

BOARD OF DIRECTORS

Francisco G. Santos, Chairman
Nathan T. Taimanglo, Vice Chairman
Isa Marie C. Koki, Board Secretary
Dorothy P. Harris, Member



Resolution No. 2021-05

RELATIVE TO ADOPTING AND IMPLEMENTING A UNIFORM NOTICE OF AREA AVAILABILITY (NOAA) APPLICATION PROCESS FOR PROPOSALS AND INTERESTS IN PORT PROPERTY BY THE GENERAL PUBLIC

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

WHEREAS, *I Liheslaturan Guahån*, through its enactment of PL 13-87, established the Port Authority of Guam (“the Port” or “PAG”) as a “public corporation and autonomous instrumentality of the government of Guam” with specific powers and duties as codified in Title 12 GCA § 10101, *et seq.*; and

WHEREAS, through its enabling legislation, *I Liheslaturan Guahån* granted the PAG Board of Directors the authority to control and manage certain real property. Specifically, Title 12 GCA § 10104(f) provides: “(f) In accordance with law, control, manage and have jurisdiction over all government of Guam lands within the boundaries of Cabras Island and Drydock Island and seaward therefrom to the limits of the Glass Breakwater and all areas designated as small boat basins or recreational boating facilities, including submerged lands except for the following: (1) those facilities under the control and jurisdiction of departments or agencies of the United States government; and (2) all seashore properties and facilities which fall under the Territorial Parks System and boat launching ramps under the jurisdiction of the Department of Parks and Recreation.” *Id.*; and

WHEREAS, also through its enabling legislation, the PAG Board of Directors may “[e]nter into and perform such contracts, leases, . . . and other transactions . . . with any person, firm, association or corporation, as may be deemed necessary for the execution of its responsibilities” and to “make, negotiate and enter into a commercial lease, or issue a permit or license for the use of its real property and other related facilities for a term not to exceed five years,” notwithstanding any other law. *See* 12 GCA §§ 10105(a) and 10105(i); and

WHEREAS, it is further provided that legislative approval is required however, only for those contracts or leases known to be in excess of five (5) years, inclusive of any extension, option or renewal. *See* 5 GCA §§ 5127 (a) and (b) (defining “Exceptional Term Contracts” and requirements for solicitation); *see also* PL 34-99 and Title 21 GCA § 60112(a); and

WHEREAS, when read together, 12 GCA § 10105(i), 5 GCA §§ 5127 (a) and (b), and 21 GCA § 60112(a), authorizes the PAG Board of Directors to exercise its powers to approve contracts regarding the use and availability of PAG real property for leasing, licensing, or permitting, for terms not exceeding five (5) years; and

WHEREAS, the Port intends to establish and issue a standard Notice of Area Availability application process for all vacant and usable real property within the Port’s jurisdiction to ascertain unsolicited and potential interests on identified Port properties from the general public for commercial leases, licenses, or permits for short term leases of five (5) years or less; and

WHEREAS, upon response to the Notice of Area Availability, designated Port staff shall review all applications and proposals and respond with its recommendation to the General Manager. Thereafter, the General Manager shall present such interests to the Board of Directors for final review and approval; and

NOW THEREFORE BE IT RESOLVED, that the Board of Directors, approves the use and application of a standard Notice of Area Availability process for all vacant and usable real property within the Port’s jurisdiction to ascertain potential interests on identified Port properties from the general public for commercial leases, licenses, or permits for short term leases of five (5) years or less; and be it further

RESOLVED, if a term of more than five (5) is proposed, the Board of Directors hereby authorizes the General Manager to issue a Determination of Need to solicit an Exceptional Term Contracts pursuant to PL 34-99, and subject to board and legislative approval. *See* 5 GCA §§ 5127 (a) and (b); and be it further

RESOLVED, the Board of Directors authorizes the General Manager to accept and timely review all applications and proposals in response to the Notice of Area Availability and thereafter, present such interest to the Board of Directors for final review and approval in accordance with 12 GCA § 10105(i), 5 GCA §§ 5127 (a) and (b), and 21 GCA § 60112(a); and be it further

RESOLVED, the Chairman certify to, and the Secretary attest to, the adoption hereof.

PASSED AND ADOPTED UNANIMOUSLY BY THE BOARD OF DIRECTORS THIS 27th DAY OF MAY, 2021.



**FRANCISCO G. SANTOS
CHAIRMAN, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM**





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**ISA MARIE C. KOKI
SECRETARY, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM**