

Special Bids and Awards Committee (SBAC) for New Clark City (NCC) Access Roads

**CONSTRUCTION OF AIRPORT TO NCC ACCESS ROAD PHASE 3
(Calumpang-Dapdap Segment)
at New Clark City**

RESOLUTION NO. 07

(Declaration of Post-Disqualification of the Bidder with the Lowest Calculated Bid)

WHEREAS, the BASES CONVERSION AND DEVELOPMENT AUTHORITY (BCDA) has put on bid the **CONSTRUCTION OF AIRPORT TO NCC ACCESS ROAD PHASE 3 (Calumpang-Dapdap Segment)**, located at New Clark City, Capas, Tarlac with an Approved Budget for the Contract (ABC) in the amount of **Two Billion One Hundred Sixty-Nine Million Four Hundred Sixty-Three Thousand Seven Hundred Fourteen Pesos and ¹⁸/₁₀₀ (Php2,169,463,714.18)**, inclusive of all applicable taxes and fees, under a modified payment scheme.

WHEREAS, the deadline for the submission of bids for the aforementioned project was on 12 April 2019, and the opening/preliminary examination of the submitted bids was held on the same day;

WHEREAS, the detailed evaluation and verification of the submitted bids for the project was conducted on April 15 to May 17, 2019 pursuant to Section 30 of the Revised IRR of R.A. 9184;

WHEREAS, based on the results of the said detailed bid evaluation, SBAC Resolution no. 04 issued on 20 May 2019 declared **Baque Corporation** as the bidder with the Lowest Calculated Bid (LCB), subject to post-qualification;

WHEREAS, during the submission of bids, Baque Corporation submitted a copy of its Memorandum of Understanding (MOU) with the National Housing Authority (NHA) as its SLCC for the relocation of thirteen thousand families in Barangay San Isidro in Rodriguez, Rizal by way of NHA's financing the acquisition by the families of developed homelots and housing units made available by Baque Corporation. Per Certification of Completion signed by NHA Housing Projects Officer in Charge Elizabeth Matipo, Baque Corporation has turned over to NHA the Southville 8B Housing Project together with its roads, alleys, drainage system, embankment and slope protection;

WHEREAS, on May 21 to June 4, the SBAC through its Technical Working Group (TWG), conducted Post-Qualification on Baque Corporation being the bidder with LCB to determine whether it is compliant with and responsive to all the requirements and conditions specified in the Bidding Documents, pursuant to Section 34 of the Revised IRR of R.A. 9184;

WHEREAS, on 14 June 2019, the SBAC received a letter from a certain Philip Anthony Hernandez manifesting doubt on the eligibility of Baque Corporation to undertake the project allegedly, because Baque Corporation has submitted the Single Largest and Completed Contract (SLCC) which is not similar to Phase 3 project, to which the SBAC replied through its letter dated 24 June 2019 explaining that Baque submitted the NHA Housing Project as its SLCC only in so far as the component of roads, alleys, drainage system, embankment, and

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slope protection is concerned. Thus only the road construction/land development component was considered for evaluation, verification, and evaluation;

WHEREAS, in its effort to adhere to the principles of transparency and efficiency in the government procurement process, and to further satisfy the objective of post-qualification, specifically Section 34.3 under Rule X of the revised IRR of R.A. 9184, the SBAC deemed it necessary to conduct due diligence and consultations to further verify, validate, and ascertain the SLCC submitted by Baque Corporation;

WHEREAS, the SBAC, in its letter to NHA dated 20 June 2019, requested information on the performance of Baque Corporation on Southville 8B Housing Project subject of the MOU submitted by Baque Corporation, and verification whether or not the cost of the roads, alleys, drainage, embankment and slope protection for the project amounts to Php1.1 billion as stated in the aforementioned NHA's Certificate of Completion signed by Elizabeth Matipo, OIC of KV1/SV8 Housing Projects;

WHEREAS, On 16 July 2019, the SBAC received NHA's reply on SBAC letter dated 20 June 2019, stating that Baque Corporation has been awarded land development and housing construction within Barangay San Isidro, Rodriguez, Rizal totalling to 10,142 units amounting to Php1,774,850.00. The table hereunder was presented in the reply of NHA:

| No. | Project Name | Date of Contract | No. of Units | Cost of Project | Remarks |
|-----|----------------------------------|------------------|---------------|-------------------------|----------------------|
| 1. | Southville 8B Hsg Project | Feb. 2010 | 1,750 | 306,250,000.00 | Completed & Occupied |
| 2. | Southville 8B Hsg Project, Ph. 1 | Year 2010 | 2,604 | 455,700,000.00 | Completed & Occupied |
| 3. | Southville 8B Hsg Project, Ph. 2 | Year 2010 | 3,118 | 545,650,000.00 | Completed & Occupied |
| 4. | Southville 8B Hsg Project, Ph. 3 | Year 2011 | 735 | 128,625,000.00 | Completed & Occupied |
| 5. | Southville 8B Hsg Project, Ph. 4 | Year 2011 | 1,316 | 230,300,000.00 | Completed & Occupied |
| 6. | Southville 8B Hsg Project, Ph. 5 | Year 2012 | 619 | 108,325,000.00 | Completed & Occupied |
| | TOTAL | | 10,142 | 1,774,850,000.00 | |

The cost of site development component of the said housing project as requested by SBAC in its letter dated 20 June 2019 was not indicated in the reply of NHA;

WHEREAS, the SBAC, in its letter dated 18 July 2019, requested further verification from NHA whether the Southville 8B Housing Project of Baque Corporation with NHA as presented in its bid submission consists of a single contract or multiple, separate contracts;

WHEREAS, On 7 August 2019, the SBAC received the reply of NHA to the SBAC letter dated 18 July 2019 stating that "xxx... it is the stand of NHA that it should be SBAC BCDA and not NHA that should determine and declare whether the Southville 8B Housing Project awarded to Baque Corporation is a single contract or multiple, separate contracts.";

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WHEREAS, as part of its due diligence, the SBAC, through its Secretariat and TWG, requested Baque Corporation to furnish copies of the aforementioned different contracts awarded to Baque Corporation involving the Southville 8B Housing Project;

WHEREAS, further to the due diligence and consultations conducted by SBAC, the SBAC, in its memo dated 2 September 2019, sought the legal opinion/guidance of BCDA's Legal Services Department (LSD) on, among others, the following:

1. Whether the MOU submitted by Baque Corporation during the submission of bids for the Construction of Airport to NCC Access Road (Phase 3) can be considered as its SLCC for the Project; and
2. Whether the Southville Housing Project of Baque Corporation with NHA consists of a single contract or multiple, separate contracts per attached MOU between Baque Corporation and NHA, NHA Certification signed by NHA Regional Director Elizabeth Matipo, letter of NHA dated 26 June 2019, and the DOAS and MOA submitted by Baque Corporation to SBAC.

WHEREAS, on 5 September 2019, the SBAC received the opinion of LSD stating, among others, that:

"The agreed project and scope of work contained in the MOU cannot validly substantiate and be passed upon as the required SLCC for the road project, subject of the bid. The MOU clearly pertains to a housing project, i.e. the construction/supply of 13,000 housing units to NHA in the resettlement sites provided by Baque at the agreed total cost of PhP2,275,000,000. Understandably, the project under the MOU includes land development cost which may have entailed the construction of roads, alleys, drainage system, embankment and slope protection, as contained in the Certificate of Completion issued by NHA to Baque. It does not disassociate, however, to the fact that the project/contract completed is a housing project, thus the construction of roads, etc. is merely incidental to the housing project. It is not the principal contract which should qualify its submission for SLCC for the project subject of the bidding of BCDA. Xxx.... There is no showing as to the amount of the land development cost which as expected, has already formed part of the cost of each lot."

The said legal opinion further states that:

"We have tried to determine whether the MOAs and DOAS provided by Baque can be considered as the subsequent implementing agreements of the MOU for the housing project of Baque for NHA. However we cannot ascertain with certainty from both the dates of the MOAs and DOAS, as well as the number of housing units certified by NHA whether they are the contracts which can support the land development and housing construction project totalling to 10,142 units that NHA awarded to Baque in Barangay San Isidro, Rodriguez, Rizal as per NHA's letter to BCDA dated 26 June 2019. Admitting for the nonce and giving Baque the benefit of the doubt that they are the subsequent implementing agreements, we may consider the Southville 8B Housing Project as a single project/contract as they appear to pertain to the same housing project in

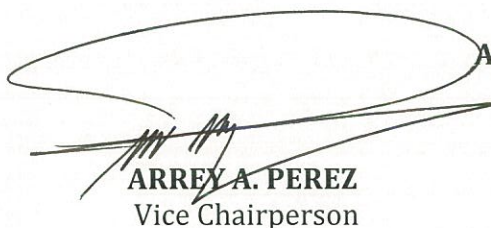
Barangay San Isidro, Rodriguez, Rizal. However, as per our first position, it is not the SLCC similar to the contract for the project of BCDA."

NOW, THEREFORE, foregoing considered and after due diligence and consultations, we, the Members of the Special Bids and Awards Committee (SBAC) for NCC Access Roads, hereby **RESOLVE** as it is hereby **RESOLVED**, to recommend the following:

1. To declare and notify **BAQUE CORPORATION**, the bidder with the Lowest Calculated Bid (LCB) under SBAC Resolution no. 04 issued on 20 May 2019, as **Post-Disqualified** for the bidding for the Construction of Airport to NCC Access Road Phase 3 (Calumpang-Dapdap Segment) at New Clark City pursuant to Section 34.5 of the Revised IRR of R.A. 9184 for the reason that the MOU between NHA and Baque Corporation in the bid submission of Baque Corporation does not accurately and clearly present such as a similar contract to the project subject of the bidding;
2. To declare the bid of **MAC Builders** as the **second Lowest Calculated Bid (LCB)** subject to Post-Qualification pursuant to Section 34.6 of the Revised IRR of R.A. 9184; and
3. For the SBAC-Technical Working Group (TWG) to proceed with the **Post-Qualification of MAC Builders** pursuant to Section 34.6 of the Revised IRR of R.A. 9184.

RESOLVED, at the BCDA Corporate Center Office, this 16th day of September 2019.

SPECIAL BIDS AND AWARDS COMMITTEE (BAC) FOR NCC ACCESS ROADS


ARREY A. PEREZ
Vice Chairperson

On leave


MARIA JOSEFINA V. PE
Member


AILEEN ANUNCIACION R. ZOSA
Chairperson


RICHARD BRIAN M. CEPE
Member

ATTY. MARICEL C. SANTOS
Member

Approved by:


VIVENCIO B. DIZON
President and CEO

