



PORT OF GUAM

ATURIDAT I PUETTON GUAHAN

Jose D. Leon Guerrero Commercial Port

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Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

REGULAR MEETING OF THE BOARD OF DIRECTORS

Jose D. Leon Guerrero Port Authority of Guam

Wednesday, December 19, 2012

11:45am

AGENDA

- I. CALL TO ORDER
- II. APPROVAL OF MINUTES
 - a. November 28, 2012 – Regular Board Meeting
 - b. December 10, 2012 – Special Board Meeting
 - c. December 14, 2012 – Special Board Meeting
- III. PUBLIC COMMENT:
 - a. Public Comments
 - b. Employee Comments
 - c. PAGGMA Association
- IV. GENERAL MANAGERS REPORT
- V. REPORTS:
 - a. List – Federal Grant & Local Funding Programs
 - b. Finance Report
 - c. Operations Productivity Report
 - d. Property Leasing/Port Development
 - e. Marina Report
 - f. Procurement Report
 - g. Safety Report
- VI. OLD BUSINESS
 - a. Cementon Micronesia
 - b. KM&T
 - c. GEDA Loan Status
 - d. Port Modernization Program – Implementation Plan
- VII. NEW BUSINESS
 - a. Resolution No. 2012-25 – POLA Crane Loan Documents
- VIII. EXECUTIVE SESSION
 - a. Open Legal Issues
 - b. Personnel Matters
- IX. ADJOURNMENT



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**MINUTES OF THE
REGULAR MEETING OF THE BOARD OF DIRECTORS
Wednesday, November 28, 2012**

I. CALL TO ORDER

There being a quorum, the regular meeting of the Board of Directors was called to order at 11:50 a.m., Wednesday, November 28, 2012. Present at the meeting were:

Daniel Tydingco, Chairman
Michael Benito, Vice Chairman
Shelly Gibson, Board Secretary
Eduardo Ilao, Member
Christine Baleto, Member
Mary C. Torres, General Manager
Anisia B. Terlaje, Deputy General Manager
Atty. Mike Phillips, Legal Counsel

Also present were AnnMarie Muna-AM Insurance; Jimmy Camacho-Office of Senator Tom Ada; John Bell-Phillips Law Office; Wayne Baumunk-Coral Reef; and Port Management staff.

II. APPROVAL OF MINUTES

a. **October 25, 2012:** The Vice Chairman made motion to approve the minutes of October 25, 2012 subject to correction. The motion was seconded by Mr. Ilao and was unanimously passed.

III. PUBLIC COMMENT

a. **Public Comment:** Mr. Wayne Baumunk, Coral Reef expressed appreciation from the Port for the \$250K grant that will help with the repairs at Agat marina. Mr. Baumunk presented information on "GovGuam Support of Recreational Boating" by Mr. James Cafky, Owner and Skipper, S/V Galaxie and a proposal for possible solutions for Agat marina facilities for consideration. He also mentioned that Port management and staff held a meeting for the marina users yesterday relative to the alternate management regime study on improvements to the marinas and thought the meeting was well attended and did have very good input. He appreciated the efforts being made.

The Chairman said an appreciation also extends to WestPac Fisheries as the \$250K grant would not have been possible without their assistance.

b. **Employee Comment:** (See item 5 under General Managers report.)

c. **PAGGMA Association:** Mr. John B. Santos, PAGGMA President said as a reporting requirement all port week receipts have been submitted to the General Manager's office. The next event PAGGMA will begin to coordinate is the Christmas party that is scheduled for December 7, 2012 at the Nikko Hotel as well as the member's children Christmas picnic on December 15, 2012.

IV. GENERAL MANAGERS REPORT

1. **Terminal Matters:** The passenger cruise vessel 'Pacific Venus' called port on November 26, 2012. This marks the sixth cruise vessel to call Port, totally 5,441 passengers to date. She mentioned that normally there are six to eight passenger vessels on the average that call port annually.

2. **Property Matter:** The following items will be addressed under reports – crane performance management contract procurement status; MOA with Department of Agriculture regarding fishing platform at GDP Agana marina; status of air conditioning in Admin building; acquisition of crane closing status; GPA MOU with Port for the use of a portion of Parcel 1 for development of a liquefied national gas plant; removal of cranes (rubber tire gantries and gantry 2); port modernization plan task order 4, 5, and 6 development; approval of award to Maeda Construction by the Public Utilities Commission; and Agat marina grant award from WestPac Fisheries / check presentation.

3. **Employee Matters:**

a. **MagPro Winners** – The Governor's 2012 Magpro Awards Banquet took place on November 15, 2012. The winners for outstanding performance in fiscal year 2012 on respective categories from the Port include:

- Harbor Master Division: Customer Service Professional of the Year
- Janice Flores: Medal of Valor
- PAGGMA: Employee Association of the Year
- Jose Javellana: National Recognition Citation
- Josha Candoleta: Employee of the Year, General Division
- Anthony Yatar: Employee of the Year, Key punch & Computer Operations
- Dora Pere: Employee of the Year, Planning
- Thaddeus Sanchez: Employee of the Year, Labor, Grounds & Maintenance
- Paul San Nicolas: Employee of the Year, Equipment Operation
- Frank Sablan: Employee of the Year, Administrative, Managerial & Related Trades
- Jose Bamba: Employee of the Year, Equipment Operation

b. **Town Hall Meetings** – In anticipation of the holidays and the various new project developments at the Port, several town hall meetings were held on November 1, 2012 to apprise the employees of the events currently before the Port. The employees were receptive to the meeting as questions and answers were addressed.

4. **Announcements:**

a. **Alternate Management Regime** – A meeting took place on November 27th to address before the marina users on the proposed improvement of the marinas. The presentation was conducted by the Port's consultant Nick Captain, Captain & Association Real Estate Appraisal.

b. **PUC Public Hearings** – Public Utilities Commission will be holding public hearings on PAG Docket 12-02 relative to the crane surcharge petition scheduled for November 28 and 29. These public hearings will be held at GCIC Building, Asan Community Center and Dededo Senior Citizens Center.

c. **Container Yard Lighting** – A ceremony is scheduled for December 3, 2012 on the completion of the container yard lighting.

d. **Port Holiday Gathering** – As mentioned earlier, PAGGMA will be holding the Christmas party on December 7, 2012 at Nikko Hotel.

e. **PUC Hearing for PAG Docket 12-02** – The crane surcharge petition will be addressed before the Public Utilities Commission at its meeting on December 11, 2012.

f. **Port Children's Christmas Party** – As mentioned earlier, PAGGMA is coordinating a Christmas party for the member's children on December 15, 2012 at Ypao Beach park.

5. **Fuel Oil Spill:** A fuel oil spill occurred early yesterday morning between 3am and 4am at the F1 Pier. All parties involved which include the Port, U.S. Coast Guard, Tristar and respective regulatory agencies have been notified and the matter has been successfully addressed and contained.

Employee Comment

At this time, port employee Janice Flores apologized for the interruption, and understands that the employee comment item since passed; however requested the Board for the opportunity for employee(s) to present their concerns before the members. The Chairman and members had no objections.

My name is Gil Santos, Stevedore Leader at operations. He presented a memo from the Attorney General's office opining on the increments entitled to the employees. Mr. Santos asked for the Board's position. The Chairman mentioned that the financial budget is on the agenda for discussion which includes all port revenues as well as the employee increments. He said Directors Baletto and Gibson have been working closely with the financial division to ensure the budget that was originally submitted is in order, unfortunately it was submitted to the Board by management on the eleventh hour and was not a very responsible budget insofar as making sure there is sufficient resources available to pay salary increments that is accorded to the port employees by law. The Chairman assured the employees that the Board has no dispute and does agree that employees by right of law and by right of a satisfactory performance should receive increments.

Mr. Santos asked whether the employees will be expecting the increment anytime soon. The Chairman reiterated that as the Board was not comfortable with the budget presented by management that was issued to the Board for review few months ago, the Board at that time approved a quarterly interim budget. In the meantime, management was to rework the budget and produce a responsible budget to ensure sufficient resources are available to pay the increments, regular salary and benefits, overtime as well as the day-to-day operation of this Port. He said there is a meeting scheduled for December 5, 2012 with the financial management team and respective Board members. Director Baleto added that the budget currently includes the salary increments for the employees, so it is not a matter of whether the employees will receive the increments, but rather a question of getting it approved as part of the total budget package. The Chairman expressed that the Board is not trying to short change the port employees, but there are requested purchase of items in the budget that needs to be looked into further, such as I-pads. So again, management was advised to rework the budget in tandem with respective Board members Baleto and Gibson to ensure a responsible budget for fiscal year 2013. Mr. Santos thanked the Board for their time and consideration.

V. REPORTS

a. **List-Federal Grant & Local Funding Programs:** The Vice Chairman recalled that a presentation on the grants was to be arranged and asked management to proceed in coordinating the working session.

Ms. Dorothy P. Harris, Chief Planner recalled a concern expressed by an Agat marina user regarding the pump-out system, and she mentioned that planning division is finalizing an application to be submitted by December 3, 2012 deadline. The funding source to support this project will be through the Department of Agriculture Division of Aquatic and Wildlife Resources.

b. **Finance Report:** As requested by the Board, the financial report for the month of October 2012 was presented in graph form for their information.

c. **Operation Productivity Report:** The operations productivity report for the month of October 2012 was presented to the Board for information. The Chairman asked whether the statutory requirement for operations to provide an eight hour work week is being adhered to. Mr. John B. Santos, Operations Manager said port operations runs on a gang concept required to work a vessel. The employees are informed of their scheduling two weeks in advance for a ten hour work shift at a four day block.

d. **Property Leasing/Port Development:** Mr. Glenn B. Nelson, Commercial Manager presented the following items:

1. **Tristar Lease Agreement** – Management has engaged the Port's appraisal consultant to prepare a summary appraisal for the finger tip portion as well as the easement agreements to update the rate structures for this purpose.

2. **Mobil Oil** – At a previous meeting, the Board authorized management to formally engage in further discussions with Mobil to address long standing issues relative to rebate

claim, golf pier maintenance fee claim, manager's compensation claim and unpaid interim rent claim. As of to date, although two meetings have been held with Mobil representatives, management continues to engage with Mobil.

3. Notice of Areas Available for Lease – Several inquiries has been made by attorneys representing clients, however nothing formal have been submitted to the Port.

At this time and without objection, the members allowed for item a. Hansen Permanent Cement under new business to be entertained.

a. Hansen Permanente Cement – Staff had engaged Hanson representative on the extended term rents for Parcel 1, Lot 6 and a portion of Lot 5. The fair market value was determined to be \$360 per square meter based on the appraisal report of January 2011. After negotiations, both Port and Hanson subject to Board approval agreed to the following: rate agreed to \$322 per square meter as identified in the Port's Appraisal Consultant Captain Hutapea & Associates summary appraisal on fair market ground rent dated November 2010; the new rental rate of \$172K per year will be assessed beginning October 1, 2012; both parties agree that, except for the two new terms stated above, Hanson and Port exercise the option to extend the Sublease Agreement for a term of ten (10) years on the same terms and conditions; and the Port legal counsel will prepare the instrument that will effectuate these items as agreed upon. Mr. Nelson said this item is now being brought before the Board for approval.

The Chairman asked whether this is the first renewal being exercised. Mr. Nelson replied negatively, and mentioned that it may be second or third; however, the lease does not expire until the year 2061. Legal Counsel asked whether management is continuing to use the appraisal as the value that must be set as his read of the legislative mandate is not completely discretionary with regard to the setting of rent. Mr. Nelson said in this particular case there is a provision within the lease agreement that provides for a certain process to undertake which also provides a clause that speaks to 'as mutually agreed upon'. In the event both parties do not come to a resolution on rate, then triggers the need for a third appraiser as identified in the terms of the agreement.

At this time, the matter on Tristar was re-entertained. Legal Counsel said in order to avoid any miscommunication, he clarified that the only item he is handling with respect to Tristar is limited to determining who is responsible for paying the relocation of the pipeline that runs through the container yard which an opinion has since been rendered. He indicated that any other matters outside of that issue, such as the rent negotiations, felt that it should be handled by the Commercial division. The General Manager said legal service requests have been forwarded for counsel guidance specific to Tristar's notice of exercise of options for the second lease extension agreements and the proposed agreement for the pipeline easement lease agreement and the F1 management agreement. Mr. Nelson said as Tristar is currently on a month-to-month basis, the Port is dealing with expired agreements and the legal service request provided to counsel was to revisit the expired agreements. Legal Counsel said that does not deal with negotiations of rent, but rather who is responsible to bear the cost of relocating the pipelines which an opinion has since been rendered. Legal Counsel said matters as to rent negotiations should be handled by the Port. Based on this, Mr. Nelson said management will proceed with the task order, then engage Tristar for that purpose.

Back to the matter on Hanson Permanente Cement, Mrs. Baleto inquired whether the Port is able to set the rate structure. Legal Counsel said although the legislative mandate is clear that all contracts for the lease of port properties is subject to the appraised value would prefer to look into this matter further to determine whether the law exempts current ongoing contracts. There may also be a possibility that the legislative mandate may require the Port to stand by the appraisal at the fair market value of \$360 per square meter as oppose to the \$322.

The Vice Chairman made motion to accept the terms and conditions relative to the Hanson Permanente Cement extended term rent negotiations of letter dated November 5, 2012 subject to review by Legal Counsel to determine whether the law restricts the negotiations of the appraised value. The motion was seconded by Mrs. Baleto and was unanimously approved.

4. Alternate Management Regime: As earlier mentioned, a presentation was conducted yesterday with marina users on the alternate management regime study relative to the improvements of the marinas.

5. Bunkering Fuel Throughput Update: As required by the Public Utilities Commission, PAG Docket 11-01, specific to the update of the repair strategy portion of the alternate management regime study and bunkering fuel throughput, these studies were prepared by the Port's Appraisal Consultant which has since been transmitted to the Public Utilities Commission on November 7, 2012.

6. Public Law 30-19: Port Appraisal Consultant was tasked to perform an updated study which should be received this week.

7. Department of Agriculture: Agriculture had presented the Port with a letter on November 5, 2012 enclosed with a proposed memorandum of understanding (MOU) for the purpose of establishing a relationship with the Port for the construction of an Americans with Disabilities Act compliant fishing platform in the Paseo De Susana area. The area in which serves as interest for this purpose is not within Port property, so it was asked of Agriculture to remove the Port from the draft MOU of which they agreed.

e. Marina Report: As an update to the Ports efforts to implement the fishing initiative in Hagatna marina, the Port provided Department of Agriculture a sketch on August 15, 2012 which details the limits by which the activity is desired by the Port. On September 11, 2012 the Port coordinated with Department of Land Management to put together a certified cartography plat depicting the needs and bounds of the initiative. On November 21, 2012 the Port received the plat which in turn was provided to Department of Agriculture on November 26, 2012 and had represented to the Port that by December 15, 2012 they will have a proposed rule change consistent with the Port's intent for Board's review. At that point, Department of Agriculture will initiate the administrative adjudication process to amend their law.

Ms. Gibson asked who issues fishing permits. Mr. Nelson said permits are issued by the Commercial division and enforced by Port Police division. Those interested are required to complete an indemnification form that indemnifies the Port from liability and are to place those

permits on their dashboard when in use at port property. He said at the direction of the Deputy General Manager the request is for a two week period, not to exceed twenty permit issuance per month which is probably due to avoid overcrowding in the areas of family beach and port beach. Mrs. Baletto asked whether there was a complaint received by the Port on the overcrowding that caused the limitation on permit issuance. Mr. Nelson said he will further look into the matter. He informed the Board that staff in coordination with Harbor Master and Port Police is currently working on a policy that addresses fishing in port properties which will be presented to the Board for adoption hopefully by next month.

f. **Procurement Report:** Mrs. Alma B. Javier, Procurement Manager presented the following:

1. **RFP No. 12-003 Performance Management Services for Port Cranes** – The cost negotiation committee has initiated discussions with the selected offeror and will continue to conduct negotiations.

2. **RFP No. 12-004 Risk Management Services** – The selection of best qualified offeror has been completed. Port is currently in negotiations with the offeror.

3. **Contract Modification to Agreement No. RFP-11-004 A/E Design Consulting Services for Replacement/Upgrade of Petroleum Pipelines at Golf Pier** – At its previous meeting, the Board approved the change order for N.C. Macario & Associates specific to the design to include the motorized operational valves. The notice to proceed was issued on November 16, 2012 and 100% design is expected to be completed by November 30, 2012. The final design, scope of work and project specification is expected to be completed by December 15, 2012. The bid announcement is slated to be issued on December 17, 2012 and bid opening on January 7, 2013. Once all is completed, approval of bid award and contract can be presented to the Board at its January board meeting.

4. **Legal Counsel Services** – Legal fees covering period May 2011 through April 2012 is at \$249,163.71 or monthly average of \$22,652.00. The estimated legal fees based on average for May 2012 through November 2012 is \$158,559.00. The estimated legal fees from date of contract through November 2012 amounts to \$407,722.00 leaving a balance from contract amount of approximately \$92,277.00 or four months based on average or for the period of December 2012 through March 2013. Based on this, it is being requested for the Board to authorize management to issue solicitation package for legal services by December 2012, evaluation and negotiations by January 2013 and final award by February 2013.

The Chairman asked why the need to re-issue the solicitation package for legal services. Mrs. Javier said the total contract amount is not to exceed \$499,999.99 and in accordance with the provisions of the contract, a new contract has to be procured before additional work is performed before the amount of \$499,999.99 is reached. The Chairman said rather than going through the re-solicitation process there is a renewal provision within the contract. The Chairman advised that he will look into the matter. Mrs. Javier clarified whether a solicitation

package will be issued in order to be within the timeline earlier mentioned. The Chairman advised that the Board will work on this matter.

At this time and without objections, the Board entertained item b. Insurance Coverage (POLA Cranes and Workers Compensation) under new business.

b. **Insurance Coverage:**

1. POLA Crane – At the previous meeting, the Board had approved the insurance coverage for fiscal year 2013 with AM Insurance with a premium of about \$2M subject to change upon acquisition of the POLA cranes. Mrs. Javier said in anticipation of the acquisition of the POLA cranes as part of port asset, communication has been made with AM Insurance to provide three different options. The Port's current limit is at \$25M.

- Option 1: maintain \$25M and increase the value to cover the cranes in the Port's existing policy.
- Option 2: purchase additional \$15M insurance coverage to the existing \$25M, totaling \$40M worth of insurance coverage.
- Option 3: purchase additional \$25M on top of the current \$25M insurance coverage, totaling \$50M worth of insurance coverage.

The Chairman asked whether this includes the decommissioning of Gantry 2. Mrs. Javier replied positively specific to the value of the crane. At this time, Ms. AnnMarie Muna, AM Insurance was recognized by the Board. Ms. Muna said the Port currently has a total insurance value of about \$174M in assets and to include the POLA cranes and gantry 3 would bring the total insurance value at about \$190M in assets. Following is the additional premiums for each option earlier mentioned.

- Option 1: additional premium is \$179,675.00.
- Option 2: additional premium of \$260K per annum.
- Option 3: additional premium is \$383K per annum.

The Chairman wondered whether there is a need to seek the Public Utilities Commission authority add-on or modify the existing insurance coverage. Legal Counsel was to look into this matter.

2. Workers Compensation – At the previous meeting, the Board directed management to provide quotes as well as compile five years back of data collection for purposes of workers compensation. Mrs. Javier said the Port is mandated by CFR 33 U.S. Longshore and Harbor Workers Compensation (U.S.LHWC) Act to provide, procure or self-insure longshore and harbors workers compensation. The Port is also mandated by Chapter 10, 12 GCA to obtain workers compensation coverage. Data collection continues to be retrieved from port staff. Ms. Muna provided rough estimates at \$411K, plus 2% to include U.S. LHWC Act or \$1.2M inclusive of U.S. LHWC Act.

g. **Safety Report:** Mr. Francisco C. Roberto, Safety Administrator said for the month of November 2012 there are 2 recordable injuries and 3 industrial accidents investigated. With respect to the Workers Compensation matter, Mr. Roberto informed the Board that he is currently reconciling the numbers and will work with the finance division as well. And once completed, will present to the Board.

VI. OLD BUSINESS

a. **Fiscal Year 2013 Budget Approval:** A working session with management is scheduled for December 5, 2012.

b. **PUC Matters:** The Port had a meeting with Public Utilities Commission on November 20, 2012 to include the Maeda construction contract for the Port Security Grant project. Also, the Port was provided with the status update on the crane surcharge application PAG Docket 12-02.

c. **Cementon Micronesia:** Legal Counsel said Cementon had issued a counter-offer which was then forwarded to Mobil's counsel. The key issue is basically the negotiation on insurance as well as other issues on the deferment of rent. Legal Counsel mentioned that relative to the User Access Agreement there is hope that if Mobil is assured by the Port that the motorized operational valve will be in place, that Mobil will allow reasonable period of time for Cementon to operate.

d. **KM&T:** No new development to report.

e. **GEDA Loan Status:** GEDA is currently negotiating with the lending institution determined to be the most responsive responder to their request for procurement relative to the Port's service life extension loan.

RECESS

At this time, the members agreed to take a break. The meeting recessed at 1:25 p.m.

RECONVENED

The members reconvened the meeting at 1:40 p.m.

f. **Port Modernization Program-Implementation Plan:** The General Manager said the technical development team held a scoping meeting on October 30, 2012 to discuss task order 6 on the uplands improvement work which will be presented to the Port Oversight Team for approval. With respect to task order 4 on the support services for the CFS building was put out to bid on November 5, 2012. Bid conference on November 12 and the opening, selection and evaluation will occur on December 10-18, 2012. The intent to award is anticipated sometime in January 2013.

- g. **Travel: ANZ/USDA Loan Closing**
Matson/Horizon POLA Crane Sales Agreement Signing: The Chairman recommended to push out the final execution the third week of December 2012 and have all parties assemble on island: Port, ANZ, USDA, Matson and Horizon.

VII. NEW BUSINESS

- a. **Hanson Permanente Cement:** (Item addressed under property report.)
- b. **Insurance Coverage: POLA Crane**
Workers Compensation
Relative to the POLA crane, Mrs. Javier asked for Board direction as to the options on insurance coverage presented earlier by AM Insurance.

The Vice Chairman made motion to approve Option 2 for an additional premium of \$260K per annum with AM Insurance for insurance coverage of the POLA crane and Gantry 3, seconded by Mr. Ilao. Motion was unanimously approved.

- c. **Facility:** **a. Admin Building air-con:** Mr. Joe Ragasa, Facility Building Superintendent said the requisition of materials related to the repair of the 40-ton unit at the Admin Building is currently with the General Services Agency (GSA). Mrs. Javier said GSA has yet to package the bidding for the air-cons. She mentioned that as a temporary fix, freons are being used to cool the building.

b. IT Access: Ms. Gibson said during her visit at the Port she noticed non-IT personnel accessing IT secured area. As it is a federally secured area, access should be restricted to IT personnel only. The General Manager said this matter will be looked into.

- d. **Certificate Presentation: PAG MAGPro** – At this time, certificates were presented to the respective employees. All the employees were congratulated for a job well done.

RECESSED: The Vice Chairman made motion to recess the meeting to Monday, December 3, 2012 at 10:00 a.m., Port Authority Board Conference Room, Piti. Motion was seconded by Mrs. Baleto and was unanimously passed. The meeting recessed at 2:10 p.m.

RECONVENED: There being a quorum, the Chairman called the meeting to order at 10:05 a.m., Monday, December 3, 2012. Present at the meeting were:

Daniel Tydingco, Chairman
Michael Benito, Vice Chairman
Shelly Gibson, Board Secretary
Eduardo Ilao, Member
Christine Baleto, Member

Mary C. Torres, General Manager
Anisia B. Terlaje, Deputy General Manager
Atty. Mike Phillips, Legal Counsel

Also present were John Bell-Phillips Law Office; and Port Management staff.

At this time, the members entertained items under Reports.

d. **Property Leasing/Port Development:**

a. **Hanson Permanente Cement** – Based on the previous meeting, Legal Counsel was to review Public Law 30-19 to determine whether the law restricts the negotiations of the appraised value. Legal Counsel said the law states the Port is either to use the most recent appraisal or a 10% increase, whichever is greater. So consistent with other statutes passed, removes the Port from what otherwise might be a practical business decision and leaves that to the Legislature. Therefore, the statute requires and specifies existing lease terms up for re-negotiation that it either be a 10% increase or the appraisal, whichever is higher.

The Vice Chairman asked how this arrangement is different from Casamar. Legal Counsel said in the case of Casamar, there were no lease negotiations up. He said what happened was Casamar had indicated then that in the past there were negotiations that did not take place, the most the Port could have received was the 10%, and apply the 10% each stage along the way and basically pretend that those negotiations happened and that the Port got the maximum. The Vice Chairman asked whether an appraisal was done during the assignment period of Casamar. Legal Counsel replied that an appraisal was not done during that time. The Vice Chairman inquired how would it be determined whichever is greater if an appraisal was not performed on Casamar. Legal Counsel said at that time the \$50K was offered, does not believe there was a time period in which this was triggered, unlike now. The negotiations on the previous terms for Casamar had not taken place or they have not reached an agreement and there was a cap of 10%. The time period of negotiation is the key.

The Vice Chairman called upon Mr. Nelson to address the Board on this matter. Mr. Nelson said in the case of Casamar, the Port did sponsor an appraisal and it was determined that the statement of value then was \$544K a year. He said basically it was a matter of lease interpretation addressing rents other than the 10% escalation. Mr. Nelson mentioned that there is a provision in the lease agreement that speaks to the process of a third party appraisal if both parties are still unable to agree. The result of the third party appraiser becomes binding.

In the case of Hanson Permanente Cement, Mr. Nelson said an appraisal was performed which resulted in a 70% markup or a statement of value of \$360 a square meter which they did not agree to. The Port counter-offer simply using the statement of value of the adjacent lot (Casamar) which is \$322 per square meter. Mr. Nelson said Public Law 30-19 is basically the tariff as it relates to the use of port properties within the greater port compound. For lease areas outside that construct are governed or controlled by their own respective agreements that were assigned from GEDA to the Port in 1988. He mentioned that Hanson's lease provides provisions that indicate the appraisal process prevails or as mutually agreed upon by the parties. Based on

this, Hanson agreed to the \$322 per square meter. The Vice Chairman clarified with Legal Counsel that for every lease term that expires, Public Law 30-19 requires that an appraisal be conducted. Legal Counsel replied positively; and what Mr. Nelson pointed out raises a real issue and that is whether or not the schedule applies to properties outside of the Port. After discussion, Mr. Nelson said Public Law 30-19 is as a result of a lengthy administrative adjudication process aimed to do one thing and that is to simply amend the Port's office, warehouse and open yard spaces that have not been done for over twenty-three years. The section being referred to by counsel regarding the schedule requires the Port to revisit its valuation every three years. Mr. Nelson said the Port did not contemplate conducting tri-annual appraisals for external port properties that are operating on ten year terms. If such occurred for external port properties, would render their existing agreements invalid.

After some discussion, the Chairman asked how many options to renew remain for Hanson. Mr. Nelson said there are four options remaining. The Chairman asked whether the agreed upon terms include an escalation ten years from now. Mr. Nelson mentioned that matter was not addressed as the guide would be based on the Master Agreement that determines the rent structure forward. He said the Port is not amending any other terms in the agreement, other than the rate structure. Legal Counsel said it appears the language of Public Law 30-19 does not affect properties outside what might be referred to as the 'port proper'. The schedule was an enforcement mechanism to ensure that nobody gets around it. Mr. Nelson said with the exception of special purpose assets, such as F1 and Golf Pier. Hanson is not a special purpose asset, but a result of an assignment from GEDA to the Port in 1988.

The Vice Chairman said there still remains the question on whether the Board has the authority to use the appraisal on the statement of value of \$322 per square meter as the rate for Hanson. Legal Counsel mentioned that the prohibition of Public Law 30-19 appears to be limited to properties inside the port. The Vice Chairman asked Legal Counsel whether the Board has the authority to agree or not agree on the proposal for Hanson. Legal Counsel replied positively. The Chairman advised Legal Counsel to prepare the instrument that will memorialize the items as agreed upon by both the Port and Hanson. There were no objections.

c. **Cementon Micronesia:** The Vice Chairman recalled that there is the hope that Mobil will allow Cementon to construct. Legal Counsel clarified that there is the possibility of Mobil allowing Cementon to begin operations if they receive complete assurances that the Port is committed to the production of the motorized operational valves. The Chairman advised Legal Counsel to inform Mobil that the Port is moving forward with the design work of the motorized operational valve and anticipates bid award by January 2013.

b. **Insurance Coverage - Workers Compensation:** Mrs. Baleto request that this be bid out separately as oppose to obtaining quotes from the Port's existing insurance company. The Chairman recalled that only one quote was provided at a rough estimate of \$400K. Mrs. Javier reminded the Board that the \$400K does not include longshore coverage. The Chairman said that coverage is not a requirement. Mr. John Bell, Phillips law office said confirmation is still pending with Department of Labor on the requirement of longshore coverage.

The Vice Chairman suggested to look into changing the law as it is more cost effective based on the claims history of the Port. Mrs. Baleto asked that the data collection for five years back be forwarded to the Board. The Vice Chairman said management is to: 1) obtain the five year data collection; 2) work with the General Service Agency on the bid packet; and 3) upon review of data collection, propose legislation to reduce the mandated cost of Workers Compensation.

VIII. EXECUTIVE SESSION

RECESSED: Meeting recessed at 11:05 a.m.

RECONVENED: The meeting reconvened at 11:15 a.m.

At this time, the Board went into executive session. Executive Session ended at 12:10 p.m. The Board is now back in regular meeting session.

Item(s) addressed in executive session includes:

- Personnel Matters re Workers Compensation Claim: Report/Exhibits
- Civil Service Commission

Mrs. Baleto made motion to allow the Chairman to participate in the December 5, 2012 Board meeting telephonically, seconded by Ms. Gibson. Motion was unanimously approved.

RECESSED: The members agreed to recess the meeting to Wednesday, December 5, 2012 at 12:30 p.m., Port Authority Board Conference Room, Piti. The meeting recessed at 12:15 p.m.

RECONVENED: There being a quorum, the Chairman called the meeting to order at 12:50 p.m., Wednesday, December 5, 2012. Present at the meeting were:

Daniel Tydingco, Chairman – *Telephonic Participation*

Michael Benito, Vice Chairman

Shelly Gibson, Board Secretary

Eduardo Ilao, Member

Christine Baleto, Member

Mary C. Torres, General Manager

Atty. Mike Phillips, Legal Counsel

Also present were John Bell-Phillips Law Office; Thelma Hechanova-OCCAM Solutions; and Port Management staff.

At this time, the members entertained items under Reports.

d. **Property Leasing/Port Development:**

a. **Cementon Micronesia** – Legal Counsel said in speaking to Mobil's regional counsel the following are points that were clarified:

- **Insurance Coverage** - The \$10M operations insurance amount proposed by Cementon could work if there is parental guarantees. With respect to construction, Mobil is not in agreement to the \$5M as proposed. The Chairman asked what insurance coverage for the construction is Mobil comfortable with. Legal Counsel mentioned that \$25M is acceptable. The Vice Chairman asked whether the \$25M insurance coverage is the official number for Mobil. Legal Counsel replied positively with sufficient parental guarantees.
- **Motorized Operational Valve** - With regard to operating without the motorized operational valve completely constructed, Legal Counsel said Mobil seem open to the fact that the Port is committed to this happening: change order completed, definite dates are realistic with regard to the design, the Port is moving forward. She said a pledge from the Board that this is taking place could result in a specific amount of time Cementon is allowed to operate. Other pending issues: Cementon to obtain occupancy permit and letters from U.S. Coast Guard and/or other regulatory parties relative to this purpose. Legal Counsel said this would provide assurances for Mobil that everything is in place. The Vice Chairman asked whether this information is being relayed to Cementon Micronesia. Legal Counsel said the information was just received yesterday. The Chairman asked how long will be the construction period for the motorized operational valves. Mr. Simeon Delos Santos, Engineer Manager said it will take about four months which is standard.

Rent Adjustment – Legal Counsel said Cementon formally request to continue the rent deferment. Mr. Nelson recommended that the period of deferral be subject to the installation of the motorized operational valves or when operational, whichever comes first. Legal Counsel supports the idea, and added that there be a cap of perhaps eight months be included for purposes of allowing the Board to revisit this issue.

The Vice Chairman made motion to defer the rent of Cementon Micronesia subject to the installation of the motorized operational valves or when operational, whichever comes first and in no event no longer than eight months at which time it can be revisited by the Board. Motion was seconded by Mrs. Baleto and was unanimously approved.

Legal Counsel clarified that 'deferment' is really the literal meaning in that the Port is not waiving or removing such obligation in any way. He said management can work-out a payback period with Cementon upon that time.

VIII. EXECUTIVE SESSION

At this time, the members agreed to go into executive session. Executive session commenced at 1:10 p.m. Executive session ended at 3:30 p.m. The Board is now back in regular meeting session.

Items addressed in executive session includes:

- Personnel Matters re Workers Compensation Claim: Report/Exhibits

The Vice Chairman advised the General Manager that the Board accepts her leave request to commence at 4:00 p.m. today.

Mrs. Baleto made motion to appoint Anisia B. Terlaje as the Acting General Manager during the leave of absence of Mary C. Torres, seconded by Mr. Ilao. Those who voted in favor of the motion were the Chairman, Vice Chairman, directors Baleto and Ilao. Ms. Gibson opposed. The motion on the floor passed by a majority vote.


IX. ADJOURNMENT

There being no further business to discuss, it was moved by Mr. Ilao and seconded by Ms. Gibson to adjourn the meeting at 3:45 p.m. The motion was unanimously passed.



MARY MICHELLE GIBSON, Board Secretary, Board of Directors

APPROVED BY:



DANIEL J. TYDINGCO, Chairman, Board of Directors





PORT OF GUAM

ATURIDAT I PUETTON GUAHAN

Jose D. Leon Guerrero Commercial Port

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Eddie Baza Calvo
Governor of Guam

Ray Tenorio
Lieutenant Governor

**MINUTES OF THE
SPECIAL MEETING OF THE BOARD OF DIRECTORS
Monday, December 10, 2012**

I. CALL TO ORDER

There being a quorum, the special meeting of the Board of Directors was called to order at 2:15 a.m., Monday, December 10, 2012. Present at the meeting were:

Daniel Tydingco, Chairman
Michael Benito, Vice Chairman
Shelly Gibson, Board Secretary
Christine Baleto, Member
Atty. Mike Phillips, Legal Counsel

Absent was Director Eduardo Ila. Also present were Chris Garin/Carlo Branch-Legislature; Joy White-Marianas Variety; Joanne Brown-DPW; Gaynor Dalerno-PDN; Senator Tom Ada/Jimmy Camacho-Office of Senator Tom Ada; Darleen Hiton/John Bell-Phillips Law Office; and Port Management staff.

Declaration of Emergency

The Chairman said a notice was sent out this past Saturday based upon information by Acting General Manager Anisia Terlaje who indicated that based upon the information gleaned over in recent personnel issues and actions the Port is facing right now, she indicated to ensure that there is no compromise, question or adverse consequence to the review of those personnel files and those personnel actions as well as any legal process, administrative process that is going on, she would vacate her position which she has formally done so. Now that the Port is without a General Manager, and as Board Chairman of the Port Authority Board of Directors, I have assembled the Board here today to issue a declaration of emergency.

At this time, the Chairman yielded to Atty. Darleen Hiton from Phillips law office to explain the service of process rendered to all interested parties for this particular special meeting. Atty. Hiton said on December 8, 2012, KUAM and K-57 were personally served notice of this Special Board meeting today. Personal services was also made to the following businesses: the Governor's office, Guam Business News, Marianas Variety, Pacific News Center, the office of Senator Tom Ada, KSTO, Pacific Daily News and Hit Radio 100 were served today, notice of this hearing.

She said other served via facsimile includes: Governor's office, Guam Business News, Marianas Variety, Pacific News Center, K-57, the office of Senator Tom Ada, KSTO, Pacific Daily

News and KUAM. And then various email addresses were served via email includes: fperez@sppguam.com; Ray Gibson; marvic@mvguam.com; matt@mvguam.com; william@mvguam.com; kjchang@guampdn.com; breakshowk57@gmail.com; mindy@kuam.com; sport@mvguam.com; zita@mvguam.com; therese@mvguam.com; and perezksto@gmail.com.

The Chairman noted the presence of Joy White, Marianas Variety; Ken Quintanilla, K-57; Kevin Karrigan, Pacific News Center; Gaynor Dumat-ol Daleno, Pacific Daily News; Senator Tom Ada and representatives of Vice Speaker BJ Cruz.

At this time, the Chairman declared the following:

In accordance with 5 GCA, Section 8108, I declare an emergency on behalf of the Port Authority of Guam ("Port"). The current General Manager ("GM") and the Deputy General Manager ("DGM") have been named in the review of certain personnel acts presently under investigation and scrutiny. To preserve the integrity and credibility of that investigation and review process, the DGM presently the Acting GM, has graciously vacated her position effective this morning. The GM remains on personal leave and off island. As a result, the Port currently lacks a GM and DGM able to fulfill the obligations of each respective position, therefore creating a void in administrative leadership. Additionally, recent personnel actions also contribute to the vacancy in leadership at the Port. In the absence of administrative leadership, the Port's ability to carry out its critical roles and functions is compromised and such absence of leadership, creates a threat to the public health, safety or welfare of the People of Guam. Daniel Tydingco, Chairman, Board of Directors.

At this time, the Chairman yielded to Legal Counsel to opine on the emergency declaration on the necessity of the short process although majority that has been notified is present here in this morning's meeting. Legal Counsel said in review of the statute, it does require the declaration and what it does is amend one portion which is the notice requirement. It does not change anything else except the matters discussed should be related to the nature of the emergency and nothing else. Legal Counsel recommends that the declaration be affirmed by members of the Board.

The Vice Chairman made motion to adopt the Chairman's declaration of emergency, seconded by Mrs. Baleto. Motion was unanimously approved.

The Chairman said to ensure the void is filled for the benefit of the port employees, community-at-large, port users, and that there is continuity in the operations of the islands only seaport, the Board requested the office of the Governor in consultation over the weekend to avail someone to fill the void of not only addressing the personnel issues at hand, but also to manage the day-to-day operations of the Port Authority.

1. **Personnel Matters:**

a. Appointment of Acting General Manager:

The Vice Chairman made motion that Joanne M.S. Brown be named the Acting General Manager of the Port Authority of Guam effective today, who is vested with full authority to ensure that the operations of this Port are carried out and executed, not only with the day-to-day, but also the personnel issues and matters that have recently emerged publicly. The motion on the floor was seconded by Mrs. Baleto and was unanimously approved.

At this time, the members recognized the presence of Ms. Brown. Ms. Brown thanked the members and realizes that this is a tremendous undertaking and knows decisions have been made in a relatively short period of time. She appreciates the confidence of the Board and looks forward to serve at their pleasure.

II. PUBLIC COMMENT

a. **Public Comment:** Senator Tom Ada thanked the Board for its decisive and timely action in recognizing that with an important agency, the Port does need a strong leader at the top during this period of a void. He clarified whether the Deputy General Manager has resigned her position. The Chairman replied positively, and said that a formal letter was received. Senator Ada asked whether this acting appointment is until the return of the General Manager Mary C. Torres. The Chairman mentioned that the acting appointment of Ms. Brown is indefinite. Senator Ada asked whether General Manager Torres will return in a couple weeks. The Chairman indicated that he is unaware of Mrs. Torres' return date back from her personal leave. Senator Ada clarified that with this being an emergency meeting that there is only one item on the agenda and that is the interim appointment of Ms. Brown. The Chairman replied in the affirmative.

III. EXECUTIVE SESSION

No executive session items discussed.

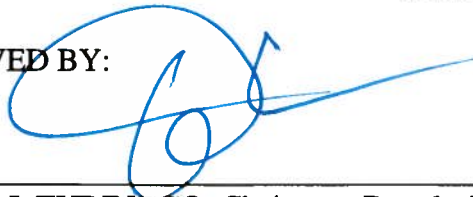
IV. ADJOURNMENT

There being no further business to discuss, it was moved by the Vice Chairman and seconded by Mrs. Baleto to adjourn the meeting at 2:30 p.m. The motion was unanimously passed.



MARY MICHELLE GIBSON, Board Secretary, Board of Directors

APPROVED BY:



DANIEL J. TYDINGCO, Chairman, Board of Directors





PORT OF GUAM
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Eddie Baza Calvo
Governor of Guam
Ray Tenorio
Lieutenant Governor

**MINUTES OF THE
SPECIAL MEETING OF THE BOARD OF DIRECTORS
Friday, December 14, 2012**

I. CALL TO ORDER

There being a quorum, the special meeting of the Board of Directors was called to order at 11:50 a.m., Friday, December 14, 2012. Present at the meeting were:

Daniel Tydingco, Chairman
Michael Benito, Vice Chairman
Shelly Gibson, Board Secretary – *Telephonic Participation*
Eduardo Ilao, Member
Christine Baleto, Member
Joanne Brown, Acting General Manager
Atty. Mike Phillips, Legal Counsel

Also present were Tricia Granillo/Jennifer Muna-Aguon-AM Insurance; Jimmy Camacho-Office of Senator Tom Ada; John Bell-Phillips Law Office; Steve Limtiaco/Rick Cruz-PDN; Joy White-Marianas Variety; Joleen Castro-GFT; and Port Management staff.

The Vice Chairman made motion to allow Director Gibson to participate telephonically in this meeting, seconded by Mrs. Baleto. Motion was unanimously approved.

The Vice Chairman made motion to allow for telephonic participation hence forth for Board meetings, seconded by Mrs. Baleto. Motion was unanimously approved.

II. PUBLIC COMMENT

- a. **Public Comment:** None.
- b. **Employee Comment:** Mr. John B. Santos, PAGGMA President reminded the members of the Christmas party for the members' children scheduled tomorrow at Ypao Beach Park.

III. CRANE ACQUISITION

The Acting General Manager said management will be meeting with ANZ representatives this afternoon to go over a list of items required to be attached to the formal agreement. The Chairman advised Legal Counsel to ensure the loan documents reflect the Acting General Manager as a signatory. Legal Counsel brought the Board's attention to an item that remains outstanding which is who amongst

the party will cover the fees of the \$12M wire transfer. The Chairman advised management to look into whether ANZ would consider waiving that fee. Ms. Joann Conway, Finance division understands there to be no fee for the wire transfer, as the transfer will be processed directly by ANZ. The loan closing is scheduled for December 20, 2012.

IV. WORKER'S COMPENSATION INSURANCE

Based on the previous meeting, Mrs. Baleto said the initial quote received was about \$430K which based on the history that the Finance division provided over the last five years, workman's compensation expenses averages about \$100K per annum, plus salaries and benefits at \$40K, which reflects a total of \$140K for any given year as self-insured. However, because of the mandate requirement of obtaining Workman's Compensation insurance, Mrs. Baleto proposed two options one of which is to obtain quotes specific to Port's purpose or request that the law be changed. The Chairman recalled that further research was to determine address compliance of longshore coverage. Mr. John Bell, Phillips Law office said after having confirmed with Department of Labor, longshore insurance coverage is not required. Mrs. Baleto pointed out that the quote did not include longshore coverage and that \$430K was to comply with local law. The Chairman indicated that since management has the specifications and data collection of five years showing the worker's compensation expenses on average, asked that a bid be issued. Mrs. Alma B. Javier, Procurement Manager said the Port will prepare the bid package; however, the bidding procurement process for this purpose is a function of the General Services Agency (GSA). The Chairman advised to coordinate with GSA.

In the meantime, Mrs. Baleto asked whether communication can be made with the Port's Oversight Chair to request for the Port to continue with the self-insured method of workman's compensation coverage. She mentioned that this is in the event the quotes received are over the \$200K range, more than what the Port expends on average for this purpose. The Vice Chairman asked that management proceed with this process with the Port Oversight Chair on whether they would be willing to look at legislation to correct it. The Acting General Manager was advised to make contact with Senator Thomas Ada on this matter.

Mr. Ilao understands that under the procurement law any items, services to be acquired there needs to be certification that funding is available to pay for such procurement. The Acting General Manager mentioned that there are department and agencies that inquire, it's not a formal bid, but to have a general idea on what the approximate cost is for budget planning purposes. Even though there is no formal announcement or action transacting, it is simply informational because normally the government line agencies obtain price quotations and process through GSA, and GSA does the process all over again. She asked Legal Counsel to provide guidance on this matter. There were no objections.

Ms. Gibson asked that the specifications be prepared in a broader scope to allow for greater participation. Legal Counsel mentioned that the specifications should not be prepared in a way where it precludes certain companies from participating. Mrs. Baleto recalled at one point that the rating was too high. Ms. Gibson commented that the rating should be exempted when it comes to Workman's Compensation because the participants are required to follow the same threshold.

comes to Workman's Compensation because the participants are required to follow the same threshold.

V. FISCAL YEAR 2013 BUDGET APPROVAL

Mrs. Baleto said based on the Fiscal Year 2013 Proposed Budget being presented before this Board, it is the teams recommendation for the budget to be approved. She requested that across the board hiring freeze be implemented which results in the saving needed to fund the salary increments. The salary increments are included for 2012 in this budget, unfortunately there was insufficient budget to fund the 2013 salary increments. Mrs. Baleto asked that during the mid-year review to determine whether there is sufficient revenue at that time to financially support the 2013 salary increments.

As to the other financial items of the budget, Mrs. Baleto provided the following:

- crane insurance has been adjusted to \$260K based on the quote provided.
- Insurance Broker budget has been zeroed out since this professional service is not needed at this time.
- Workman's Compensation is budgeted at \$100K. The remainder \$40K for this purpose is already budgeted within the salary and benefits item. This results in a budget total of \$140K for worker's compensation available.

The Vice Chairman inquired whether those budgeted vacancies are impacted. Mrs. Baleto responded that the budget for the vacancy positions have been taken out to support the salary increment of the current employees. She expressed that before there are any new hires of personnel that existing staff be taken care of first.

Mrs. Baleto said with all these financial adjustments the Port will be able to meet the debt service of the loan requirement. She thanked the support of the management financial team for their efforts in finalizing the budget.

The Acting General Manager said because of the personnel concerns brought up by the Civil Service Commission it will allow management time before the mid-year review in addressing the hiring procedures, so requests for any additional positions during this fiscal year should that arise, management will justify to the Board why that position is critical.

The Vice Chairman made motion to approve the Fiscal Year 2013 Budget, seconded by Mr. Ilao. The motion was unanimously approved.

Resolution No. 2012-24 – Designation of Signatories

Mr. Ilao made motion to approve Board Resolution No. 2012-24 relative to the designation of signatories for the Port Authority of Guam, seconded by the Vice Chairman. Motion was unanimously approved.

VI. EXECUTIVE SESSION

At this time, the members agreed to go into executive session. Executive session commenced at 12:15 p.m. Executive session ended at 1:15 p.m. The Board is now back in regular meeting session.

- a. Open Legal Issues
- b. Personnel Matters

Items addressed in executive session includes:

(Note: At the direction of Mr. John Bell from Legal Counsel's office at 1:25 p.m., Friday, December 14, 2012, the Executive Session tape (one cassette) was turned over to the Acting General Manager Joanne Brown.)


VII. ADJOURNMENT

There being no further business to discuss, it was moved by the Vice Chairman and seconded by the Mrs. Baleto to adjourn the meeting at 1:20 p.m. The motion was unanimously passed.



MARY MICHELLE GIBSON, Board Secretary, Board of Directors

APPROVED BY:



DANIEL J. TYDINGCO, Chairman, Board of Directors



FEDERAL GRANT/LOANS & LOCAL FUNDING PROGRAMS

FY2012 Port Modernization Plan

Grant Strategy - Monthly Update

As of December 11, 2012

Summary Sheet of Funding/Financing

| | On-hand | Expenditures | Remaining Balance | NOTES |
|---------------------------|--------------------------|-------------------------|-------------------------|--|
| Port Modernization | | | | |
| Loans | \$ 39,000,000.00 | \$ - | \$ 39,000,000.00 | For Gantry Cranes & Port Modernization Program |
| Grants | \$ 64,926,816.94 | \$ 16,522,455.65 | \$ 48,404,361.29 | \$48.5M Port Enterprise Fund |
| Security | \$ 9,338,705.28 | \$ 2,494,058.90 | \$ 6,843,153.43 | |
| Marinas | \$ 3,984,106.00 | \$ 249,000.00 | \$ 3,735,106.00 | |
| Grand Totals: | \$ 117,249,628.22 | \$ 19,265,514.55 | \$ 97,982,620.72 | |

Applications/Approvals Pending

| | | | NOTES |
|----------------------|-------------------------|--|---------------------------------|
| Port Modernization | \$ 10,000,000.00 | | GEDA/Local Lender for Wharf SLE |
| Security | \$ - | | |
| Marinas | \$ 261,000.00 | | |
| Grand Totals: | \$ 10,261,000.00 | | |

STRATEGIC PLANNING DIVISION - FEDERAL GRANT/LOANS & LOCAL FUNDING PROGRAMS
FY2013 Port Modernization Plan
Grant Strategy - Monthly Update
AS OF December 11, 2012

I. Port Modernization

| ITEM | LOAN # | PROJECT NAME | Federal or Local Agency | Notice to Proceed | % Completed | Award Date / End Date | Award Amount | Draw Down Approved | Remaining Balance | STATUS: |
|-----------|-----------------------------------|--|--|-------------------|-------------|--|------------------|--------------------|-------------------|----------------------|
| FY2006-01 | ANZ Guam Inc., Guaranteed Loan | Purchase & Install New/Used Gantry Cranes | ANZ Guam Inc., Guaranteed | 9/29/2006 | 0.0% | 9/29/2006 - 9/29/2011 Extension requested until 3/31/2012; 9/30/2012 | \$ 5,000,000.00 | \$ - | \$ 5,000,000.00 | Pending loan closing |
| FY2006-02 | USDA Direct Loan | Purchase & Install New/Used Gantry Crane to replace an inoperable Gantry Crane | USDA RD CF Direct Loan | 9/29/2006 | 0.0% | 9/29/2006 - 9/29/2011 Extension requested until 3/31/2012; 9/30/2012 | \$ 2,000,000.00 | \$ - | \$ 2,000,000.00 | Pending loan closing |
| FY2006-03 | ANZ Guam Inc., Guaranteed Loan | Procurement of 2nd Brand New/Used Gantry Crane | ANZ Guam Inc., Guaranteed | 8/20/2007 | 0.0% | 8/20/2007 - Extension requested until 9/30/2012 9/30/2012 | \$ 7,000,000.00 | \$ - | \$ 7,000,000.00 | Pending loan closing |
| FY2010-02 | USDA Direct Loan | Port Modernization Plan | United States Department of Agriculture Communities Facilities Program (USDA CF) | 10/22/2010 | 0.0% | 10/22/2010 - 10/22/2015 | \$ 25,000,000.00 | \$ - | \$ 25,000,000.00 | Uplands |

GRAND TOTAL LOANS FOR MODERNIZATION:
\$ 39,000,000.00 \$ - \$ 39,000,000.00

| ITEM | GRANT # | PROJECT NAME | Federal or Local Agency | Notice to Proceed | % Completed | Award Date / End Date | Award Amount | Draw Down Approved | Remaining Balance | STATUS: |
|-----------|-------------------------------|--|--|-------------------|-------------|-----------------------|-----------------|--------------------|-------------------|--|
| FY2008-01 | GUAM-CIP-2009-3, GR # pending | Engineering Analyses and Consultations Project for the Jose D. Leon Guerrero Commercial Port Modernization | Department of Interior Office of Insular Affairs (DOI OIA) | 09/03/09 | 98.9% | 9/01/09 - 9/01/14 | \$ 1,000,000.00 | \$ 989,187.82 | \$ 10,812.18 | Pending \$39,951.81 reimbursement from DOI/OIA |

| | | | | | | | | | | | | | |
|------------|---------------------------|--|---|----------|--------|--|----|---------------|----|--------------|----|---------------|--|
| FY2009-01 | GUAM-CIP-2009-1, GR070144 | Preliminary Engineering & Environmental Studies for the IDLG Commercial Port Facilities | Department of Interior, Office of Insular Affairs (DOI/OIA) | 06/22/09 | 98.0% | 3/18/2009 - 3/18/2014 | \$ | 2,000,000.00 | \$ | 1,560,048.19 | \$ | 39,951.81 | |
| FY2009-02 | GR0706-08-02-08-01 | 1. Implementation Plan Project No. GR0706-08-02-08-01 MOU Sub-Grantee 2. Protocol Manual | Office of Economic Adjustment (OEA) DoD | 11/13/08 | 93.6% | 11/14/2008 - 9/30/2010, extended to 09/30/2011 extended to 03/31/2012, CLOSED. | \$ | 544,500.00 | \$ | 509,460.00 | \$ | 35,040.00 | CLOSED. Remaining grant balance reimbursed to General Fund. (6/21/10 memo) |
| FY2009-03 | 0779-06339 | Environmental Assessment & A/E Design of Proposed Wharf Modernization of F5, F6, F7 and Container Yard | Economic Development Administration (EDA) & Maritime Administration (MARAD) | 04/30/09 | 100.0% | 4/30/2009 - 4/30/2011 CLOSED | \$ | 1,687,316.94 | \$ | 1,687,316.94 | \$ | - | CLOSED |
| FY2009-04 | GR0706-09-04 | Guam Military Complex - Port Fact Finding | Office of Economic Adjustment (OEA) DoD | 05/01/09 | 100.0% | 06/08/10 - 12/31/10, extended to 9/30/2011 CLOSED. | \$ | 2,000,000.00 | \$ | 1,999,819.00 | \$ | 181.00 | CLOSED |
| FY2009-05 | GR0706-09-08 | Port Terminal Preliminary Design, Performance Management Services Benchmarks and Legislative Approval | Office of Economic Adjustment (OEA) DoD | 06/01/09 | 99.1% | 06/01/09-12/31/10, extended to 9/30/2011 extended to 03/31/2012 CLOSED. | \$ | 975,000.00 | \$ | 965,837.24 | \$ | 9,162.76 | CLOSED. Reprogramming request for remaining balance was denied. Funds reverted back to grantor. |
| FY2010-01 | Port Enterprise Fund | Port Modernization Plan- (Transfer from DOD to DOT) | DoD to DOT Maritime Administration Agency (MARAD) | 09/22/10 | 4.8% | 9/22/2010 - 9/22/2015 | \$ | 48,500,000.00 | \$ | 2,310,670.57 | \$ | 46,189,329.43 | Transferred to the Port Enterprise Fund on 09/22/2010. As of 2/2/2012 Dashboard Total Transferred to Project \$50M, Total for Contracts \$48.5M, Total for MARAD Admin \$1.5M. EA Engineering \$2,037,751.02. Pending Contract Obligations \$72,919.55 for TO 007 Prog Night Support, 8/1/2012 Dashboard |
| FY2010-02 | CLOSED | Procurement of Cargo Handling Equipment | ANZ / USDA Guarantee | 08/20/07 | 100.2% | 8/20/2007 CLOSED | \$ | 3,500,000.00 | \$ | 3,505,986.00 | \$ | (5,986.00) | 4 Tls (2,398,686) 10 Tractors (907,300) USDA Letter of Commitment assigns the \$4.5M to ANZ, however, loan closing documents to date (08/15/13) |
| FY2010-03 | GR0706-10-10 | Project Controls and Program Accountability Services | Office of Economic Adjustment (OEA) DoD | 10/01/10 | 62.9% | 10/1/2010 - 9/30/2012 Extension approved until 9/30/2013 | \$ | 750,000.00 | \$ | 472,036.69 | \$ | 277,963.31 | TO 12 held in abeyance. Grant extension approved until September 30, 2013. |
| FY2010-04 | Guam-GI-2010-1 | Implementation of Programs and Projects Relevant to the Port Modernization Program | Department of Interior Environmental and Related Agencies Appropriations Act 2010 (DOI/OIA) | 10/25/10 | 88.5% | 9/28/2010 - 9/28/2015 | \$ | 2,000,000.00 | \$ | 1,769,136.06 | \$ | 230,863.94 | |
| FY 2011-01 | GR0706-11-12 | Owner's Agent Engineer Support Services | Office of Economic Adjustment (OEA) DoD | | 17.9% | 4/01/2011 - 3/31/2012 Extension approved - 01/31/2014. | \$ | 1,970,000.00 | \$ | 352,957.14 | \$ | 1,617,042.86 | \$269,575.30 pending reimbursement from OEA. |

GRAND TOTAL GRANTS FOR MODERNIZATION: \$ 64,926,816.94 \$ 16,522,455.65 \$ 48,404,361.29

| ITEM | GRANT # | PROJECT NAME | Federal or Local Agency | Notice to Proceed | % Completed | Award Date / End Date | Requested Amount | Draw Down Approved | Remaining Balance | STATUS: |
|---------|--------------------|------------------------------------|-------------------------|-------------------|-------------|-----------------------|------------------|--------------------|-------------------|---|
| FY 2013 | PROPOSED LOAN/BOND | Wharf Service Life Extension (SLE) | GEDA/Local Lender | | | | \$ 10,000,000.00 | | | PACS working with GEDA on loan financing options for Wharf SLE. |

GRAND TOTAL FOR MODERNIZATION PENDING: \$ 10,000,000.00

II. SECURITY

| ITEM | GRANT # | PROJECT NAME | Federal or Local Agency | Notice to Proceed | % Completed | Award Date / End Date | Award Amount | Draw Down Approved | Remaining Balance | STATUS: |
|-----------|-----------------|---|--|---|-------------|--|---------------|--------------------|-------------------|---|
| FY2007-01 | 2007-GB-T7-0437 | Three (3) Trailer able Fire Pumps W/Monitor Units | The Department of Homeland Security Office of Grants and Training (DHS OG&T) | Purchase Order was issued during 2nd quarter of FY2010. | 100.0% | 10/01/2007 6/30/2012 (close out reporting period 09/30/12) | \$ 540,000.00 | \$ 540,000.00 | \$ 0 | Final Close Out CAPR and FSR were submitted to US DHS/FEMA and was subsequently approved. Grant is now in grant file and will be in storage for 3 years as federally required. |
| FY2007-02 | 2007-GB-T7-0437 | Container Yard Lights | The Department of Homeland Security Office of Grants and Training (DHS OG&T) | Notice to Proceed given during 2008. However, due to the Port Modernization Plan, this project was put on hold. | 100.0% | 10/01/2007 6/30/2012 (close out reporting period 09/30/12) | \$ 834,016.00 | \$ 833,893.32 | \$ 122.68 | Final Close Out CAPR and FSR were submitted to US DHS/FEMA and was subsequently approved. Grant is now in grant file and will be in storage for 3 years as federally required. Lighting Ceremony by Governor Calvo was conducted on December 3, 2012 at 5:30pm. |
| FY2008-01 | 2008-GB-T8-0148 | Acquisition of Interoperable Communication Equipment | The Department of Homeland Security Office of Grants and Training (DHS OG&T) | Notice to Proceed was given in early 2009. | 99.7% | 08/01/2008 01/31/2013 | \$ 573,693.97 | \$ 571,826.44 | \$ 1,867.53 | As reported on August 20, 2012, this investment justification is complete. The current balance will be used as part of the Port Security Enhancements Project. |
| FY2008-02 | 2008-GB-T8-148 | Comprehensive Port Wide Video Surveillance System | The Department of Homeland Security Office of Grants and Training (DHS OG&T) | Notice to Proceed given in early 2009. | 0.0% | 08/01/2008 01/31/2013 | \$ 556,326.69 | \$ 57,524.16 | \$ 498,802.53 | This project is part of the Port Security Enhancement Project. It was approved by the PUC and the Board for award to MAEDA Pacific. Design and Permitting NTP has been issued to MAEDA Pacific. |
| FY2009-02 | 2009-PU-T9-0043 | U 2: Access Control/Secured Credentialing System with TWIC Reader Capability | PSGP | 03/01/10 | 5.1% | 2/2009 10/31/12 | \$ 622,811.62 | \$ 31,811.78 | \$ 590,999.84 | This project is part of the Port Security Enhancement Project. It was approved by the PUC and the Board for award to MAEDA Pacific. Design and Permitting NTP has been issued to MAEDA Pacific. |
| FY2009-03 | 2009-PU-T9-0043 | U 3: Communication Duct bank Work (formerly Radar/Intrusion Detection System) | PSGP | 03/01/10 | 1.7% | 2/2009 10/31/12 | \$ 600,832.50 | \$ 10,000.00 | \$ 590,832.50 | This project is part of the Port Security Enhancement Project. It was approved by the PUC and the Board for award to MAEDA Pacific. Design and Permitting NTP has been issued to MAEDA Pacific. |

| | | | | | | | | | | | | | |
|-----------|-----------------------|--|--|----------|--------|-----------------------------|----|--------------|----|------------|----|--------------|--|
| FY2009-04 | 2009-PU-RL-0164 | Renovation/Upgrade of Existing Port Police Building to Serve as the PAG's Maritime and Port Security Operations Center | President's ARRA Supplemental PSGP | 04/12/10 | 17.6% | 09/20/2010 02/28/13 | \$ | 910,593.50 | \$ | 160,539.45 | \$ | 750,054.05 | This project is part of the Port Security Enhancement Project. It was approved by the PUC and the Board for award to MAEDA Pacific. Design and Permitting NTP has been issued to MAEDA Pacific. |
| FY2009-05 | W090280-003 | To acquire a new fully equipped Emergency Response Vehicle | Guam Homeland Security Office of Civil Defense | 09/20/10 | 100.0% | 9/20/2010 07/31/12 (CLOSED) | \$ | 50,000.00 | \$ | 50,000.00 | | | Grant Close out documents has been prepared and submitted to GHS/DCD. Port request for full reimbursement in the amount of \$6993.00 is being reviewed and waiting on release of funds to the Port. |
| FY2010-01 | 2010-PU-TD-0080 | II 1: Command and Control Integration of CCTV Security Surveillance, Access Control/Secured Credentialing, Radar Intrusion/Detection, and TWIC Reader/Access | PSGP | 02/10/11 | 10.6% | 06/01/10 05/31/13 | \$ | 2,257,500.00 | \$ | 238,463.75 | \$ | 2,017,543.30 | This project is part of the Port Security Enhancement Project. It was approved by the PUC and the Board for award to MAEDA Pacific. Design and Permitting NTP has been issued to MAEDA Pacific. |
| FY2011-01 | EMW 2011-PU-00200-501 | II.1 Upgrade of Emergency Back-up Generators to Support Maritime and Port Security Management and Operations | PSGP | 09/01/11 | 0.0% | 09/01/2011 08/31/2014 | \$ | 867,141.00 | \$ | - | \$ | 867,141.00 | Port Team has met and finalized the draft specifications for the generators. Planning will now work with Procurement to prepare the procurement package. |
| FY2011-02 | EMW 2011-PU-00200-501 | II.2 Mobile Cargo and Vehicle CBRNE Detection and Screening System | PSGP | 09/01/11 | 0.0% | 09/01/2011 08/31/2014 | \$ | 1,525,790.00 | \$ | - | \$ | 1,525,790.00 | DPW has approved the specification which was endorsed by the Captain of the Port, the Area Maritime Security Committee and signed off by the General Manager. Requisition is now with GSA. Anticipated release of IFB - on or before 01/31/13. |

GRAND TOTAL FOR SECURITY:

\$ 9,338,705.28 \$ 2,494,058.90 \$ 6,843,153.43

III. MARINAS

| ITEM | GRANT # | PROJECT NAME | Federal or Local Agency | Notice to Proceed | % Completed | Award Date / End Date | Award Amount | Draw Down Approved | Remaining Balance | STATUS: |
|-----------|-----------------|---|---|-------------------|-------------|--|-----------------|--------------------|-------------------|---|
| FY2010-01 | MOU | Repair Dock A, Dock B, Pilings, Water Blasting - GDP Marina | Federal Assistance Boating Access Funds - Department of Agriculture | 04/28/10 | 28.1% | Aug 2009 - Sept 2012 Extension APPROVED - 09/30/13. | \$ 744,106.00 | \$ 209,000.00 | \$ 535,106.00 | Dock A Completed - Federal reimbursement totaled \$209,000. Dock B - Completed. Pending reimbursement - \$62,147.26 DOCKS A & B Pile Extension - Project Ongoing. DOCK C - Contract Executed with Black Construction. |
| FY2011-01 | Guam-CIP-2011-1 | Gregorio D. Perez Marina Actual Renovation & Site Improvements - Phase II | Department of Interior Office of Insular Affairs (DOI OIA) | 07/22/11 | 0.0% | Aug 2011 - August 2016 | \$ 440,000.00 | \$ - | \$ 440,000.00 | Contractor in receipt of Preliminary Notice to Proceed |
| FY2011-02 | GRANT | Analysis & Development of Management Regime for Small Boat Marinas | United States Department of Agriculture Rural Business Enterprise Grant (RBEGR) Program | 07/02/10 | 80.0% | Aug 2010- Dec 2012 | \$ 50,000.00 | \$ 40,000.00 | \$ 10,000.00 | Projection system installed in Board Room. Update to AMR Study completed and Stakeholders' Mtg held on Nov 27, 2012. Request for reimbursement to be submitted after payment is made. |
| FY2012-01 | 12-SFF II-01 | Agat Marina "Dock A" Repairs | NOAA Commission on Fisheries | 10/01/12 | 0.0% | Sep 11, 2012 - Sep 30, 2013 | \$ 250,000.00 | \$ - | \$ 250,000.00 | PAG in receipt of \$250K advance payment. Pending Procurement process. |
| FY2012-02 | Guam-CIP-2012-1 | Gregorio D. Perez Marina Actual Renovation & Site Improvements - Phase II | Department of Interior Office of Insular Affairs (DOI OIA) | 02/22/12 | 0.0% | Feb 22, 2012 - Feb 22, 2017 | \$ 2,500,000.00 | \$ - | \$ 2,500,000.00 | Contractor in receipt of Preliminary Notice to Proceed |

GRAND TOTAL FOR MARINAS:
\$ 3,984,106.00 \$ 249,000.00 \$ 3,735,106.00

| ITEM | GRANT # | PROJECT NAME | Federal or Local Agency | Notice to Proceed | % Completed | Award Date / End Date | Requested Amount | Draw Down Approved | Remaining Balance | STATUS: |
|-------------------|---------|---|---|-------------------|-------------|-----------------------|------------------|--------------------|-------------------|--|
| PENDING FY2013-01 | | Harbor of Refuge Anchorage & Moorage Repair, A/E Design & Environmental Study | Dept of Ag, DAWR - Boating Infrastructure Grant (BIG) Tier II | | | | \$ 200,000.00 | | | Application submitted by state designated agency. Dept of Ag on September 19, 2012. Announcement of awards by March 2013 |

| | | | | | | | | | | | | | |
|------------------|--|-------------------------------------|--|--|--|--|--|----|-----------|--|--|--|--|
| FUTURE FY2013-02 | Marinas: Replace & upgrade sewage pump station | Dept of Ag, DAWR - Clean Vessel Act | | | | | | \$ | 61,000.00 | | | | Application submitted by state designated agency, Dept of Ag on December 5, 2012; Announcement of awards by May 2013 |
|------------------|--|-------------------------------------|--|--|--|--|--|----|-----------|--|--|--|--|

GRAND TOTAL FOR MARINAS PENDING: \$ 261,000.00

**JULY - DECEMBER 2012
VESSEL OPERATION RECAP**

| | July | August | September | October | November | December | |
|-----------------------|-----------|-----------|-----------|-----------|-----------|----------|--------------|
| MATSON | | | | | | | Total |
| No. Vessel | 5 | 4 | 4 | 5 | 4 | | 22 |
| Discharge | 2937 | 2362 | 2282 | 2972 | 2617 | | 13170 |
| Loaded | 2590 | 2415 | 1996 | 2789 | 2200 | | 11990 |
| Total Moves | 5527 | 4777 | 4278 | 5761 | 4817 | | 25160 |
| Cranes used | P14,16,17 | P14,16,18 | P14,16,17 | P14,16,17 | P14,16,17 | | |
| Average GMPH | 21.4 | 20.9 | 22.9 | 22.2 | 20.9 | | 21.7 |
| ISLANDER | | | | | | | |
| No. Vessel | 2 | 2 | 2 | 2 | 2 | | 10 |
| Discharge | 316 | 440 | 339 | 370 | 406 | | 1871 |
| Loaded | 524 | 386 | 454 | 600 | 381 | | 2345 |
| Total Moves | 840 | 826 | 793 | 970 | 787 | | 4216 |
| Cranes used | P16,17 | P16,18 | P16,17 | P16,17 | P16,17 | | |
| Average GMPH | 18.2 | 20.8 | 16.4 | 16 | 18 | | 17.9 |
| SHUTTLE/S-2006 | | | | | | | |
| No. Vessel | 5 | 6 | 4 | 5 | 7 | | 27 |
| Discharge | 210 | 251 | 146 | 196 | 201 | | 1004 |
| Loaded | 213 | 265 | 230 | 216 | 257 | | 1181 |
| Total Moves | 423 | 516 | 376 | 412 | 458 | | 2185 |
| Cranes used | G2,3 | G2,3 | G2,3 | G2,3 | G2,3 | | |
| Average GMPH | 17.2 | 14.1 | 16.4 | 14 | 16.6 | | 15.7 |
| MELL | | | | | | | |
| No. Vessel | 5 | 4 | 4 | 5 | 4 | | 22 |
| Discharge | 793 | 611 | 690 | 943 | 611 | | 3648 |
| Loaded | 714 | 561 | 669 | 826 | 693 | | 3463 |
| Total Moves | 1507 | 1172 | 1359 | 1769 | 1304 | | 7111 |
| Cranes used | G2,3 | G2,3 | G2,3 | G2,3 | G2,3 | | |
| Average GMPH | 17.1 | 14.3 | 14.6 | 15 | 16 | | 15.4 |

JULY - DECEMBER 2012
VESSEL OPERATION RECAP

| | | | | | | | | | | | |
|-----------------------|-------|------|------|------|---|------|--|--|--|--|------|
| KYOWA | | | | | | | | | | | |
| No. Vessel | 2 | 2 | 2 | 2 | 0 | 3 | | | | | 9 |
| Discharge | 138 | 111 | 59 | 0 | 0 | 155 | | | | | 463 |
| Loaded | 151 | 214 | 119 | 0 | 0 | 132 | | | | | 616 |
| Total Moves | 289 | 325 | 178 | 0 | 0 | 287 | | | | | 1079 |
| Cranes used | G2,5g | G2 | G2 | 0 | 0 | G2,3 | | | | | |
| Average GMPH | 8.8 | 7.8 | 9.6 | 0 | 0 | 12.4 | | | | | 9.7 |
| BARGE | | | | | | | | | | | |
| No. Vessel | 1 | 1 | 1 | 2 | | | | | | | 5 |
| Discharge | 0 | 28 | 0 | 1 | | | | | | | 29 |
| Loaded | 1 | 0 | 1 | 44 | | | | | | | 46 |
| Total Moves | 1 | 28 | 1 | 45 | | | | | | | 75 |
| Cranes used | G3 | G2 | G2 | G2,3 | | | | | | | |
| Average GMPH | 2.1 | 3 | 0.2 | 8.6 | | | | | | | 3.5 |
| Kwangsi | | | | | | | | | | | |
| No. Vessel | | 1 | | 1 | | | | | | | 2 |
| Discharge | | 6 | | 13 | | | | | | | 19 |
| Loaded | | 0 | | 11 | | | | | | | 11 |
| Total Moves | | 6 | | 24 | | | | | | | 30 |
| Cranes used | | G3 | | G2,3 | | | | | | | |
| Average GMPH | | 11.6 | | 5.7 | | | | | | | 8.7 |
| Pacific Condor | | | | | | | | | | | |
| No. Vessel | | | 2 | 2 | | 1 | | | | | 5 |
| Discharge | | | 77 | 47 | | 95 | | | | | 219 |
| Loaded | | | 128 | 155 | | 182 | | | | | 465 |
| Total Moves | | | 205 | 202 | | 277 | | | | | 684 |
| Cranes used | | | G2,3 | G2 | | G2 | | | | | |
| Average GMPH | | | 6.3 | 6.7 | | 9.3 | | | | | 7.4 |

VESSEL OPERATION RECAP

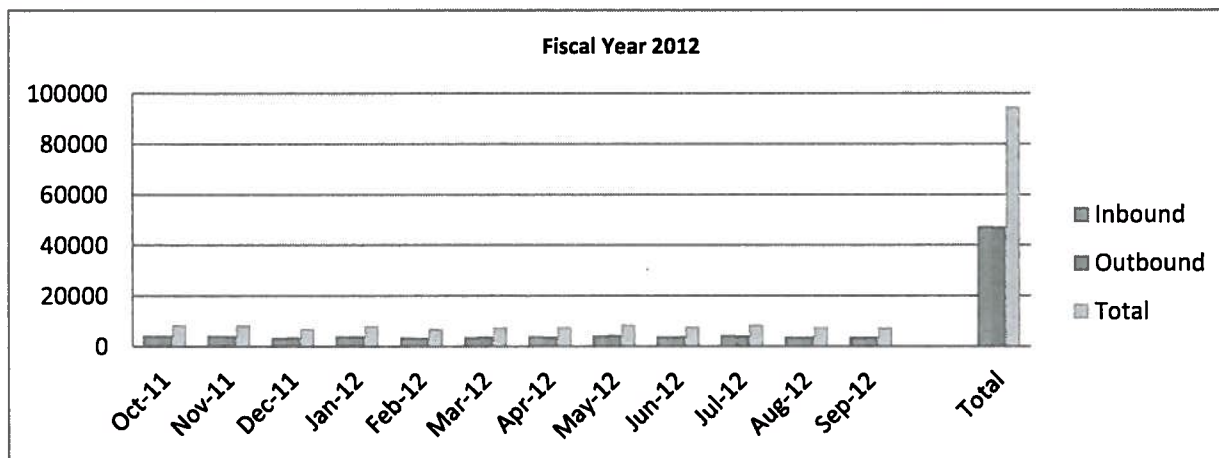
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| | |
|-------------------------|--------------|
| SUMMARIZED | |
| Total Vessels | 107 |
| Total Discharged | 20704 |
| Total Loaded | 20374 |
| Total Moves | 41078 |

| Month | Inbound | Outbound | Total |
|--------|---------|----------|-------|
| Oct-11 | 4248 | 4367 | 8615 |
| Nov-11 | 4298 | 4179 | 8477 |
| Dec-11 | 3421 | 3525 | 6946 |
| Jan-12 | 4051 | 4102 | 8153 |
| Feb-12 | 3523 | 3458 | 6981 |
| Mar-12 | 3694 | 3877 | 7571 |
| Apr-12 | 4014 | 3775 | 7789 |
| May-12 | 4276 | 4406 | 8682 |
| Jun-12 | 3912 | 3910 | 7822 |
| Jul-12 | 4394 | 4189 | 8583 |
| Aug-12 | 3809 | 3796 | 7605 |
| Sep-12 | 3733 | 3719 | 7452 |

| | |
|------|----------------------|
| 8546 | (Two months Average) |
|------|----------------------|

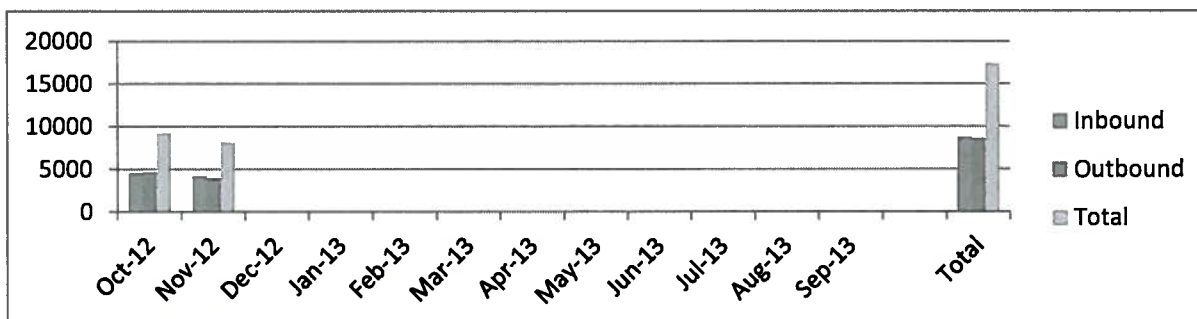
| | | | |
|--------------|--------------|--------------|--------------|
| Total | 47373 | 47303 | 94676 |
|--------------|--------------|--------------|--------------|



| Month | Inbound | Outbound | Total |
|--------|---------|----------|-------|
| Oct-12 | 4557 | 4656 | 9213 |
| Nov-12 | 4211 | 3944 | 8155 |
| Dec-12 | | | 0 |
| Jan-13 | | | 0 |
| Feb-13 | | | 0 |
| Mar-13 | | | 0 |
| Apr-13 | | | 0 |
| May-13 | | | 0 |
| Jun-13 | | | 0 |
| Jul-13 | | | 0 |
| Aug-13 | | | 0 |
| Sep-13 | | | 0 |

| | |
|------|----------------------|
| 8684 | (Two months Average) |
|------|----------------------|

| | | | |
|--------------|-------------|-------------|--------------|
| Total | 8768 | 8600 | 17368 |
|--------------|-------------|-------------|--------------|




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PORT AUTHORITY OF GUAM
Jose D. Leon Guerrero Commercial Port
Piti, Guam

December 18, 2012

MEMORANDUM

TO: Board of Directors
VIA: Acting General Manager
FROM: glenn 
SUBJECT: Commercial Division Property Report

The following is an update on property related items for the Board of Director's regularly scheduled meeting of December 19, 2012. Board consideration and action is respectfully sought for Item 3.i below.

1. Finger Tip Lease and Easement Agreements

- a. Tristar recently exercised its first option to extend certain agreements for the fingertip portion as well as the associated pipeline easements. While the status is not known at this time, Tristar is now on a hold over status and operating on a month to month basis now that the initial five year period lapsed last November. I'm not aware of any ongoing negotiations or the extent and scope of such negotiations however staff recommendations in this regard have been well documented and remain constant. The need to revisit the rent structure for all of the impacted agreements is absolute. This will entail a revisit of the market valuation for the Fingertip lease portion that is not an easement agreement. In the case of the easements, the methodology to determine rents, as approved by the PUC, is also dependent on a market valuation however the fee application is based on percentage rate and proximity to an existing ROW. To add clarity, the rate currently assessed for the fingertip portion is \$83.59/m2 capitalized at 8% while the rate assessed for the easement is \$225/m2 capitalized at 8% further adjusted to 25% of FMV if on existing ROW or 50% of FMV if not on existing ROW. The reason for the disparity is that fingertip portion was not subjected to the easement increase as was agreed upon at time of assignment from Shell to Tristar. It is safely assumed that certain valuations must be done at the front end of discussions and it must be noted that the Port does have access to appraisal services through a contract with Captain and Associates (C&A) if and when negotiations commence.

- b. C&A is to prepare the Summary Appraisal Report for the Fingertip Portion of CID, adjacent to Pier F-1, encompassing 7,284m2 as well as the update to the Summary Appraisal report dated November 2009 related to the Various Easement fee structure approved by the PUC. Cost proposals for both taskings are expected to be delivered to the Port this morning. Upon receipt staff will issue a Task Order to Captain to proceed with the work, subject to funding availability.

UPDATE – *the Port is in receipt of the cost proposal from Captain and Associates dated December 3, 2012 which is specific to appraisal services for Lot 7 amounting \$3,250. It is understood that the purpose for sourcing this information was simply to set the course by which we are to commence negotiations with Tristar on matter of the expired Fingertip lease as noted above in Item 1.a.*

The attached proposal must be formally accepted by the Port prior to staff initiating the process to prepare a Task Order for execution purposes to accomplish same.

2. Proposed Cooperative Agreement with GEDA

- a. Staff tasking to revisit an initiative aimed to establish a formal relationship, by way of a cooperative agreement with the Guam Economic Development Authority, to provide property management services for potential future leasing and development activities.

i. Initiative Goals

- a. Revisit the paradigm for decision making as it relates to long term leasing of Port property understanding that property demand is dependent on the island economy.
- b. Merge the economic engines that are the Port and GEDA for purposes of spurring and sourcing financial support vital to regional and local economies.
- c. Institutionalize the structure and role of Port properties to support local maritime trade and commerce.

UPDATE – *A meeting has been tentatively set for Thursday, December 20, 2012 at 1400 hours with cause to further matter of finalizing the draft agreement. Staff will prepare a meeting after action report for the General Manager.*

3. Public Utilities Commission

i. Public Law 30-19 – Port Rent Revisit Initiative

- a. Fair market analysis of the Port's present day fee structure to determine current market rent for office, warehouse, and open yard ground leases of which may or may not be implemented pursuant to and in manner as called for in Public Law 30-19.

UPDATE – Also attached is the *Summary Appraisal and Consulting Report prepared by C&A relative Item 3.i.a dated November 30, 2012. An abstract of the possible impact to the Port's current rate structure, as a result of the study, is as follows.*

- Office Space \$1.41/ft². The current rate is \$1.63, a decrease of 22%.
- Warehouse Space \$0.70/ft². The current rate is \$0.76, a decrease of 6%.
- Open Space \$0.47/ft². The current rate is \$0.39, a decrease of 7%.

It is understood that this particular study is a point in time valuation that if implemented would obviously negatively impact the Port's finances. Based on a preliminary working report, the impact annual rent roll would be 12% less or minus \$89,705.22 from that of the prior year.

However, it is important to note that Public Law 30-19 does have a provision wherein it addresses matter of future rental assessment even in the event a study reflects a recommendation to reduce the rate structure based on current existing market conditions. Basically, it calls for the implementation of the greater of either a 10% increase over previously charged rate or the amount determined in a recent assessment. In this case the greater of the two is the former which would result in a plus \$72,124 from that of previous year.

Ultimately, staff will defer to the findings of the Public Utilities Commission on manner of application. Reason being is that PL 30-19 precedes the Public Utilities Commission mandate as it relates to Port's rate setting authority. To get to this next point, would require that the Port Board first adopt the findings contained in this recent Captain study so that we may transmit same to the PUC for consideration.

CAPTAIN & ASSOCIATES

REAL ESTATE APPRAISAL & CONSULTING

December 3, 2012

Ms. Mary Torres
General Manager
Port Authority of Guam
Jose D. Leon Guerrero Commercial Port
1026 Cabras Highway, Suite 201
Piti, Guam 96915

Dear Ms. Torres:

Subject: Proposal to Complete Real Estate Appraisal Services Regarding
Tristar (former Shell) Fingertip Portion (Lot 7), Located at Cabras
Island, Piti, Island of Guam

In response to your request, we are pleased to provide you with this brief engagement letter summarizing our proposal to complete real estate appraisal services regarding Tristar (former Shell) Fingertip Portion (Lot 7), located at Cabras Island, Piti, Island of Guam. You represent the Port Authority of Guam and require real estate appraisal services for potential ground lease-related internal decision making purposes. Based on your request, a summary of the property, our assignment, our fee and proposed timing is shown as follows.

| | |
|-------------------|--|
| Identification: | Tristar (former Shell) Fingertip Portion (Lot 7) |
| Land Area: | 7,284± square meters |
| Improvements: | Various – but analyzed as vacant land only |
| Rights Appraised: | Fee Simple (land) |
| Types of Value: | Market Rent |
| Report: | Summary Appraisal Report |
| Fee: | \$3,250 |
| Timing: | 30 to 45 days from acceptance |

Ms. Mary Torres
December 3, 2012
Page 2

Our assignment is subject to the provisions included along with this letter as Exhibit 1. Two copies of our report will be provided along with an electronic file. If you have any questions regarding the scope of work, please contact us. If you accept the terms of this letter and the Exhibit, please sign below and return a copy to us. We look forward to working with you. Thank you for considering Captain & Associates for this appraisal assignment.

Sincerely,

CAPTAIN & ASSOCIATES

A handwritten signature in black ink, appearing to read 'W. Nicholas', followed by a horizontal line.

W. Nicholas Captain, MAI, CRE
President

WNC/gfl

ACCEPTED:

Authorized Representative

Date

Captain & Associates
Proposal to Complete Appraisal Services

- Summary Appraisal Report – We propose to complete a Summary Appraisal Report in compliance with FIRREA and Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice. Our report will include summary discussions of the data, reasoning, and analyses that were used in the appraisal process to develop an opinion of value. Additional supporting documentation concerning the data, reasoning, and analyses utilized will be retained in our files.
- Intended Users – The intended users of our report include the client, its authorized representatives and any auditors or regulators that may be involved with oversight.
- Intended Use of Report – Our assignment will be completed for the client for lease-related internal decision-making purposes. We are not responsible for any unauthorized use of our report and we are not required to provide litigation support, unless prior arrangements have been agreed upon.
- Extraordinary Assumptions and/or Hypothetical Conditions – None
- Effective Date – The effective date of the report will be the date of inspection or other reasonable date selected by the appraiser(s). We are not responsible for any changes in property condition (including typhoon/earthquake damage, etc.) that occur subsequent to our date of inspection.
- Prior Services – I completed appraisal services regarding the subject property in November 2009 for the client. We have not completed any other services regarding the subject property within the three year period immediately preceding acceptance of the assignment, as an appraiser or in any other capacity.
- Acceptance – Our proposal assumes prompt acceptance by the client. Our proposal shall be considered void if not accepted within 14 days.
- Liability - Our services will be performed in conformity with, and will be subject to, the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute and the Uniform Standards of Professional Appraisal Practice. All liability claims for damages, cost of defense or expenses to be levied against our firm on account of any opinions, errors, omissions or professional negligence will be limited to a sum not to exceed our fees for professional services or \$5,000, whichever is greater.
- Confidentiality – All details provided by the client and all of our work completed will be subject to strict confidentiality requirements as required by law. Market data obtained during the course of the assignment for our internal records is not subject to confidentiality restrictions.
- Data Provided by Client – We require copies of all pertinent property data retained in the client's files including lot maps, building plans, zone change or government approvals, building area, construction details and other data considering that local government records are frequently incomplete or inaccurate. We are not responsible for any errors based on government records or other property data not provided by the client.
- Research – Our research will be based upon review of our internal database which includes all real estate transactions on Guam, or by competitive property market research with owners, agents, managers, landlords and others as necessary. All relevant macroeconomic issues will be considered.
- Approaches Utilized – The approaches utilized for analysis purposes will be selected by the appraiser(s) based on market data available, market conditions and other factors. Approaches utilized are at the sole discretion of the appraiser(s).
- Delivery of Report – Delivery of the report constitutes final completion of the assignment. Follow-up work including updates, litigation support or other matters shall be subject to the acceptance of a separate contract.
- Client Instructions – Unless otherwise instructed by the client or disclosed by our research, we will assume clear title, adequate and sound construction, ADA, building code and zoning compliance, and that the subject is not affected by hazardous materials including mold.
- Payment – Unless other terms are agreed upon, a retainer is due upon acceptance of the proposal and the balance due is payable within 30 days of report delivery. Late charges will be assessed at the rate of 1.5 percent per month on any outstanding balance.

ITEM 3

CAPTAIN & ASSOCIATES

REAL ESTATE APPRAISAL & CONSULTING

November 30, 2012

Ms. Mary Torres
General Manager
Port Authority of Guam
Jose D. Leon Guerrero Commercial Port
1026 Cabras Highway, Suite 201
Piti, Guam 96915

Dear Ms. Torres:

Subject: Summary Appraisal and Consulting Report Regarding Analysis of the Port Authority of Guam's Office, Warehouse, Open Yard and Telecommunication Spaces Located at Piti, Island of Guam

In response to your request, we have completed this Summary Appraisal and Consulting Report. The Port Authority of Guam ("PAG") owns the fee simple interest in various office, warehouse, open yard and telecommunication spaces located at the Jose D. Leon Guerrero Commercial Port of Guam ("Port") or ("Commercial Port") in the Municipality of Piti, Island of Guam. The Commercial Port provides the people of Guam with ocean commerce, shipping, recreational and commercial boating as well as sea vessel navigation. PAG provides a critical role with a reported 90 percent of the day-to-day goods and supplies consumed by Guam residents passing through the Port. The Commercial Port became operational in 1969 and requires a significant modernization.

Most recently, an agreement between PAG and the U.S. Department of Transportation's Maritime Administration allows for federal assistance in the Port's efforts to upgrade and modernize the facilities. The Maritime Administration is the lead agency since the Legislature approved the Port Modernization Master Plan. The Master Plan calls for a wide range of upgrades and a capital cost estimate of approximately \$200 million. Various Port upgrade projects are now underway or proposed.

The Port Authority of Guam recently retained Captain & Associates, Inc. to complete appraisal and consulting work to include the analysis of PAG's current fee structure to determine possible rate increases and/or decreases for office, warehouse and short term ground leases (open yard space), to include the appropriate and applicable common area charges and/or a modified gross rent conclusion (exclusive of power). PAG further requires us to determine the telecommunications (ie. telecom support equipment, antennae, and others) site market rent value of the Port Administration and Annex Buildings & Warehouses, including rooftops.

Our conclusions may or may not be implemented pursuant to Public Law 30-19. You represent PAG in these matters and require an appraisal report including estimates of market rent for the subject properties, for Public Law 30-19 related internal decision-making purposes. You further require consulting services regarding the application of benchmark rent conclusions, the impact of tenant improvements and other factors detailed herein.

Our assignment was to prepare a Summary Appraisal and Consulting Report including our estimates of market rent for the subject properties. The function of this appraisal is to provide informed market rent conclusions, in addition to relevant supporting data, upon which Public Law 30-19 internal decisions may be based. The function of our consulting work is to provide the client with guidance in the application of our rent conclusions. The intended users of our report include the client, its authorized representatives and any auditors or regulators that may be involved with oversight. This report is subject to the Assumptions and Limiting Conditions contained in a following section. The effective date of this appraisal is November 9, 2012, the date of inspection by the appraiser/consultant.

Based on our research and analyses completed, subject to the Assumptions and Limiting Conditions stated in this report, assuming typical lease terms, average conditions and benchmark space sizes, our conclusions are summarized as follows.

| Summary of Conclusions Table | | |
|------------------------------|------------------------|---------------------------------------|
| Type of Space | Benchmark Size (sf) | Market Rent Conclusion (\$/sf/mo.) |
| Office | 1,000 | \$1.41 |
| Warehouse | 3,400 | \$0.70 |
| Open Space | N/A | \$0.39 |
| Telecom | N/A | \$750-\$1,250 per month ¹ |

Our benchmark conclusions assume lease terms that are typical in the marketplace and are subject to our assumptions and limiting conditions contained herein. Benchmark market rent conclusions may have somewhat limited direct application considering that additional factors may justify the negotiation of rent at levels higher or lower than the benchmarks. The application of a benchmark market rent conclusion across a wide range of space types and sizes is not typical in the market place. It is advised that the client seek reasonable leeway with the negotiation of rents with tenants. It is advisable that our benchmark conclusions are considered in light of specific circumstances including the following.

¹ Rooftop only; additional charges apply for office space if required.

Benchmark Application Factors

- Lease Term
- Tenant Improvements
- Type of Space Leased
- Size of Space Leased

The typical prevailing lease term for a commercial tenant on Guam is two to four years. The length of lease term is typically negotiated and factors considered include lessee relocation expenses, time/distance relationships, business preferences and other factors. Longer lease terms may apply if a tenant invests substantially in build-out, installation of specialized fixed improvements (possibly including cold storage areas and other upgrades). It is unusual for commercial real estate landlords in the private sector to maintain tenancy on a month-to-month basis. This situation may arise if landlords seek a rental increase and tenants are unable to incur additional expenses under a fixed term scenario.

Tenant improvements may also be considered by a landlord negotiating the lease of vacant commercial and industrial space. Tenants may incur significant expense in improving a leased premises with fixed improvements including office space, cold storage and other upgrades. Tenant improvements that are not fixed improvements or are of minimal desirability to alternate tenants may not justify a negotiated rental discount considering that the landlord benefits are minimized under this scenario. Tenant improvements that the landlord will eventually benefit from may be considered by landlords on a cost/amortization basis, which partially allows tenants to recover the cost of investment.

The type of space leased is another factor that should be considered by commercial and industrial property landlords. The current PAG practice of allocating warehouse space at one rent level and interior office space (within the warehouse) at another rent level is not typically reflected in the wider marketplace, particularly if the tenant is responsible for the cost of the improvements. If the industrial space leased benefits from additional improvements such as office, cold storage or other upgrades, the rent charged by the landlord may include a premium for these attributes (assuming such premium is justified in marketplace). Similar factors may impact market rent for commercial office spaces.

The size of space leased is an additional factor that is typically considered by commercial and industrial property landlords in the marketplace. Typically, the overall unit rate rent charged (most commonly \$ per square foot per month) would decline for spaces that are larger than the typical size in the marketplace. Size adjustments can vary widely, and it would not be unusual to see very large space tenants paying unitrates that are less than half of that reflected by an unusually small sized space tenant.

Local real estate market conditions have transitioned from one characterized by massive foreign investment, increasing prices and high liquidity (2005 through mid-2008) to one characterized by extremely limited activity and heightened caution due to the global credit and liquidity crisis, uncertainty regarding the pending military build-up, and issues related to the recent Japan disasters. Although prevailing sentiment is generally cautious, the long-term remains positive due to the massive pending multi-billion dollar military expansion; however, build-up details remain vague. It is possible that negative factors will continue to impact the local real estate market in the near term although "unprecedented" military spending is expected to more than offset negative forces by 2014, unless plans are overhauled or delayed further. During late 2011, employment, tourism and investor sentiment improved although Government of Guam operations remained weak. Since January 2012, tourism has improved significantly while real estate market and economic activity have reflected generally weak or mixed signals, and the risk associated with the previously proposed military build-up has increased to a point where most investors substantially discount or ignore prior, wildly optimistic projections.

Details regarding our research and analyses are contained in the body of this report. An Executive Summary is contained in a following section. W. Nicholas Captain, MAI, CRE has completed numerous appraisals and consulting reports regarding market rent studies on Guam, including ports and other uniquely situated properties, and he is competent to complete this report.

The undersigned hereby certifies that, to the best of my knowledge and belief:

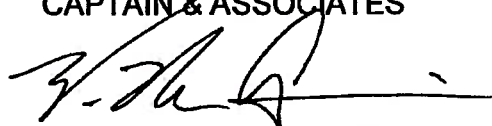
- the statements of fact contained in this report are true and correct;
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal, impartial, and unbiased professional analyses, opinions, and conclusions;
- I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved;
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment or our engagement in this assignment was not contingent upon developing or reporting predetermined results;
- I have not completed any services regarding the subject property within the three year period immediately preceding acceptance of the assignment, as an appraiser or in any other capacity;
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or a direction in value that favors the cause of the client, the amount of the value opinion, the attainment of stipulated results, or the occurrence of a subsequent event directly related to the intended use of this appraisal;
- this appraisal assignment was not based on a requested minimum valuation, a specific valuation, or the approval of the loan;
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute and the Uniform Standards of Professional Appraisal Practice;
- the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives;
- I made a personal inspection of the subject property;
- as of the date of this report, W. Nicholas Captain, MAI, CRE has completed the requirements of the continuing education program of the Appraisal Institute; and,
- no one provided real property appraisal assistance to the person signing this report.

Ms. Mary Torres
November 30, 2012
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Thank you for the opportunity to complete this real estate appraisal and consulting assignment for you.

Sincerely,

CAPTAIN & ASSOCIATES

A handwritten signature in black ink, appearing to read 'W. Nicholas Captain', written over a horizontal line.

W. Nicholas Captain, MAI, CRE
President

Guam Certified Appraiser
License No. CA-09-017
Certificate Expires 03/10/13

BOARD OF DIRECTORS

*Daniel J. Tydingco, Chairman
Michael T. Benito, Vice Chairman
Mary Michelle Gibson, Secretary
Eduardo R. Ilao, Member
Christine Won Pat Baleto, Member*



Resolution No. 2012-25

**RELATIVE TO AUTHORIZING THE EXECUTION OF THE TRANSACTIONS
AND DELIVERY OF THE LOAN DOCUMENTS BY AND BETWEEN
PORT AUTHORITY OF GUAM AND ANZ BANK**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE PORT AUTHORITY OF
GUAM:**

WHEREAS, the Port Authority of Guam issued a Request for Proposal PAG-07-006 in 2007 to solicit financing for the acquisition of a gantry crane not to exceed \$12 million and awarded it to ANZ Guam, Inc., formerly known as Citizens Security Bank; and

WHEREAS, in September 2009, Public Law 30-57 was enacted approving the Port Master Plan 2007 Update and mandated the Port to acquire two (2) gantry cranes no later than December 31, 2012; and

WHEREAS, on August 27, 2012, Public Utilities Commission approved the Sales Agreement and Interim Maintenance Agreement as stipulated in the PAG Docket 12-01 Order; and

WHEREAS, on September 20, 2012, the Board of Directors accepted the terms and conditions of ANZ Guam, Inc. in the amount of \$12 Million Dollars for purposes of acquiring POLA Cranes 14, 16, 17 and Gantry Crane 3; and

WHEREAS, on September 25, 2012, the Public Utilities Commission authorized the Port Authority of Guam to proceed with finalizing the ANZ loan documents; now therefore be it

RESOLVED, that the following officials of the Port Authority of Guam are duly authorized to execute the transactions and delivery of the loan documents by and between Port Authority of Guam and ANZ Guam, Inc.:

Name of Official

1. Daniel J. Tydingco
2. Joanne M. S. Brown
3. Miami E. Ulbenario

Title

Chairman, Board of Directors, Port Authority of Guam
Acting General Manager, Port Authority of Guam
Certifying Officer, Port Authority of Guam

and be it further

RESOLVED, the Chairman certify to and the Secretary attest the adoption hereof and that a copy of this resolution be transmitted to ANZ Guam, Inc.

**PASSED AND ADOPTED UNANIMOUSLY BY THE BOARD OF
DIRECTORS THIS 19th DAY OF DECEMBER, 2012.**

**DANIEL J. TYDINGCO
CHAIRMAN, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM**

**MARY MICHELLE GIBSON
SECRETARY, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM**