessels currently using the main cargo handling waterfront, provide flexible cargo handling acreage as the Port transitions between different modes of operations, and provide for a more efficient management of cargo spikes.

The Project includes construction of a new sheet pile bulkhead retaining wall at a 4-ft offset from the existing sheet pile bulkhead wall. The new bulkhead wall will be constructed without causing the existing wharf to collapse during construction. The wharf components include new sheet pile retaining wall bulkheads, sheet pile deadman walls, batter piles and tie rods. Onsite utilities include electrical for power and lighting, potable water, a fire main with supporting tank and pump station, stormwater pipes with oil water separators, sanitary lines and holding tank, and empty data communications conduits. In addition to reconstruction of the existing wharf structure, the Project also includes offsite activities, such as reconstruction of approximately 1 mile of the access road, water line replacement, storm water piping and treatment, and sanitary sewer.

The PAG has been working on the project from initial concept to construction for nearly 9 years. The following timeline of activities summarizes the effort to date with regard to planning, funding, permitting, bidding, re-bidding, and negotiations with the sole bidder that have precipitated issuance of the LOA/NOI for award of this project.

B. PROJECT DESIGN, FUNDING, PERMITTING (2014 to 2020)

- **2014** – Design of Hotel Wharf is completed by WSP. The Engineer's Estimate at that time was provided to PAG at \$23,744,000. PAG moved forward to secure funding, which includes TIGER Grant and bond funding to construct the \$24M project.
- **2016** – PAG applied for TIGER Grant funding.
- **2019** – Notice of TIGER Grant Award for \$10M.
- **2019** – All environmental permitting for the project was approved.
- **2019 through 2020** – Coral Relocation Project. A study was done to assess the potential impacts of the wharf construction to corals and other reef benthos within the area of the project. PAG contracted with CSA Ocean Science to successfully relocate the coral to an area beyond the construction area to prepare for the construction of this project.
- **2020** – PAG secured bond funding and approved budget for funding the remaining cost of H-Wharf in the amount of \$13,744,000.
- **March 2020** – PAG advertised the RFP for Construction Management Services.
- **March 2020** – COVID SHUTS DOWN THE WORLD!!!
- **June 2020** – PAG selects GHD as most qualified to provide Construction Management Services.
- **03/15/21** – PAG signs contract with GHD to provide Construction Management services for the subject project.
- **March 2021 through July 2021**
GHD initiates moving project forward to bid.

- GHD engineers (civil, mechanical, structural, electrical, maritime coastal, maritime construction, construction management) provided constructability review of plans, specifications, and bid package.
- Review comments were provided to the Engineer of Record (EOR). The EOR revised the drawings and specifications and reissued the bid package.
- Eighteen progress meetings were conducted from 04/01/21 through 10/20/21. The weekly meetings included review and management of a master procurement and construction schedule, advancement of DPW permitting, bid package development and finalization, and specific bid phase tasks requiring stakeholder coordination. Prepared and distributed meeting agendas, outstanding action items lists, and meeting minutes.
- Preparations of the bid package were finalized.

C. PROCUREMENT MILESTONE SUMMARY (Initial Bidding: IFB-PAG-CIP-021-003)

- **07/20/2021** – A meeting was held with PAG, GHD, Guam DPW, and Parsons (DPW Engineer) to discuss a possible opportunity to collaborate with DPW with regard to the paving of Route 11. DPW funding allows construction of roadways to include subgrade to AC pavement. Construction of utilities would be excluded. PAG noted they will consult with MARAD on the possible supplemental funding from DPW for the road construction and its impact to the TIGER grant.
- **07/26/2021** – IFB No. IFB-PAG-CIP-021-003 for the Project was posted on the PAG website with a bid date of 09/08/21.
- **08/02/2021** – A mandatory pre-bid meeting and site visit was conducted. The following Contractors were in attendance: Smithbridge, BME & Sons, Coretech International, Tridon Corporation, Black Construction, Healy Tibbitts Builders, and HDCC. RFIs were received from 07/26/21 through 08/16/21 resulting in the issuance of four (4) Addendums and two (2) Amendments. Amendment #01 extended bid submissions and opening from 09/08/21 to 09/13/21.
- **09/13/2021** – Bid Opening. **No bids were received.** PAG and GHD immediately began to discuss the next steps for re-bidding the IFB as quickly as practicable. Following the bid submission deadline, a bidder came forward to discuss challenges with the bid package that may have contributed to bidder disinterest. A few thoughts shared included the following:
 - The qualification requirements for bidders may have been too stringent for the locality. If the construction experience specification was broadened, it may result in a greater bid response.
 - The budget identified in the grant (\$23M) was significantly lower than the bidder estimate of approximately \$43M.
 - The price of steel for the piles had skyrocketed and suppliers would not hold pricing more than 48 hours.

- Project construction duration was not adequate to allow for pile manufacture and procurement, which was estimated at 18 months.
- Specified pile sections and Buy American Act requirements limited purchase to a single vendor in the US.
- Allowing for alternate designs may improve competition for material pricing.

D. PROCUREMENT MILESTONE SUMMARY (Re-Bid IFB-PAG-CIP-022-002)

- **09/14/21** – Following the unsuccessful bid opening, PAG and GHD met to discuss and develop next steps. The design required evaluation to identify alternate design opportunities, long lead procurement considerations (improvements), and contract duration. A formal follow up meeting with PAG and GHD was scheduled for the following week.
- **09/21/21** – PAG and GHD met to develop a re-bid strategy to advance the Project. The goal was to develop the quickest and least expensive solution to get the Project back out to bid with suitable design and contract terms to encourage bidders to participate adhering to PAG's revised qualification requirements and MARAD's grant conditions. Briefly, the following was discussed.
 - Issues were identified by the group, including bid language and terms, long lead items, critical path activities, more detailed construction design (foundation of reservoir), contract duration, and constructability.
 - PAG agreed to reach out to all bidders that had shown interest in the first bid and request feedback for improvement of the bid package.
 - GHD agreed to assemble feedback from prospective bidders and identify common concerns for review with PAG.
 - PAG agreed to contact steel pipe manufactures/suppliers for materials identified as on the critical path to verify availabilities and procurement durations.
 - The team evaluated options for reducing procurement time and optimizing costs by restructuring of the bid and revisions to bid documents, providing contractual opportunities for value engineering, providing alternate designs to expand purchase options including allowing purchase of off-the-shelf piles or multiple vendors, providing alternate designs using different materials or configuration of materials, applying for an exception to Buy American Act requirements, considering owner procurement of long lead materials with volatile prices (steel), and phasing project award and construction such as bidding wharf construction separate from civil construction (possibly requiring multiple awards).
- **09/26/21** – PAG Management attended the American Association of Port Authorities (AAPA) conference on September 26th through the 29th, 2021 in Austin, TX. PAG met with both AAPA and MARAD during the conference. PAG provided the following summary of these meetings:

- PAG met with AAPA and had the opportunity to share background information on the PAG's current and completed projects, funding constraints, and challenges, including the Project's procurement challenges with no bid submittals due to restrictive requirements, costs and delivery of steel, and overall project budget. AAPA Management informed the PAG that they have the full support of the AAPA and along with other jurisdictions in similar situations, will share the common challenges to higher levels in Washington DC.
- The PAG team also met with MARAD US Marine Highway Program Manager Frederick Jones. Mr. Jones recommended to highlight the PAG's story to MARAD and continue to chronicle all project activities. He also shared that MARAD is not in the business to take away funding especially when the justification is warranted.
- PAG met via Teams with MARAD Program Manager Jeff Baldwinsson and Hotel Wharf Project Manager Gerald Hill. PAG GM Rory Respicio shared current challenges and informed MARAD that a rebid was planned for the next several weeks. Baldwinsson reiterated that the hard deadline for the TIGER grant's Period of Performance is 08/30/24.

It was agreed that PAG and GHD would proceed with a rebid to include amending the bid documents to be more inclusive by including the original MARAD approved design but also include options for potential bidders' alternate design. It was discussed that once bids are received, the Port would have a better understanding of possible time extensions that may be needed. The PAG discussed opportunities they are considering to secure additional funding for the project, such as a partnership with DPW/Federal Highway to fund the paving of Highway 11. They also discussed they are considering removing portions of the current project such as security fences and lighting from the Wharf, and utilizing funding from other PAG revenue bond projects such as the Administration Building Annex to bridge shortfalls. The rebid results would be collected and used to demonstrate challenges, shortfalls, or other issues related to cost and time, and would ultimately be shared with MARAD for further discussion and guidance.

- **10/04/21** – PAG and GHD met to further advance the re-bid effort. The following ideas were discussed for consideration in preparation of the upcoming re-bid package and associated stakeholder actions assigned.
 - Amend the "Bidders Qualification Form for Construction Experience" with respect to experience, qualifications, and construction projects governed by US Design Standards.
 - Provide a ranking criteria with the bid form to allow prioritized evaluation of bids to award low bids based on: (1) Base Bid (original design), or (2) base bid and those additive items within PAG budget, alternative designs, and uniform pricing for comparison.

Alternative methods of award were discussed that would allow for a base bid and additive/deductive bid items to be awarded by the Port based on available funding. It was discussed that the Bid Schedule would be organized in a manner to establish a priority in the Bid Schedule and that the low bidder would be determined by the items that will be awarded. PAG would need to identify what work could be

awarded after bids have been received and before bids would be opened. GHD provided an example bid schedule for the Project that identified priority of award.

- The team decided to update bid items with no priority of award as follows:
 - A proposed "Alternative" bid item would need to be added to the bid schedule for the design and construction of an alternate wharf system. This would allow the bidders to provide alternate wharf designs that may result in considerable time and/or cost savings to the project.
 - Proposed bid "Additives" would need to be identified and prioritized by the Port in order to allow for their inclusion or exclusion based on funding constraints.
 - It was noted that the "Buy American Act Requirements" should remain in the bid package as it is currently part of the grant contract and needs to be discussed further with MARAD. **PAG may request concurrence with MARAD pending the results of the rebid.**
 - It was noted that the re-bid package should be adjusted to allow 45 days for bidder response. GHD would update the proposed "Schedule Milestone Summary" accordingly.
 - Proposed adding an "escalation clause" in the re-bid package to allow for potential price fluctuations of the steel sheet piling and allow the bidder to mitigate risk that may otherwise be carried as a monetary contingency in the bid price.
 - All Addendums, Amendments, and other information that were provided by the EOR as part of the original bid process should be incorporated in the "re-bid" package.
 - The option of bidding the work as two separate projects was discussed. One bidder suggested separating the wharf work from the non-wharf works (civil). This was determined to be problematic regarding funding requirements, timing of the work, avoiding conflicts that would arise from having two Contractors occupying the same space, and the wharf work would require completion in advance of the civil work. It was determined there was no real advantage to the Port by separating the projects. It was agreed that it is more advantageous to have a single bidder assigned for the work providing sole source responsibility for project overall.
- **10/13/21** – PAG and GHD met to make decisions with regard to the re-bid strategy.

The following items were discussed in this meeting:

- **Alternate Wharf Design Option Bid Item vs Value Engineering:**
The team identified the need to expand the options for the design of the wharf to include alternate designs that would allow more competition for suppliers as well as alternate designs that use more local materials. A comparison was made between providing a bid item on the bid schedule allowing for an alternate design as compared to the option of providing value engineering post award. It was

agreed that using the value engineering option would result in greater bidder participation and more uniform pricing for comparison and award of bids.

- **Steel Price Adjustment (Fixed-Price Contracts with Economic Price Adjustment):**

The team discussed providing a mechanism in the bid documents to allow for adjustments in the cost of steel, an escalation clause. It was identified that the volatile nature of these costs to a bidder will be reflected in the bid price. There are a few mechanisms common in construction for providing this clause. Options were reviewed including:

- Economic price adjustment based on cost indexes
- Economic price adjustment based on actual costs
- Economic price adjustment based on established prices
- Owner pre-purchase materials with volatile prices

FAR clauses were reviewed to understand how the language may contractually be included in the bid package.

- **Provide detailed language for alternate bid items:**

Alternative methods of award were discussed that would allow for a base bid and additive/deductive bid items to be awarded by the Port based on available funding.

The Bid Schedule would be organized in a manner to establish a priority established in the Bid Schedule. The low bidder would be determined by the items that will be awarded. PAG would need to identify their budget after bids are received and before bids are opened. GHD provided an example bid schedule for the Project that identified a priority of award. The team decided to update bid items with no priority of award.

- **10/20/21** – PAG and GHD met to further discuss and make decisions for re-bid strategy.
 - The language for 'Value Engineering' in the contract documents will be reviewed and edited.
 - Price escalation will be reviewed in the Guam Administration Code by PAG Legal. Price escalation was not included in rebid specifications.
- **10/21/21** – PAG submits Updated Modification Request #003 to MARAD Mr. Wilbur Turner. (See Attachment A)
- **10/28/21** – IFB-PAG-CIP-022-002 for the Rebid of the Project was posted on the PAG website with a bid date of 12/13/21.
- **11/09/21** – A mandatory pre-bid meeting and site visit were conducted. The following Contractors attended the pre-bid meeting. (see Attachment B)

RFIs were received from 12/07/21 through 01/18/22, resulting in the issuance of two (2) Addendums and four (4) Amendments. Amendment #04 was the final extension of bid submissions and opening was set for 01/18/22.

- **11/17/21** – The EOR updated the Engineer's Cost Estimate to reflect 2021 construction costs. The EOR estimated the construction cost to be \$46,971,748.65. (see Attachment C)
- **01/11/22** – In anticipation of receiving bid costs higher than existing funding, PAG and GHD met to discuss cost reduction alternatives. These could be handled with an Amendment to the bid. The following were considered:
 - The financial impact of the MARAD contract requirements for the Buy American Act for the overall project is an ongoing issue. The PAG reached out to MARAD with a proposed approach. Several questions were brought up. Would PAG be exempt from the Buy American Act requirement if they bought some products using PAG funding? MARAD responded suggesting that this would not exempt the materials from the Buy American Act requirement. Depending on the outcome of the bid and the Project amount, the PAG will submit a request for a waiver to MARAD for the Buy American Act requirement, requesting MARAD to allow exemption on the purchase of construction materials from WTO and Government Procurement Agreement (GPA) partners.
 - Is there a benefit to revising the bid schedule to separate out steel and other long lead items to identify impact of these volatile items on the bid price? No changes were made to the bid schedule.
 - What were the cost and availability of material options from Japan and South Korea?
 - Could options in the bid schedule for Buy American Act and Non-Buy American Act be provided? The team discussed how to present the bid package using Alternate A and Alternate B and that PAG was working on the language to provide both options in the bid. The bid would need to be prepared in a manner that provides a fair comparison and does not skew bids. No changes were made to the bid schedule.
 - PAG submitted a request for Modification #3 (Time Adjustment) from MARAD.
- **01/28/2022 – Re Bid Opening.** One bid was received from Sumitomo Mitsui Construction Co. LTD (SMCC). The Bid amount was **\$59,683,065.00**. This bid amount was much higher than expected. It was \$35,939,065.00 greater than the 2014 EOR's Cost Estimate and current PAG funding, and \$12,611,316.35 higher than the November 2021 EOR Cost Estimate.

E. PROCUREMENT MILESTONE SUMMARY (Award of Bid)

02/02/22 – A post bid opening meeting was conducted to discuss the bid received on 01/28/22 and strategize ways that may allow award. As the bid amount was far higher than expected and significantly greater than the Port's existing funding budget, PAG was not able to immediately move forward with award as a result. PAG and GHD regrouped to identify options. The initial action was to identify the root cause(s) affecting the current bidding environment, looking at the design, availability of materials, completeness of the bidding, and risk due to volatility of material prices.

- A bid comparison was made between SMCC's bid and the EOR's Cost Estimate to provide an indication of what bid items contributed to the significant difference in cost, and where there may be an opportunity to reduce costs. (see Attachment C) The bid item that exceeded the estimate are as follows:
 - Demolition +\$1.0M
 - Marine Structures +\$10.6M
 - Sanitary Sewer +\$0.3M
 - Fire System, Utility Building and Storage Reservoir +\$1.4M
 - Water System +\$7.2M
 - Subgrade Preparation On-Site +\$1.8M
 - Subgrade Preparation and Paving Off-site +\$0.9M
 - Fencing +\$0.2M

- Procurement Law governs the current procurement mechanism. No negotiations are allowed by this IFB and only removal of certain bid items would be allowed. As there was only one bidder, there may be an opportunity to award the contract as a Sole Source. This would provide an opportunity for negotiations and awarding of the contract.

- It was noted that the PAG and the EOR were working on developing a waiver request for consideration by MARAD for waiving the Buy American Act requirements. The EOR was requested to prepare a White Paper for submittal to MARAD. Procurement may require rebidding if waiving the Buy American Act clause is allowed as it would be a material change.

- As shared during the meeting with MARAD in Washington DC, PAG discussed opportunities to secure additional funding sources to allow award of the bid as is. Funding options that were discussed include:
 - Revenue Bonds
 - Reprogramming of Bonds
 - Reallocating funding from other PAG projects

- PAG noted they regularly dialog with MARAD and that they have updated MARAD with the current status of the bid results that there was only one (1) bidder and that their bid was approximately \$35M greater than the available budget. PAG communicated to MARAD requesting consideration to award the project in phases, focusing on just the wharf and completing the other items as funding allows.

- A scenario for prioritizing award in phases was discussed to present to MARAD. In general, the phases were organized as follows:
 - **Phase 1: Wharf Construction** including construction of the wharf, concrete (PCC) pad, and anything utility under the PCC pad. This phase would specifically include construction of the items for marine structures as well as proportions of other items such as mobilization, environment protection and permit compliance, erosion sediment control, demolition, onsite storm water system, and water system under concrete pad.

- **Phase 2: Onsite Utilities** specifically including construction of the remaining fire pumps and building, storage reservoir for fire flow, subgrade preparation and paving, and remaining portions of the water system, sewer system, stormwater system, and electrical and communications.
- **Phase 3: Offsite Highway 11** construction including Highway 11 subgrade preparation and paving, and offsite water, sewer, and stormwater utilities.

The thought would be to award part of the project (most likely Phase I) and add other phases as funding became available. During the pre-award meeting this idea will be discussed with SMCC for concurrence. The intent will be to add work back to the scope as additional funding is secured. This would be contingent upon confirmation that SMCC would honor the overall bid amount.

- o The next step was to meet with SMCC and discuss the opportunities to either reduce the overall bid amount or award in phases to allow award of bid. Questions that will be presented to SMCC for clarification and developing an agreement were:
 - Was there a significant escalation cost in the bid? SMCC may have added a significant amount of contingency, not only knowing that they were the only bidder, but also allowing for escalation. There may be an opportunity during pre-award to agree on a method to protect SMCC from escalation costs. [NH1]PAG could offer to absorb contingency.
 - Would SMCC be agreeable with construction in Phases? Priority is to certify and award the construction of the Wharf. What can be constructed within PAG's current budget as Phase 1? We can add other bid items later.
- **02/02/2022** – PAG communicated results of the bid and possible next steps with MARAD to include proposed supplemental funding sources:
 - o Re-Bid Opening: January 18, 2022
 - o Bid Abstract: Only one offeror submitted – Sumitomo Mitsui Construction
 - o Bid Amount: \$59,683,065.00 (conformance to BAA)
 - o Project Budget: \$23,774,255.00 (2014)
 - o Variance: \$35,908,810.00 (beyond the Port's current budget)

Potential Next Steps Discussed:

- o PAG Procurement Team and Legal Counsel will review the bid's schedule of values to guide the Port's decision for award.
- o Should a decision be made, the PAG will work with the Contractor to review all line items and prioritize project works.
- o PAG Management will coordinate with GHD to prepare discussion points for MARAD with respect to various considerations.

- Upon completion of the SOV review, the PAG will present potential project options to MARAD to include but not limited to the following:
 - Request BAA Waiver
 - Alternate Scope(s) Considerations
 - Guidance on potential supplemental funding
 - Request MARAD engineers' input, recommendation, guidance
- **02/18/2022** – A virtual meeting with MARAD, PAG and GHD was held to discuss opportunities and recommendations for reducing costs and moving forward with the project:
 - MARAD recommended that PAG look at alternate designs for construction of the wharf using materials that are less reliant on steel such as concrete or provide design for more readily available steel sections. MARAD provided some suggestions for concrete type structures.
 - PAG is looking at options to construct this project. Hotel Wharf represents substantial revenues for PAG including cruise vessels, offloading military material and vehicle breakbulk cargo. It is significant and PAG is committed to getting the Wharf constructed.
 - PAG discussed pre purchasing the steel, bollards, and fendering. Would 'Buy American' apply to Port purchased materials? MARAD discussed that everything in the scope of the program is subject to the contract requirements regardless of funds. PAG could revisit the scope and request a waiver. The PAG shared with MARAD that a BAA waiver will be submitted.
 - The increased overall cost of construction for the wharf could be as much as \$15M to \$20M because of the Buy American Act requirements. The military is purchasing steel from Japan for various Guam projects.
 - MARAD discussed the opportunity for PAG to apply to OST (Office of the Secretary of Transportation) for a modification to the scope of contract. Provide a 'White Paper' to OEP requesting modification to the Scope.

02/24/22 – PAG formally requested concurrence to award the contract to SMCC in accordance with Title 2 GARR, Division 4, Chapter, §3102 (c)(1)(C) as a Sole Source method of procurement, thereby allowing both parties to participate in negotiations.

- **02/25/22** – SMCC concurred with the award of the contract as a Sole Source method of procurement with a reply to above referenced letter. **(see Attachment D)**
- **03/04/22** – Pre-Award Meeting was held with SMCC, PAG, and GHD.

The meeting was scheduled to review the project collectively and to identify opportunities to reduce scope and costs in a mutually agreed upon manner that would allow award of the work.

- **Labor Considerations:**
SMCC is meeting their labor needs through H2B program for engineers, steel workers, welders, and possibly commercial divers. This project has been preapproved by Department of Labor for H2B labor. PAG can provide documentation to support SMCC's application effort. SMCC stated that application for labor can only be initiated after signing of contract. It normally takes three to four months to secure labor. Immigration has slowed. The labor needed to staff the project will not all be available at the same time. Timing of labor and trade discipline will be very important and may have to consider time for quarantine. Consider in schedule the timing and skill set of labor.
- **Buy American vs. Non-Buy American Costs:**
SMCC briefly looked at the costs for purchasing Non-Buy American sources of steel but knew it was a contractual requirement so did not pursue. Their cost would be reduced if steel could be brought in from Korea or other countries. Alternate designs for the steel sections will be needed to allow procurement from S. Korea or Japan.
- **Contingency in Bid for Escalating Steel Prices:**
SMCC did not put a contingency in their bid. Prices for steel are going up and down. SMCC assumed we were in the highest range for the cost of steel at the time of bid.
- PAG would like to prioritize award in phases:
 - i. Wharf
 - ii. Onsite Utilities
 - iii. Offsite Highway 11

The first priority is to build the wharf and build as much as PAG can within their budget. Change orders may be used to include additional scope to add more of the project later.

- **03/31/22** – As PAG was moving ahead with efforts to award the contract to SMCC, GHD provided a formal Bid Evaluation to PAG. The detailed evaluation reviewed the bid for adequacy in the following areas:
 - Completeness of bid.
 - Balanced bid prices.
 - All unit prices submitted any mathematical errors identified.
 - Adequate experience and competency of bidder to complete a project similar in size and type of projects as this project
 - Available bonding capacity
 - No history of safety violations that indicate that bidder does not prioritize safety.

The conclusion of the analysis was that there was no apparent reason to disqualify the bid submitted by SMCC. (see Attachment E)

- **04/21/22** – PAG, GHD, and SMCC met to discuss award of the work in phases. The following is a summary of what was discussed. (see Attachment F)

- A proposed bid schedule was provided to SMCC to identify current priority items PAG would like to be initially constructed.
- A preliminary bid additive matrix was reviewed with SMCC. The matrix was based on the original bid schedule line items and descriptions. The matrix identified four possible phases for the project including:
 - Base bid for wharf construction only
 - Additive 01 (On-Site Utilities)
 - Additive 02 (On-Site Fire System)
 - Additive 03 (On-Site Paving and Fencing)
 - Additive 04 (Off-site)
- PAG increased their current budget amount to \$40M. SMCC was requested to revisit their bid and advise PAG if the proposed “base bid” work could be completed within the Port’s budget.
- The intent was to facilitate the award of as much work as possible now while other funding sources are being identified for the future.
- **05/17/22, 06/02/22, 06/09/22** – PAG and GHD continued to meet with SMCC to clarify cost and negotiation goals. Specifically, the Port negotiated with and requested that the Contractor revise their cost structure into a phased approach, with the wharf/marine structure being highest priority in order to keep award goals within the Port’s available budget.
- **05/18/22** – The Port received SMCC’s “Revised Price Proposal for Marine Structure Works.” SMCC therein proposed a three (3) phased approach (**Attachment G**):
 - **Phase 1 - \$39,485,672.00**
Procurement of all steel piling works materials for the wharf (sheet piles, king piles, tie rods, dead-man piles, compression and tension piles, and other associated miscellaneous steel connections), and installation of the piles for the south wall.
 - **Phase 2 - \$6,846,223.00**
Installation of the west and east wall piles and other marine structures such as bulkhead concrete works (east, west, and south wall), on-shore bollards, bulkhead moorings – cleat and bollard, and cell fenders.
 - **Phase 3 - \$14,616,630.00**
All off-site works and remaining works specified in the IFB.

Per the proposal, Phases 1 and 2 are mandatory scope requirements and must be executed and completed on or before the TIGER Grant Period of Performance of 05/31/24, and required for US Coast Guard’s approval of a “complete and usable” Port asset.
- **06/09/22** – PAG issued “Letter of Acceptance/Notice of Intent to Award to Sumitomo Mitsui Construction Company for the Construction Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction (Invitation for Bid IFB-PAG-CIP-022-002)” for Phase 1 and Phase 2 only, in the amount of \$46,331,895.00, with Phase 2 as a mandatory option to be

awarded within one (1) year from the Notice to Proceed of Phase 1. Phase 3 will also be optional but will be reevaluated and awarded upon available funding. **(Attachment H)**

Notice of Intent to Award was signed 06/09/22, and project received approval from PAG Board of Directors on 06/16/22 and PUC on 06/16/22 to proceed with both Phases 1 and 2.

F. PAG NEXT STEPS

- This White Paper will be submitted to MARAD to show that the PAG and its CM GHD throughout this entire process has been performing its due diligence in its sincere effort to move this project forward in spite of the countless challenges that it has encountered during the past several years.
- As discussed during the Washington DC meeting between MARAD and PAG Management, due to the exorbitant increase in the Project cost, the PAG is recommending to de-link the highway component (Phase 3) of the project and thus request to revise the Grant Agreement. As funds become available, all remaining work specified in Phase 3 will be executed.
- Since the Project has been awarded, the PAG, GHD, and SMCC is now able to collaborate on potential alternate project scopes that was discussed during a virtual meeting with MARAD back on 02/18/2022. Topics to be discussed will include Value Engineering, Hybrid Scope considerations (concrete/steel scope), and other means and methods so that the end result will be a USCG compliant and usable Port asset that will have construction substantial completion on or before May 31, 2024 as planned in the PAG's Schedule Modification Request #003.
- Inasmuch as the PAG would like to purchase domestically manufactured commodities, the PAG will submit a Waiver for Construction Materials based on and conforming to the Exceptions and Waiver Requirements of the Buy American Act and Subpart 25.2 – Buy American – Construction Materials.

Specifically, the PAG's request is based on Subpart 25.202, Exceptions and will demonstrate in two (2) areas that purchasing the much needed construction materials:

- **Is not in the public's best interest:** the use of American goods would be contrary to the public interest of the United States [49 CFR Part 661.7 (b)].
- **Price:** inclusion of American goods would increase the cost of the contract between the Grantee and the Supplier of the purchased items by more than 25% [49 CFR Part 661.7 (d)].

The PAG, in exercising its fiduciary responsibility on the use of taxpayers' money, will provide justification and a cost comparison analysis between BAA cost vs. Non-BAA cost for MARAD's consideration.

- The PAG will submit a Cost and Schedule Modification Request updating its 10/21/2021 Modification Request #003 reflecting outcomes of the project's recent activities.

**ATTACHMENT A – 10/21/21 PAG General Manager Letter to MARAD Wilbur
Turner Regarding Hotel Wharf Rehabilitation Project**

Schedule Modification Request #003



PORT OF GUAM
 ATURIDATI PUETTON GUAHAN
Jose D. Leon Guerrero Commercial Port
 1026 Cabras Highway, Suite 201, Piti, Guam 96925
 Telephone: 671-477-5931/35 Facsimile: 671-477-2689/4445
 Website: www.portguam.com



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

October 21, 2021

Mr. Wilbur Turner
 Agreement Officer
 Office of Acquisition, MAR-380
 DOT/Maritime Administration
 1200 New Jersey Avenue, SE W26-435
 Washington, D.C. 20590
 (202) 366-0700
Wilbur.Turner@dot.gov

Subject: Updated Modification Request #003: No Cost Schedule Modification for the Port Authority of Guam’s Rehabilitation of H-Wharf and Access Roadway Repair Project

Reference: USDOT Maritime Administration (MARAD) FY 2016 TIGER Grant No. DTMA91G1600007, Project Total \$23,774,255.00 (TIGER VIII \$10,000,000.00, and PAG Matching \$13,774,225.00)

Hafa Adai Mr. Turner:

The purpose of this letter is to request an additional **nine (9) months, no cost schedule modification** for the Port Authority of Guam’s (PAG) Rehabilitation of H-Wharf and Access Roadway Repair Project, U.S. Department of Transportation Maritime Administration (MARAD) FY 2016 Transportation Investment Generating Recovery (TIGER) Grant Agreement No. DTMA91G1600007. If approved, the new **Planned Construction Substantial Completion Date** will be **May 31, 2024**.

Currently our unexpended balance is approximately \$23,029,618.58 (*Reference: 3rd Quarter Report*)

Date	Current Forecast Amount	Most Recent Prior Amount	Baseline-/Grant Agreement Amount	Expended to Date
6/30/2021	\$ 23,774,255.00	\$ 23,774,255.00	\$ 23,774,255.00	\$ 744,636.42

Provided below are internal and external constraints justifying the PAG's request for a no cost modification to the schedule.

1. Planned Course of Action

- Based on the PAG's 3rd Quarter Report, the Hotel Wharf project was well on its way towards accomplishing the revised Planned Construction Start Date of October 01, 2021 (*see Attachment 1 - January 14, 2021 MARAD-approved Modification 0002 Page 4 – Attachment B*).
- Overcoming regulatory CM permitting delays, the PAG's Construction Management Contractor GHD worked in collaboration with the PAG and its Owner Agent Engineer (OAE) Consultants to review

the planned schedule. Due to the unforeseen minor delays, a new Tentative Schedule was developed by the PAG's CM on October 20, 2021:

- Advertise to Re-Bid: October 25-28, 2021
- Bid Opening: December 13, 2021
- Notice of Award: December 31, 2021
- Notice to Proceed/Planned Construction Start Date:
Mod. #002 - October 01, 2021 * Mod.#003 – February 26, 2022
- Planned Construction Substantial Completion Date:
Mod. #002 – August 31, 2023 * Mod. #003 – May 31, 2024
- Period of Performance End Date:
Mod. #002 – October 31, 2023 * Mod. #003 – July 31, 2024
- Planned Project Closeout Date:
Mod. #002 – December 31, 2023 * Mod. #003 – September 30, 2024

2. Internal Constraints

- On July 26, 2021, the Port Authority of Guam ("PAG") solicited bids for the Construction Rehabilitation of Hotel Wharf Highway 11 Roadway Reconstruction. Twenty-Eight (28) firms/companies registered and picked up copies and/or downloaded the IFB packet from the PAG website.
- On August 02, 2021, the PAG held a Mandatory Pre-Bid Conference and site visit. Seven (7) firms/companies and/or their representative(s) attended the Mandatory Pre-Bid Conference and site visit. Four (4) potential bidders submitted Questions and Concerns ("Q&C") by the Q&C deadline, August 16, 2021. As a result of the inquiries, four (4) addendums and two (2) amendments were made to the IFB packet. Consequently, one extension was granted for bid submittals from September 8, 2021 to September 13, 2021.
- However, on September 13, 2021, no bids were submitted by the 2:00 p.m. deadline. Thus, the PAG did not conduct the public bid opening as scheduled. One registered bidder however, was present at the scheduled bid opening but did not submit a bid. The registered bidder voluntarily shared their concerns with the IFB requirements and reasons for not submitting. Present were PAG procurement, GHD (PAG Construction Management Services Consultant), and PAG legal counsel.
- On September 14, 2021, the PAG held an internal meeting to discuss potential next steps and the challenges faced in moving this project forward. Present at this meeting were PAG management, GHD, PAG Procurement Division, PAG Planning Division, and PAG legal counsel. Some of the challenges identified, taking into consideration the concerns raised orally by one of the registered bidders at the bid opening, were:
 - price of materials, specifically the price of steel sheet pile;
 - extended delivery time for steel materials due to the impact on the steel manufacturing community caused by COVID-19;
 - current design;
 - project completion time;
 - restrictive bidder qualifications; and
 - inadequate funding for the project. Thus, it was determined that the PAG address the challenges/concerns and strategize alternative solutions to move the project forward.

3. External Constraints

- While a rapid transition to growth was good news for businesses and workers after the height of the pandemic, it also created challenges.
- Manufacturing industries that shrank dramatically during the pandemic are now opening but have been unable to hire quickly enough to increase their manpower to keep pace with the rising need for workers.
- Manufacturers do not have enough of their products in inventory to avoid running out of stock. This has caused delays in producing new orders and back orders that were shelved for almost over a year due to the pandemic.
- Shipment delays of long lead items (i.e. steel piles)
- Not necessarily experienced during the pandemic period but has now impacted the reopening of manufacturers and businesses has been the abrupt price increases. The price increase of steel and project related commodities has dramatically rose in the last 12 months.
- The situation that COVID-19 has caused has been especially difficult for businesses with complex supply chains, as their production was vulnerable to disruption due to shortages of product component support from other partnering businesses.
- Potential backlog from maritime carriers due to force majeure and high shipping demands

4. Next Steps

- During the past week, the PAG has been diligently working with CM GHD and the Procurement Division to make revisions to IFB solicitation packet, technical specifications, and any other provisions, restrictions and/or criteria that may have prevented the registered bidders from submitting a bid packet. Thus, in order to corroborate the challenges raised, the PAG sent a letter to all registered bidders requesting their voluntary input and feedback. As of September 25, 2021, in addition to the one registered bidder that voluntarily voiced his rationale for not submitting, the PAG received four (4) written responses (*see Attachment 2 – Vendor Voluntary Responses*).
- Accordingly, based on the feedback provided, the PAG has engaged with GHD and its OAE as the Engineer of Record to discuss changes in the current design. Both GHD and WSP will be submitting proposals on design options on or before October 10, 2021. In the interest of time, GHD has completed the changes to the bidder qualifications in order to broaden the requirements and encourage participation. The PAG will be rebidding the IFB as soon as the best course of action has been determined.
 - Option 1 - The PAG plans to rebid this IFB as soon as reasonably possible by first making changes to the bidder qualifications requirement in order to broaden the range of potential bidders. With the rebid, the PAG hopes to ascertain a more accurate depiction of the market conditions (material delivery and pricing) and availability/willingness of able and qualified bidders.
 - Option 2 – With the submission of potential design options (preferably Design-Build), the PAG will review the proposals, select the best alternate design, adjust/reset construction and time-for-completion deadlines, and consider additional funding based on market price increases.
- Regardless of which path the PAG chooses, it will seek MARAD guidance and support and will perform its due diligence in aggressively taking action to seek solutions to the challenges we are currently facing with this project. This process is active and continuous to evolve. All stakeholders will be promptly updated as new developments arise.

5. Conclusion

Subject: No Cost Modification 0003
October 21, 2021
Page 4 of 8

Despite the PAG's best efforts, both internal and external constraints will prevent the PAG from adhering to the MARAD-approved Modification #002 project timelines on Attachment B of the MARAD/PAG grant agreement.

In light of the above details defining and exposure to the delays, the PAG is hopeful for MARAD's kind consideration in approving its request for a **9-month No Cost Schedule Modification**. Also provided are the details of the proposed date revisions highlighted in Article 2. Project and Recipient Information, Section 2.2, Attachment B Estimated Project Schedule, and Article 8. Termination and Expiration, Section 8.1.

Should you have any questions, please do not hesitate to contact Mr. Jose G. Javellana III - Chief Planner, jjavellana@portofguam.com, or Ms. Dora Perez - Planner IV, dcperez@portofguam.com, at (671) 477-5931, ext. 389 and 213, respectively. *Si Yu'os Ma'ase*.

Respectfully,


RORY J. RESPICIO
General Manager

Attachments

1. MARAD Modification 0002
2. Vendor Voluntary Responses to their No Bid Submission

ARTICLE 2. PROJECT AND RECIPIENT INFORMATION

2.2 Summary of Project's Estimated Schedule. (See Attachment B for additional details).

	<u>Modification #002</u>	<u>Proposed Modification #003 Schedule Changes</u>
Actual Completion of NEPA:	07/17/2019	No Changes
Actual Completion of Final Design:	04/20/2018	No Changes
Actual PS&E Approval:	04/30/2018	No Changes
Planned Construction Contract Award Date:	05/31/2021	12/31/2021
Planned Construction Start Date:	10/01/2021	02/26/2022
Planned Construction Substantial Completion Date:	08/31/2023	05/31/2024
Period of Performance End Date	10/31/2023	07/31/2024
Planned Project Closeout Date	12/31/2023	09/30/2024

ARTICLE 8. TERMINATION AND EXPIRATION

- 8.1 **USDOT Termination.** The USDOT may, in its sole discretion, terminate this agreement and all of its obligations under this agreement if any of the following occurs:
- (1) The Recipient fails to obtain or provide any non-TIGER Discretionary Grant contribution or alternatives approved by the USDOT as provided in this agreement and consistent with Sections 2.3 and 2.4;
 - (2) The Recipient fails to begin construction before 04/30/2022;
 - (3) The Recipient fails to begin expenditure of award funds by 06/30/2022;
 - (4) The Recipient fails to achieve the Construction Substantial Completion Date by 05/31/2024;
 - (5) The Recipient fails to meet the conditions and obligations specified under this agreement, including a material failure to comply with the schedule in Section 2.2 even if it is beyond the reasonable control of the Recipient; or,
 - (6) The USDOT, in its sole discretion, determines that termination of this agreement is in the public interest.

ATTACHMENT B
ESTIMATED PROJECT SCHEDULE
(Revised 10/20/2021)

	Proposed Modification #03 <u>Schedule Changes</u>
Actual Completion of NEPA:	No changes
Actual Completion of Final Design:	No changes
Actual PS&E Approval:	No changes
Planned Construction Contract Award Date:	12/31/2021
Planned Construction Start Date:	02/26/2022
Planned Construction Substantial Completion Date:	05/31/2024
Period of Performance End Date	07/31/2024
Planned Project Closeout Date	09/31/2024

Subject: No Cost Modification 0003
October 21, 2021
Page 8 of 9

Attachment 1

MARAD Modification 0002

DEPARTMENT OF TRANSPORTATION
MARITIME ADMINISTRATION
GRANT AGREEMENT

PROJECT NUMBER: DTMA91G1600007
MODIFICATION: 0002
TITLE: Ports of Guam FY2016 TIGER VIII Discretionary Grant
FUNDING DATA: N/A
RECIPIENT NAME AND ADDRESS: Jose G. Javellanna III
Chief Planner
Ports Authority of Guam
1026 Cabras Highway, Suite 201
Piti, Guam 96925
jgjavellanna@portofguam.com
AGENCY NAME AND ADDRESS: DOT/Maritime Administration
Office of Acquisition, MAR-380
Attn: Wilbur Turner
1200 New Jersey Avenue, SE., W26-435
Washington, DC 20590

MODIFICATION AUTHORITY: Changes and Modification

DESCRIPTION:

This modification is being issued to extend the period of performance to October 31, 2023. The purpose for this extension is to reflect updated Project dates reflecting current schedule estimates for Project Work. Subsequent changes to 2.2 Summary of Project's Estimated Schedule (Exhibit-B) are included as Attachment-B, Article 8, Termination and Expiration and are made a part of this modification.

All other terms and conditions of the Grant Agreement remain unchanged.


**DEPARTMENT OF TRANSPORTATION
Maritime Administration:**



Wilbur Turner,
Grants Agreements/Contracting Officer

Date: 1/14/2021

**RECIPIENT
Port Authority of Guam:**



Rory J. Respicio, General Manager

Date: 1/15/21

ARTICLE 2. PROJECT AND RECIPIENT INFORMATION

2.2 Summary of Project's Estimated Schedule.

Actual Completion of NEPA:	07/17/2019
Actual Completion of Final Design:	04/20/2018
Actual PS&E Approval:	04/30/2018
Planned Construction Contract Award Date:	05/31/2021
Planned Construction Start Date:	10/01/2021
Planned Construction Substantial Completion Date:	08/31/2023
Period of Performance End Date:	10/31/2023
Planned Project Closeout Date:	12/31/2023

ARTICLE 8. TERMINATION AND EXPIRATION

8.1 USDOT Termination. The USDOT may, in its sole discretion, terminate this agreement and all of its obligations under this agreement if any of the following occurs:

- (1) The Recipient fails to obtain or provide any non-TIGER Discretionary Grant contribution or alternatives approved by the USDOT as provided in this agreement and consistent with Sections 2.3 and 2.4;
- (2) The Recipient fails to begin construction before **12/31/2021**;
- (3) The Recipient fails to begin expenditure of award funds by **02/28/2022**;
- (4) The Recipient fails to achieve the Construction Substantial Completion Date by **11/30/2023**;
- (5) The Recipient fails to meet the conditions and obligations specified under this agreement, including a material failure to comply with the schedule in Section 2.2 even if it is beyond the reasonable control of the Recipient; or,
- (6) The USDOT, in its sole discretion, determines that termination of this agreement is in the public interest.

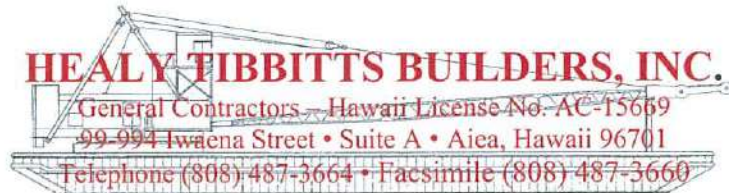
**ATTACHMENT B
ESTIMATED PROJECT SCHEDULE**

(Revised 1/13/2021)

Actual Start of Final Design:	11/17/2017
Actual Completion of Final Design:	04/20/2018
Actual PS&E Approval	04/30/2018
Planned Construction Contract Award Date:	05/31/2021
Planned Construction Start Date:	10/01/2021
Planned Construction Substantial Completion Date	08/31/2023
Period of Performance End Date	10/31/2023
Planned Project Closeout Date:	12/31/2023

Attachment 2

Vendor Voluntary Responses to their No Bid Submission



September 27, 2021

Port of Guam
Jose D. Leon Guerrero Commercial Port
1026 Cabras Highway, Suite 201
Piti, Guam 96925

Reference: Invitation for Bid (IFB) 021-003 Construction Rehabilitation for Hotel Wharf and Highway 11 Roadway Reconstruction.

Subject: Request for Suggestions from Registered/Prospective Bidders Dated September 21, 2021

Dear Mr. Respicio:

I apologize for the delayed response to your letter dated September 21, 2021. Please see the following suggestions that I previously provided to Mr. Bryan Ryley from GHD via telephone and email.

1. Provide separate contract for the Hotel Wharf structure only excluding the Highway 11 Roadway Reconstruction work and other non-wharf related civil works items.
2. Revise the Buy America Act requirement to the FAR 52.225-11 Buy American – Construction Materials Trade Agreements clause. See enclosed copy of this FAR clause.
3. Include the following General Condition clause similar to the Guam Waterworks Authority (GWA) General Condition section 16.04 – Contractor May Stop Work (for lack of payments).

16.04 *Contractor May Stop Work or Terminate*

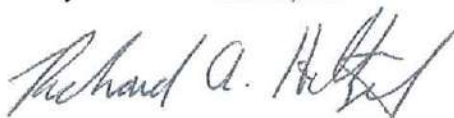
- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

Healy Tibbitts Builders, Inc.

4. Revise the king pile bulkhead system specification a performance type specification where contractor needs to provide a non-specific bulkhead system that meets the design requirements. Or at least allow alternative price item for alternative bulkhead systems. Bidders can provide engineering properties of the alternative bulkhead systems with their bid packages to enable the Port of Guam to determine adequacy.
5. Increase the duration of project schedule. The current allowed time is not sufficient especially given today's market conditions with supply chains, covid and robust Guam construction environment. Recommend at least 6 months of additional contract time.
6. Revise the anchor wall piles to a unit priced item. Due to variability in geotechnical conditions, best to use a unit price for these piles.
7. Raise the bulkhead soffit elevation. Recommend revising soffit elevation to minimum -2.00 ft MLLW, 0.00 MLLW is preferred to avoid diving operations. The current soffit elevation will definitely require diving operations which increases cost.

Please let me know if you have any questions or require any additional information.

Very truly yours,
Healy Tibbitts Builders, Inc.



Richard A. Heltzel
President

Cc: Bryan Ryley (bryan.ryley@ghd.com)
Cris Wise (ctwise@healytibbonits.com)

52.225-11 BUY AMERICAN--CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (OCT 2019)

(a) Definitions. As used in this clause--

Caribbean Basin country construction material means a construction material that--

- (1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

Commercially available off-the-shelf (COTS) item--

- (1) Means any item of supply (including construction material) that is--
 - (i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);
 - (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4) such as agricultural products and petroleum products.

Component means an article, material, or supply incorporated directly into a construction material.

Construction material means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means--

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

Designated country means any of the following countries:

- (1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland,

France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine, or United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

Designated country construction material means a construction material that is a WTO GPA country construction material, an FTA country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

Domestic construction material means--

(1) An unmanufactured construction material mined or produced in the United States;

(2) A construction material manufactured in the United States, if--

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or

(ii) The construction material is a COTS item.

Foreign construction material means a construction material other than a domestic construction material.

Least developed country construction material means a construction material that--

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

"Free Trade Agreement country construction material" means a construction material that--

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

"Least developed country construction material" means a construction material that--

- (1) Is wholly the growth, product, or manufacture of a least developed country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

United States means the 50 States, the District of Columbia, and outlying areas.

WTO GPA country construction material means a construction material that--

- (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) Construction materials.

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.

(2) The Contractor shall use only domestic or designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

(3) The requirement in paragraph (b)(2) of this clause does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows:

None

(4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that--

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

(ii) The application of the restriction of the Buy American statute to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American statute.

(1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including--

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

- (D) Price;
- (E) Time of delivery or availability;
- (F) Location of the construction project;
- (G) Name and address of the proposed supplier; and
- (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.
 - (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.
 - (iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).
 - (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.
- (2) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.
- (3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign construction material is noncompliant with the Buy American statute.
- (d) Data. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) \1\
Item 1:			
Foreign construction material...
Domestic construction material...
Item 2:			
Foreign construction material...
Domestic construction material...

\1\ Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).
 List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.
 Include other applicable supporting information.

(End of clause)



SUMITOMO MITSUI CONSTRUCTION CO.,LTD.

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

September 25, 2021

Reference No.: SMCC/BID/HWHARF-LTR-01

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

Thru: **Mr. Steven P. Muna**
Contract Management Administrator
PORT AUTHORITY OF GUAM (PAG)

Ms. Pia A. Castro
Procurement Admin. Officer
PORT AUTHORITY OF GUAM (PAG)

PROJECT: IFB-PAG-CIP-021-003
**CONSTRUCTION REHABILITATION OF HOTEL WHARF AND
HIGHWAY 11 ROAD RECONSTRUCTION**

SUBJECT: **SMCC Response to Invitation for Bid received letter Dated September 21, 2021**

Dear Mr. Respicio,

We are in receipt of your Invitation for Bid letter dated September 21, 2021 in request of input and feedback for recently bid project for the Construction Rehabilitation for Hotel Wharf and Highway 11 Roadway Reconstruction.

We know how important this project is for the Port Authority of Guam modernization program and Sumitomo Mitsui Construction Co., Ltd. (SMCC) is interested to bid on this project however, there were some concerns, guidelines, specification requirements and instruction to bidders that our company decided not to participate. The following are our input and feedback and/or request and concerns should you decide to modify the project requirements in the rebidding of this IFB:

1. Bidder's Qualification Form for Construction Experience:

Similar Experience:

List on **Schedule B** a minimum of five (5) Similar Projects in contract size or scope to the Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction Project. The five projects shall include a minimum of four (4) construction projects with design or construction governed by U.S. Design Standards (i.e. NEC, AWWA, ASME, NFPA, UBC, ASCE, WEF, etc.). Each individual Projects' cost for the five (5) Similar Projects must be greater than or equal to US \$20M. At least one of the Similar Projects must be for construction of a Wharf facility.

- We would like to request to waive or modify the above requirement:
 - A.) Similar Experience in regard to Similar Projects with design or construction governed by US Design Standards. (must be completed within the past (10) years). SMCC have performed multiple other Marine works/project but as a Japanese Contractor have not had much marine work on US Territory that

governs US Design Standard. We also would like to request to waive the completion to within the past (15) years.

- B.) At least one similar project must be for a construction Wharf Facility (one completed within the past 5 years). One of SMCC's specialty construction are bridges and/or other and request to waive above requirement for a Construction Wharf Facility to at least similar marine work.

2. Concern on prices of steel and timing of Project Award with Steel and Steel Pile Manufacturer/ Supplier

- It has been a concern due to the pandemic situation (COVID-19) on the fluctuation prices of steel materials and also production timing. We have sent out requests from Korea and to US Mainland with supplier's reply of unavailable to provide timing and pricing due to raw materials and therefore manufacturer could not provide any offer and will reoffer next year. We request in putting out the rebid package to consider manufacturing time for steel approximately 12-15 months. We have had on-going projects for steel requirements being pushed back due to backlog orders due to previous shutdown of companies and slow production due to the pandemic mandates

3. On-island shortage of construction workers, other trade workers, use of H2-B workers and continuous projects for Military relocation to Guam

- As you may already know that it has been challenging of acquiring skilled construction workers due to the increase of construction activities on-island and limited workforce pool. We would like to seek the guidance in the Invitation for Bid that H2-B visa workers will be allowed for this project and that agency shall support the contractor on this procedure and endeavor.

4. Raked Piles/Deadman Batter Piles (Compression and Tension Piles):

- We would like to request for the designer to reconsider the inclination and spacing of the compression and tension piles at the New Deadman Pile Cap. Inclined piling in wharf area and coral strata would be challenging and request to consider vertical piles. Also the spacing of the compression piles and tension piles are 4'-6'¹/₆" respectively therefore spacing between each compression pile and each tension pile is 2'-3'-11¹/₃₂" (center to center) minus the flange width of the W18x106 (11.2") will be 1'-4"++. We believe that this is too narrow and would be difficult to achieve so we request to consider the piles to be spaced out or offset to each other adequately.

5. Section 013205 Storage Tanks for Fire Suppression Water:

A. Qualifications

1. The company constructing the tanks, whether as the General CONTRACTOR or as a sub-contractor, shall be defined as the Tank CONTRACTOR in this section and shall have the following qualifications:
 - a. The Tank CONTRACTOR shall be a firm specializing in the design and construction of wirewound circular prestressed composite tanks; shall have at least ten (10) years experience in this specialty; and shall give satisfactory evidence that it has the skill, reliability, and financial stability to build and guarantee the tank in accordance with the quality required by these specifications. The Tank CONTRACTOR shall have constructed completely in its own name, in the past five years, and be presently responsible for, a minimum of ten (10) dome covered prestressed composite tanks of similar or larger capacity, diameter and sidewater depth constructed with full height steel shell diaphragms without horizontal splices which are now giving satisfactory service.
 - b. The Tank CONTRACTOR shall have on its staff a full-time professional engineer, registered in Guam, who shall have no less than five (5) years experience in the design and field construction of circular prestressed composite tanks, and who shall be in responsible engineering charge of the work to be done. All working drawings and design calculations shall carry the seal of such registered professional engineer.

- We request waiver of above should the main contractor consider self-performing the work. The above requirement will be limited to a single or two companies on-island and also restrict possible off-island tank contractor. Design will still be stamped and sealed through professional engineer in Guam with experience in the design of circular prestressed composite tank.

6. Revised Construction Period of 600 Calendar Days:

- We believe the revised construction period duration of 600 Calendar Days is not sufficient given the lead items of material procurement and design requirements for the project. We suggest to consider duration of 900 Calendar days for the completion of the Hotel Wharf Rehabilitation and Route 11.

7. Duration for Re-Bid Submission timing:

- We request to provide at least 2 months (60 calendar days) to the intended revised submission date. As you may know, with present situation of COVID-19 and delay in supplier's response to submit quotes requires additional time to submit bid.

With the above concerns and feedback, we request for you to reconsider the parameters and requirements of the project in your upcoming rebid.

Sincerely Yours,



Nandagopalan J.
Senior Project Manager
Sumitomo Mitsui Construction Co. Ltd.

Zimbra

ckclaveria@portofguam.com

RE: Letter H-Wharf IFB021-003

From : Genjo Dayag <genjo.dayag@coretechintl.com>
Subject : RE: Letter H-Wharf IFB021-003

Fri, Sep 24, 2021 02:47 PM

 1 attachment

To : Steven P. Muna <spmuna01@portofguam.com>
Cc : Annie <algsablan@portofguam.com>, Pia A. Castro <pacastro@portofguam.com>, Christine K. Claveria <ckclaveria@portofguam.com>, Luis R. Baza <lrbaza@portofguam.com>, Alon Elamparo <alon.elamparo@coretechintl.com>, Jong Won <jong.won@coretechintl.com>

Hi Steve,

We appreciate receiving a request from PAG for any input and feedback to encourage prospective bidder for a rebid of IFB-PAG-021-003.

We noticed, that most of the Scope of Work (SOW) for this bid project involves the utilization of Specialty Contractors. It seems like, some on-island contractors specialty is not in-line with the majority of the SOW's.

Thank you,
Genjo S. Dayag

 **CORE TECH INTERNATIONAL**

388 S. Marine Corps Drive Suite 400, Tamuning, Guam 96913
www.coretechintl.com | Tel: (671)473-5000 | Fax: (671)473-5500
Cell.: (671) 486-6980 |
Email: genjo.dayag@coretechintl.com

From: Steven P. Muna <spmuna01@portofguam.com>
Sent: Tuesday, September 21, 2021 5:10 PM
To: Genjo Dayag <genjo.dayag@coretechintl.com>
Cc: Annie <algsablan@portofguam.com>; Pia A. Castro <pacastro@portofguam.com>; Christine K. Claveria <ckclaveria@portofguam.com>; Luis R. Baza <lrbaza@portofguam.com>
Subject: Letter H-Wharf IFB021-003

Hafa Adai,

Please see attached letter, the Port humbly request your feedback and looks forward to your participation when we rebid this project.

Please stay safe and have a good day.

--

9/26/2021

Zimbra

Respectfully,

Steven P. Muna
Port Authority of Guam
Procurement and Supply Division
W. 671-477-5931/2
C. 671-888-7726
email: spmuna01@portofguam.com

"Disclaimer: The content of this message is confidential and intended only for the use of the individual or entity to which it is addressed. If you have received it by mistake, please inform us by an email reply and then delete the message. It is prohibited to copy, forward, or in any way reveal the contents of this message to anyone. The integrity and security of this email cannot be guaranteed over the Internet. Therefore, the sender will not be held liable for any damage caused by the message."

ATTACHMENT B – 11/06/21 Re-Bid Pre-Bid Meeting Minutes



PRE-BID MEETING MINUTES
IFB-PAG-CIP-022-002
Rebid of the Construction Rehabilitation of Hotel Wharf and Highway 11
Roadway Reconstruction

DATE: November 9, 2021 START TIME: 2:00pm LOCATION: PAG BOARD ROOM

Attendees: See attached Attendance Sheet
Officiated by: Steven P. Muna, Contract Management Administrator

The Pre-Bid Conference began at 2:00pm; providing time allowance for any late attendees. The meeting began with introductions. The attendees were advised to refer to the agenda that was distributed. The intent of the IFB with reference to the description of the project, specifications in the IFB and the purpose of the meeting was expressed, and Bidders were reminded of the following:

- **Deadline to Submit Bids:** Monday, December 13, 2021, before or up until 2:00 P.M. Chamorro Standard Time at Port Procurement Office 1st floor PAG Administration Building. Bid(s) to be submitted or received after 2:00 p.m. Guam Time will NOT be considered and returned unopened.
- **Required copies:** One (1) complete original, two (2) hard copies & One (1) copy in an electronic device or CD containing electronic file copy in pdf format.
- **Deadline to submit all questions, concerns & clarifications:** Thursday, November 19, 2021 NO LATER THAN 4 p.m. and must be in writing, addressed to the attention of PAG General Manager Rory J. Respicio at rirespicio@portofguam.com and a copy to Mr. Steven P. Muna, Contract Management Administrator via facsimile @ 671-472-1439, or submitted at the Port Procurement Office, located at the 2nd floor of the Administration Bldg., or emailed to Mr. Steven P. Muna at spmuna01@portofguam.com.
- Written questions are strongly encouraged so the Port can provide proper responses in a form of an Amendment to the Invitation for Bid (IFB) and will be a part of the IFB & its entirety and shall be distributed to the registered Bidders/Vendors.
- The importance of the Special Reminders Document and all the Required Forms was discussed with emphasis that failure to provide these documents at time of submittal can result in non-conformance (compliance).
- The Buy American Act was discussed and the importance of the potential contractor to comply with the Buy American Act and that any question on the product or material being in compliant should be addressed immediately to the PAG for approval from our funding source MARAD.
- A site visit was discussed to ensure the safety of all attending and to also ensure the Port Social Media policy is adhered to. The site visit immediately followed the pre-bid conference.

Bidders/Vendors are reminded that PAG encourage all to register their contact information to ensure receiving any notices regarding any changes or updates to the IFB and PAG shall not be liable for failure to provide notice to any party who did not register their contact information.

The meeting ended with reminders that all questions or concerns must be submitted in writing to the General Manager.

Pre-Bid Meeting adjourned at 2:16pm

Prepared by: Steven P. Muna

Attachment: Agenda and Attendance Sheet

IFB-PAG-CIP 022-002 Rebid of the Construction Rehabilitation for H-Wharf and Highway 11 Roadway Reconstruction
 Sign-In sheet for Pre-Bid Conference (2:00pm) and Site Visit (approx. 2:45pm) Tuesday, November 9, 2021 in the PAG Board Room

NO.	Name	Company	Email	Contact No.	Pre-Bid	Site Visit
1	KWANG WYKKE PARK	GSY	wpark@pacificreconstruction.com	488-7101	✓	✓
2	Graeme Ridley	SBA	graeme.ridley@smithbridge.com	8886178	✓	✓
3	TOMMY DANIEL	INDEPENDENT CONTRACTOR	pa60671@gmail.com	687 5034	✓	✓
4	Kevin Peacock	DN Tanks	Kevin.Peacock@PNTanks.com	949-698 2740	✓	✓
5	Takayuki Shino	Sumitomo Mitsui Construction	tkshino@sumicon.co.jp	888-2891	✓	✓
6	Nandagopal M J.	Sumitomo Mitsui	nanda@smc.com	888-1712	✓	✓
7	Mark Anthony Anoheta	Sumitomo Mitsui	m.anoheta@smc.com	878-8665	✓	✓
8	Madras Pothan	GSY	m.pothan@gsysup.com	727-3999	✓	✓
9	Jared Perez	Planning	jperez@portofgum.com	x295	✓	✓
10	STEVEN P. MUWA	TRAC	spurna.01@portofgum.com	888-7726	✓	✓
12	Itemar Gutierrez	PAG/Eng'g	igutierrez.portofgum.com	488-6886	✓	✓
13	Christine Claveria	PAG/Legal	cclaveria@portofgum.com	x312	✓	✓
14	JOHN SELBECK	G-SY	jselect@portofgum.com	977-1394	✓	✓
15	Nancy Heuman	GHD	nancy.heuman@ghd.com	727-6802	✓	✓
16	BRYAN RYKES	GHD	bryan.rykes@ghd.com	797-3336	✓	✓
17	MASOUD TEMOURY	PAG Eng		-	✓	✓

Direct SANTA. Smithbridge. all direct Santa Smithbridge. 6859413 ✓

ATTACHMENT C – 11/17/21 EOR Updated Cost Estimate

Port Authority of Guam
 Hotel Wharf and Access Road Maintenance and Repair Project
 Updated Cost Estimate - 2021

CATEGORY	ITEM NO.	SUBITEMS	UNIT	QUANTITY	UNIT PRICE	SUBITEM TOTAL PRICE	MAJOR BID ITEM TOTAL PRICE
MARINE STRUCTURES	1	Debris Removal	LS	1	\$67,716.95	\$ 67,716.95	
	2	Demolition	LS	1	\$123,066.00	\$ 123,066.00	
	3	Excavation	CY	9,100	\$27.86	\$ 253,526.00	
	4	Soil Backfill	CY	11,100	\$79.66	\$ 884,226.00	
	5	Granular Backfill	CY	4,500	\$134.78	\$ 616,510.00	
	6	Furnish Coated Steel Sheet Piles - P227 (Pair)	LF	8,712	\$263.92	\$ 2,299,271.04	
	7	Furnish Coated Steel Sheet Piles - P240 (Pair)	LF	930	\$382.69	\$ 355,901.70	
	8	Install Coated Steel Sheet Piles - P227 (Pair)	LF	8,712	\$145.17	\$ 1,264,721.04	
	9	Install Steel Sheet Piles - P240 (Pair)	LF	930	\$277.94	\$ 258,112.20	
	10	Furnish Coated Steel King Pile - W36x262	LF	11,662	\$768.49	\$ 8,962,130.38	
	11	Install Steel King Pile - W36x262	LF	11,662	\$140.15	\$ 1,634,429.30	
	12	Steel Double Channel Wale	LF	100	\$73.47	\$ 7,347.00	
	13	Steel Tie Rods	LF	12,635	\$354.54	\$ 4,479,541.99	
	14	Driven Piles - W18x106	LF	13,128	\$388.72	\$ 5,103,069.31	
	15	Driven Piles - W18x143	LF	516	\$432.28	\$ 223,056.48	
	16	Driven Steel Pipe Piles - 18x0.438	LF	1,380	\$271.76	\$ 374,852.80	
	17	Dynamic Pile Testing	EA	8	\$41,649.67	\$ 333,197.36	
	18	Cast-in-Place Marine Concrete	CY	1,076	\$1,200.00	\$ 1,290,962.44	
	19	Fender with Panel, Chains and Chain Plates	EA	15	\$91,629.27	\$ 1,374,439.05	
	20	Mooring Fittings - 50 Tonne Double Bitt Bolland	EA	4	\$19,991.84	\$ 79,967.36	
	21	Mooring Fittings - 75 Tonne Single Bitt Bolland	EA	2	\$39,983.68	\$ 79,967.36	
	22	Mooring Fittings - 30 Inch Cleat	EA	4	\$8,319.93	\$ 33,319.72	
	23	Mooring Fittings - 150 Tonne Single Bitt Bolland	EA	4	\$33,319.73	\$ 133,278.92	
STORMWATER SYSTEM	24	Inlets, Type 1 (Modified) Grated, <10'	EA	5	\$871.76	\$ 4,358.81	
	25	Inlets, Type 2 Grated, <10' (rated for 750psf loading)	EA	10	\$1,382.24	\$ 13,822.37	
	26	Inlets, Type 2 (Modified) Grated, <10' (rated for 750psf loading)	EA	2	\$1,382.24	\$ 2,764.47	
	27	Manhole (Standard), <10 (rated for 750psf loading)	EA	2	\$5,855.40	\$ 11,710.81	
	28	Heavy Duty Traffic Bearing Grate and Frame, Type 1 Inlet	EA	5	\$1,244.48	\$ 6,222.39	
	29	Heavy Duty Traffic Bearing Grate and Frame, Type 2 Inlet	EA	8	\$1,616.34	\$ 12,930.74	
	30	Heavy Duty Traffic Bearing Manhole Cover and Frame	EA	4	\$1,646.34	\$ 6,585.37	
	31	Concrete Headwall with Parallel Wings, 2:1 Slope, 18" DIA Pipe	EA	5	\$2,667.71	\$ 13,338.55	
	32	Culvert Grates (18" DIA.)	EA	6	\$1,700.66	\$ 10,203.96	
	33	Culvert Grates (24" DIA.)	EA	3	\$2,949.70	\$ 8,849.10	
	34.1	Cascade Separator (S-07A, S-11)	EA	2	\$16,500.00	\$ 33,000.00	
	34.2	Cascade Separator (S-15)	EA	1	\$34,000.00	\$ 34,000.00	
	35.1	Coalescing Plate Oil/Water Separator (1)	EA	1	\$50,233.00	\$ 50,233.00	
	35.2	Coalescing Plate Oil/Water Separator (2)	EA	1	\$65,173.00	\$ 65,173.00	
	36	Flow Splitter	EA	2	\$25,000.00	\$ 50,000.00	
	37	Pipe Culvert, DIP, Round, 12" D	LF	41	\$56.23	\$ 2,311.56	
	38	Pipe Culvert, RCP - TYPE V, Round, 18" S/CO	LF	1,054	\$65.05	\$ 68,567.65	
	39	Pipe Culvert, RCP - TYPE V, Round, 24" S/CO	LF	401	\$87.60	\$ 35,127.84	
	40	Concrete Dish Pavement (4" thickness)	CY	85.11	\$436.07	\$ 37,114.08	
	41	Regular Excavation (Ditches)	CY	11,728	\$12.73	\$ 149,309.30	
	42	Embankment (Ditches)	CY	617	\$39.72	\$ 24,505.20	
	43	Seed & Mulch (road)	SF	29,370	\$8.63	\$ 253,598.20	
	44	Seed & Mulch (w/soil)	SF	5,300	\$8.63	\$ 45,763.88	
	45	Slit Fence	LF	1,380	\$1.91	\$ 2,635.80	
	46	Vehicle Entrance - Sedimentation and Soil Tracking Prevention	EA	1	\$54,306.42	\$ 54,306.42	
	47	Inlet - Erosion and Sedimentation Protection	EA	15	\$45.74	\$ 686.16	
	48	Oil Boom	LF	560	\$988.04	\$ 553,302.40	
	49	Turbidity Curtain	LF	960	\$1,288.00	\$ 1,236,480.00	
	50	45 KVA Transformer, 480V-208/120V	EA	2	\$35,257.26	\$ 70,514.52	
	51	30 KVA Transformer, 480V-208/120V	EA	1	\$30,853.02	\$ 30,853.02	
	52	400A 42 Pole Distribution Panelboard 600V 3Ph	EA	1	\$8,334.48	\$ 8,334.48	
	53	100A 30 Pole Distribution Panelboard 600V 3Ph	EA	2	\$4,828.68	\$ 9,657.37	
	54	15A Safety Disconnect Switch, 3ph	EA	1	\$632.22	\$ 632.22	
	55	200A Safety Disconnect Switch, 3ph	EA	1	\$2,223.84	\$ 2,223.84	
	56	4" SCH 80 PVC Conduit	LF	4,300	\$45.07	\$ 193,788.96	
	57	4" SCH 40 PVC Conduit	LF	7,330	\$44.60	\$ 326,916.53	
	58	4" RGS Conduit	LF	5,745	\$106.10	\$ 609,543.35	
59	2" SCH 40 PVC Conduit	LF	48	\$19.37	\$ 929.88		
60	2" RGS Conduit	LF	145	\$39.69	\$ 5,746.44		
61	2" PVC SCH 40 Conduit	LF	20	\$19.37	\$ 387.45		
62	3/4" RGS Conduit	LF	45	\$18.76	\$ 844.09		
63	3/4" Liquidtight Flex Conduit	LF	20	\$21.81	\$ 436.16		
64	2" Liquidtight Flex Conduit	LF	26	\$21.81	\$ 567.01		
65	Electrical Handholes	EA	24	\$2,422.13	\$ 58,131.08		
66	Communication Handholes	EA	16	\$1,895.95	\$ 30,335.15		
67	Outdoor Single Head LED Area Light (With Mounting Bracket)	EA	10	\$443.94	\$ 4,439.44		
68	Outdoor Triple Head LED Area Light (With Mounting Bracket)	EA	2	\$606.87	\$ 1,213.74		
69	Ceiling Mounted Light Fixture	EA	12	\$502.50	\$ 6,030.05		
70	Duplex Receptacles	EA	12	\$340.62	\$ 4,087.49		
71	Exterior LED Wall Pack	EA	2	\$604.02	\$ 1,208.04		
72	Double Head Egress Lighting	EA	2	\$341.72	\$ 683.44		
73	Wall mounted Single Face EXIT Sign	EA	2	\$524.16	\$ 1,048.33		
74	#8 AWG Conductor	LF	12,180	\$15.37	\$ 187,215.07		
75	#8 AWG Ground Wire	LF	6,150	\$2.23	\$ 13,708.39		
76	#8 AWG Conductor	LF	120	\$19.16	\$ 2,299.94		
77	#10 AWG Conductor	LF	225	\$28.97	\$ 6,517.88		
78	#6 AWG Ground Wire	LF	75	\$2.47	\$ 185.62		
79	#4 AWG Conductor	LF	340	\$44.93	\$ 15,275.58		
80	#2 AWG Ground Wire	LF	85	\$2.70	\$ 229.53		
81	#12 AWG Conductor	LF	195	\$7.67	\$ 1,494.96		
82	#12 AWG Ground Wire	LF	65	\$2.11	\$ 136.94		
83	250 kcmil Conductor	LF	275	\$23.96	\$ 6,591.49		
84	#2 AWG Ground Wire	LF	75	\$2.70	\$ 202.54		
85	500 kcmil Conductor	LF	56	\$35.51	\$ 1,988.88		
86	#3/0 AWG Ground Wire	LF	14	\$3.13	\$ 43.80		
87	10' Ground Rods	EA	19	\$300.82	\$ 5,715.60		
88	40' Light Pole	EA	12	\$5,519.50	\$ 66,234.02		
89	Lighting Arm Bracket	EA	16	\$454.99	\$ 7,279.83		
90	Concrete (Foundations & Ductbank)	CY	141	\$600.08	\$ 84,611.29		
91	Trench Backfill	CY	965	\$6.95	\$ 6,706.75		

\$ 30,105,610.41

\$ 2,786,677.74

\$ 1,769,378.69

Port Authority of Guam
 Hotel Wharf and Access Road Maintenance and Repair Project
 Updated Cost Estimate - 2021

CATEGORY	ITEM NO.	SUBITEMS	UNIT	QUANTITY	UNIT PRICE	SUBITEM TOTAL PRICE	MAJOR BIO ITEM TOTAL PRICE
FIRE SYSTEM	92	6 in. HDPE Pipe	LF	107	\$29.83	\$ 3,191.54	
	93	8 in. HDPE Pipe	LF	1,410	\$36.84	\$ 51,942.29	
	94	8 in. DIP Pipe	LF	60	\$78.71	\$ 4,722.46	
	95	10 in. DIP Pipe	LF	180	\$98.07	\$ 17,652.22	
	96	12 in. DIP Pipe	LF	50	\$162.38	\$ 8,119.23	
	97	Hydrant Assembly (standing)	EA	3	\$3,717.28	\$ 5,151.83	
	98	Hydrant Assembly (flush)	EA	4	\$1,029.33	\$ 4,097.33	
	99	6 in. Gate Valve	EA	7	\$2,240.75	\$ 15,685.27	
	100	12 in. Gate Valve	EA	1	\$12,481.45	\$ 12,481.45	
	101	12 in. Butterfly Valve	EA	2	\$16,792.02	\$ 33,464.04	
	102	12 in. Water Regulating Valve	EA	1	\$27,100.59	\$ 27,100.59	
	103	2 in. Air Release Valve	EA	1	\$1,513.86	\$ 1,513.86	
	104	263,000 gal Water Storage Tank (Prestressed)	EA	1	\$1,500,000	\$ 1,500,000	
	104	Tank Foundation	LS	1	\$574,905	\$ 574,905	
	105	125 hp Electric Pump Skid	EA	1	\$157,552.30	\$ 157,552.30	
	106	144 hp Diesel Pump Skid	EA	1	\$207,918.65	\$ 207,918.65	
	107	10 x 10 in. DIP Tee	EA	3	\$2,536.60	\$ 7,609.81	
	108	10 in. 90° Bend DIP	EA	11	\$1,267.34	\$ 13,940.77	
	109	Adjustable Pipe Support	EA	3	\$430.50	\$ 1,291.50	
110	8 in. 90° Bend HDPE	EA	4	\$445.15	\$ 1,780.60		
111	8 x 6 in. HDPE Tee	EA	7	\$598.22	\$ 4,187.56		
112	6 in. HDPE - DIP adapter	EA	7	\$1,098.85	\$ 7,691.92		
113	10 x 8 in. DIP reducer	EA	2	\$1,359.49	\$ 2,718.99		
114	8 in. HDPE Tee	EA	2	\$598.22	\$ 1,196.45		
115	8 in. HDPE - DIP adapter	EA	2	\$1,490.58	\$ 2,981.13		
116	12 in. HDPE Tee	EA	1	\$1,132.95	\$ 1,132.95		
117	12 in. 22 1/2" Bend DIP	EA	1	\$1,132.95	\$ 1,132.95		
118	12 in. 90° Bend DIP	EA	3	\$1,132.95	\$ 3,398.85		
119	12 in. HDPE - DIP adapter	EA	1	\$2,236.14	\$ 2,236.14		
SANITARY SEWER	120	8 in. PVC Pipe	LF	595	\$30.76	\$ 18,309.57	
	121	6 ft. diameter Manhole	EA	3	\$5,855.40	\$ 17,566.21	
	122	5,000 gal Wastewater Holding Tank	EA	1	\$1,614.46	\$ 1,614.46	
FENCING	123	Gates - 5'x10' (2-40' and 1-50' gates)	LF	1,125	\$109.20	\$ 122,849.33	
	124	Chain Link Fences (7" w/ 3 strand barbed wire)	LF	330	\$536.74	\$ 175,126.20	
TRAFFIC CONTROL	125	Barrier (Temporary) (Types 1, 2, 3, VP, Drum, Cones)	ED	6,000	\$0.54	\$ 3,247.20	
	126	Warning Lights	ED	6,000	\$5.61	\$ 33,662.80	
	127	TCP Signs	ED	840	\$32.58	\$ 27,369.47	
	128	Flagger	ED	60	\$543.07	\$ 32,584.18	
SIGNING & PAVEMENT MARKINGS	129	Traffic Stripe (4" White) (thermoplastic) (parking lines)	LF	90	\$2.71	\$ 243.54	
	130	Traffic Stripe (4" White) (thermoplastic)	LF	8,480	\$2.71	\$ 22,996.88	
	131	8"-24" Skip Stripe (4" Yellow) (thermoplastic)	LF	8,240	\$3.37	\$ 27,668.80	
	132	Pavement Marking Arrows/Symbols (thermoplastic)	EA	3	\$88.51	\$ 265.53	
	133	Sign - Custom - Multi Post (4' x 8', 2.5' x 8')	SF	52	\$66.17	\$ 3,441.08	
134	Sign - Regulatory - Single Post	EA	7	\$1,313.28	\$ 9,192.96		
PAVING - WHARF	135	Clearing and Grubbing	AC	3.7	\$7,440.55	\$ 27,530.05	
	136	Asphalt (3.5") [w/ Type PG 62-22 & PG 70-22 binders]	SY	11,667	\$26.38	\$ 307,813.36	
	137	Aggregate Base (8")	SY	1,167	\$6.89	\$ 8,038.30	
	138	Proof Rolling Existing Subgrade	SY	11,667	\$3.03	\$ 35,301.67	
	139	Stabilizing Exist. Subgrade (6")	SY	11,667	\$10.86	\$ 126,712.91	
	140	Excavation - Unsuitable Mat after proof rolling	SY	1,167	\$10.66	\$ 12,427.34	
	141	Geogrid for Asphalt	SY	11,674	\$5.66	\$ 67,038.92	
	142	Curb (6")	LF	527.5	\$34.29	\$ 18,089.24	
	143	PCC (6") with dowels/joints	SY	5,935	\$96.48	\$ 572,626.64	
	144	Aggregate Base (6")	SY	595	\$5.17	\$ 3,073.77	
	145	Proof Rolling Existing Subgrade	SY	5,935	\$3.06	\$ 18,177.46	
	146	Stabilizing Exist. Subgrade (6")	SY	5,935	\$10.85	\$ 64,460.65	
	147	Excavation - Unsuitable Mat after proof rolling	SY	594	\$10.65	\$ 6,321.96	
	148	Geogrid for PCC	SY	6,017	\$5.65	\$ 33,969.92	
	149	Excavation - For Asp Pavt (incl pavt) (11.5")	CY	3,753	\$19.36	\$ 71,812.35	
150	Excavation - For Conc. Pavt (incl pavt) (12")	CY	1,578	\$20.53	\$ 32,401.37		
PAVING - ACCESS ROAD	151	Clearing and Grubbing	AC	2.9	\$7,440.57	\$ 21,577.64	
	152	Asphalt (3") [w/ Type PG 62-22 & PG 70-22 binders]	SY	10,800	\$23.27	\$ 251,333.28	
	153	Aggregate Base (10")	SY	1,080	\$8.61	\$ 9,298.80	
	154	Geogrid for PCC	SY	11,742	\$5.65	\$ 66,293.06	
	155	Stabilizing Exist. Subgrade (6")	SY	13,155	\$10.86	\$ 142,881.17	
	156	Sawcut	LF	4,240	\$2.89	\$ 12,255.72	
	157	Embankment	CY	835	\$33.20	\$ 27,760.72	
	158	Excavation - For Asp Pavt (incl esp pavt) (13")	CY	3,900	\$23.00	\$ 89,703.90	
	159	Excavation - For Ditches	CY	965	\$12.73	\$ 12,284.93	
	160	Excavation - For Utilities (WM, SS, stormwater) (4")	CY	7,200	\$12.73	\$ 91,656.60	
BOLLARDS	161	Bollards (6" diameter)	EA	54	\$2,848.48	\$ 153,818.09	
WATER	162	12-inch Diameter High Density Polyethylene Pipe (HDPE)	LF	4,600	\$64.38	\$ 296,139.72	
	163	4-inch Diameter High Density Polyethylene Pipe (HDPE)	LF	1,200	\$21.54	\$ 25,847.76	
	164	22" Bend (HDPE MJ) - 12-inch	EA	4	\$4,132.93	\$ 16,531.81	
	165	22" Bend (HDPE MJ) - 4-inch	EA	4	\$144.12	\$ 576.48	
	166	90° Bend (HDPE MJ) - 4-inch (Wharf PW)	EA	6	\$119.77	\$ 718.59	
	167	12-inch Diameter Butterfly Valve	EA	5	\$16,732.02	\$ 83,660.11	
	168	4-inch Diameter Butterfly Valve	EA	5	\$1,353.31	\$ 6,766.54	
	169	24-inch Lateral Service Connection Assembly	LS	4	\$575.96	\$ 2,303.84	
	170	2-inch ARV Assembly w/ Manhole	LS	3	\$4,274.00	\$ 12,822.01	
	171	12-inch Tee branch Fitting	EA	4	\$1,132.96	\$ 4,531.81	
	172	4-inch Tee branch Fitting	EA	3	\$144.13	\$ 432.39	
	173	Backflow Prevention Assembly	EA	4	\$29,590.27	\$ 118,361.08	
	174	Electronic Markers	EA	104	\$271.53	\$ 28,239.52	
175	Miscellaneous Appurtenances (Plugs, Caps, Couplings, fittings, etc)	LS	1	\$54,306.42	\$ 54,306.42		
FORCED MAIN	176	4-inch Diameter High Density Polyethylene Pipe (HDPE) FM	LF	3,600	\$21.54	\$ 77,534.28	
	177	3/4-inch ARV Assembly w/ Manhole	LS	3	\$1,552.90	\$ 4,658.70	
	178	4-inch Forced Main Manhole Assembly	EA	2	\$10,139.46	\$ 20,278.91	
	179	Miscellaneous Appurtenances (Plugs, Caps, Couplings, fittings, etc)	LS	1	\$21,722.57	\$ 21,722.57	
Subtotal							\$ 40,450,273.05
General Conditions							\$ 2,251,316.64
Subtotal - Construction							\$ 42,701,589.69
Contingency (10%)							\$ 4,270,158.97
Total - Construction							\$ 46,971,748.66

ATTACHMENT D – 02/28/22 Preliminary Bid Tabulation (Re-Bid)

PRELIMINARY BID TABULATION
REHABILITATION OF HOTEL WHARF AND HIGHWAY 11 ROADWAY RECONSTRUCTION
 Bid Date: January 28, 2022
 Tabulation Date: February 02, 2022

Item No.	Description	CONTRACTOR	WSP	
		Bid Amount	Estimate	Difference
	TABLE A H-WHARF AND HIGHWAY 11 ROADWAY RECONSTRUCTION BID SCHEDULE			
1.0	Mobilization	\$ 1,362,809.00		\$ 1,362,809.00
2.0	Insurance & Bonds	\$ 537,145.00		\$ 537,145.00
3.0	Erosion Control:	\$ 67,280.00		\$ 67,280.00
3.1	On-site	\$ 30,162.00		
3.2	Off-site	\$ 37,118.00		
4.0	Environmental Protection and Permit Compliance	\$ 1,684,384.00		\$ 1,684,384.00
4.1	On-site	\$ 1,549,705.00		
4.2	Off-site	\$ 134,679.00		
5.0	Demolition	\$ 1,213,381.00	\$ 123,066.00	\$ 1,090,315.00
5.1	On-site	\$ 1,187,491.00		
5.2	Off-site	\$ 25,890.00		
6.0	Marine Structures	\$ 40,767,476.00	\$ 30,136,362.00	\$ 10,631,114.00
7.0	Sanitary Sewer	\$ 381,492.00	\$ 37,484.24	\$ 344,007.76
8.0	Stormwater System	\$ 1,429,286.00	\$ 2,786,877.74	\$ (1,357,591.74)
8.1	On-site	\$ 1,111,758.00		
8.2	Off-site	\$ 317,528.00		
9.0	Water System	\$ 1,046,597.00	\$ 327,092.77	\$ 719,504.23
9.1	On-site	\$ 431,660.00		
9.2	Off-site	\$ 614,937.00		
10.0	Electrical & Communication	\$ 1,451,363.00	\$ 1,769,378.69	\$ (318,015.69)
10.1	On-site	\$ 1,119,653.00		
10.2	Off-site	\$ 331,710.00		
11.0	Utility Building	\$ 416,306.00	\$ -	\$ 416,306.00
12.0	Fire System	\$ 867,823.00		
13.0	Water Storage Reservoir	\$ 2,745,734.00	\$ 2,676,797.68	\$ 936,759.32
14.0	Temporary Traffic Control	\$ 54,501.00	\$ 96,853.64	\$ (42,352.64)
15.0	Sanitary Sewer Forced Main	\$ 145,431.00	\$ 124,194.47	\$ 21,236.53
16.0	Subgrade Preparation and Paving (on-site wharf)	\$ 3,259,111.00	\$ 1,414,111.92	\$ 1,844,999.08
17.0	Subgrade Preparatin (off-site Highway 11)	\$ 162,077.00		
18.0	Paving (Off-Site Highway 11)	\$ 1,475,806.00	\$ 715,048.88	\$ 922,834.12
19.0	Fencing	\$ 407,044.00	\$ 192,624.89	\$ 214,419.11
20.0	Signing & Pavement Markers	\$ 65,770.00	\$ 50,379.63	\$ 15,390.37
20.1	On-site	\$ 10,264.00		
20.2	Off-site	\$ 55,506.00		
21.0	Project Closeout	\$ 142,249.00		\$ 142,249.00
	General Conditions and Contingency		\$ 6,521,475.61	\$ (6,521,475.61)
	TOTALS	\$ 59,683,065.00	\$ 46,971,748.16	\$ 12,711,316.84
			Check	\$ 12,711,316.84

ATTACHMENT E – 02/24/22 SMCC Sole Source Procurement Method Concurrence



PORT OF GUAM
ATURIDAT I PUETTON GUAHAN
Jose D. Leon Guerrero Commercial Port
1026 Cabras Highway, Suite 201, Piti, Guam 96925
Telephone: 671-477-5931/35 Facsimile: 671-477-2689/4445
Website: www.portguam.com



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

February 24, 2022

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

Sub: IFB 022-002 Rebid of the Construction Rehabilitation of Hotel Wharf and highway 11 Roadway Reconstruction

Hafa Adai Mr. Shiino,

Buenas! I would like to provide you with an update of the above referenced Invitation for Bid (IFB) project. On Wednesday October 27, 2021 the Port advertised the IFB 022-002, the deadline for the IFB submittal was Friday, January 28, 2022 at 2:00pm. Sumitomo Mitsui Construction Company (SMCC) was the only bidder to submit a bid packet for this project. Because SMCC was the only bidder, procurement law provides the option for the Port to reject the only bid and enter into discussions with SMCC.

In accordance with the Title 2 GARR, Division 4, Chapter 3, § 3102 (c)(1)(C) which allows the Port Authority of Guam to reject your bid offer and apply the Sole Source method of procurement, in where both parties may negotiate a fair and reasonable price for this project.

Should you agree to the sole source method of procurement, and wish to participate in the negotiations, please concur by affixing your signature in the space provided below. Once you have acknowledged this letter the Port will schedule a meeting to initiate the negotiation process.

Respectfully,


RORY J. RESPICIO
General Manager

Concurred:


Mr. Takeyuki Shiino, General Manager
Sumitomo Mitsui Construction Company

ATTACHMENT E – 03/31/22 Formal Transmittal of SMCC Bid Evaluation



Date: March 31, 2022

GHD Project No. 11217684

Reference No.: GHD-PAG LTR-27

To: Mr. Rory Respicio, General Manager
Port Authority Guam

Project: PAG-020-002
Rehabilitation of H-Wharf and Highway 11 Roadway Reconstruction

Subject: Formal Transmittal of Bid Evaluation

Dear Mr. Respicio,

This letter provides a summary of GHD's review of the bid received from Sumitomo Mitsui Construction Co., LTD. (SMCC) and the current status of award. Our review evaluated the bid for completeness, balanced distribution of amounts over the bid schedule, and unusual bid amounts as compared to that of the Engineer's Estimate. We also evaluated SMCC's experience with regard to similar work, bonding capacity, and other criteria that might indicate their ability to complete the project successfully.

Bids for the H-Wharf project were opened on January 28, 2022. One bid was received from SMCC in the amount of \$59,683,065.00. This amount was significantly higher than expected. Following the bid opening, PAG and GHD have been working together to develop a strategy to allow award of the work given the current budget and time constraints. The award of this project has been hampered by several factors such as the following:

- The Port has bid several projects that received no bidder responses. This suggests that contractors on Guam have limited capacity for additional work.
- This project initially bid on September 13, 2022, with no bids being received. The bid package was modified to allow a larger pool of bidders to participate, and the project was put out to bid a second time.
- The high cost of materials and the extended procurement times are being felt globally and particularly in Guam. Manufactures/suppliers are only able to hold steel pricing quotations for limited periods of time, introducing risk and uncertainty to prospective bidders.
- The Buy American grant funding requires procurement of all materials from the United States and has resulted in limited manufactures/suppliers and steel section availability.
- The Engineer's current design was completed in 2014. It relied primarily on steel for the construction of the wharf. In the current market, steel is a very volatile commodity and supply appears to be limited.

- The bid amount of \$59.68M is significantly higher than the updated engineer's estimate of November 2021 in the amount of \$46.97M and the engineer's original 2014 estimate in the amount of \$24M necessitating identifying additional funding.

Faced with the time, cost, and bidding challenges discussed above, PAG and GHD have stepped back to assess and determine the best path forward to allow for the project to advance. Options currently under consideration and being explored include the following:

- Rebidding project as is
- Redesigning project and rebidding
- Awarding bid as is
- Obtaining additional funding sources
- Redefining the scope of the project
- Awarding bid in phases as funding allows (Preliminary Bid Phasing/Additive Matrix attached)

Discussions with PAG, GHD, MARAD, WSP (EOR), GHD's Maritime Structural Engineers, and SMCC are ongoing. We are collectively evaluating alternative material solutions, alternate designs, sequencing of the work, partial award of specific features, and identifying alternate funding sources to supplement the current budget.

Please feel free to call with any questions.

Regards,


Bryan J. Ryley
Construction Director

Cc: Annie Sablan, Port Authority of Guam
Christine Claveria, Port Authority of Guam
Clarence Lagutang, Port Authority of Guam
Domonic Muna, Port Authority of Guam
Dora Perez, Port Authority of Guam
Joe Javelana III, Port Authority of Guam
Luis Baza, Port Authority of Guam
Marge Duenas, Port Authority of Guam
Nancy Heuman, GHD
Steve Muna, Port Authority of Guam

Attachments: Preliminary Bid Additive Matrix

PRELIMINARY BID ADDITIVE MATRIX
CONSTRUCTION REHABILITATION OF HOTEL WHARF AND HIGHWAY 11 ROADWAY RECONSTRUCTION
 Bid Date: January 28, 2022
 SUBMITTED 03/31/2022

Item No.	Description	Bid Amount (Total)	Base Bid (Wharf)	Additive #01 (On-Site Utilities)	Additive #02 (On-Site Fire System)	Additive #03 (On-Site Paving & Fencing)	Additive #04 (Off-Site)	Total Bid Amount Check
1.0	Mobilization	\$ 1,362,809.00	\$ 1,362,809.00					\$ 1,362,809.00
2.0	Insurance & Bonds	\$ 537,145.00	\$ 404,334.84	\$ 36,176.94	\$ 36,524.82	\$ 33,343.82	\$ 26,764.59	\$ 537,145.00
3.0	Erosion Control:							
3.1	On-site	\$ 30,162.00	\$ 30,162.00					\$ 30,162.00
3.2	Off-site	\$ 37,118.00					\$ 37,118.00	\$ 37,118.00
4.0	Environmental Protection and Permit Compliance							
4.1	On-site	\$ 1,549,705.00	\$ 1,549,705.00					\$ 1,549,705.00
4.2	Off-site	\$ 134,679.00					\$ 134,679.00	\$ 134,679.00
5.0	Demolition							
5.1	On-site	\$ 1,187,491.00	\$ 1,187,491.00					\$ 1,187,491.00
5.2	Off-site	\$ 25,890.00					\$ 25,890.00	\$ 25,890.00
6.0	Marine Structures	\$ 40,767,476.00	\$ 40,767,476.00					\$ 40,767,476.00
7.0	Sanitary Sewer	\$ 381,492.00		\$ 381,492.00				\$ 381,492.00
8.0	Stormwater System							
8.1	On-site	\$ 1,111,758.00		\$ 1,111,758.00				\$ 1,111,758.00
8.2	Off-site	\$ 317,528.00					\$ 317,528.00	\$ 317,528.00
9.0	Water System							
9.1	On-site	\$ 431,660.00		\$ 431,660.00				\$ 431,660.00
9.2	Off-site	\$ 614,937.00		\$ 614,937.00				\$ 614,937.00
10.0	Electrical & Communication							
10.1	On-site	\$ 1,119,653.00		\$ 1,119,653.00				\$ 1,119,653.00
10.2	Off-site	\$ 331,710.00		\$ 331,710.00				\$ 331,710.00
11.0	Utility Building	\$ 416,306.00			\$ 416,306.00			\$ 416,306.00
12.0	Fire System	\$ 867,823.00			\$ 867,823.00			\$ 867,823.00
13.0	Water Storage Reservoir	\$ 2,745,734.00			\$ 2,745,734.00			\$ 2,745,734.00
14.0	Temporary Traffic Control	\$ 54,501.00					\$ 54,501.00	\$ 54,501.00
15.0	Sanitary Sewer Forced Main	\$ 145,431.00					\$ 145,431.00	\$ 145,431.00
16.0	Subgrade Preparation and Paving (on-site wharf)	\$ 3,259,111.00				\$ 3,259,111.00		\$ 3,259,111.00
17.0	Subgrade Preparation (off-site Highway 11)	\$ 162,077.00					\$ 162,077.00	\$ 162,077.00
18.0	Paving (Off-Site Highway 11)	\$ 1,475,806.00					\$ 1,475,806.00	\$ 1,475,806.00
19.0	Fencing	\$ 407,044.00				\$ 407,044.00		\$ 407,044.00
20.0	Signing & Pavement Markers							
20.1	On-site	\$ 10,264.00				\$ 10,264.00		\$ 10,264.00
20.2	Off-site	\$ 55,506.00					\$ 55,506.00	\$ 55,506.00
21.0	Project Closeout	\$ 142,249.00	\$ 28,449.80	\$ 28,449.80	\$ 28,449.80	\$ 28,449.80	\$ 28,449.80	\$ 142,249.00
	TOTALS	\$ 59,683,065.00	\$ 45,330,427.64	\$ 4,055,836.74	\$ 4,094,837.62	\$ 3,738,212.62	\$ 2,463,750.39	\$ 59,683,065.00



Memorandum

Date: March 31, 2022

To: Mr. Rory Respicio, GM Port Authority of Guam

Cc: Luis Baza, PAG; Domonic Muna, PAG; Christine Claveria, PAG; Steve Muna, PAG; Joe Javellana III, PAG; Clarence Lagutang, PAG; Dora Perez, PAG;

From: Bryan Ryley, CM Director
Nancy Heuman, CM

Subject: **Bid Analysis and Evaluation:** GHD Job No.: 11217684
Rehabilitation of H-Wharf and Highway 11 Roadway
Reconstruction
PAG-020-002 REBID

1. Introduction:

This memorandum is written to provide a formal evaluation of the bids received for the Rehabilitation of H-Wharf and Highway 11 Roadway Reconstruction project to determine responsible and responsive compliance with the bid criteria.

2. Summary of Bid Opening:

On January 28, 2022, at 2:00 p.m., sealed bids were received at the PAG Procurement Office. The bid submittals were opened publicly as stated in the invitation for bids.

One (1) Contractor submitted a bid prior to the bid submission deadline. The bid was provided by Sumitomo Mitsui Construction Co., LTD. (SMCC).

3. Bid Analysis and Evaluation:

References:

- Volume 2: General Conditions and Special Provisions, III. Bids, Bidder Responsibilities
- Guam Procurement Law

The content of Volume 2: General Conditions, III Bids, Bidder Responsibilities describes:

- a. The contract will be awarded as soon as practicable to the lowest responsive and responsible bidder, provided it is in the interest of the Owner to accept his bid.
- b. The Owner reserves the right to waive any informality in bids received when such waiver is in the interest of the Owner. The Owner also reserves the right to accept any item in the bid and to reject any item in the bid unless otherwise specified by the Owner.

Award of contract is to be made based on price, experience, subcontractors, and documentation provided, but not limited to the bid submittal. Guam Procurement Law defines Responsible and Responsive Bidders as follows:

- (f) *Responsible Bidder or Officer* means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.
- (g) *Responsive Bidder* means a person who has submitted a bid which conforms in all material respects to the Invitation for Bids.

SOURCE: GC § 6958. MPC § 3-101.

Typical criteria for disqualification of non-responsible or responsive bidders may include the following:

- (a) Bid incomplete with critical documents missing or not executed correctly. There is some leeway to request additional information after the bid for minor items that were omitted in the original bid submission.
- (b) Unbalanced proposals in which the prices for some items are out of proportion to the prices for other items.
- (c) Failure to submit a unit price for each item of work for which a bid price is required by the Bid or Proposal.
- (d) Lack of competency for the requirements of the project as revealed by the financial statement, project history, experience, bonding capacity, safety, or equipment statements submitted.

GHD analyzed the bid packet for each of the above criteria, assessing the completeness of the bid, the balance of the bid prices, failure to submit a price, and the experience and competency of the company having completed project's similar in size and type as this project. The following summarizes our findings:

- (a) **Completeness of the Bid:** There were no obvious omissions of required critical submittals when the bid was received. However, detailed evaluation of the submittal contents revealed the following minor items that will need to be provided by SMCC:
 - PEALS Certifications for Engineers and Surveyors including subcontractors
 - Long Lead Items List, Procurement & Delivery Times

SMCC is aware of these omissions and a formal request for these documents will be provided should the award of the project move forward. A detailed **Bid Evaluation** is attached outlining the documents required by the bid and the submittal status of each as provided by the Bidder.

- (b) **Balance of the bid prices:** To evaluate a balanced or unbalanced bid, we looked for consistency with the Engineer's estimate, differences between the unit costs received, and potentially front-loaded cost items (i.e. the Contractor billing for a disproportionate amount of money for early work). Unusually low unit prices would raise concern as well. The attached **Bid Tabulation** provides a comparison between the bid received from SMCC and the Engineer's Estimate (dated November 17, 2021). SMCC's bid is \$12,711,316.35 higher than

the Engineer's Estimate, or approximately 27% higher. The Engineer's Estimate provided for the current pricing for steel from the US, transportation from Seattle, as well as overhead, profit and a 10% contingency.

The greatest discrepancy between the two bids is Bid Item No. 6, Marine Structures. SMCC bid this item at \$40,767,476.00 whereas the Engineer's Estimate approximated this bid item at \$30,136,302.50. This project requires furnishing all components as Buy American as required by the MARAD grant. Currently, steel is very expensive in general and particularly in the United States. The suppliers will not guarantee their prices for more than a few days, and lead time can be in excess of six (6) months for obtaining these components. This volatility adds risk and cost to the project and may explain some of the difference between the Engineer's Estimated cost and SMCC's bid amount.

The **Bid Tabulation** provides a evaluation of the individual bid items, comparing the Engineer's Estimate and SMCC's bid amounts. The line items included in the Engineer's Estimate are not exactly the same as the Bid Items. GHD correlated the two estimates using engineering judgement to make the most reasonable like-to-like comparison. GHD identified the SMCC individual bid items that are 30% or **greater** in cost than that of the Engineer's Estimate as follows:

- Item 5.0 Demolition
- Item 6.0 Marine Structures
- Item 7.0 Sanitary Sewer
- Item 9.0 Water System
- Item 12.0 Fire System
- Item 16.0 Subgrade Preparation and Paving (On-site wharf)
- Item 19.0 Fencing
- Item 20.0 Singing & Pavement Markers

GHD identified the SMCC individual bid item totals that are at least 30% **less** than that of the Engineer's Estimate as follows:

- Item 8.0 Stormwater System
- Item 14.0 Temporary Traffic Control
- Item 17.0 Subgrade Preparation (off-site HWY 11)

As only one bid was received, we did not have the opportunity to compare it to other bids for consistencies.

- There does not appear to be any front-end loading in the bid schedule. The 'Mobilization' bid item was limited to a maximum of 4.0% of the overall bid value. SMCC's bid for this item was below this limit.
- The 'Insurances and Bonds' bid item was limited to 1.0% of the overall bid value. SMCC's bid for this item was below this limit as well.

(c) **Failure to submit a unit price:** No prices were omitted by the bidder.

(d) **Experience and competency of the company to complete a project similar in size and type as this project:** The ability of the Contractor to successfully complete this project was evaluated by looking at their financial viability, experience with similar size and type of projects, available

bonding capacity, available equipment on and off Guam, and safety violations.

- Available financial information was evaluated. SMCC submitted audited balance sheets for three years detailing their sales and profit.
- SMCC's 5-year history of four similar projects has a total value of \$544M with the largest project at \$266M and an average project value for four projects of \$136M. These projects were all completed in Japan.
- SMCC's bonding capacity for this project was evaluated. Their stated aggregate bonding capacity is \$150,000,000. SMCC's Bid is \$59,683,065. Other current SMCC projects have a value of \$70,299,265.75. At the time of the bid, SMCC had an available bonding capacity at \$100,000,000.
- SMCC provided an on-island equipment list as well as equipment that would require transfer to Guam from other locations. The pile driving and welding equipment are listed as part of the equipment that would also require transfer to Guam.
- Safety violations were reviewed to see how frequently they may have occurred on the Contractor's projects and how serious the violations may have been. The US Department of Labor publishes this information, and the Contractor was required to submit records for the last five years for any safety violations. SMCC provided information for one violation in 2018 resulting in an employee getting a finger crushed in a rebar bending machine resulting in an amputation of the finger. SMCC was fined \$4,310 and settled at \$3,017. Additionally, SMCC provided a summary of US work-related Injuries and Illnesses for the last five years. In 2021 they had one work-related injury, two in 2017, and none in 2018-2020. The average number of employees ranged from 54-70.
- SMCC provided confirmation of project execution for similar size and type of projects. They attested that they never failed to complete a construction contract awarded to them, and there are no judgments, claims, disputes, or litigation pending or outstanding involving the firm or officers.
- Current ongoing projects on Guam include the \$54M Dondondonki Guam Mall Project, the Rehabilitation of the GWA Bayside Pump Station, GWA's Water System Pressure Zone Realignment Project, the Ace Gym and Dining Facility Project, and a runway pavement reconstruction project.

4. Conclusions:

Based on the above analysis, there is no immediate reason to disqualify the bid submitted by SMCC. The Port must now determine if "it is in the interest of the Owner to accept his bid" as called out in Volume 2: General Conditions, III Bids, Bidder Responsibilities, taking into consideration such factors as available funds and schedule.

Reference Documents:

Bid Tabulation Summary
Bid Evaluation

BID TABULATION
CONSTRUCTION REHABILITATION OF HOTEL WHARF AND HIGHWAY 11 ROADWAY RECONSTRUCTION
IFB #PAG-CIP-022-002
BID OPENING: JANUARY 28, 2022
SUBMITTED 03/31/2022

ITEM	DESCRIPTION	SUMITOMO MITSUI CONSTRUCTION CO., LTD.		ENGINEER'S ESTIMATE	
		Bld Submittal	Calculated	Estimate	Difference
	Table A Bid Schedule				
1.0	Mobilization	\$ 1,362,809.00	\$ 1,362,809.00		\$ 1,362,809.00
2.0	Insurance & Bonds	\$ 537,145.00	\$ 537,145.00		\$ 537,145.00
3.0	Erosion Control:	\$ 67,280.00	\$ 67,280.00		\$ 67,280.00
3.1	a. On-site	\$ 30,182.00			\$ -
3.2	b. Off-site	\$ 37,118.00			\$ -
4.0	Environmental Protection and Permit Compliance	\$ 1,684,384.00	\$ 1,684,384.00		\$ 1,684,384.00
4.1	a. On-site	\$ 1,549,705.00			\$ -
4.2	b. Off-site	\$ 134,679.00			\$ -
5.0	Demolition	\$ 1,213,381.00	\$ 1,213,381.00	\$ 123,066.00	\$ 1,090,315.00
5.1	a. On-site	\$ 1,187,491.00			\$ -
5.2	b. Off-site	\$ 25,890.00			\$ -
6.0	Marine Structures	\$ 40,767,476.00	\$ 40,767,476.00	\$ 30,136,302.50	\$ 10,631,173.50
7.0	Sanitary Sewer	\$ 381,492.00	\$ 381,492.00	\$ 37,484.24	\$ 344,007.76
8.0	Stormwater System	\$ 1,429,286.00	\$ 1,429,286.00	\$ 2,786,877.74	\$ (1,357,591.74)
8.1	a. On-site	\$ 1,111,758.00			\$ -
8.2	b. Off-site	\$ 317,528.00			\$ -
9.0	Water System	\$ 1,046,597.00	\$ 1,046,597.00	\$ 327,092.77	\$ 719,504.23
9.1	a. On-site	\$ 431,660.00			\$ -
9.2	b. Off-site	\$ 614,937.00			\$ -
10.0	Electrical & Communication	\$ 1,451,363.00	\$ 1,451,363.00	\$ 1,769,378.69	\$ (318,015.69)
10.1	a. On-site	\$ 1,119,653.00			\$ -
10.2	b. Off-site	\$ 331,710.00			\$ -
11.0	Utility Building	\$ 416,306.00	\$ 416,306.00		\$ 416,306.00
12.0	Fire System	\$ 867,823.00	\$ 867,823.00	\$ 2,676,797.68	\$ 936,759.32
13.0	Water Storage Reservoir	\$ 2,745,734.00	\$ 2,745,734.00		\$ 2,745,734.00
14.0	Temporary Traffic Control	\$ 54,501.00	\$ 54,501.00	\$ 96,853.64	\$ (42,352.64)
15.0	Sanitary Sewer Forced Main	\$ 145,431.00	\$ 145,431.00	\$ 124,194.47	\$ 21,236.53
16.0	Subgrade Preparation and Paving (on-site wharf)	\$ 3,259,111.00	\$ 3,259,111.00	\$ 1,414,111.92	\$ 1,844,999.08
17.0	Subgrade Preparation (off-site Highway 11)	\$ 162,077.00	\$ 162,077.00	\$ 715,048.88	\$ (552,971.88)
18.0	Paving (Off-Site Highway 11)	\$ 1,475,806.00	\$ 1,475,806.00		\$ 1,475,806.00
19.0	Fencing	\$ 407,044.00	\$ 407,044.00	\$ 192,624.89	\$ 214,419.11
20.0	Signing & Pavement Markers	\$ 65,770.00	\$ 65,770.00	\$ 60,379.63	\$ 15,390.37
20.1	a. On-site	\$ 10,264.00			\$ -
20.2	b. Off-site	\$ 55,506.00			\$ -
21.0	Project Closeout	\$ 142,249.00	\$ 142,249.00		\$ 142,249.00
	General Conditions & 10% Contingency			\$ 6,521,535.60	\$ 6,521,535.60
	TABLE A BASE BID SUBTOTAL	\$ 59,683,065.00	\$ 59,683,065.00	\$ 46,971,748.65	\$ 12,711,316.35
	TABLE A BID TOTAL	\$ 59,683,065.00	\$ 59,683,065.00	\$ 46,971,748.65	\$ 12,711,316.35

BID EVALUATION

CONSTRUCTION REHABILITATION OF HOTEL WHARF AND HIGHWAY 11 ROADWAY RECONSTRUCTION

IFB #PAG-CIP-022-002

BID OPENING: JANUARY 28, 2022

SUBMITTED 03/31/2022

ITEM	SUBMITTAL / CERTIFICATION	SUMITOMO MITSUI CONSTRUCTION CO., LTD.	
1	BID RECEIVED NO LATER THAN 2:00 pm JANUARY 28, 2022	YES/NO	YES
2	TWO COPIES, 1 ORIGINAL, 1 ELECTRONIC	YES/NO	YES
3	ATTENDED PREBID AND SITE VISIT	YES/NO	YES
4	BID FORM AND BID SCHEDULE	BID SUBMITTAL	CALCULATED
4.a	Table A Base Bid	\$59,863,065.00	\$59,863,065.00
4.b	Additive Bid 1	NA	NA
4.c	TOTAL Base Bid and Additive Bid Item	\$59,863,065.00	\$59,863,065.00
4.d	Signed and Sealed Bid Form	YES/NO	YES
4.e	Addendums Acknowledged	YES/NO	YES
4.f	Bid Price in Words Matches Bid Numbers	YES/NO	YES
5	BID BOND	AMOUNT SUBMITTED	15% TOTAL BASE BID AND ADDITIVE
5.a	15% Of Total Bid Amount, Sealed	YES/NO	YES
5.b	Amount Submitted is 15% of Total Bid Amount	YES/NO	No total \$ amount provided
5.c	Signed by Bidder, two major officers of the Surety and Resident General Agent, if foreign Certificate of Authority to do business in Guam and Power of Attorney	YES/NO	Signed by General Manager and Administrative Manager
6	CONTRACTOR'S LICENSES	YES/NO	YES
7	PEALS CERTIFICATIONS	YES/NO	NO, we consider these less critical item an will ask for at a later date should the project move forward.
8	TECHNICAL APPROACH AND CAPACITY TO DO WORK		
8.a	Bidder's Narrative of Construction Approach, Project Schedule, Procurement, Long Lead Items etc.	YES/NO	YES
8.b	Capacity to Perform Work OnTime	YES/NO	YES
8.c	List of all Pieces of Major Plan, Machinery, and other Equipment Available for Use on Project.	YES/NO	YES
8.d	Has Contractor Paied Liquidated Damages for Delay in completion of Two Projects?	YES/NO	NO
9	BIDDER QUALIFICATION STATEMENT		YES /Notarized
9.a	Aggregate Bonding Capacity	YES/NO	\$150,000,000.00
9.b	Available Bonding Capacity as of Bid	YES/NO	\$79,700,734.25
9.c	Letter from Bonding Company Bidders ability for payment and performance bonds	YES/NO	YES
9.b	Letter from Insurance Company	YES/NO	YES
10	SCHEDULE A: CURRENT WORK EXPERIENCE	YES/NO	YES
		COST OF WORK	PROJECT NAME
10.a	Project 1	\$54,521,053.00	Dondondonki Guam Mall
10.b	Project 2	\$7,038,833.75	Rehabilitate Runway
110.c	Project 3	\$733,652.00	Bayside Pump Station
10.d	Project 4	\$4,120,000.00	Pressure Zone Realignment
10.e	Project 5	\$3,885,727.00	Ace Gym and Dining Facility
	Total	\$70,299,265.75	
	Average Value	\$14,059,853.15	
11	SCHEDULE B: SIMILAR EXPERIENCE PROEJCTS LAST 5 YEARS	YES/NO	YES
		FINAL CONTRACT AMOUNT	PROJECT NAME

11.a	Project 1	\$159,092,368.62	Nhat Tan Bridge Construction Project, Vietnam
11.b	Project 2	\$266,227,859.96	Lach Huyen Port Infrastructure Road and Bridge, Japan
11.c	Project 3	\$62,672,483.10	Hinase Ohashi Bridge, Japan
11.d	Project 4	\$55,634,260.60	Kojirahama Area Coastal Disaster Recovery, Japan
	Total	\$543,626,992.28	
	Average Value	\$135,906,748.07	
12	SAFETY PROGRAM		
12.a	Contractor and Subcontractor OSHA No. 300- Log & Summary of Occupational Injuries & Illnesses past 5 years	YES/NO	YES
12.b	Contractor's, Subcontractors and Suppliers OSHA Citations & Notifications of Penalty past 5 years	YES/NO	YES
12.c	List of safety citations or violations under any state last 5 yrs	YES/NO	YES
12.d	Signed and Notarized	YES/NO	YES
12.e	Audited Balance Sheet last 3 years	YES/NO	YES
12.f	Evidence of authority	YES/NO	YES
12.g	Resumes of officers and key individuals including Safety Officer	YES/NO	YES
13	AG FORMS		
13.a	AG FORM 002 - AFFADAVIT DISCLOSING OWNERSHIP AND COMMISSIONS	YES/NO	YES / Notarized
13.b	AG FORM 003- AFFADAVIT NON-COLLUSION	YES/NO	YES / Notarized
13.c	AG FORM 004 - AFFADAVIT RE NO GRATUITIES OR KICKBACKS	YES/NO	YES / Notarized
13.d	AG FORM 005 - AFFIDAVIT RE ETHICAL STANDARDS	YES/NO	YES / Notarized
13.e	AG FORM 006 - DECLARATION RE COMPLIANCE WITH U.S. DOL WAGE DETERMINATION	YES/NO	YES / Attached Wage Determination for Guam
13.f	AG FORM 007 - AFFIDAVIT RE CONTINGENT FEES	YES/NO	YES / Notarized
13.g	CONFLICT OF INTEREST DISCLOSURE FORM	YES/NO	YES
13.h	FEDERAL ANTI-LOBBY CERTIFICATION FORMS	YES/NO	YES
13.i	SUBCONTRACTOR UTILIZATION FORM	YES/NO	No Form Provided
14	OTHER		
14.a	DOCUMENTS EXECUTED OUTSIDE OF GUAM - NOTARIZED	YES/NO	NO
14.5	LONG LEAD ITEMS LIST, PROCUREMENT & DELIVERY TIMES	YES/NO	NO

ATTACHMENT F – 04/21/22 PAG Board Room Meeting Minutes

**REHABILITATION OF H-WHARF AND HIGHWAY 11 ROADWAY
RECONSTRUCTION**

PAG CIP-022-002

Minutes for Meeting PAG Board Room

04/21/22

On Tuesday, (04/21/22) at 2:00 pm Clarence Lagutang of PAG, Shiino Takeyuki and Nandagopalan J, of SMCC, and Bryan Ryley of GHD met at the GHD Main Office Conference room to discuss award of a portion of the work.

This was necessary because total bid amount exceeded the available budget, and the meeting was scheduled to review individual line items with the Contractor to prioritizing award of individual line items within the available budget. A brief summary of what was discussed, and next steps is as follows:

- A proposed bid schedule (attached) was provided to the Contractor identifying current priority items the Port would like to be initially constructed. They include Item 1 (Mobilization), Item 2 (Insurance & Bonds), Item 3.1 (On-Site Erosion Control), Item 4.1 (On-Site Environment Protection), Item 5.1 (On-Site Demolition), and Item 6 (Marine Structures).
- A preliminary bid additive matrix (attached) was reviewed with the Contractor. The matrix was based on the original bid schedule line items and descriptions. Columns were provided identifying the proposed "base bid" work and proposed "additive" work. The additive work was prioritized as follows, Additive 01 (On-Site Utilities), Additive 02 (On-Site Fire System), Additive 03 (On-Site Paving and Fencing), and Additive 04 (Off-site). Details of the specific items can be seen on the attached matrix.
- The current budget amount of less than \$40M was shared. The Contractor was requested to revisit their bid and advise PAG if the proposed "base bid" work could be completed within the Ports budget.
- The intent was to facilitate the award of as much work as possible now while other funding sources are being identified.
- The Contractor stated that they would revisit the bid and advise the team if the budget amount could be met. Additionally, the Contractor was requested to review the plans and specifications carefully and advise if opportunities to reduce cost could be identified for the Ports consideration.
- The Contractor stated they would evaluate the scope of cost and provide a reply to the Port by May 05, 2022.

PRELIMINARY BID ADDITIVE MATRIX
 CONSTRUCTION REHABILITATION OF HOTEL WHARF AND HIGHWAY 11 ROADWAY RECONSTRUCTION
 Bid Date: January 28, 2022
 04/21/22

Item No.	Description	Base Bid Amount (Total)
1.0	Mobilization	
2.0	Insurance & Bonds	
3.0	Erosion Control:	
3.1	On-site	
3.2	Off-site	
4.0	Environmental Protection and Permit Compliance	
4.1	On-site	
4.2	Off-site	
5.0	Demolition	
5.1	On-site	
5.2	Off-site	
6.0	Marine Structures	
7.0	Sanitary Sewer	
8.0	Stormwater System	
8.1	On-site	
8.2	Off-site	
9.0	Water System	
9.1	On-site	
9.2	Off-site	
10.0	Electrical & Communication	
10.1	On-site	
10.2	Off-site	
11.0	Utility Building	
12.0	Fire System	
13.0	Water Storage Reservoir	
14.0	Temporary Traffic Control	
15.0	Sanitary Sewer Forced Main	
16.0	Subgrade Preparation and Paving (on-site wharf)	
17.0	Subgrade Preparation (off-site Highway 11)	
18.0	Paving (Off-Site Highway 11)	
19.0	Fencing	
20.0	Signing & Pavement Markers	
20.1	On-site	
20.2	Off-site	
21.0	Project Closeout	
	TOTALS	\$ -

PRELIMINARY BID ADDITIVE MATRIX
CONSTRUCTION REHABILITATION OF HOTEL WHARF AND HIGHWAY 11 ROADWAY RECONSTRUCTION
 Bid Date: January 28, 2022
 SUBMITTED 03/31/2022

Item No.	Description	Bid Amount (Total)	Base Bid (Wharf)	Additive #01 (On-Site Utilities)	Additive #02 (On-Site Fire System)	Additive #03 (On-Site Paving & Fencing)	Additive #04 (Off-Site)	Total Bid Amount Check
1.0	Mobilization	\$ 1,362,809.00	\$ 1,362,809.00					\$ 1,362,809.00
2.0	Insurance & Bonds	\$ 537,145.00	\$ 404,334.84	\$ 36,176.94	\$ 36,524.82	\$ 33,343.82	\$ 26,764.59	\$ 537,145.00
3.0	Erosion Control:							
3.1	On-site	\$ 30,162.00	\$ 30,162.00					\$ 30,162.00
3.2	Off-site	\$ 37,118.00					\$ 37,118.00	\$ 37,118.00
4.0	Environmental Protection and Permit Compliance							
4.1	On-site	\$ 1,549,705.00	\$ 1,549,705.00					\$ 1,549,705.00
4.2	Off-site	\$ 134,679.00					\$ 134,679.00	\$ 134,679.00
5.0	Demolition							
5.1	On-site	\$ 1,187,491.00	\$ 1,187,491.00					\$ 1,187,491.00
5.2	Off-site	\$ 25,890.00					\$ 25,890.00	\$ 25,890.00
6.0	Marine Structures	\$ 40,767,476.00	\$ 40,767,476.00					\$ 40,767,476.00
7.0	Sanitary Sewer	\$ 381,492.00		\$ 381,492.00				\$ 381,492.00
8.0	Stormwater System							
8.1	On-site	\$ 1,111,758.00		\$ 1,111,758.00				\$ 1,111,758.00
8.2	Off-site	\$ 317,528.00					\$ 317,528.00	\$ 317,528.00
9.0	Water System							
9.1	On-site	\$ 431,660.00		\$ 431,660.00				\$ 431,660.00
9.2	Off-site	\$ 614,937.00		\$ 614,937.00				\$ 614,937.00
10.0	Electrical & Communication							
10.1	On-site	\$ 1,119,653.00		\$ 1,119,653.00				\$ 1,119,653.00
10.2	Off-site	\$ 331,710.00		\$ 331,710.00				\$ 331,710.00
11.0	Utility Building	\$ 416,306.00			\$ 416,306.00			\$ 416,306.00
12.0	Fire System	\$ 867,823.00			\$ 867,823.00			\$ 867,823.00
13.0	Water Storage Reservoir	\$ 2,745,734.00			\$ 2,745,734.00			\$ 2,745,734.00
14.0	Temporary Traffic Control	\$ 54,501.00					\$ 54,501.00	\$ 54,501.00
15.0	Sanitary Sewer Forced Main	\$ 145,431.00					\$ 145,431.00	\$ 145,431.00
16.0	Subgrade Preparation and Paving (on-site wharf)	\$ 3,259,111.00				\$ 3,259,111.00		\$ 3,259,111.00
17.0	Subgrade Preparation (off-site Highway 11)	\$ 162,077.00					\$ 162,077.00	\$ 162,077.00
18.0	Paving (Off-Site Highway 11)	\$ 1,475,806.00					\$ 1,475,806.00	\$ 1,475,806.00
19.0	Fencing	\$ 407,044.00				\$ 407,044.00		\$ 407,044.00
20.0	Signing & Pavement Markers							
20.1	On-site	\$ 10,264.00				\$ 10,264.00		\$ 10,264.00
20.2	Off-site	\$ 55,506.00					\$ 55,506.00	\$ 55,506.00
21.0	Project Closeout	\$ 142,249.00	\$ 28,449.80	\$ 28,449.80	\$ 28,449.80	\$ 28,449.80	\$ 28,449.80	\$ 142,249.00
	TOTALS	\$ 59,683,065.00	\$ 45,330,427.64	\$ 4,055,836.74	\$ 4,094,837.62	\$ 3,738,212.62	\$ 2,463,750.39	\$ 59,683,065.00

ATTACHMENT G – 05/18/22 SMCC Revised Price Proposal



SUMITOMO MITSUI CONSTRUCTION CO.,LTD.

Guam Office : P. O. Box 9670 Tamuning, Guam 96931

Tel: +1- (671) 649-7521~24 Fax: +1- (671) 649-7550

Reference No: LT-22-019

May 18, 2022

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

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

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

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

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

Dear Mr. Respicio,

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

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

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

Phase 1 Inclusions:

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

Phase 1 Exclusions:

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

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

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

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

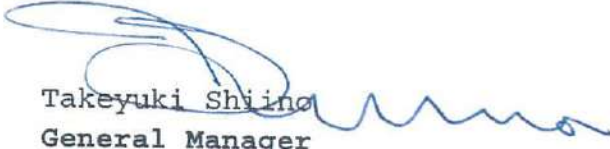
SMCC would like to complete the whole marine structures based on available funds of PAG of \$40 Million. However, given the current market price and increase in fuel rates, that we are unable

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

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

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

Very Truly Yours,



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

CONSTRUCTION REHABILITATION OF HOTEL WHARF AND HIGHWAY 11 ROADWAY RECONSTRUCTION

Bid Date: January 28, 2022

ITEM NO.	DESCRIPTION	TOTAL BID AMOUNT
1.0	Mobilization	1,362,809.00
2.0	Insurance & Bonds	537,145.00
3.0	Erosion Control:	
3.1	On-site	30,162.00
3.2	Off-site	37,118.00
4.0	Environmental Protection and Permit	
4.1	On-site	1,549,705.00
4.2	Off-site	134,679.00
5.0	Demolition	
5.1	On-site	1,187,491.00
5.2	Off-site	25,890.00
6.0	Marine Structures (Steel Materials & Piling)	40,767,476.00
	All Steel Materials (Piles, King Piles, Tie Rod, etc) and Sheet Piling Works (South Wall)	
	Sheet Piling Works (West Wall & East Wall)	
	On-Shore Bollard (Bollard 1,2,3, & 4) incl. Pile Fdn	
	Bulkhead Moorings - Cleat & Bollard	
	Fenders	
	Return Wall - West - Bulkhead Conc. Works	
	Return Wall - East - Bulkhead Conc. Works	
	South Wall - Bulkhead Conc. Works	
7.0	Sanitary Sewer	381,492.00
8.0	Stormwater System	
8.1	On-site	1,111,758.00
8.2	Off-site	317,528.00
9.0	Water System	
9.1	On-site	431,660.00
9.2	Off-site	614,937.00
10.0	Electrical & Communication	
10.1	On-site	1,119,653.00
10.2	Off-site	331,710.00
11.0	Utility Building	416,306.00
12.0	Fire System	867,823.00
13.0	Water Storage Reservoir	2,745,734.00
14.0	Temporary Traffic Control	54,501.00
15.0	Sanitary Sewer Forced Main	145,431.00
16.0	Subgrade Preparation and Paving (on-site)	3,259,111.00
17.0	Subgrade Preparation (off-site Highway 11)	162,077.00
18.0	Paving (Off-Site Highway 11)	1,475,806.00
19.0	Fencing	407,044.00
20.0	Signing & Pavement Markers	
20.1	On-site	10,264.00
20.2	Off-site	55,506.00
21.0	Project Closeout	142,249.00
	TOTAL:	\$ 59,683,065.00

SMCC BREAKDOWN OF COST		
Phase 1	Phase 2	Phase 3 <i>(For Ref. Only)</i>
1,027,694.00		335,115.00
381,340.00		155,805.00
30,162.00		
		37,118.00
1,549,705.00		
		134,679.00
1,187,491.00		
		25,890.00
33,921,253.00	6,846,223.00	-
33,921,253.00		
	4,195,261.00	
	287,074.00	
	202,675.00	
	579,664.00	
	267,619.00	
	259,629.00	
	1,054,301.00	
		381,492.00
		-
		1,111,758.00
		317,528.00
		-
		431,660.00
		614,937.00
		-
		1,119,653.00
		331,710.00
		416,306.00
		867,823.00
		2,745,734.00
		54,501.00
		145,431.00
		3,259,111.00
		162,077.00
		1,475,806.00
		407,044.00
		-
		10,264.00
		55,506.00
		19,682.00
122,567.00		
\$ 38,220,212.00	\$ 6,846,223.00	\$ 14,616,630.00
Original Bid Price		
\$ 59,683,065.00		

Breakdown from Above

Increase in Pile Material Manufacturer Quoted Price

Contingent Cost (assumed) for Increase in Material Price at placement of Order

Increase in Shipping Cost Rates, Material Handling of Steel, Storage at site

Summary		
Phase 1	Phase 2	Phase 3 <i>(For Reference Only)</i>
\$ 38,220,212.00	\$ 6,846,223.00	\$ 14,616,630.00
\$ 413,969.00		
\$ 424,335.00		
\$ 427,156.00		

Phase 1 & 2 (Total Amount)

Phase 3 (Future works) for Reference only

\$ 39,485,672.00	\$ 6,846,223.00	
		\$ 14,616,630.00

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



Sales Rep: Brennan Neilson
 Phone: (916) 463-0105
 Fax: (916) 923-0446
 Email: brennan.neilson@nucorskyline.com
 Address: 3336 Bradshaw Road Suite 315
 Sacramento, CA, 95827

Quote # Q-37635

Project Name	Quote Date	Bid Date	Quote Expiration Date
Hotel Wharf and Access Road Rehab Guam	Thursday, December 9, 2021	Sunday, December 12, 2021	Friday, December 10, 2021

Customer Contact	Billing Address	Shipping Location
Mark Anthony Ancheta m.ancheta@smccguam.com	Suite 105-107 IBC Bldg., J.L. Baker St. Harmon Industrial Park Harmon 96913 Guam	CPT Loaded Truck at shipping point (Incoterms 2020) Long Beach CA

Quote Totals

Net Weight	Net Tons	Unit Rate	Net Amount
5,718,236.49 lb	2859.12	\$ 3,487.91/ton	\$9,972,360.21
Materials NUCOR did not quote	63.66	\$ 3,487.91/ton	+ \$ 222,040.51
			\$10,194,400.72
		Updated Quote from NUCOR (see next page)	\$10,608,369.82
		(From Above) -	\$10,194,400.72
		Total increase in Material Price	\$ 413,969.10



Sales Rep: Brennan Neilson
 Phone: (916) 463-0105
 Fax: (916) 923-0446
 Email: brennan.neilson@nucorskyline.com
 Address: 3336 Bradshaw Road Suite 315
 Sacramento, CA, 95827

Quote # Q-37635

Project Name	Quote Date	Bid Date	Quote Expiration Date
Hotel Wharf and Access Road Rehab Guam	Friday, May 6, 2022	Sunday, December 12, 2021	Friday, May 6, 2022

Customer Contact	Billing Address	Shipping Location
Mark Anthony Ancheta m.ancheta@smccguam.com	Suite 105-107 IBC Bldg., J.L. Baker St. Harmon Industrial Park Harmon 96913 Guam	CPT Loaded Truck at shipping point (Incoterms 2020) Long Beach CA

Quote Totals

Net Weight	Net Tons	Net Amount
5,845,550.25 lb	2922.78	\$10,608,369.82

PILING material (BID)

No	Description		Qty	Unit	Rate	Amount
						12,006,210.72
1	Material Quote from Nucor Steel LLC	2,859.12 ton	1	Lot	3,487.91	9,972,360.21
1.1	Material Quote (not quoted by NUCOR)	63.66 ton	1	Lot	3,487.91	222,040.51
					Subtotal (1):	10,194,400.72
2	Pile Material Increase (Contingent, 0%)	(assumed)	0	%	-	-
					Subtotal (2):	-
3	Factory locking the joints - additional cost assur	170 each - joir	85	Ea	900.00	76,500.00
4	Shipping (assumed)	158 Container	158	Container	10,220.00	1,614,760.00
5	Local Transport		158	Ea	225.00	35,550.00
6	Off loading and stacking		158	Container	<i>included</i>	<i>included</i>
7	Other Miscellaneous Shipping & Handling Cost		1	Lot	25,000.00	25,000.00
8	Temporary steel material (for handling and storage)		1	lot	60,000.00	60,000.00
					Subtotal (3):	1,811,810.00

PILING material (Updated)

No	Description		Qty	Unit	Rate	Amount
						13,271,670.77
1	Material Quote from Nucor Steel LLC	2,922.78 ton	1	Lot	3,629.55	10,608,369.82
					Subtotal (1):	10,608,369.82
2	Pile Material Increase (Contingent, 4%)	(assumed)	4	%	10,608,369.82	424,334.79
					Subtotal (2):	424,334.79
3	Factory locking the joints - additional cost assur	170 each - joir	85	Ea	900.00	76,500.00
4	Shipping	158 Container	158	Container	12,923.52	2,041,916.16
5	Local Transport		158	Ea	225.00	35,550.00
6	Off loading and stacking		158	Container	<i>included</i>	<i>included</i>
7	Other Miscellaneous Shipping & Handling Cost		1	Lot	25,000.00	25,000.00
8	Temporary steel material (for handling and storage)		1	lot	60,000.00	60,000.00
					Subtotal (3):	2,238,966.16

SUMMARY		
<i>Increase in Pile Material Manufacturer Price</i>	<i>Difference of Subtotal (1):</i>	\$ 413,969.10
<i>Contingent Cost (assumed) for Increase in Material Price at placement of Order</i>	<i>Difference of Subtotal (2):</i>	\$ 424,334.79
<i>Increase in Shipping Cost Rates, Material Handling of Steel, Storage at site</i>	<i>Difference of Subtotal (3):</i>	\$ 427,156.16
		Total: \$ 1,265,460.05

SMCC GU - Mark Anthony Ancheta

From: "Teresa Tamayo" <TTamayo@traffictech.com>
Date: Friday, May 13, 2022 1:53 PM
To: "SMCC GU - Mark Anthony Ancheta" <m.ancheta@smccguam.com>
Cc: "SMCC GU GM-Takeyuki Shiino" <tkshiino@smcon.co.jp>; "SMCC GU-Nandagopalan J." <nanda@smccguam.com>;
"SMCC GU-Dan Ivar H. Jao" <djao@smccguam.com>
Subject: RE: Request for Quote for Shipping of Steel Materials PAG Hotel HWharf Project

Dear Sir Nandagopalan,

Good day

Further to below, here's the cost for OT container which will cost you more and will need to rent a crane to load which has the same capacity of using 40'hc

Ocean freight : USD12,923.52/40OT (dock to port)

Crane fee : TBA

.....
If the length of the cargo is 43 feet. Below is the rate for 45' container

Ocean freight : USD7220.64/45' APL (dock to port)
USD9122.40/45' Matson (dock to port)

Origin and destination charges is same as below
Maximum weight for 45' is 40,000 lbs

Should you need further details, please feel free to let us know. Thank you

We moved:

Traffic Tech Inc.
2300 Redondo Avenue (dock#2)
Long Beach California 90755
Ctc: Maria Flores
Ocean Operations Coordinator
Tel# : 310-241 6971 ext 1546
Email: Mflores@traffictech.com

Regards,



Teresa A. Tamayo
Senior Vice President, South Pacific Operations
TRAFFIC TECH GUAM INC.
280D Guerrero Drive Tamuning, Guam 96913
T: 671 989 8324 (TECH) ext 4503 F: 671 989 1090
M: 671 687 4591
Email: tamayo@traffictech.com
Team Email: teamguam@traffictech.com
Global Headquarters/Oficina Corporativa Global: Chicago, IL
Canadian Headquarters/ Oficina Corporativa Canada : Montreal, QC
Asia Headquarters/ Oficina Corporativa Asia: Shanghai, China
www.traffictech.com

"Global Speed and Precision"/"Velocidad y Precision Global"

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please notify us immediately. Thank you.

Este correo electrónico puede contener información confidencial o privilegiada. Si usted no es el destinatario previsto, por favor notifíquenos inmediatamente. Gracias.

5/18/2022

SMCC GU - Mark Anthony Ancheta

From: "Phillip Santos at GUM x5990" <PSantos@matson.com>
Date: Friday, September 11, 2020 8:14 AM
To: "Gagaring, Maria Grace" <MGagaring@GilbaneCo.com>
Cc: "Smith, Darren" <DSmith12@GilbaneCo.com>; "Roth, Michael" <MRoth@GilbaneCo.com>; "Latala, Thomas" <TLatala@GilbaneCo.com>; "Ater, Alan" <AAter@GilbaneCo.com>; "Jennings, Peter" <PJennings@GilbaneCo.com>; "Schwartz, Bill" <WSchwartz@GilbaneCo.com>; "Alonzo, Ric" <RALonzo@GilbaneCo.com>; "Patawaran, Joann" <JPatawaran@GilbaneCo.com>; "Nandagopalan, J._Contact" <nanda@smccguam.com>; "Shiino, Takeyuki_Contact" <tkshiino@smcon.co.jp>; "SMCC GU - Mark Anthony Ancheta" <m.ancheta@smccguam.com>; "Fern, John - ECC" <jfern@ecc.net>; "Rob J. Tess" <RTess@ecc.net>; "Webb, Liz - ECC" <ewebb@ecc.net>; <KMccaskill@ecc.net>; "Rob Parrette" <RParrette@ecc.net>; "May Dong" <YDong@ecc.net>
Attach: gilbaneco building mtl for j-011 base admin bldg lgb-gum offer 9-10-2020.docx
Subject: RE: 19R1313 MAMIZU MACC PH2: Amd 12, Amd 12 Dwgs and Note 10

Hafa Adai good morning and thank you for the opportunity,
 I hope you all are doing well.

For shipments for the Base Admin Bldg., here are the Matson rate quotes for your reference.
 If you have any questions or need transportation assistance, please feel free to contact me.



Phil Santos | Account Executive | psantos@matson.com
 phone: 671-475-5990
 cell: 671-483-1990
 web: www.matson.com

From: Gagaring, Maria Grace <MGagaring@GilbaneCo.com>
Sent: Thursday, September 10, 2020 4:30 PM
Cc: Smith, Darren <DSmith12@GilbaneCo.com>; Roth, Michael <MRoth@GilbaneCo.com>; Latala, Thomas <TLatala@GilbaneCo.com>; Ater, Alan <AAter@GilbaneCo.com>; Jennings, Peter <PJennings@GilbaneCo.com>; Schwartz, Bill <WSchwartz@GilbaneCo.com>; Alonzo, Ric <RALonzo@GilbaneCo.com>; Patawaran, Joann <JPatawaran@GilbaneCo.com>; Nandagopalan, J._Contact <nanda@smccguam.com>; Shiino, Takeyuki_Contact <tkshiino@smcon.co.jp>; SMCC GU - Mark Anthony Ancheta <m.ancheta@smccguam.com>; Fern, John - ECC <jfern@ecc.net>; Rob J. Tess <RTess@ecc.net>; Webb, Liz - ECC <ewebb@ecc.net>; KMccaskill@ecc.net; Rob Parrette <RParrette@ecc.net>; May Dong <YDong@ecc.net>
Subject: 19R1313 MAMIZU MACC PH2: Amd 12, Amd 12 Dwgs and Note 10
Importance: High

****** SECURITY ADVISORY! This email originated externally. Use caution before opening attachments or clicking links in this email. ******

Hello,

Amendment 12, Amendment 12 Drawings and Note 10 for RFP N62742-19-R-1313, MACC FOR PRIMARILY GOVERNMENT OF JAPAN FUNDED DEFENSE POLICY REVIEW INITIATIVE PROJECTS IN GUAM AND OTHER AREAS UNDER THE COGNIZANCE OF NAVFAC PACIFIC (PH2); SEED PROJECT J-011 BASE ADMINISTRATIVE BUILDING was issued. Below are the links to the Government documents (see yellow highlight).

5/18/2022

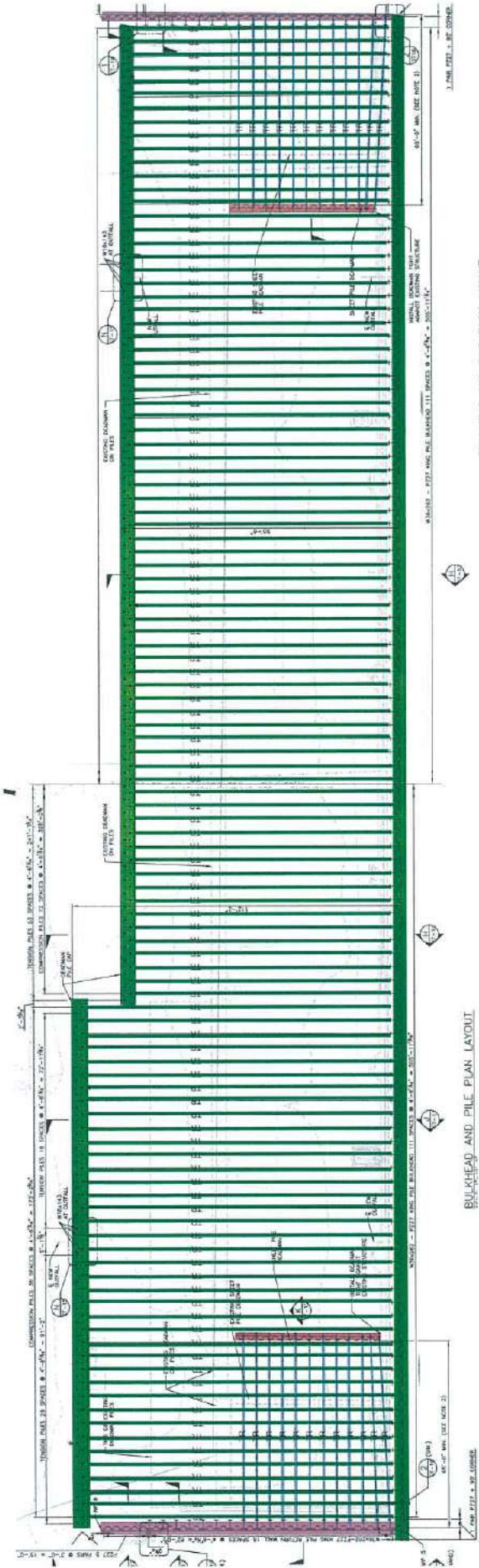
COMMODITY	CONSTRUCTION MATERIALS FOR J-011 (BASE ADMIN BLDG)	CONSTRUCTION MATERIALS FOR J-011 (BASE ADMIN BLDG)	CONSTRUCTION MATERIALS FOR J-011 (BASE ADMIN BLDG)
ORIGIN	LONG BEACH, CA	LONG BEACH, CA	LONG BEACH, CA
DESTINATION	GUAM	GUAM	GUAM
EQUIPMENT	D40X	400T	40FR
Ocean FRT	\$3,000	\$5,898	\$4,998
FSC - floating - current @ 31%	\$930	\$1,828	\$1,549
WC TC	\$990	\$990	\$990
GUAM TERM CHG	\$983	\$983	\$983
TOTAL PER UNIT - CY - CY	\$5,903	\$9,699	\$8,520
DESTINATION DOOR SERVICE - FINEGAYAN, GUAM - PER TARIFF 2045, RULE 34, ZONE 2	\$171	\$171	\$171
TOTAL PER CONTAINER - CY - DOOR	\$6,074	\$9,870	\$8,691
NOTE	1. Rate subject to surcharges listed in this table.	1. IN GAUGE ONLY. Rate subject to surcharges listed in this table.	1. IN GAUGE ONLY. Rate subject to surcharges listed in this table.
	2. Guam Invasive Species User Fees additional - The Guam Department of Agriculture assesses a fee of 75 cents for every 1,000 pounds of freight brought into the territory.	2. Guam Invasive Species User Fees additional - The Guam Department of Agriculture assesses a fee of 75 cents for every 1,000 pounds of freight brought into the territory.	2. Guam Invasive Species User Fees additional - The Guam Department of Agriculture assesses a fee of 75 cents for every 1,000 pounds of freight brought into the territory.
	3. This offer expires 10/30/2020	3. This offer expires 10/30/2020	3. This offer expires 10/30/2020

SUMITOMO MITSUI CONSTRUCTION CO., LTD. **PROPOSED CONSTRUCTION SCHEDULE FOR REBID OF THE CONSTRUCTION/REHABILITATION FOR HOTEL WHARF AND HIGHWAY 11 ROADWAY RECONSTRUCTION**
PORT AUTHORITY OF GUAM



ACTIVITY	START	FINISH	STATUS
CON1001 Construction Rehabilitation for Hotel Wharf and Highway 11 Roadway Reconstruction Project - Bid Schedule	18-May-21	18-May-21	Completed
CON1002 Proposal Submission	21-Jun-21	18-Jun-21	Completed
CON1003 Evaluation Period (Award)	18-Jun-21	18-Jun-21	Completed
CON1004 Performance Period Start (NTP)	18-Jun-21	18-Jun-21	Completed
CON1005 Project Milestones	18-Jun-21	18-Jun-21	Completed
CON1006 Notice of Award (Account)	18-Jun-21	18-Jun-21	Completed
CON1007 Contract Performance and Payment Bond - Obtain and Submit	18-Jun-21	18-Jun-21	Completed
CON1008 Contract Performance and Payment Bond - PAG Review/Acceptance (Issued)	18-Jun-21	18-Jun-21	Completed
CON1009 Notice to Proceed (NTP)	18-Jun-21	18-Jun-21	Completed
CON1010 Start - Mobilization (What Works)	18-Jun-21	18-Jun-21	Completed
CON1011 Project Administrative Meetings	18-Jun-21	18-Jun-21	Completed
CON1012 Pre-Construction Conference Kick-off Meeting	18-Jun-21	18-Jun-21	Completed
CON1013 Pre-Construction Conference	18-Jun-21	18-Jun-21	Completed
CON1014 Permits	18-Jun-21	18-Jun-21	Completed
CON1015 Building Permit and All Other Required Permit Application Processing	18-Jun-21	18-Jun-21	Completed
CON1016 Submit - Prepare & Submit - CIV PAG Review and Approval	18-Jun-21	18-Jun-21	Completed
CON1017 Procurement Process - Lease Land and Critical Items	18-Jun-21	18-Jun-21	Completed
CON1018 Construction Phase 1	18-Jun-21	18-Jun-21	Completed
CON1019 Mobilization and Site Preparation	18-Jun-21	18-Jun-21	Completed
CON1020 Temporary Project Safety Fencing Signages	18-Jun-21	18-Jun-21	Completed
CON1021 Temporary Facilities - Site Office and CM Office	18-Jun-21	18-Jun-21	Completed
CON1022 Erosion Control (Land Purbar)	18-Jun-21	18-Jun-21	Completed
CON1023 Mobilization of Materials and Equipments for Wharf Works	18-Jun-21	18-Jun-21	Completed
CON1024 Environmental and Geological Check and Permit Completion Requirements	18-Jun-21	18-Jun-21	Completed
CON1025 Subcontractor Selection	18-Jun-21	18-Jun-21	Completed
CON1026 South Side Main Wharf	18-Jun-21	18-Jun-21	Completed
CON1027 Blahlah Ring Pile (West to East)	18-Jun-21	18-Jun-21	Completed
CON1028 Blahlah Sheet Pile (West to East)	18-Jun-21	18-Jun-21	Completed
CON1029 Main Dredging Pile (West to East)	18-Jun-21	18-Jun-21	Completed
CON1030 Install Tie Rods (Main Wharf)	18-Jun-21	18-Jun-21	Completed
CON1031 General FI	18-Jun-21	18-Jun-21	Completed
CON1032 Demolition of Existing South Blahlah	18-Jun-21	18-Jun-21	Completed
CON1033 West and East Return Wharf	18-Jun-21	18-Jun-21	Completed
CON1034 Blahlah King and Sheet Pile (West)	18-Jun-21	18-Jun-21	Completed
CON1035 Blahlah Diagonal Sheet Pile (West)	18-Jun-21	18-Jun-21	Completed
CON1036 Blahlah King and Sheet Pile (East)	18-Jun-21	18-Jun-21	Completed
CON1037 Blahlah Diagonal Sheet Pile (East)	18-Jun-21	18-Jun-21	Completed
CON1038 Install Tie Rods (West & East)	18-Jun-21	18-Jun-21	Completed
CON1039 Demolition of Existing West & East Blahlah	18-Jun-21	18-Jun-21	Completed
CON1040 Blahlah Concrete - South	18-Jun-21	18-Jun-21	Completed
CON1041 Blahlah Concrete - West and East	18-Jun-21	18-Jun-21	Completed
CON1042 Training	18-Jun-21	18-Jun-21	Completed
CON1043 Training Plan, Schedule and Other Facility Turnover	18-Jun-21	18-Jun-21	Completed
CON1044 As-Built Drawings	18-Jun-21	18-Jun-21	Completed
CON1045 Record Drawings	18-Jun-21	18-Jun-21	Completed
CON1046 Internal QC Punchlist Pre-Final Inspection	18-Jun-21	18-Jun-21	Completed
CON1047 Internal QC Punchlist Pre-Final Correction	18-Jun-21	18-Jun-21	Completed
CON1048 LHM Punchlist Pre-Final Inspection	18-Jun-21	18-Jun-21	Completed
CON1049 LHM Punchlist Pre-Final Correction	18-Jun-21	18-Jun-21	Completed
CON1050 Removal of Temporary Facilities	18-Jun-21	18-Jun-21	Completed
CON1051 CHOC Punchlist Final Inspection	18-Jun-21	18-Jun-21	Completed
CON1052 CHOC Punchlist Final Correction	18-Jun-21	18-Jun-21	Completed
CON1053 Internal QC Final Acceptance	18-Jun-21	18-Jun-21	Completed
CON1054 LHM Final Acceptance	18-Jun-21	18-Jun-21	Completed
CON1055 Demolition and Final Cleanup	18-Jun-21	18-Jun-21	Completed

Legend	
	Phase 1 (South Wall Sheet Pile & King Piles)
	Phase 1 (Tie Rod Works)
	Phase 1 Works (Deadman Compression/Tension Piles Works)
	Phase 2 (Deadman Sheet Pile Works)
	Phase 2 (Sheet Pile & King Pile Works)
	Phase 2 (Tie Rod Works)



BULKHEAD AND PILE PLAN LAYOUT

PROPOSED PHASE 1 & 2 PLAN WORKS (ON-SITE WORK)

ATTACHMENT H – 06/09/22 PAG Letter of Acceptance/Notice of Intent to Award



PORT OF GUAM
ATURIDATI PUETTON GUAHAN
Jose D. Leon Guerrero Commercial Port
1026 Cabras Highway, Suite 201, Piti, Guam 96925
Telephone: 671-477-5931/35 Facsimile: 671-477-2689/4445
Website: www.portguam.com



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

June 9, 2022

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

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

Hafa Adai Mr. Shiino,

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

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

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

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

Phase 1: \$39,485,672.00

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

Phase 2: \$6,846,223.00

- Installation of the west and east wall piles and other marine structures such as bulkhead concrete works (east, west, and south wall), on-shore bollards, bulkhead moorings – cleat and bollard, and cell fenders.

Phase 3: \$14,616,630.00

- All off-site works and remaining works specified in the IFB.

Page 1 of 2

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

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

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

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

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

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

Respectfully,


RORY J. RESPICIO
General Manager

Concurred and Accepted by:



Mr. Takeyuki Shiino
General Manager
Sumitomo Mitsui Construction Company

Cc: Procurement file



PORT OF GUAM
ATURIDAT I PUETTON GUAHAN
Jose D. Leon Guerrero Commercial Port
1026 Cabras Highway, Suite 201, Piti, Guam 96925
Telephone: 671-477-5931/35 Facsimile: 671-477-2689/4445
Website: www.portguam.com



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

VIA ELECTRONIC MAIL

August 29, 2022

Mr. Robert Bouchard
Director
Office of Port Infrastructure Development
USDOT Maritime Administration
1200 New Jersey Ave, SE
Washington, DC 20590

*Subject: Request Consideration for Waiver from the Buy American Act
Requirements for Construction Materials*

Reference: Port Authority of Guam Rehabilitation of H-Wharf Project

Dear Mr. Bouchard:

Håfa Adai! The Jose D. Leon Guerrero Commercial Port of Guam (Port) hereby submits this request to the USDOT Maritime Administration (MARAD) for consideration to waive the Buy American Act (BAA) requirements for the construction materials needed for the Port/MARAD Rehabilitation of H-Wharf Project.

On May 19, 2022, the US Department of Transportation issued a 180 day temporary waiver of BAA requirements for construction materials for awards that were obligated between May 14 and November 10, 2022 (*see Attachment A*). Although the Port is aware that the TIGER grant award was obligated prior to May 14, 2022, due to financial challenges and external factors that the Port has experienced during the last several years in diligently working towards project implementation and completion, we believe that it is in the best interest of the public for the Port to submit this waiver request.

The Port understands the importance of the stringent BAA requirements and President Biden's policy of buying domestically. However, we would like to share some of the significant challenges and experiences we have encountered in our efforts to comply with these requirements in our ongoing efforts to execute the H-Wharf Project and potentially other future Capital Improvements Project (CIP) initiatives that will most likely be impacted in a similar manner.

To support our waiver request, the Port is providing the following information and supporting documentation for your review and consideration.

Background

The Jose D. Leon Guerrero Commercial Port of Guam serves as the only commercial seaport on the island of Guam, a U.S. territory. The Port also serves as the primary transshipment hub for other islands in the Southwest Pacific region, such as the Commonwealth of the Northern Mariana Islands (CNMI), Federated States of Micronesia (FSM), Republic of the Marshall Islands (RMI), and Palau.

The Port handles approximately two million tons of cargo a year and remains a vital contributor to the island's economic trade activity. Guam's citizens and the citizens of neighboring islands depend on the Port to provide essential goods, most notably food products, medical supplies, building materials, and fuel. Currently, more than 90 percent of the total volume of goods and supplies needed to support activities on Guam flows through the Port.

Guam's Strategic Importance

Dubbed as America's "Tip of the Spear" for its strategic location, Guam is home to the U.S. Air Force, U.S. Navy, U.S. Army, U.S. Coast Guard, the Guam National Guard, and several key federal agencies. In addition, the Department of Defense (DOD) plans to relocate 5,000 Marines and their families from Okinawa, Japan to Guam which will increase the military's presence on the island significantly. Approximately 30 percent of the total cargo currently moving through the Port is military-related, which is forecasted to increase with the scheduled realignment of personnel.

Guam's importance to military operations is evidenced by the Port's designation as the 16th Commercial Strategic Seaport with Special Consideration status by the U.S. Transportation Command (USTRANSCOM) in 2016. In a letter to the Secretary of the Department of Transportation (DOT), General Duncan McNabb of the USTRANSCOM expressed the criticality of modernizing the Port. In 2014, then-Deputy DOD Secretary Bob Work said, "Guam has always been a central part of our plans. Certainly, a central part of the Navy's plans, but now a central part of DoD's entire plans."

Port of Guam's Immediate Needs

Because the Port plays a central role in providing critical support for our military's readiness in the context of the Indo-Pacific Strategy, the Port must secure the resources to build capacity and resiliency at the Port by rehabilitating or replacing its aging facilities and equipment. The Port has been successful in leveraging federal funding and will continue with its aggressive efforts in securing additional funding for the following priority initiatives.

- **Rehabilitation of H-Wharf Project** – The Project will rebuild the approximate 500-foot structure to provide alternate offloading and loading for special projects cargo (RORO aggregates, bulk construction materials, etc.) where a Ship-to-Shore (STS) gantry crane will not be required. The Project's completion will also provide additional berthing capacity for military operations, commercial activities, research vessels, and passenger/cruise ship operations;
- **STS Gantry Crane and Yard Equipment Replacement** – Three operational STS Gantry Cranes, yard tractors, top lifters, and forklifts are reaching the end of their respective useful life (40 years with a mid-life refit) and need to be replaced as soon as practicable to support the military buildup and continued commercial and military future uses;
- **Pier Replacement** – The Port operates two fuel piers, Golf Pier and F1 Pier. These piers are the primary source of fuel for Guam residents, Guam Power Authority (GPA), and a secondary source for the military. These facilities are in critical condition and need to be replaced very soon to avoid costly and disruptive loss of service;
- **Wharf Replacement** – The Port handles containers, general cargo, and bulk cargo at Berths F2 through F6. These berths are 1960s vintage assets that have exceeded

their useful life, are susceptible to earthquake damage, and are remaining operational with costly service life extensions. These facilities need to be hardened by replacing deteriorated structural elements and upgrading the structures to ensure future resiliency;

- **IT Improvements** – Upgrade the Terminal Operating System (TOS), develop supporting IT Infrastructure and Cyber Security roadmaps to enable the Port to operate and collaborate with port users more efficiently and securely; and
- **Port Buildings Demolition & Replacement** – Demolition of buildings that were built in the 1960s that have exceeded their useful life and development of replacement structures to accommodate current and future functions.

Rehabilitation of H-Wharf Project Description

The proposed construction involves two major components: 1) Replacement of H-Wharf structures and adjacent upland facilities, and 2) Reconstruction of the access roadway, Highway 11.

- **Replacement of H-Wharf with a new bulkhead with a modern mooring and fendering system, utilities, and pavement.**
 - **Demolition** - Project demolition components include the removal of surface facilities (sheds and trailers) and dilapidated structures including fencing, cleats, rubber fenders, and mooring bollards. It also includes the removal of asphalt and concrete foundations and concrete pavement, and the partial demolition of existing bulkheads and concrete caps
 - **Wharf Construction** - New wharf construction consist of a new sheet pile bulkhead retaining wall and sheet pile cap with supporting structures and a new concrete surface. The new sheet pile bulkhead retaining wall will be approximately 3-ft outside of the existing sheet pile bulkhead and is approximately 500 feet along the pier head line with approximately 100-foot returns on each side. This would increase the wharf footprint within the water by approximately 2100 S.F. wharf structural components will include new sheet pile retaining wall bulkheads, sheet pile "deadmen" walls, batter piles,

and tie-rods. Additional structural components include mooring bollards on the wharf, two mooring bollards with concrete foundations supported by piles along the edge of the access roadway east and west of the wharf, and concrete decking/pavement for the first 100 feet adjacent to the pier head line in the ship-unloading zone. Structural fill will be placed in the area between the existing and new bulkheads. The concrete pavement within the ship unloading zone will be designed for 750 psf. Surface runoff will outfall to Apra Harbor after treatment by oil water separator and filtration systems.

- **Utilities** - Utilities within the wharf area will include electrical for power and lighting, potable water with capped stub outs to support future construction, fire main with supporting tank and pump station, storm water with oil-water separator(s), sanitary lines with holding tank and manholes to support future construction, and empty data communications conduit terminating in manholes to support future construction. Electrical lines from the load center will feed low mast perimeter wharf security lighting and site power requirements. Conduit and manholes will be positioned to support future construction at both the northwest and northeast corners of the wharf adjacent to the access road.
- **Upland Pavement** - The upland surface will be impervious with the area inboard of the 100-foot ship unloading zone consisting of asphalt pavement with a design load of 1500 psf. The area of asphalt pavement is approximately 2.5 acres.
- **Highway 11 Roadway Reconstruction**
 - **Roadway Reconstruction** - The roadway utilized to access the wharf will be reconstructed for approximately 4200 feet, and paved with slight adjustments to the typical section, alignment, profile, ditches, and drainage structures. The roadway section will consist of two 11-foot lanes and 2-foot unpaved shoulder section. Work includes new pavement striping and signage. Utilities under the roadway will include water line replacement, storm water piping, and empty data transmission conduit. Surface runoff from the new access roadway will be

collected in bio-swales for natural filtration prior to out-falling in Apra Harbor.
New roadway lighting is not required.

Port of Guam Buy American Act Challenges

Construction Materials Acquisition Challenges

As you are aware, the Port was awarded USDOT TIGER funding in the amount of \$10.0M for the rehabilitation of H-Wharf and Access Road reconstruction. This award, together with revenue bond funding totaled approximately \$23.8M.

The first bid opening for the H-Wharf project was conducted with a bid opening of September 13, 2021 and no bids were received. A second bid was conducted with a bidding opening of January 28, 2022. A single bid was received in the approximate amount of \$59.7M (*see Attachment B, pages 144 - 151*). This amount was significantly greater than expected as noted in the following table.

Table A

Item	Description	Amount
1.	Original Project Cost Estimate	\$23,774,255.00
2.	Contractor SMCC BAA Bid Amount	\$59,683,065.00
3.	Funding Shortfall	\$35,908,810.00
4.	% Variance	60.2%

Following the project award, the sole offeror Sumitomo Mitsui Construction Company (SMCC), the Port, GHD (Construction Manager), and SMCC collaborated to develop a strategy that will be in the best interest of both parties, given the current budget and time constraints. The details of the agreement are as follows:

- **Phase 01** – Procurement of all steel piling works' materials for the wharf (sheet piles, king piles, tie-rods, dead-man piles, compression and tension piles, and other associated miscellaneous steel connections), and installation of the south wall.

\$39,485,672.00 AWARDED

- **Phase 02** - Installation of the west and east wall piles and other marine structures such as the bulkhead concrete works (west, east, and south wall), on-shore bollards, bulkhead moorings – cleat and bollard, and cell fenders.
\$6,846,223.00 **AWARDED**
- **Phase 03** - All off-site works and remaining works specified in the IFB.
\$14,616,630.00 **NOT AWARDED**

The negotiations resulted in a construction phasing approach that optimized available budget, priorities, and schedule. This exercise also reduced the Project amount to approximately \$46.3M (see Attachment C – Purchase Order and Contract) as shown in the following table, funding only Phase 1 and Phase 2 due to limited funding availability. Phase 3 will be executed as funds become available.

Table B

Item	Description	Amount
1.	Original Project Cost Estimate	\$23,774,255.00
2.	Negotiated Project Cost Estimate	\$46,331,895.00
3.	Funding Shortfall	\$22,557,640.00
4.	% Variance	48.7%

As you are aware based on information previously shared in past quarterly programmatic reports, this project has been impeded by several external factors that were not in the control of the Port and we would like MARAD to consider in their review of our waiver request:

- The high cost of materials and the extended procurement times were felt globally and particularly in Guam. Manufacturers/suppliers are only able to hold steel pricing quotations for limited periods of time, introducing risk and uncertainty to prospective bidders.
- The BAA grant funding requires procurement of all materials from the United States of America and has resulted in limited manufactures/suppliers and steel section availability.

- The Engineer's current design was completed in 2014. It relied primarily on steel for the construction of the wharf. In the current market, steel is a very volatile commodity and supply appears to be limited and quite expensive.

The Port has collectively collaborated with SMCC in evaluating alternative designs through Value Engineering and alternative material solutions through the purchase of construction materials in World Trade Organization (WTO) Government Procurement Agreement countries like Japan and South Korea.

PAG Justification for the Construction Materials Waiver Request

On April 18, 2022, President Biden's Office of Management and Budget (OMB) issued memorandum M-22-11 (*see Attachment D*), "Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure" ("Implementation Guidance").

Under section VIII of the Implementation Guidance, "Preliminary Guidance for Construction Materials," "construction materials" includes:

- an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives — that is or consists primarily of:
 - non-ferrous metals;
 - plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
 - glass (including optic glass);
 - lumber; or
 - drywall.

Because iron or steel has been identified as a construction material that will not be covered by the 180-day waiver period, the Port's request is to specifically include steel in the list of eligible construction materials under Section VIII of the Implementation Guidance. The Port will work with SMCC to ensure that aside from the purchase of steel from Japan (which SMCC had decided to source out should the Port be granted the

waiver), all other construction materials will be purchased in compliance with the BAA requirements.

PAG Rationale for BAA Waiver Request on the Purchase of Steel from WTO Government Procurement Agreement Countries

The OMB Implementation Guidance provides instruction on the issuing of BAA waivers. It states that:

Pursuant to Section 70914(c) of the Act, the head of a Federal agency may waive the application of a Buy America preference under an infrastructure program in any case in which the head of the Federal agency finds that—

- (1) applying the domestic content procurement preference would be inconsistent with the public interest (a "public interest waiver");*
- (2) types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (a "nonavailability waiver"); or*
- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent (an "unreasonable cost waiver").*

As previously shared, the negotiated cost amount for the Rehabilitation of H-Wharf Project is \$46,331,895.00. The variance between the original project amount and the actual SMCC amount is 48.7%. Since the Port is specifically requesting a waiver for only the steel components of the project, the 48.7% difference will not be used as the supporting justification for the request. Instead, the Port will provide justification in three (3) areas that are worth considering for potential consideration.

The following table has been developed to provide MARAD with a bird's eye view of the Port's justification.

Table C

Description	BAA Amount NUCOR	Non-BAA Amount NIPPON Steel	Variance	% Variance
Total Cost of Steel (includes shipping)	\$11,963,338.77	\$7,786,703.80	\$4,176,634.97	35%
Steel Cost Only	\$9,921,422.61	\$6,223,836.80	\$3,697,585.81	37%
Shipping Cost Only	\$2,041,916.16	\$1,562,867.00	\$479,049.16	23%
Delivery Period	12 months	6.5 months	5.5 months	46%

Requesting a waiver for the steel wharf materials only will yield a reduction in cost of nearly 37% by purchasing Japanese steel in lieu of the US steel. (See Attachment E page 4, SMCC Non-BAA Steel Cost Proposal). Estimated savings upwards of \$3.7M in Phase 1 of the Project can be used for Phase 2 through a non-BAA procurement.

MARAD BAA Waiver Consideration on Future Port CIP Initiatives

The Port has demonstrated its due diligence by providing justification and supporting documents to meet BAA waiver requirements and at the same time adhere to the establishment of a temporary public interest waiver for construction materials for 180 days commencing on May 14, 2022. However, because of the external challenges that it has experienced with the H-Wharf project, the nationwide increase in construction materials, the Port’s limited financial resources, and the Port’s isolated location in the Western Pacific with only ocean freight as its only mode of transporting commodities to the island, the Port respectfully request MARAD to consider permanently waiving the BAA requirements for the Territory of Guam in conformance with the provisions of 49 U.S.C. 5323 § (j)(2)(B) & (D):

- (B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; and*
- (D) including domestic materials will increase the cost of the overall project by more than 25%.*

Based on ongoing efforts to execute the H-Wharf project and the lessons learned during the past couple of years, future CIP initiatives will likely be impacted in a similar manner.

The BAA requires federal, state and local agencies to procure domestic materials and products. Two conditions must be present for the Buy American Act to apply: (1) the procurement must be intended for public use within the United States and its territories; and (2) the items to be procured or the materials from which they are manufactured must be present in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality. The provisions of the act may be waived if the head of the procuring agency determines the act to be inconsistent with the public interest or the cost of acquiring the domestic product is unreasonable.


The BAA waiver can be granted by the issuing federal entity if the following conditions are met:


- the use of a U.S. product is impractical or inconsistent with the public interest;
- the product is not mined, produced, or manufactured in the U.S. in sufficient and reasonably available commercial quantities of a satisfactory quality; or
- the use of a domestic product would lead to an unreasonable increase of the total cost of the project by more than 25%.

Procurement of the much needed steel component of the Project from a WTO Government Procurement Agreement (GPA) supplier appears to be a viable alternative. As previously mentioned, the Port is cognizant of the stringent BAA requirements and President Biden's policy of buying domestically. However, it would be in the interest of both the Port and MARAD that all avenues are entertained to ensure that we practice due diligence and fiscal responsibility in the usage of public taxpayers' money.

Thank you in advance for the opportunity to submit the Port's construction materials waiver request. We look forward to your favorable consideration and approval of this waiver.

Sincerely,


Rory J. Respicio
General Manager

YNC BRADY 
25 JUL 22 1255



COPY

LOURDES A. LEON GUERRERO
GOVERNOR

JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN
OFFICE OF THE GOVERNOR OF GUAM

July 19, 2022

REAR ADMIRAL BENJAMIN R. NICHOLSON
Commander
Joint Region Marianas
U.S. Naval Forces Marianas
PSC 455 Box 211
FPO AP 96540-1000

Subject: Request for Department of Defense Support to the Port Authority of Guam's Resiliency and Readiness Plan

Reference: Port Authority of Guam Buy American Act Challenges, and \$48 Million Grant Submission to MARAD for three new Ship-to-Shore (STS) Gantry Cranes, and support to harden wharves and replace Port's 50-year-old facilities.

Dear Admiral Nicholson,

Si Yu'os ma'ase for joining our Port Strong family during the groundbreaking ceremony of the Hotel Wharf Rehabilitation and Repair Project on Wednesday, July 6, 2022. Your continued support of our Administration's efforts to transform the Jose D. Leon Guerrero Commercial Port of Guam ("Port") into a modernized seaport will help enhance the Port Authority of Guam's ("PAG") capability to support the Department of Defense's ("DoD") Indo-Pacific Strategy and Pacific Deterrence Initiatives. Further collaboration is necessary to further ensure the availability of necessary services, including the acquisition of three new STS gantry cranes and the upgrade of the Port's aging wharves, its 50-year-old facilities, and container yard equipment. Replacing the Port's gantry cranes, yard equipment, and critical infrastructure are all essential to achieving resiliency, supply chain sustainability, and enhanced/increased operational capacity in support of growth and military readiness in the Indo-Pacific theater.

President Joe Biden's Bipartisan Infrastructure and Jobs Act Law, Pub. L. 117-58, provides funding to support critical infrastructure and equipment initiatives. However, this funding opportunity expands the Buy American Act of 1933 ("BAA") requirement. While we understand the policy purpose behind implementing these BAA requirements and the President's policy of buying domestically, these requirements pose significant challenges in our ongoing efforts to modernize critical Port infrastructure and replace its aged Ship-to-Shore ("STS") Gantry Cranes and other critical cargo handling equipment.

The BAA requires federal, state, and local agencies to procure domestic materials and products. Two conditions must be present for the Buy American Act to apply: (1) the procurement must be

To: Rear Admiral Benjamin R. Nicholson
Fr: The Honorable Lourdes A. Leon Guerrero, Governor of Guam
Date: July 19, 2022
Re: Request for Department of Defense Support to the Port Authority of Guam's Resiliency and Readiness Plan

Page 2 of 7

intended for public use within the United States and its territories; and (2) the items to be procured or the materials from which they are manufactured must be present in the United States in sufficient and reasonably available commercial quantities of satisfactory quality. The act's provisions may be waived if the head of the procuring agency determines the act to be inconsistent with the public interest or the cost of acquiring the domestic product is unreasonable. The issuing federal entity can grant the BAA waiver if the following conditions are met:

- the use of a U.S. product is impractical or inconsistent with the public interest;
- the product is not mined, produced, or manufactured in the U.S. in sufficient and reasonably available commercial quantities of a satisfactory quality; or
- the use of a domestic product would lead to an unreasonable increase in the project's total cost by more than 25%.

I believe the priorities at the Port identified above merit a BAA waiver, and I am writing to provide additional information that may provide necessary information and context for this request.

Background

The Port serves as the only commercial seaport on Guam. The Port also serves as the primary transshipment hub for other islands in the Southwest Pacific region, such as the Commonwealth of the Northern Mariana Islands (CNMI), Federated States of Micronesia (FSM), Republic of the Marshall Islands (RMI), and Palau.

The Port handles approximately two million tons of cargo annually and remains a vital contributor to the island's economic trade activity. Guam's citizens and the citizens of neighboring islands depend on the Port to provide essential goods, most notably food products, medical supplies, building materials, and fuel. Currently, more than 90 percent of the total volume of goods and supplies needed to support activities on Guam flows through the Port.

Guam's Strategic Importance

As America's "Tip of the Spear", Guam is home to the U.S. Air Force, U.S. Navy, U.S. Army, U.S. Coast Guard, the Guam National Guard, and several other key federal agencies. In addition, the Department of Defense ("DoD") plans to relocate 5,000 Marines and their families from Okinawa, Japan, to Guam, substantially increasing the military's presence on the island. Approximately 30 percent of the total cargo currently moving through the Port is military-related, a figure that is forecasted to increase with the scheduled realignment of personnel.

Guam's importance to military operations is further evidenced by the Port's designation as the 16th commercial Strategic Seaport with Special Consideration status by the U.S. Transportation Command ("USTRANSCOM") in 2016. In his letter to the Secretary of the Department of Transportation ("DOT"), General Duncan McNabb of the USTRANSCOM expressed the criticality of modernizing the Port. In 2014, then-Deputy DoD Secretary Bob Work said, "Guam has always been a central part of our plans. Certainly, a central part of the Navy's plans, but now a central part of DoD's entire plans."

To: Rear Admiral Benjamin R. Nicholson
Fr: The Honorable Lourdes A. Leon Guerrero, Governor of Guam
Date: July 19, 2022
Re: Request for Department of Defense Support to the Port Authority of Guam's Resiliency and Readiness Plan

Page 3 of 7

Port of Guam's Immediate Needs

Because the Port plays a central role in providing critical support for our military's readiness in the context of the Indo-Pacific Strategy, the PAG must secure the resources to build capacity and resiliency at the Port by rehabilitating and replacing its aging facilities and equipment. The Port successfully leveraged federal funding, and will continue with its aggressive efforts to secure additional funding for priority initiatives, which include the following:

- **STS Gantry Crane and Yard Equipment Replacement** – Three operational STS Gantry Cranes, yard tractors, top lifters, and forklifts are reaching the end of their useful life (40 years with a mid-life refit) and need to be replaced as soon as possible to support the military buildup and continued commercial and future military uses;
- **Pier Replacement** – The Port operates two fuel piers, Golf Pier and F1 Pier. These piers are the primary source of fuel for Guam residents, Guam Power Authority ("GPA"), and a secondary source for the military. These facilities are in critical condition and must be replaced very soon to avoid costly and disruptive loss of service;
- **Wharf Replacement** – The Port handles containers, general cargo, and bulk cargo at Berths F2 through F6. These berths are 1960s vintage assets that have exceeded their useful life, are susceptible to earthquake damage, and remain operational with costly service life extensions. These facilities need to be hardened by replacing deteriorated structural elements and upgrading the structures to ensure future resiliency;
- **IT Improvements** – Upgrade the Terminal Operating System ("TOS"), develop supporting IT Infrastructure and Cyber Security roadmaps to enable the PAG to operate and collaborate with port users more efficiently and securely; and
- **Port Buildings Demolition & Replacement** – Demolition of buildings built in the 1960s that have exceeded their useful life and development of replacement structures to accommodate current and future functions.

Port of Guam Buy American Act Challenges

Port Ship-To-Shore (STS) Gantry Cranes

With approximately 100,000 containers currently passing through the Port annually, the STS gantry cranes are essential to the Port's service to the island of Guam, serving as the transshipment hub for the southwest Pacific region, and supporting the military missions within the Indo-Pacific Command. The current operation is serviced by three reconditioned 1983/4 era Hitachi STS cranes that were upgraded and relocated to the Port of Guam in 2008 from the Port of Los Angeles ("POLA"). Two older STS cranes were removed from service at the end of their safe working lifespans. They are currently being demolished and dismantled, and will eventually be removed from the Port property. The anticipated completion of this project is December 31, 2022.

Although the Port has diligently implemented its preventative maintenance program, the harsh corrosive environment from the mixture of saltwater and sulfur-laden fumes from the adjacent GPA power plant's burning of high sulfur fuels has shortened the working lifespans of the units.

To: Rear Admiral Benjamin R. Nicholson
Fr: The Honorable Lourdes A. Leon Guerrero, Governor of Guam
Date: July 19, 2022
Re: Request for Department of Defense Support to the Port Authority of Guam's Resiliency and Readiness Plan

Page 4 of 7

The replacement of the three (3) POLA gantry cranes is a high priority for my Administration as they are critical to maintain the Port's operational and financial sustainability and adequately service its customer base. In the past, the Port represented a potential chokepoint or single point of failure in the military buildup process. The viability of the Port is therefore paramount to sustaining the military's operational effectiveness and mission readiness in the Western Pacific Theater of Operations in an ever-evolving, dynamic, and challenging geopolitical environment.

Through the FY2022 USDOT Multimodal Project Discretionary Grant ("MPDG"), the Port submitted a grant application to acquire three (3) STS Gantry Cranes for \$48,485,745.00. Award of the grant would fund replacement of the current gantry cranes, and ensure the Port's resiliency, efficiency, sustainability, and ability to meet its anticipated cargo demands.

STS Gantry Crane Acquisition Challenges

U.S. STS gantry crane manufacturers have not existed in the marketplace for approximately 30 years, and the manufacturing capabilities have moved offshore.

Today's primary STS gantry crane providers are all foreign: Finland-based Konecranes, Germany-based Kocks Cranes, Ireland-based Liebherr, Swedish-based Kalmar Industries, South Korea-based Samsung, Japanese-based Paceco-Mitsui, and Mitsubishi Heavy Industries, IHI. Their manufacturing facilities are designed to support the fabrication of fully erected STS cranes, on deep water, with ocean access for large vessel transport directly to port sites around the globe.

In today's container crane market, it is unlikely this business will return to the U.S. Reentering the STS crane marketplace would likely prove cost-prohibitive for U.S. manufacturers for the following reasons:

- A substantial financial commitment is needed to design and construct multi-location modern manufacturing facilities in the U.S. on two coasts, located on deep water, of sufficient size to compete with established manufacturers, such as ZPMC, on a global scale;
- The regional and domestic markets in the U.S. are insufficient to support such a significant investment on its own;
- The U.S. manufacturing labor costs, compared to foreign labor costs, would further affect the viability of crane manufacturing as an investment opportunity;
- The cost of shipping fully erected STS gantry cranes from the U.S. to foreign markets outside of the U.S. would further impede a U.S. manufacturing model;
- Established foreign competition would resist U.S. competition by modifying their STS unit pricing structure regionally to keep the U.S. from being viable competition;
- The original Paceco business model of licensing foreign manufacturers to fabricate a U.S. product on foreign soil has already resulted in development of the current set of well-established foreign competition; and
- It is not feasible to build a business case that would be supportable or acceptable to lending institutions to finance such a significant commitment without a guarantee of sufficient returns on that investment.

To: Rear Admiral Benjamin R. Nicholson
 Fr: The Honorable Lourdes A. Leon Guerrero, Governor of Guam
 Date: July 19, 2022
 Re: Request for Department of Defense Support to the Port Authority of Guam's Resiliency and Readiness Plan

Construction Materials Acquisition Challenges

The Port was awarded DOT TIGER funding for \$10 million to rehabilitate H-Wharf and the access road. This award, together with revenue bond funding, totaled \$23,774,255.00. The construction project will involve demolishing the facilities sitting on the wharf and removing concrete foundations and pavement. The project will further include the construction of a new wharf, consisting of a new sheet pile bulkhead retaining wall, a sheet pile cap with supporting structures, and a new concrete surface. The H-Wharf construction will also include the installation of utilities and the paving of about 2.5 acres of upland to serve as an unloading zone.

The Route 11 roadway reconstruction component of the project ("Phase 3") will involve the repaving of approximately 4,200 feet, comprised of two 11-foot lanes and a two-foot unpaved shoulder. The work will include new pavement striping and signage, utilities under the pavement, and stormwater piping, just to name a few.

This project was initially hampered by a number of factors, such as the following:

- The high cost of materials and the extended procurement times are being felt globally, particularly in Guam. Manufacturers/suppliers can only hold steel pricing quotations for limited periods, introducing risk and uncertainty to the prospective bidders.
- The Buy American Act grant funding requires procurement of all materials from the United States and has resulted in limited availability of manufacturers/suppliers and steel section.
- The Engineer's current design was completed in 2014. It relied primarily on steel for the construction of the wharf. Steel is a very volatile commodity in the current market, and supply appears to be limited.

Bids for the H-Wharf project were opened on January 28, 2022. The bids included amounts that were substantially higher than anticipated. Following the bid opening, the PAG Team and its Construction Manager worked on the project to develop a strategy, given the current budget and time constraints. Having awarded the Contract to Sumitomo Construction Company ("SMCC"), the PAG Team, in collaboration with SMCC, has evaluated alternative material solutions and designs and the sequencing of the work, partially awarded specific features, and identified alternative funding sources to supplement the current budget.

Heavy Duty Container Yard Equipment Acquisition Challenges

The PAG continues to experience the challenges noted above regarding application of BAA restrictions in its purchase of container yard equipment. Below is a comparison of tractor purchases made in 2016 (Non-BAA) and 2019 (BAA applied). For purposes of the analysis, the original 2016 Non-BAA purchase price was adjusted to account for inflation.

EQUIPMENT DESCRIPTION	YEAR	Non BAA	Non-BAA Adjusted	BAA (Actual \$)	Variance
-----------------------	------	---------	------------------	-----------------	----------

To: Rear Admiral Benjamin R. Nicholson
 Fr: The Honorable Lourdes A. Leon Guerrero, Governor of Guam
 Date: July 19, 2022
 Re: Request for Department of Defense Support to the Port Authority of Guam's Resiliency and Readiness Plan

Top Lifters	2019	\$496,949.00 (purchase price in 2016)	\$529,354.00 (adjusted to 2019\$)	\$819,988.00 (purchase price in 2019)	65%
-------------	------	--	--------------------------------------	--	-----

The Port was awarded \$126,609.00 in federal funding from the Environmental Protection Agency through the Guam Environmental Protection Agency. This award, combined with the required local match of \$113,391.00, makes \$240,000.00 available to procure two (2) container yard tractors that meet the emission requirements of the 2021 Diesel Emissions Reduction Act. An Invitation for Bid ("IFB") was issued, and on April 8, 2022, a bid opening was held. Only one bidder participated, with a submitted bid amount of almost double the amount available for the purchase.

The Port recently provided this information in support of the Department of Transportation's establishment of a temporary public interest waiver for construction materials for 180 days commencing May 14, 2022. The Port has requested that the duration of the waiver be extended beyond 180 days and has asked the Department of Transportation to consider permanently waiving the requirements for the Territory of Guam in conformance with the provisions of 49 U.S.C. 5323 § (j)(2)(B) & (D):

(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; and

(D) including domestic materials will increase the cost of the overall project by more than 25%.

Conclusion/Solution

Replacement of the Port's STS gantry cranes is critical for the Port to properly service the military buildup and future mission capabilities on Guam and the Mariana Islands. The STS gantry cranes required at the Port are defined as 50-foot gauge Panamax STS gantry cranes, which are no longer manufactured in the U.S. The delivered cost for new 50-foot gauge STS gantry cranes in the open global market and "U.S.-Friendly" sources like Japan would be in the range of \$12,000,000.00 per crane.

The total cost per STS crane, including design specifications, storm tie-down, stowage pin socket design, construction, manufacturing plant QC inspection and oversight, manufacturer crane and sea-fastening calculation reviews, and testing and commissioning oversight, brings the costs to **\$16,161,915.00 per crane.**

Procurement of these STS gantry cranes from a World Trade Organization ("WTO") Government Procurement Agreement ("GPA") supplier appears to be the only viable alternative with no U.S. manufacturing source presently available. The PAG is aware of the stringent Buy American Act requirements and President Biden's policy of buying domestically. However, the PAG will not be able to source its new STS container gantry cranes in the USA.

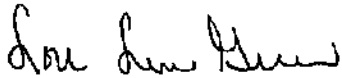
To: Rear Admiral Benjamin R. Nicholson
Fr: The Honorable Lourdes A. Leon Guerrero, Governor of Guam
Date: July 19, 2022
Re: Request for Department of Defense Support to the Port Authority of Guam's Resiliency and Readiness Plan

Page 7 of 7

Similarly, procuring construction materials for federally funded capital improvement projects (CIP) commencing with the Hotel Wharf project from WTO GPA partners will generate savings of over 25%. USDOT's waiver shows that the USDOT/MARAD and the Port Authority of Guam have performed due diligence in their fiduciary responsibilities in using and expending taxpayers' monies.

While these obstacles are daunting, with your support, the advocacy of DoD leadership, and endorsement of members of the House of Representatives and the Senate, I am confident the Port will overcome these challenges and continue to provide its necessary services to the people of Guam and our military.

Senseramente,



LOURDES A. LEON GUERRERO
Governor of Guam

Cc: *Honorable* Joshua F. Tenorio, Lieutenant Governor of Guam
General Manager, Rory J. Respicio, Port Authority of Guam

Joe G. Javellana III

From: Joe G. Javellana III <jgjavellana@portofguam.com>
Sent: Wednesday, November 9, 2022 11:04 AM
To: 'Bohnet, David (MARAD)'
Cc: Robert.Bouchard@dot.gov; 'Gill, Lauren (MARAD)'; 'Pavlovich, Natasha (MARAD)'; 'Rory J. Respicio'; 'Dora C. Perez'; 'Jojo B. Guevara'; 'Clarence V. Lagutang'
Subject: RE: Follow up questions from the OST regarding TIGER request

Hafa Adai David,

Please note the Port's response below in **RED**.

You mentioned that if the Port is not granted the BAA waiver, MARAD's concern is that the project will not meet its substantial completion date of May 31, 2024 with no possibility of an extension beyond the liquidation date of September 30, 2024. You also mentioned that the waiver approval process could take 6 – 9 months. Having been partners with a good relationship with MARAD for over a decade now, your support to fast track the approval process would be greatly appreciated and in the best interest of both the Port and MARAD.

The Port Team, its Consultant WSP, Contractor SMCC, and its CM GHD is focused on completing this project and believes that it has demonstrated compelling rationale for the waiver and respectfully request the Office of Port Infrastructure Development's support and advocacy for an expedient review and approval from the Office of Secretary Pete Buttigieg.

Should you have further questions or require additional information, our Port Team will respond accordingly.

Respectfully,
Joe



Joe G. Javellana III

Chief Planner

Port Authority of Guam
1026 Cabras Highway, Ste. 201
Piti, Guam 96925
Tel: (671) 477-5931
Fax: (671) 477-4445
Email: jgjavellana@portofguam.com
Website: www.portofguam.com

**** CONFIDENTIALITY NOTICE **** For Official Use Only.

The information contained in this e-mail and any accompanying attachments may contain sensitive information, which is protected from mandatory disclosure under the Freedom of Information Act (FOIA), 5USC 522. It should not be released to unauthorized persons. If you are not the intended recipient of this information, any disclosure, copying, distribution, or the taking of any action in reliance on this information is prohibited. Classification: UNCLASSIFIED Caveats: FOUO

From: Bohnet, David (MARAD) <david.bohnet@dot.gov>
Sent: Tuesday, November 1, 2022 6:57 AM
To: jgvellana@portofguam.com; Rory J. Respicio <rjrespicio@portofguam.com>
Cc: Gill, Lauren (MARAD) <lauren.gill@dot.gov>; Pavlovich, Natasha (MARAD) <natasha.pavlovich@dot.gov>
Subject: Follow up questions from the OST regarding TIGER request

Good afternoon,

We are following up with some questions from the Office of the Secretary regarding your requests.

1. Please detail the Wharf H arrangements/commitments to the US Coast Guard. What is the time commitment for it to be operational? What will be the nature of the operations supporting the Coast Guard?

You mention in your letter of August 12, 2022 that “per the proposal, Phases 1 and 2 are mandatory scope requirements and must be executed and completed on or before the TIGER Grant Period of Performance of 5/31/2024, and required for US Coast Guard’s approval of a “complete and usable” Port asset.”

Port Response:

In the Port’s awarding of the H-Wharf project to SMCC, the Contractor will install all in-water steel piling work (Phase1) as well as west and east wall piles and marine structures to include concrete and on-shore works (Phase 2) to upgrade and rehabilitate the facility. In conformance with the US Coast Guard (USCG) Regulated Facility Compliance Program for waterfront facilities, any and all completed work must meet regulations and statutes that apply to the facility. Because H-Wharf will be utilized as a multi-purpose wharf that will increase its economic growth potential, the USCG’s inspection will be based according to the types of operations that will be conducted at the site – in this particular case, activities at H-Wharf will include Roll On/Roll Off, aggregate, passenger/cruise terminal operations, special projects, research vessels, DOD support, and hazardous materials loading and unloading. How activities are conducted will be inspected by the USCG for compliance with each applicable set of regulations.

Upon the USCG’s compliance inspection and approval of H-Wharf as a completed and safe Port asset, it will deem the facility usable and compliant. Because resiliency and redundancy is a collaborated objective by both the Port and the USCG, their partnership allows for the USCG to utilize H-Wharf for whatever activity it deems necessary, provided that prior arrangement is made with Port Management. The vibrant relationship between the Port and USCG Sector Guam makes the support process streamlined and can be effectuated immediately.

2. What is the current status of the funding? When, and from where, will funding be secured for the full project?

Your last letter of Funds availability committed to \$13,774,255 in local funds for the full project. The new expected local funds for Phase 1 and 2 is \$36,331,895 where will the additional funds of \$22,227,640 be secured from and when? Also, if the request to remove Phase 3 the off-site works and road is approved, the OST would like to know where and when the funds for Phase 3, last estimated at \$14,616,630, will be secured and when.

Port Response:

As previously shared, the project’s funding has been identified by the Port and approved by the Board of Directors. The following is the funding breakdown to supplement the over \$22 Million shortfall:

<u>Funding Source</u>	<u>Amount</u>
General Reserve (ARP funds)	\$15 M
FY23 CIP Budget	\$ 3 M
FY24 CIP Budget	\$ 3 M
<u>Bond Capital Improvement Reserve</u>	<u>\$ 1 M</u>
Total:	\$22 M

Please lay out two project timelines with all steps to complete the Project prior to the expenditure deadline of September 2024:

- 1. Timeline assuming a waiver is requested and granted.** In MARAD’s experience, DOT decisions on waivers take roughly 6-9 months from the date of initial request. MARAD would need additional information from Guam further justifying this waiver request before starting the clock on this review timeline, so it’s possible your waiver request would take closer to 9 months. Under this timeline, Guam may not buy the foreign steel until a waiver is granted, which wouldn’t occur until roughly 6-9 months from now. Keep in mind that, although the liquidation date is September 30, 2024 for the Project, MARAD would expect that the Project reach substantial completion by May 31, 2024.

Port Response:

As communicated in the Port’s waiver request letter, purchasing construction materials from a non-BAA country (in this case Japan) will result in at least a cost savings of 37% which is 31% more than the Grant Agreement’s 6% requirement for a non-BAA waiver request consideration. IF a waiver is granted, THEN materials can be manufactured in 6 months (or potentially 12 months shorter than a BAA sourced manufacturer like NUCOR Steel). Costing less than a BAA materials procurement, a non-BAA purchase will be more cost effective with a quicker delivery period to the project site.

- 2. Timeline assuming no waiver is requested or granted.** This timeline would be based on Guam purchasing Buy American-compliant domestic steel for the Project now (presumably from Nucor). Would Guam be able to complete the Project using domestic steel before the expected substantial completion date of May 31, 2024? MARAD is concerned that, even if the domestic steel were purchased today, that Guam could not complete the Project within this timeframe. Unfortunately, there is no possibility of an extension of the liquidation date of September 30, 2024 for this Project.

Port Response:

The Port is cognizant of the stringent BAA requirements and President Biden’s policy of buying domestically. However, it would be in the interest of both the Port and MARAD that all avenues are entertained to ensure that we practice due diligence and fiscal responsibility in the usage of public taxpayers’ money. IF a waiver IS NOT granted, THEN the project will not meet the target substantial completion date of May 31, 2024. Per US manufacturer (NUCOR), materials will take up to 18 months to produce excluding shipping. US steel is much higher in cost to produce and deliver than Japanese steel.

David Bohnet

Grants Management Supervisor

Office of Port Infrastructure Development
1200 New Jersey Ave, SE
W21-226
Washington, DC 20590
202-366-0586
David.bohnet@dot.gov



PORT OF GUAM
ATURIDAT I PUETTON GUAHAN
Jose D. Leon Guerrero Commercial Port
1026 Cabras Highway, Suite 201, Piti, Guam 96925
Telephone: 671-477-5931/35 Facsimile: 671-477-2689/4445
Website: www.portguam.com



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

VIA ELECTRONIC MAIL

October 7, 2022

Mr. David Bohnet
Grants Management Specialist Supervisor
Maritime Administration
US Department of Transportation
1200 New Jersey Ave SE
Washington, DC 20590

Subject: Port Authority of Guam Special Request for Consideration/Approval

**Reference: Rehabilitation of H-Wharf Project
MARAD Fy2016 TIGER Grant No. DTMA91G1600007**

Dear Mr. Bohnet:

Hafa Adai! First and foremost, I want to take this opportunity to once again thank you and MARAD for facilitating our meeting yesterday, Oct. 6, 2022, to discuss the status of the Port Authority of Guam's (PAG) H-Wharf Project (Project) and the activities that has transpired over the last several years.

Secondly and equally important, is to memorialize the PAG's proposed next steps in our diligent and concerted effort to execute and complete the rehabilitation and upgrade of this critically important PAG asset.

Although it was the collective goal of the PAG and MARAD to move the Project forward as quickly and efficiently as possible, the effort was not without its challenges. External constraints identified in the submitted White Paper has resulted in fiscally motivated hard decisions that the PAG had to consider and implement.

Per our discussion, the PAG humbly request MARAD's consideration and approval on the following proposals:

1. Descope the Access Roadway Upgrade Component from the Project:

Referencing the submitted H Wharf White Paper, the PAG contract and negotiations with Sumitomo Mitsui Construction Company (SMCC) divided the project into three (3) Phases.

- **Phase 01** – Procurement of all steel piling works' materials for the wharf (sheet piles, king piles, tie-rods, dead-man piles, compression and tension piles, and other associated miscellaneous steel connections), and installation of the south wall. \$39,485,672.00
AWARDED

- **Phase 02** - Installation of the west and east wall piles and other marine structures such as the bulkhead concrete works (west, east, and south wall), on-shore bollards, bulkhead moorings – cleat and bollard, and cell fenders. \$6,846,223.00 AWARDED
- **Phase 03** - All off-site works and remaining works specified in the IFB. \$14,616,630.00 NOT AWARDED

Although the PAG has identified funds to supplement the shortfall between the original planned budget and the negotiated contract amount, Phase 03 of the Project will not be executed. Inasmuch as the goal was to fulfill the requirements of the PAG/MARAD Grant Agreement, at this juncture we do not have the financial capacity to complete the entire Scope as initially planned. The PAG is however, confident that upon completion of Phases 1 and 2, the Port of Guam will have a US Coast Guard compliant and usable facility that will increase the Port's berthing capacity to provide for increased commerce. **As funds become available, the PAG will execute Phase 03 to completion.**

2. Buy American Act Waiver Request for Construction Materials:

The PAG is fully aware and understands the importance of the stringent Buy American Act (BAA) requirements and President Biden's policy of buying domestically. However, during the course of the PAG's diligent efforts to execute this Project, there were significant challenges and experiences encountered in trying to comply with this mandate.

As shared during our meeting, the PAG submitted a construction materials waiver request based on the May 19, 2022 US DOT issued temporary waiver of BAA requirements for construction materials for awards that were obligated between May 14 and November 10, 2022. Chief Planner Joe Javellana stated that although the PAG was aware of this stipulation and that the TIGER grant award was obligated prior to May 14, 2022, it was in the best interest of the public for the Port to submit the waiver request.

You mentioned that because the PAG/MARAD Grant Agreement was consummated several years ago under a separate guidance, we reviewed the Agreement and discovered verbiage under Section 11.2 Buy American Requirements that will hopefully support our BAA waiver request.

The following information is taken directly from Section 11.2d. This section provides the following guidance:

- (d) The USDOT may authorize the Recipient to use foreign construction material, by modifying this agreement under Section 6.1, if the USDOT determines that:
- (1) applying the Buy American statute to the construction material would be impracticable or inconsistent with the public interest;
 - (2) the construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or
 - (3) **the cost of domestic construction material is unreasonable.**

The cost of a domestic construction material is unreasonable under Section 11.2(d)(3) if the cost of that material exceeds the cost of comparable foreign material by more than 6 percent.

Based on part 3 of Section 11.2d, the PAG has demonstrated and provided justification in my August 29, 2022 letter to Mr. Robert Bouchard with the subject "Request Consideration for Waiver from the Buy American Act Requirements for Construction Materials". In that letter we provided the following information:

Description	BAA Amount NUCOR	Non-BAA Amount NIPPON Steel	Variance	% Variance
Total Cost of Steel (includes shipping)	\$11,963,338.77	\$7,786,703.80	\$4,176,634.97	35%
Steel Cost Only	\$9,921,422.61	\$6,223,836.80	\$3,697,585.81	37%
Shipping Cost Only	\$2,041,916.16	\$1,562,867.00	\$479,049.16	23%
Delivery Period	12 months	6.5 months	5.5 months	46%

Reiterating the PAG's request in my letter, we are humbly asking consideration for a waiver for the steel construction materials only. We will purchase other materials domestically as required. If granted, the Project will yield a **reduction in cost of nearly 37%** by purchasing Japanese steel in lieu of the US steel. Estimated savings upwards of \$3.7M in Phase 1 of the Project can be used for Phase 2 through a non-BAA procurement.

As previously mentioned, the PAG is cognizant of the stringent BAA requirements and President Biden's policy of buying domestically. However, it would be in the interest of both the PAG and MARAD that all avenues are entertained to ensure that we practice due diligence and fiscal responsibility in the usage of public taxpayers' money.

Thank you in advance for the opportunity to submit the Port's requests. We look forward to your favorable consideration, support and approval.

Respectfully,

Rory J. Respicio
General Manager