



**PORT OF GUAM**  
ATURIDAT I PUETTON GUAHAN  
Jose D. Leon Guerrero Commercial Port  
1026 Cabras Highway, Suite 201, Piti, Guam 96925  
Telephone: 671-477-5931/35 Facsimile: 671-477-2689/4445  
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Lourdes A. Leon Guerrero  
Governor of Guam  
Joshua F. Tenorio  
Lieutenant Governor

**REGULAR MEETING OF THE BOARD OF DIRECTORS**  
Jose D. Leon Guerrero Commercial Port  
Thursday, July 6, 2023  
Virtual Board Meeting  
3:00 p.m.

**A G E N D A**

- I. CALL TO ORDER
- II. APPROVAL OF MINUTES
  1. April 6, 2023 – Regular Board Meeting
- III. PUBLIC COMMENTS:
  - a. Public Comments
  - b. Employee Comments
  - c. PAGGMA Association
- IV. GENERAL MANAGER'S REPORT (deferred to Old/New Business Items)
- V. OLD BUSINESS
- VI. NEW BUSINESS
  1. Adoption of Resolution No. 2023-05 Relative to honoring the life and service of Port Authority of Guam employee Junior B. Camacho and extending our heartfelt deep sympathy and condolences to the bereaved family members.
  2. Adoption of Resolution No. 2023-06 Relative to approving a stipulated dismissal in Civil Service Commission Adverse Action Appeal Case No. 13-AA06T SP, Jeffrey Q. Cruz v. Port Authority of Guam, based on Guam Supreme Court Rulings in the Cases of 2015 Guam 14 (Susuico I) and 2019 Guam 15 (Susuico II), and authorizing General Manager Rory J. Respicio to execute the agreement and use up to \$126,000.00 in Port funds to satisfy the stipulated dismissal, thus realizing a cost avoidance of approximately \$210,128.43 in back wages, and to herein provide the finalized agreement to the Honorable Benjamin J.F. Cruz, Guam Public Auditor in the interest of transparency and accountability.
  3. Request for \$50K – Employee Wellness Programs.
  4. Hiring of Mr. Pacifico Martir as the Deputy General Manager for Administration and Finance of the Port Authority of Guam at a Pay Grade/Step QQ-7C at \$151,348.
- VII. ADJOURNMENT



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**MINUTES OF THE  
REGULAR MEETING OF THE BOARD OF DIRECTORS  
Thursday, April 6, 2023**

**I. CALL TO ORDER**

The Acting Chairperson called the regular meeting of the Board of Directors to order at 3:02 p.m., Thursday, April 6, 2023. Present at the meeting were:

Dorothy P. Harris, Vice Chairperson  
Dr. Judith P. Guthertz, Board Secretary  
Conchita S.N. Taitano, Board Member  
Rory J. Respicio, General Manager  
Dominic G. Muna, Deputy General Manager, Operations  
Atty. Jessica Toft, Port Counsel

Also present was Port Staff.

**II. APPROVAL OF MINUTES**

a. **February 23, 2023 – Regular Board Meeting:** Director Guthertz made motion to approve the minutes of February 23, 2023, subject to correction. The motion was seconded by Director Taitano and was unanimously passed.

**III. PUBLIC COMMENTS**

- a. **Public Comments:** None.  
b. **Employee Comments:** None.

c. **PAGGMA Association:** PAGGMA Association Vice President Steve Muna reported that the association is working with its Financial Consultant to prepare and publish PAGGMA's financial close-out report for FY2022. The association also held a Superbowl celebration for its members and plans are underway for March *Mes Chamoru* festivities.

**IV. GENERAL MANAGER'S REPORT**

1. **Port Hires Legal Counsel Jessica L. Toft.** On February 27, 2023, the Port welcomed Attorney Jessica L. Toft as its Port Staff Attorney. As a graduate from the University of Wisconsin-Madison with a Bachelor of Arts Degree in Behavioral Science and Law, Attorney Toft furthered in her studies at the University of Wisconsin Law School where she obtained her law degree. In 2004, Attorney Toft was hired by the Office of the Attorney General of Guam, then worked at the Judiciary of Guam as a Law Clerk in 2006. It was in

this position that Attorney Toft found her affinity for procurement law. As an Assistant Attorney General, Attorney Toft honed her knowledge of procurement law and appeals by advising executive agencies of the Government of Guam in procurement and procurement appeals. Additionally, her responsibilities included advising in Open Government Law matters, Freedom of Information matters, and reviewed Guam Administrative Rules and Regulation. Having Attorney Toft join our team focusing on procurement will push our outstanding items forward. Her extensive knowledge in procurement, as well as Open Government Law and Freedom of Information Law reinforces our commitment to transparency.

2. **Zero Waste Conference.** As a member of Guam's Zero Waste Working Group, I had an opportunity during the conference held on March 1, 2023 to speak on the successes the Port has had implementing transformative sustainability programs that will have a positive impact on our island for generations to come. Back then, as a senator, I had authored visionary laws that are now being implemented at the Port, such as the Recycling Revolving Fund and the Recycling Enterprise Zone. These laws support the establishment of the Zero Waste Master Plan, providing a sustainable long-term approach toward establishing a green circular economy and developing a more sustainable, robust, and resilient economy for Guam and our region.

Sustainable port development is a critical issue worldwide and has a direct impact on international and domestic freight transportation as well as local and national economic and social development and environmental protection. At the Port Authority, we have been working on sustainable projects to address air pollution, dust, noise and water pollution, reuse and recycling initiatives; protecting freshwater resources, targeted marine litter initiatives; addressing soil and sediment contamination and protecting habitats and enhancing biodiversity. Also, as a component of the Port's 2023 Master Plan update the agency is developing a study on the benefits of installing solar panels on port buildings as well as reducing the Port's reliance on the island's power grids by utilizing its generator to assist the Guam Power Authority, whenever we have to go off-grid. There are many sustainable initiatives already ongoing at the Port Authority, such as:

- replacement of four terminal tractors with 16 Tier-3 ultra-low sulfur diesel (ULSD) terminal tractors.
- adding eight top lifters at the tier-4 ULSD levels to our fleet. These tier-4 engines are required to run off of ultra-low sulfur diesel which contains only 15 parts per million of sulfur. The switch to the ultra-low sulfur diesel terminal tractors has resulted in a drastic reduction in sulfur emissions without a perceptible difference in energy output.
- Zero Waste was the focus of the ongoing \$2.5 Million demolition project to dismantle and properly dispose of massive inoperable assets at the Port. Every piece of equipment is being cut up and transported off island for recycling. Not a single piece of metal taken from these cranes or any debris from the barges will remain on Guam.

- Abandoned derelict vessels at the Guam Harbor of Refuge. The physical presence of these abandoned derelict vessels was detrimental to sensitive marine and coastal habitats as they can sink or move during storms, disperse oil and toxic chemicals still on board, and become a source of marine debris. Their removal helped to protect the environment and facilitated renewed use of the harbor. Guam EPA, GPA, the Port as well as the Navy's Salvage team, worked collaboratively on this very successful project.
3. **USCG Annual Safety Inspection.** An annual inspection of the Port facilities was conducted on March 8, 2023 by the US Coast Guard. Areas include EQMR building, welding shop, CFS building, Upper/Lower Tower, checkpoint, container yard and load center stations. I am pleased to announce that there were no discrepancies found and therefore, the Port has passed its inspection. Congratulations for a job well done to the divisions of Safety, Operations, EQMR, Port Police and Harbor Master.
  4. **Waterline Replacement and Relocation Project.** A groundbreaking was held on March 9, 2023 for the Waterline Replacement and Relocation Project, which is one of the bond funded projects. Contracted to BME & Sons with an estimated project completion date of May 2024. This \$4.8M project looks to:
    - relocate the main service feed line to perimeter of terminal that will minimize any impact to on-going terminal operations.
    - provide redundancy and address 15 major leaks that have been identified in the last three years.
    - new water lines will improve water pressure to meet local building codes, National Fire Protection Association requirements, and USCG requirements for firefighting operations.
    - provide a shutoff and isolation valve to allow for proper system testing, servicing and maintenance.
  5. **Mes Chamoru Events.** A celebration on *Mes Chamoru* festivities took place last month in March. The Port employees provided demonstrations on a variety of local flavored foodies, such as the *bunelos manglo* (air doughnuts), *rosette* (pretzel cookies), *rosketti* (cookies), *guyuria* (jawbreaker cookies) and *bunelos uhang* (shrimp patties). The final luncheon celebration took place on March 24, 2023 at the Port Authority Hut where port employees, port tenants, family and friends joined together to feast on the local foods. During the finale, the Port employees and guests were also able to observe the demonstration on *châhan* – underground cooking. The final close-out expense for this event was \$8,956.88. All unused funds in the amount of \$1,043.12 were returned to Finance.
  6. **Gantry Crane Annual Certification.** On March 27-31, 2023, an annual inspection of the Port's three Gantry Cranes was conducted in accordance with OSHA Title 29 CFR, Part 1919. The scope of work included gantries 4, 5 & 6 and spreaders on each crane, plus two (2) spare spreaders. I am proud to announce that the cranes have successfully received its

recertification and passed its inspection. Congratulations for a job well done to all sections of the Equipment Maintenance division and Mr. Joaquin Pangelinan, Manager of Equipment Support Services.

**7. State of the Port Authority of Guam 2023– (Attached to this report).**

- Major accomplishments
  - Massive upgrades and construction at the Port
  - Port modernization masterplan update
  - Grant awards
  - Financial stability
  - Port wins transparency award
  - Guam/CNMI Regional Resiliency Assessment Program
  - Organization Climate Survey
- Port Challenges
  - Buy American Act
- Goals
  - Ship-to-Shore gantry cranes
  - Port sustainability
    - Hotel Wharf Rehabilitation
    - Replacement of Terminal Tractors
    - Solar Power Feasibility Study
    - Mitigation of Sea Level Rising – Wharves Service Life Extension from piers F1 to F6

**8. General Manager’s Notes for YTD Finances. We are providing the following summary for February 28, 2023:**

**REVENUES AND CARGO THROUGHPUT:**

- The Port’s Total YTD Operating revenue for February 28, 2023, is \$23.8 million, 7.0% or \$1.8M lower than the YTD February FY 23 budget projection of \$25.6M.
- The total number of containers handled as of February 28, 2023, is 34,012, 7.3% or 2,666 containers lower than last year’s February 2022 YTD total of 36,678

**OPERATING EXPENSES:**

- Overall Operating expenses, as of February 28, 2023, is \$22.3M, which is 1.0% or \$199K higher than the YTD budget for February with a total of \$22.1M. The current total expense as of February is 42% of the total approved FY2023 Budget in the amount of \$53.1 M.

**OVERTIME EXPENSE AND DIRECT LABOR REVENUE:**

- YTD Overtime for Divisions involved in Operations is \$718K, 14% or \$86K higher than the overtime budget for YTD February at \$632K.

Direct Labor reimbursement is \$1.6M, 2.6% or \$42K lower than the FY23 budget of \$1.66M.

Here is the breakdown:

Direct Labor Revenue:	\$1,614,173
Operations Overtime:	<u>\$ 718,128</u>
Variance:	\$ 896,045

**YTD OPERATING REVENUES MINUS YTD EXPENSES:**

- Operating revenues minus operating expenses resulted in an operating income of \$1.5M. The final result for February is a net income of \$1.4M, after deducting the net of Other Income/Expenses totaling -\$79K.

*Note: \$79K is a net balance of Other Income and Expense composed of Interest Income, Interest Expense, Federal Reimbursements, Federal Expenses, Retirees COLA, Supplemental, Medical and Dental, and Other Non-Operating Income & Expenses.*

Other Financial Highlights, as of February 28, 2023:

- The debt service ratio as of February 28, 2023, is 1.20. This is 4% lower than the Bond Indenture Debt service ratio requirement of 1.25.
- Days Cash on Hand is 925 days, 85% or 425 days higher than the 500 days requirement of Moody's Rating agency.

Debt Service Ratio – February 2023

Projected Annual Debt Service Coverage	1.20
Debt Service Coverage Requirement	1.25
Variance	-0.05
% Above the Indenture Requirement	-4%

**9. Grant Awards and Ongoing Grant Submissions.**

- **U.S. Economic Development Administration (EDA) Fuel Pipeline Connectivity Project. Status update:** EDA accepted PAG's recommendation to move forward with selected firm on March 8, 2023. EDA approved PAG's request to adjust grant budget categories on March 21, 2023. Contract pending Board approval.

- **Department of Agriculture Grant (DOAG).** U.S. Fish Wildlife Services approved a 12-month no-cost schedule modification of grant-funded projects actively listed below.
  - **Agat Marina Dock B Construction.** The Official NTP was issued to AIC International on August 4, 2022. Project completion is 243 calendar days from NTP issuance, including obtaining all permitting requirements.  
*Status Update:* PAG approved the final design. Pending review and approval of permits by USACE. The Contractor will be requesting a No-Cost Schedule Extension, due to design and environmental permitting delays.
- **Harbor of Refuge Repairs.** A 60-day time extension was approved by PAG from February 4 to April 5, 2023. *Status Update:* The PAG Engineers met with the Contractor, ART Constructors, and to date 36 out of 48 moorage systems are fully installed. The remaining moorage system is in Rows D & E (the same row as the sunken vessels). The Contractor requested to proceed with installing the moorage systems directly adjacent to the sunken vessels at no cost to the Port. Their plan is to work on a single system at a time. The sunken vessels will have three lines always holding them in place. No new lines were purchased. The Subcontractor will ensure the sunken vessels always remain secured using their existing lines.
- **Gantry Crane Acquisition.**
  - **Acquisition of an STS Gantry Crane by the PAG.** *Status Update:* Requisition for one (1) crane has been entered. WSP submitted additional information to include Liftech update to the STS crane specification and the Wharf Periods of Vibration Report. This update will be incorporated into the crane specifications. *Status Update:* The PAG Legal Team is reviewing the IDIQ draft package provided by the Procurement Division.
  - **USDA Direct Loan.** PAG Finance was assigned to develop a request for proposal to select a lender to provide commercial loan financing for replacing the PAG's Ship-to-Shore Gantry Cranes and acquiring additional cargo handling equipment, e.g., Tractors, Telescopic 150 Ton Crane, Top lifters, Forklifts. PAG will be guided by the USDA Communities Facilities Rural Development Leadership, PAG Legal Counsel, and PAG Procurement Team moving forward. *Status Update:* Status quo.
  - **MARAD MEGA Grant Program.** The 3 STS Gantry Cranes application was submitted for MARAD's mega grant program on May 20, 2022. According to the U.S. DOT website, the recipients of RURAL and Mega grants will be announced in the coming months. *Status Update:* PAG was not considered for the MEGA grant program.
- **MARAD Marine Highway Program.** The Grants Management Specialist informed Planning staff that reduced scope was approved (reduced tractor count from 11 to 9) and

removed Admin and Legal funding request due to CatEx documentation finished by MARAD. *Status Update:* On March 22, 2023, MARAD indicated a grant agreement will be sent to PAG for concurrence shortly.

- **Office of Local Defense Community Cooperation (Formerly Office of Economic Adjustment OEA).** \$1.2 Million OLDCC grant was awarded to the Port for a comprehensive two-phase in-water infrastructure feasibility study and a military support assessment for Area A and Hotel Wharf. Memorandum of Agreement for the in-water feasibility study was signed by the Governor on October 25, 2022 and the Notice to Proceed was issued on October 31, 2022. *Status Update:* Port's OAE is currently working on the sustainability and zero waste feasibility study Scope of Work to support the Port's grant application.
  - **EPA Diesel Emissions Reduction Act (DERA) Program.** Requisition was entered on October 24, 2022 for 4 tractors. IFB/PAG-010-23 was advertised on February 1, 2023. Two bids were received by the deadline on February 22, 2023. *Status Update:* Due to two unsuccessful attempts with the IFB procurement process, U.S. EPA approved to procure from the Federal GSA Schedule. Project is in active procurement.
  - **US DOT Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program.** *Status Update:* The Port will be working with USACE through the MOA established between the Government of Guam and the USACE whereby technical and professional support will be provided to the Port on NEPA requirements.
  - **Office of Insular Affairs Maintenance Assistance Program (MAP).** The PAG Welding Shop Phase 1 & 2 project (awarded in 2020 & 2021) is currently pending the HABS/HAER report prior to construction. *Status Update:* The PAG submitted comments on the draft Determination of Eligibility and Assessment of Effect on March 2, 2023. The revised versions of both documents are now under review by WSP prior to submission to the SHPO.
  - **Office of Insular Affairs Maintenance Assistance Program (MAP).** PAG was awarded the FY22 MAP grant on June 29, 2022 for the Generator Maintenance Program. *Status Update:* The generator maintenance & sustainment bid *IFB-PAG-012-23* was announced on March 6, 2023 in the Guam Daily Post and on the Port website. The Pre-proposal conference was held on March 10, 2023 with two potential bidders in attendance. The Bid opening is scheduled for April 5, 2023.
10. **Port Revenue Bonds Project Status.** As of March 24, 2023, the attachment provides information on the status of the revenue bond projects that consist of rehabilitation of the hotel wharf, golf pier repairs and improvements, waterline replacement/ relocation, EQMR building, and warehouse one repair/upgrades, new admin annex building, and other priority projects.



## V. OLD BUSINESS

1. **Request authorization to create the positions of Chief Financial Officer and General Administration Manager (motion to approve the creation of positions transparency compliance as mandated by Title 4, GCA, Section 6303.1).** By way of background, on December 29, 2022, the Board of Directors authorized management to create the positions of Chief Financial Officer and General Administration Manager. Subsequently thereafter, the Board of Directors at its meeting of February 23, 2023 authorized management to proceed with the transparency process for those positions. The General Manager mentioned that to comply with the transparency process as mandated by 4 GCA Section 6303.1, the creation of position documents were posted on the Port's website, port employees were notified, and notification was also provided to electronic and written media outlets. The postings and notifications were provided on March 3, 2023, and deadline to submit comments was on March 22, 2023. There were no comments received by the Port employees or the general public regarding the creation of these positions. Based on this, the transparency requirements have been met and Board approval is being requested for adoption of the Chief Financial Officer and General Administration Manager positions to be established in the classified service at a Pay Grade P and Pay Grade M, respectively. Director Guthertz made motion to adopt the transparency process for the creation of the Chief Financial Officer and General Administration Manager positions, seconded by Director Taitano. Motion was unanimously approved.

## VI. NEW BUSINESS

1. **Award of RFP-PAG-022-003 A&E Design & Consulting Services for the Installation of Fuel Pipeline System at F1 Pier and Golf Pier Connectivity.** The General Manager presented executive summary RFP-PAG-022-003 for the A&E Design & Consulting Services for the Installation of Fuel Pipeline System at F1 Pier and Golf Pier Connectivity, where three (3) prospective offerors obtained RFP packets, and of that, those three (3) companies submitted proposals prior to the deadline established. Upon review of the bid proposals submitted, it was determined that all were responsive and in compliant with the RFP procurement requirements. Upon completion of the evaluation bids performed by the Port's evaluation committee team on the scoring and ranking, resulted in AM Orient as being the highest and best qualified offeror. During the cost negotiations process, it was determined that AM Orient's rates and fees were high. After further negotiations, it was agreed to by both parties, the Port cost negotiation team and AM Orient, that the Port's CIP division would perform the Construction Management Services (CMS) thereby reducing the cost for this project, to which was accepted to be fair and reasonable. This procurement bid process has been reviewed by Port counsel and is now being brought before the Board for contract award approval. Director Guthertz made motion to approve the award to AM Orient for RFP-PAG-022-003 for the A&E Design & Consulting Services for the Installation of Fuel Pipeline System at F1 Pier and Golf Pier Connectivity, who has been deemed responsive and responsible and has met all the requirements and specifications set forth in the Request for Proposal, which is consistent with the Guam Procurement Regulations. Motion was seconded by Director Taitano and was unanimously approved.

2. **Acceptance of Port Lease Agreement with Marianas Yacht Club for purposes of transmitting to the Governor and Legislature in accordance with Board Resolution No. 2021-03.** The General Manager presented the proposed 30-year lease agreement reached between the Port Authority of Guam and the Marianas Yacht Club for the Board's acceptance. He said on February 25, 2021, the Port Board of Directors unanimously passed Board Resolution No. 2021-03, which affirmed that it is in the best interest of the Port Authority to enter into a new lease with MYC, for a term to be agreed on, but expected to exceed five (5) years. The Board further resolved to authorize Port management to petition the Governor of Guam for approval to seek a legislative solution to approve a new lease between the Port and MYC, since 12 GCA § 10105(i) and 21 GCA § 60112(a) require legislative approval for leases of government real property over five (5) years in duration. Port management then worked extensively with MYC to negotiate terms for a similar but new lease agreement between the Port and MYC. Based on this, Board acceptance is being requested on the proposed new lease, as presented, by and between the Port Authority and MYC. Upon acceptance, Port management will proceed with the Board's direction per Board Resolution No. 2021-03 to enter into the new lease agreement with MYC and petition the Governor to execute the lease and seek its legislative approval. Director Guthertz made motion to accept the proposed new lease agreement as presented between the Port Authority and Marianas Yacht Club, seconded by Director Taitano. Motion was unanimously approved.

3. **Adoption of Resolution No. 2023-01 Relative to approving the creation of Chief Financial Officer position in the classified service as authorized under Title 4, Guam Code Annotated, Sections 6303(d) and 6303.1.** Director Guthertz made motion to approve Resolution No. 2023-01 relative to approving the creation of Chief Financial Officer position in the classified service as authorized under Title 4, Guam Code Annotated, Sections 6303(d) and 6303.1. Motion was seconded by Director Taitano and was unanimously approved.

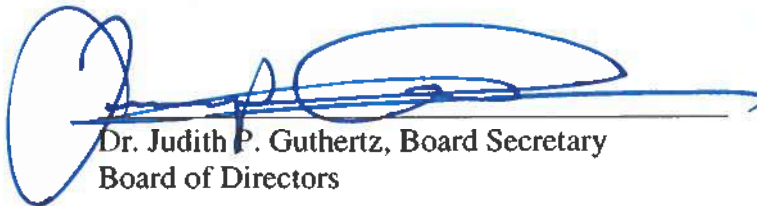
4. **Adoption of Resolution No. 2023-02 Relative to approving the creation of General Administration Manager position in the classified service as authorized under Title 4, Guam Code Annotated, Sections 6303(d) and 6303.1.** Director Guthertz made motion to approve Resolution No. 2023-02 relative to approving the creation of General Administration Manager position in the classified service as authorized under Title 4, Guam Code Annotated, Sections 6303(d) and 6303.1. Motion was seconded by Director Taitano and was unanimously approved.

5. **Adoption of Resolution No. 2023-03 Relative to recognizing Gary D. Kuwabara, from the Office of Local Defense and Community Cooperation, and to express our sincerest *Si Yu'os Ma'ase* and deepest appreciation for his professionalism and intelligence whenever carrying out his duties.** Director Guthertz made motion to approve Resolution No. 2023-03 relative to recognizing Gary D. Kuwabara, from the Office of Local Defense and Community Cooperation, and to express our sincerest *Si Yu'os Ma'ase* and deepest appreciation for his professionalism and intelligence whenever carrying out his duties. Motion was seconded by Director Taitano and was unanimously approved.

6. **Adoption of Resolution No. 2023-04 Relative to affirming that the attached document entitled The 2023 Master Plan for the Jose D. Leon Guerrero Commercial Port of Guam shall be the version that will be put for publicly and advanced thereafter to the Governor through the Bureau of Statistics and Plans and the Guam Legislature pursuant to Sections 1205 and 1206, Article 2, Chapter 1 of Title 5, Guam Code Annotated.** Director Guthertz made motion to approve Resolution No. 2023-04 relative to affirming that the attached document entitled The 2023 Master Plan for the Jose D. Leon Guerrero Commercial Port of Guam shall be the version that will be put for publicly and advanced thereafter to the Governor through the Bureau of Statistics and Plans and the Guam Legislature pursuant to Sections 1205 and 1206, Article 2, Chapter 1 of Title 5, Guam Code Annotated. Motion was seconded by Director Taitano and was unanimously approved.

### VII. ADJOURNMENT

There being no further business to discuss, it was moved by Director Guthertz and seconded by Director Taitano to adjourn the meeting at 4:09 p.m. The motion was unanimously passed.



Dr. Judith P. Guthertz, Board Secretary  
Board of Directors

APPROVED BY:



Dorothy P. Harris, Acting Chairperson  
Board of Directors





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## General Manager's Report for Board of Directors July 6, 2023

- 1. Port Board Unanimously Adopts 2023 Master Plan.** On April 6, 2023, the Port Board of Directors unanimously adopted the Port 2023 Master Plan. The purpose of the 2023 Port of Guam Master Plan is to assist the Port to define its near-term and long-term approach to improving the port by maintaining fiscally sustainable operations, and promoting increased awareness and consensus on its approach among all affected stakeholders and the rate payers of Guam. The plan culminates with a Port Improvement Program (PIP) comprised of two categories – Port Readiness Plan (PRP) and the Sustainability Plan (SP). The PRP is subdivided into capital improvement projects and other port readiness projects, while the SP addresses continued professional and technical services oversight and support to address port sustainability and resiliency, environmental initiatives to reduce the port's carbon footprint and reduce its greenhouse effects, and strategic goals toward zero waste improvements. The PIP focuses on ensuring the future readiness and resiliency of a modernized facility through the hardening of Port of Guam assets and resources to address national security concerns from the current and anticipated geopolitical environment. The Port Master Plan will guide the agency over the next five to 10 years as it transforms the Port into a world-class facility able to meet the growing demands of Guam and the entire military Indo-Pacific region.

### *Port Master Plan Goals*

- Provide a comprehensive overview of the Port's current conditions including governance, financial, operational, and physical attributes;
- Assess the current and projected cargo opportunities based on Guam's market drivers, which consist of military realignments, tourism, transshipment and organic growth;
- Determine near-term resiliency improvements and operational adjustments to accommodate the peak of the military build-up, support Indo-Pacific Command's Pacific Deterrence initiative (PDI) and ensure maritime posture for future deployments of military assets;
- Estimate the Port's capacity and ability to meet the projected demand and tenant requirements;

- Identify long-term port improvement efforts targeted towards continuing operational and economic sustainability;
- Establish optimal requirements for operations, maintenance and repair, and capital improvement projects;
- Validate the efficient and effective use of the Port's resources and assets;
- Present commercial strategies for PAG to diversify its revenue base and enhance its financial self-sufficiency including a comprehensive tariff simplification and associated benefits to the PAG and port users;
- Assess the impact of the recommended strategies on Guam's economic conditions; and
- Prepare implementation programs to support a coordinated approach of continuous Port improvements balanced with sustainability.

***Port Master Plan Key Elements***

- Ship-to-Shore Gantry Crane Replacement, Rehabilitation of Area A Fuel Storage Facility, In-Water Infrastructure Study, Wharves and Fuel Piers Long Term, Replacement, Financial Management System, Guam Customs Inspection Facility, Solar Power Study, Tariff Simplification, Terminal Operating System, Information Technology Study, Port Users Group Initiative for System Integration, Financial Feasibility Analysis, Economic Impact.

***Port 2023 Master Plan Public Hearing***

- On May 5, 2023, Bureau of Statistics & Plans conducted a public hearing on the Port's 2023 Master Plan at the PAG Board Conference Room. During the hearing, I had an opportunity to present the master plan before BSP. Alongside me was Port Owner Agent/Engineer WSP Blair Garcia and PAG Deputy General Manager Dominic Muna. Public comments at the hearing in support of the Port's master plan were received by PUGG Vice Chairman John Selleck, APL General Manager Charlie Hermosa, MEL Lines Country Manager Ed Cruz and Mr. John Santos, retired PAG Operations Manager.
- On June 6, 2023, Bureau of Statistics & Plans transmitted its review and analysis of the Port's master plan to the Governor. BSP recommended to the Governor that in light of post recovery efforts resulting from Typhoon Mawar, BSP is requesting an extension of 45 days from the date of the Governor's approval of the extension to conduct a thorough assessment of the Plan; and for BSP to coordinate comments from their networking agencies.

***PAG Review of BSP's Comments on Port Master Plan***

- We had an opportunity to review BSP's analysis of the master plan and felt the need to make some clarifications with BSP, for example:
    - BSP commented that the Plan can be improved by including a disaster preparedness plan as well as ensuring critical infrastructure is protected to allow for post typhoon recovery. **PAG Review:** This comment is misplaced as the Port has a Typhoon Annex and any updates to our disaster plan will be placed in that Typhoon Annex and not in our master plan.
    - BSP comment on Land Designation concerned with protecting natural resources and artifacts. **PAG Review:** The Port's Master Plan does not call for any proposed or new land designation. The existing footprint remains the same. Therefore, this comment is also misplaced. Additionally, we have been in the practice of seeking clearance and in compliant with HABS/HAER and State Historic Preservation Office (SHPO) requirements for any capital improvement projects requiring their attention.
    - BSP recommends that PAG coordinate with Hagatna Redevelopment Authority regarding assets and property at the Hagatna marina to ensure projects are consistent with the Marina District. **PAG Review:** We have autonomy over the Hagatna marina and to suggest the Port conform with the Hagatna Redevelopment Plan is misplaced.
    - On June 29, 2023, a meeting was held with BSP to discuss our review of BSP's analysis. BSP appreciated the feedback received from us and will make the necessary adjustments for our review. A follow-up meeting is scheduled for July 7<sup>th</sup>.
  
  - On May 3, 2023, a presentation of the Port's Master Plan was also made to the Port Legislative Oversight Committee and Port User's Group.
2. **Ground Breaking EQMR Building & Warehouse I Hardening Project.** On April 19, 2023, a ground breaking for the EQMR Building and WHI hardening project was held. Repairs and upgrades to the project sites will harden 79,000 square feet of warehouse space. Structural repairs will address existing cracks and spalling affecting the overall structural integrity of the EQMR Building and Warehouse I that pose hazards to personnel working within the facilities. The project also includes repairs to the mechanical and electrical systems within the EQMR Building, upgrades to the fire protection system and inspection and replacement of corroded reinforced steel in Warehouse 1. These projects will help ensure that operations at the Port remain uninterrupted especially within the EQMR building, which houses the repair and

maintenance of all PAG's heavy equipment such as forklifts, transportation fleet, cargo handling equipment and tractors. We are doing what we can to extend the service life of these facilities.

3. **Port signs Notice to Proceed for Radar Intrusion and Vessel Tracking System.** On April 25, 2023, we executed a Notice to Proceed (NTP) for the Acquisition and Installation of a Radar Intrusion and Vessel Tracking System for the Harbor Master's Office. This enhancement to the Port's security system is vital for maritime domain awareness, safety, and port efficiency. This project will aid in the prevention of transportation security incidents and mitigate potential harmful acts that may disrupt the flow of essential goods into Guam. G4S Security Systems was awarded \$347,000.00 for the project that is anticipated to be completed in November 2023. This project is funded by an FY 2021 Port Security Grant Program award and matched with local Port funds.
4. **Office of Public Accountability (OPA) Audit on Port Credit Card.** OPA held an Entrance Meeting with the Port on April 25, 2023 initiating a performance audit on Port's credit card usage. OPA's objective is to determine if purchases/transactions were conducted in compliance with applicable laws, rules, regulations, policies, and or standard operating procedures. The scope of the audit covers the period of October 1, 2019 through September 30, 2022. Finance division is closely working with OPA in providing documents requested for their review. The authorization to establish a Port Credit Card is through Board Policy Memorandum No. 2014-01.
5. **DYA Island Leadership Day.** On April 27, 2023, Leadership counterparts for the day were General Manager Sophia Taitano, Deputy General Manager for Operations Alexis Benavente, Personnel Services Administrator Cheyoung Ahn and Procurement & Supply Manager Melreese Rosario. Taitano is a Freshman at Notre Dame High School, Benavente is a 7th grader at Oceanview Middle School, Ahn is a Sophomore at Southern High School and Rosario is a Sophomore at St. Paul's Christian Academy.

After the introductions and welcoming brief, the student leader's toured the Port Command Center (PCC), Emergency Operations Center (EOC), and Port Facilities (Operations, Family Beach, and Port Beach). Counterparts had lunch at the Marina Grill, and afterwards, toured the Agat and Hagatna Marinas. Later in the afternoon, the Harbor Master's Office provided the group with a tour of their operations. Then a presentation of the Port's modernization efforts from the Planning Division was conducted. Thereafter, a close out meeting with the Management Team took, ending

the day with our youth leaders being presented with Port memorabilia and Certificates of the Appreciation for their participation in the annual Island Leadership Day.

6. **Port Owner's Agent/Engineering.** The Port's OAE Consultant – WSP, arrived on May 2-5, 2023 to continue discussions on the Port's Modernization Program. Discussions include: update on environmental assessment, master plan presentation preparation, hotel wharf, facility maintenance, grant strategies, tariff simplification, IT master plan, terminal operating system, HABS/HAER study, STS gantry cranes, Golf Pier and Pier F1 concepts, military readiness, environmental-health-safety status, and CIP projects (scope, cost, schedule).
7. **Legislative Confirmation Hearing for PAG Board.** A legislative confirmation hearing was held on May 3, 2023 for the Governor's re-appointment of Mr. Frank Santos, and appointment of Mr. Luis Baza to serve on the Port Authority Board. Legislative action on the confirmation has yet to be determined.

#### ***Legislative Confirmation Hearing Concerns***

During the recent Legislative Confirmation Hearing for our two Board of Directors nominees, numerous misstatements and allegations were made by a few lawmakers regarding the Port. I was not provided the opportunity to properly respond during the hearing so I would like to take this time to clear up the issues that were raised.

#### **Allegation regarding Mr. Luis Baza having a conflict at the CSC but not at the Port to settle the Port 7 cases:**

ANSWER: The conflict that Mr. Baza had at the Civil Service Commission was with his then-employer and Mr. Phillips. Once he went to work at the Port, those two conflicts no longer existed.

#### **Allegation regarding OPA report on alleged Port 7 overpayment:**

ANSWER: With regard to the OPA audits, we truly appreciated the OPA acknowledgement that we handled the appeals of these employees properly. In fact, the conclusion states that the OPA found that the reinstatements "were generally made in accordance with administrative and judicial review judgments and orders. The legal remedies stipulated in the Agreement to Satisfy Judgment and Settlement Agreement were likewise generally complied by the Port." We are grateful for this acknowledgement of how we handled these very complicated settlement agreements regarding the wrongful terminations of these employees. We do, however, remain in



disagreement over the acceptance of the personnel evaluations which were neither approved or disapproved by the former General Manager. However, one thing remains certain and that is that when the analysis was conducted on the methodology we utilized for the reconstruction of these salaries, it was determined that we had in fact underpaid two reinstated employees. As such, this would mean there were no overpayment made, so far to any of the audits conducted. Regarding the pay raise freeze mandate and potential violation on retroactive pay raises, the Port has been informed that Public Law 34-116 does not apply to the autonomous agencies since they do not receive general fund appropriations. Additionally, we were also being guided by a policy issued by the Consolidated Commission on Utilities (CCU), dated October 2, 2018, which determined that Public Law 34-116 does not apply to the agencies under the CCU's purview, as well as, an email from Mr. Lester Carlson, Director of Bureau of Budget & Management Research dated September 18, 2020 who validated that the law did not cover autonomous agencies (*email attached*).

*Allegation that the Port settled the Port 7 cases "without court orders:"*

ANSWER: During December 2019, February 2020, June 2020, and July 2020, the Port Authority of Guam, as directed by its Board of Directors, entered into settlements to satisfy judgments and orders, involving seven wrongfully terminated Port employees. For 7½ years, the Port's former General Manager pursued this costly litigation, which was all ultimately determined to be wrongful terminations of these seven Port employees, as the history and facts show that these Port employees prevailed at every juncture by winning on merit and then again winning on the 60-day rule in both the Supreme court and in the Civil Service Commission. The former General Manager and former Port legal counsel continued to pursue repeated appeals of these cases, which led to significant financial damage to the Port through continued legal losses and that liability continued to grow daily and consumed a great deal of ratepayer money, the Port's time and resources, resulting in millions of dollars in legal fees to the former Port legal counsel, as well as payouts ordered by the Supreme Court and the Civil Service Commission. The former in-house Port Staff Attorney, through Board direction, as well as the former Deputy General Manager also through Board direction, entered into settlement agreements with the wrongfully terminated employees which allowed the Port and these Port employees to agree upon a payment plan for back wages spreading over a year or two-year period which had a benefit to the Port by not impacting cash flow with immediate, one-time payments and also mitigating the actual back wages at a significant cost savings to the Port. Because the Port was successfully able to mitigate these settlements, we were able to realize total savings to the Port of more than \$1.5 Million.

Here are factual, documented events from 2013 to June 2020 which occurred involving the appeals of the employees:

1. On May 1 and June 6, 2013, in separate hearings, CSC Commissioners granted Mr. Guevara's and Mrs. Cepeda's motions to null and void. Consequently, the CSC voided their final notices of adverse action of termination because the Port violated the 60-day rule.
2. Merit hearings were held for Mrs. Leon Guerrero on June/July 2014, Mrs. Javelosa in August/September 2014 and Mrs. Rocio in October 2014 which CSC Commissioners ruled the Port failed to meet its burden of proof that action taken against the employees and ordered they be reinstated to their prior employment.
3. From 2014 to 2015, CSC rescheduled Mrs. Leon and Mrs. Meno's status call hearings and merit hearings on numerous occasions and eventually informed them that their future hearings would be canceled because the Commissioners' calendar was booked for the next few years until at least 2017.
4. Port appealed CSC's decisions, and judgments in Superior Court rendered for Mr. Guevara in September 2013, Mrs. Javelosa on October 4, 2014, Mrs. Leon Guerrero on October 30, 2014, Mrs. Rocio on April 21, 2015, and Mrs. Cepeda on June 15, 2015.
5. On July 2, 2015 and June 24, 2016, Superior Court affirmed CSC's decision and judgement rendered to Mr. Guevara that the Port violated the 60-day rule and ordered to reinstate the employee to his prior position, which Port appealed to Supreme Court on October 26, 2016.
6. In September 5, 2015, Superior Court reversed CSC decision and judgment for Mrs. Javelosa and remanded the matter to CSC, who shall determine, based upon substantial evidence, whether or not a criminal act or acts were committed, which the employee appealed to Supreme Court on October 5, 2015.
7. On March 15, 2016, in their regular meeting, CSC Commissioners decided to remove the status call conference and merit hearings for Mrs. Meno and Mrs. Leon indefinitely until Supreme Court issues a decision on Mrs. Javelosa's case.

8. On February 7, 2018, Supreme Court rendered a decision in favor of Mr. Guevara, and the Port requested for reconsideration on March 26, 2018, which the Court denied on April 17, 2018, and ordered the employee be reinstated to his prior position with the Port.
9. At their Board of Directors meeting of July 25, 2018, management was authorized to reinstate Mr. Guevara to his position as Financial Affairs Controller effective July 30, 2018, in compliance with Superior Court's decisions of 2015 and 2016.
10. On July 26, 2018, Supreme Court affirmed Superior Court's decision and order for Mrs. Javelosa and remanded the case to Superior Court so it may return the matter to CSC for a threshold determination of the proper standard of review in her case.
11. On August 24, 2018, Superior Court issued a decision and order to award Mr. Guevara full back pay and benefits, which the Port appealed on September 2, 2018.
12. On January 16, 2019, the General Manager formed a task force, which was chaired by the then-Deputy General Manager of Administration and Finance to review eighteen (18) adverse action appeal cases under litigation. This task force revealed that because Supreme Court mandated the Port to pay Messrs. Guevara and Kevin Susuico the back wages, attorney fees, and associated costs, the Port could not enter into settlement discussions with the employees and had no choice but to comply with the higher Court's orders resulting in the Port paying Mr. Guevara in three (3) staggered payments within ten (10) months a total amount of \$381,381.61 and to Mr. Susuico a one-time payment of \$99,000.16 without any mitigation.
13. On March 6, 2019, the Superior Court remanded the cases of Mrs. Javelosa, Mrs. Leon Guerrero, and Mrs. Rocio to CSC for a threshold determination of the proper standard of review in their cases as concluded in the Supreme Court decision of July 26, 2018.
14. On March 29, 2019, the Board of Directors authorized Port Legal Counsel to proceed in settlement discussions with Mr. Guevara's attorney.
15. On July 25, 2019, Supreme Court affirmed in part and reversed in part the Superior Court's judgment for Mrs. Cepeda and remanded the matter to CSC for

consideration of the merits of the allegation that Mrs. Cepeda backdated a memo to file and for other proceedings not inconsistent with this opinion.

16. In accordance with Superior Court's decision, the CSC scheduled hearings for Mrs. Rocio for August 2019 and for the calendar year 2020 for Mrs. Leon Guerrero, Mrs. Javelosa, Mrs. Meno, Mrs. Cepeda, and Mrs. Leon.
17. On August 27, 2019, CSC Administrative Law Judge held a motion hearing to null and void the personnel action of termination for Mrs. Rocio, and on September 30, 2019, he rendered a recommendation that Mrs. Rocio's motions to dismiss be granted.
18. In August of 2019, Mr. Joe McDonald, former Port Staff Attorney held discussions with the attorneys of Mrs. Javelosa, Mrs. Cepeda, Mrs. Leon Guerrero, Mrs. Meno and Mrs. Leon regarding settlement proposals and initial settlement proposals were submitted.
19. On October 10, 2019, CSC Commissioners voted on Mrs. Rocio's motions that the Port did not notify her of adverse action within 60 days as mandated by law at the time, the Port's final notice of adverse action lacked specificity, and burden of proof was clear and convincing.
20. The Port filed with CSC a motion to reconsider its decision for Mrs. Rocio and CSC Commissioners on November 21, 2019, denied the Port's motion.
21. On November 26, 2019, the Port reinstated Mrs. Rocio to her position as a Personnel Services Administrator and finalized the settlement agreement on December 13, 2019.
22. On December 19, 2019, the Board of Directors approved Resolution No. 2019-20, approving an offer to settle adverse action appeal between the Port and Mrs. Leon Guerrero.
23. On December 19, 2019, the Board of Directors passed Resolution 2019-22, authorizing Port Legal Counsel to enter into settlement agreements with Mrs. Javelosa and Mrs. Cepeda.

24. On December 23, 2019, the Port finalized the settlement agreement and reinstated Mrs. Leon Guerrero to her position of Planner-Work Coordinator on January 6, 2020.
25. On February 28, 2020, the Port Staff Attorney resigned with the Port and the settlement agreements for Mrs. Javelosa and Mrs. Cepeda were not yet finalized.
26. On March 11, 2020, the CSC Administrative Law Judge filed his "Recommendations of Administrative Law Judge on Motion to Void Based on Violation of the 60 Day Rule" in Mrs. Meno's case and found in his analysis "undisputed facts" that identified at least three dates management knew or should have known which were September 10, 2012, September 17, 2012 and October 16, 2012 which, according to the ALJ were 100 days, 93 days and 63 days and therefore stated that the adverse action taken against Mrs. Meno should be revoked; she should be reinstated immediately until such time the decision is overturned by judicial review; and that Mrs. Meno should be awarded back pay, reasonable attorney fees and costs.
27. On June 8, 2020, CSC Administrative Law Judge issued recommendations that the CSC grant Mrs. Javelosa's motion to void as to allegations of processing and conspiracy to process an allegedly fraudulent Worker Commission Claim because the final notice of adverse action violated the 60-day rule and stated with regards to the memo she was accused of backdating to file "There is no conceivable way to conclude that this memo in any way aided the process of the original approval of work related injury leave. Moreover, there is no way to conclude that the memo was an effort to cover up fraudulent acts. The undersigned concludes that the memo cannot support or justify the adverse action" and thus recommended that Mrs. Javelosa be awarded back pay, reasonable attorney fees and costs; and be reinstated immediately until such time the decision is overturned by judicial review.
28. On June 25, 2020, the Board of Directors passed Resolution No. 2020-04 which provided Mr. Luis R. Baza, Deputy General Manager for Administration & Finance the latitude to negotiate the final settlement agreements.

*Did the Board authorize funding for mediation in the YTK case:*

ANSWER: There was no formal mediation in place or formal offer made. Due to the fact that there was a \$17 Million dispute looming over the Port, I felt I had a duty to reach out and potentially mitigate any \$17 Million judgement. A \$17 million judgment

would increase tariffs, and that would cause all other costs to go up. There were no formal discussions in place.

At the February 19, 2019 Board meeting, I explained that management was looking at on-going litigation that would give the Port opportunities for mitigation. I indicated that with respect to YTK matter, when this matter was before the then-Board of Directors, there was an opportunity to settle at \$800,000, however, the decision back then was to proceed with litigation. Because the matter was before Supreme Court at that time, the community was facing a \$17.1 million judgment which presented a concern. If the ruling did not favor the Port, then tariffs would need to be raised which will impact every single commodity that comes through the Port. I explained that I did not have any interest in YTK and that I approached the principal owner of YTK on my own volition and that no formal discussions or commitments were made.

*Allegation regarding Port debt service ratio:*

ANSWER: The financial report in February mentioned that based on the year-to-date numbers for February (5 months of Fiscal Year 2023), the debt service ratio is 1.20, which is below the DSCR requirement of 1.25. This is due to low revenue numbers in February and increase in divisional expenses. This is just a projection based on the financial results as of February. As of March, the projected DSCR is now 1.38. This is higher than the debt service requirement. Finance is working with the Maintenance team to ensure that all expenses are properly classified. This is to report the correct DSCR after the numbers have been properly reviewed.

In FY 2022 the DSCR is 1.58, in FY21 the DSCR is 1.35 and in FY20 the DSCR is 1.26. These results are all above the debt service ratio requirement.

We would like to point out that S&P Global Ratings maintained its outlook for the Port at stable and affirmed its "A" long-term rating on the Port's outstanding series of 2018 Port Revenue Bonds. They considered the Port's management and governance strong, reflected their view of the Port's strategic positioning, risk and financial management and organizational effectiveness. They stated the Port has operated in a fiscally prudent manner, implemented tariff increases as needed, built and maintained cash reserves and minimally relied on debt issuance to meet capital needs.

We also like to point out that in 2019 when this management came into office, we were in debt \$103,000 for 2018. Through austerity measures that management put in place

the Port realized a positive net income of \$5 million irrespective of the fact that the initial FY 2018 Budget did not include: (1) the cost of the 2018 compensation plan was not calculated; and (2) expenditures incurred during the preparation and post Typhoons Yutu and Wutip and (3) OSHA certification inspection. Despite these unfunded expenses, the Port continue to operate within the total approved budget expenses for 2019 and met the requirements of its bond indenture.

*Allegation by Senator Brown of an Administrative Personnel increase:*

ANSWER: The employee count for Fiscal Year 2012 was 382 when Senator Brown was placed in charge of the Port. When this administration came on board in 2019, the employee count was 365—despite the number of 116 Senator Brown indicated in the hearing. Also when I came into office, there were personnel documents authorizing the hiring of 20 additional individuals which would have brought up the number of employees on board to 385. Such recruitment was placed on hold until a manpower assessment was provided identifying the division's baseline needs, take into consideration the number of employees who were eligible to retire and provide recommendations on what type of in-house training can be implemented to enhance skill sets of employees to ensure the mission of the Port is not jeopardized. Based on this assessment, we increased the number of employees to 377—an additional of 12 employees and not 30 as alleged since 2018. The majority of the recruitment was for Maintenance and Operations divisions which are revenue generating

*Questions regarding the Port's waiver of fees for the GPA generator storage:*

ANSWER: In the October 27, 2022 Board of Directors meeting, I reported on the arrival of 12 generator modules for the new Ukudo Power Plant. I stated the revenue tons for the modules range between 135.70 to 173.90 tons. Because of the special type of cargoes to be unloaded, the Port authorized the contractor to conduct "under the hook" operation which will allow the crew ship to operate the winches to off load the modules onto specialized trailers and transport such modules at a staging area in the terminal yard. To ensure that the container yard was not impacted as a result of the weight of the cargoes, the modules were staged on jacks and remained at the Port until permit was issued by Department of Public Works to transport the cargoes to the Dededo project site. I also stated at the board meeting that one of the biggest concerns regarding this cargo was the storage fees. According to the Port Terminal Tariff, the cargo has a free storage period of 5 days and afterwards storage fees will be assessed. If the Port qualified the storage fees, the Port may be collecting \$3.5 to \$4 million. However, if the Port were to collect such fees, it would have to be paid by GPA who in turn will likely transfer it to the rate payers. The decision to extend the

free-time storage of the cargoes in the terminal yard was made in the best interest of all ratepayers of Guam. (*Letter attached to contractor regarding the extension*).

Questions regarding the Port's work to interdict drugs at the Port:

ANSWER: Guam Customs is the agency tasked with drug interdiction and they are assisted by numerous agencies. The Port continues to work hard to ensure our borders are protected at all entries that fall within the jurisdiction of the island's only commercial port. The work has been non-stop in all areas, including the new security systems, enhanced regulations for those wanting to conduct commercial cargo operations at the marinas, meeting with Port users, and bringing together local and federal law enforcement to address the safety issues of our borders. Through Port's efforts to secure our borders from any potential drug and human trafficking and to provide for the safety of everyone who uses the Port marinas, the Port acquired and installed surveillance cameras at the Gregorio D. Perez marina. Additionally, we installed a temporary container for Port Police and other law enforcement use at the GDP marina. Port Police officers can now monitor the activity at the marina through Port Command Center located at the Cabras Island. We are doing whatever is necessary to advance the interdiction of illicit drugs, invasive species, and counter-terrorism at our island's entry ports. We have worked diligently in improving the working relationship with Guam Customs through the following:

- Entered into a memorandum of understanding with Customs regarding the new office space at the Port. Customs will occupy 2,700 square feet of office space located at the former Horizon Building and vacate their current office in the Port Administration Building.
- Granted Customs Officers an all-access pass within the Port terminal facilities to carry out its mandates.
- Included in our Master Plan Update a Customs Inspection Feasibility Study, which was recently completed and will be used to assist the Agency in obtaining funding for such construction of the building.
- Our consultants worked with Customs to validate their requirements and confirmed the planned facilities would integrate with the current traffic flow.
- Ensured Customs is directly involved in discussions to its initiative for Systems Integration that will provide an improved information sharing/reporting between stakeholders involved in the cargo supply chain.
- Dedicated a gated secured area in CFS warehouse for Customs inspection.
- Dedicated area at Seaplane Ramp for marine interdiction task force office and boathouse.



- Allowed shared use for Port's equipment wash down station.
- Provided an office space at the GDP marina to be co-shared with Port Police and access to Port's surveillance cameras at the marina and terminal yard.
- The Port and Department of Public Works executed a memorandum of agreement for the use of the remaining Federal Highway Administration seawall project funds. The funds will be used to expand the automobile lot expansion and paving of the shared entrance for Customs & Quarantine and the Port chassis staging lots.

Concerns regarding increments for Port employees:

ANSWER: The annual increments of our employees is called for in our Personnel Rules and Regulations which are codified in law. They are all budget for and are based on performance evaluations.

Concerns about compensation of the General Manager:

When management came on board in 2019, the Board did not migrate the General Manager and Deputy General Managers to the step and allocated pay grade they should have been slotted to base on their experience, education, certifications, and performance with their prior employers. The Board instead approved their salaries based on what their former counterparts were earning. As a matter of fact, the Board as a whole accepted the performance evaluations for the General Manager and Deputy General Manager in 2019, 2020 and 2021 without corresponding salary increments. It should be noted that the Board as a whole approved the performance evaluations, however, did not approve a corresponding salary increments that the former General Manager and former Deputy General Manager received from 2012 to 2018.

In December 2022, the Board was advised of what the salaries of the General Manager and Deputy General Manager would have been had the correct methodology been used when they were initially employed and salary increments as a result of the annual performances. When the Board re-appointed the General Manager and Deputy General Manager, they were hired at their initial salary should have been in 2019 to be effective 2023. Future compensation increases for the General Manager and Deputy General Managers should be based on the results of the performance evaluations, which must be accepted and approved by the Board as a whole in accordance with Board Policy and such salary increments are not to be retroactive in accordance with Title 4, GCA Section 6218.1.

Questions regarding the Training Assignment of the Port's Procurement & Supply Manager:

ANSWER: The Port's Procurement & Supply Manager was sent to the General Services Agency (GSA) of the Department of Administration to receive procurement training in order for her to be able to efficiently perform her duties and responsibilities as the Port's Procurement & Supply Manager. It was agreed that the Chief Procurement Officer of the General Services Agency of the Department of Administration would supervise her work performance and attendance, and provide her with expertise training in the Guam Procurement Rules and Regulations, policies and procedures. We also agreed that her assignment will end once the Chief Procurement Officer is of the opinion that her job performance satisfies her expectations that she is proficient in the Guam Procurement law and effectively able to perform her duties and responsibilities as the Procurement & Supply Manager for the Port.

This type of Training Assignment is not unusual as the former General Manager assigned procurement staff to GSA for training as well and often their Training Assignments spanned a period of more than one year. (*Documents attached pertaining to training assignment.*)

Allegation that the Port paid legal fees to the Port's former legal counsel for the Port 7 settlement case:

Attorney Joseph McDonald was not an associate at the McDonald Law Firm when Attorney Charles McDonald was representing Mrs. Cepeda in her settlement discussions.

Criticism that Mr. Baza wants to be a board member after serving as a deputy general manager of the Port:

We welcome Mr. Baza to the Board as he brings a wealth of institutional knowledge of the Port due to his service as deputy general manager. In fact, the senator who brought this issue up knows what a benefit this can be as her previous deputy general manager also left active service and then was appointed as one of her board members during her tenure.

## **8. Port Authority's Rapid Recovery from Super Typhoon Mawar**

### ***May 19, 2023 – Typhoon Preparedness***

- Terminal yard moves containers from stacks of 4-high to 2-high.
- Orders fuel and tops off equipment.
- Blocks of all roll up doors.
- Ensures official vehicles are parked within the warehouse.
- Barricades all gates.
- Commercial visits marinas inspect and advise tenants to secure vessels or relocate to Harbor of Refuge.
- Divisions secure their respective areas.

### ***May 21, 2023 - COR 2 Declared***

- Port's Typhoon Response Team personnel bunker down in the Port Command Center, that consist of Port Police, Safety, Electrical, Equipment Maintenance, Transportation, Operations, and the Harbor Master Divisions.
- Port Response Activity Coordinators (RACs) report into the Emergency Operations Center (EOC) located at Guam Homeland Security.

### ***May 23, 2023 – COR 1 Declared***

- Port Police rescue Cabras Marine crew from Tugboat Polaris at F3.

### ***May 25, 2023 – COR 4 Declared***

### ***May 26, 2023 – Mawar Recovery Efforts Ongoing at the Port***

- Port Employees worked tirelessly to get the Port back up and fully operational after the island's only commercial seaport sustained damage due to Super Typhoon Mawar.
- At 12:30 p.m., May 26, the U.S. Coast Guard gave the Port clearance to begin the major recovery efforts dockside and making assessments to include the condition of the gantry cranes.
- Port dive team conducted underwater assessments of the docks on May 27, 2023, which is key to the Port's ability to reopen.
- There were visible damage to Piers F3, F4, F5 and F6, particularly the Bull Rail. Portions of the Fender System also damaged or broken off.
- The storm also caused damage to the Agat and Agana Marinas.

- I held a briefing with Port personnel to discuss disaster recovery measures toward reopening the Port which include an assessment of damage to equipment, container yard, piers, port facilities, and marinas so the Port may mitigate recovery efforts and restore service.
- We worked closely with the carriers and agents in restoring operations so they may deliver much-needed goods and supplies to the community.
- We also worked with petroleum companies to allow the safe discharging of fuel. The priority was to ensure that our gantry cranes and equipment are fully operational and that it is safe for employees and Port users to work within the terminal yard.
- The goal was to get the Port back up and open for business by May 29, 2023.
- As we continued to conduct assessments of its wharves, docks, cranes, and facilities, the Operations Team quickly worked to address all concerns within the terminal yard to allow vessel entry to the Port and the discharge of cargo as soon as possible.
- Other damage we sustained over the course of Super Typhoon Mawar include flooding in the container yard, overturned and damaged empty containers, damaged chassis, as well as damage to port vehicles.

***May 28, 2023 – Port Operations Resume***

- Port employees have worked around the clock to get the Port back up and fully operational.
- As of May 27, 2023, the Port terminal yard has been completely cleaned up. Although the Port sustained significant damage to its facilities and assets, preliminary assessments indicate that the island's only commercial seaport is ready operationally to receive Matson.
- Gantry 5 is operational after addressing damage to conduits and its circuit board. Gantry 4 and Gantry 6 have issues with their computer boards and are currently being worked on.
- The Port received notice of arrivals for two vessels and is ready to service those vessels and Guam Custom's officers are ready for operations.
- Matson is scheduled to arrive at noon, with APL to dock once discharge of Matson's Maunawili is completed. Matson's Manoa and Papa Mau were also scheduled to arrive May 30, 2023.

***May 29, 2023 – Port Restoration Continues***

- Mobil began discharging fuel at F1 Golf Pier. The pier is fully operational despite damage sustained from Super Typhoon Mawar. The Yasa petroleum barge discharged the remaining half of its cargo that could not be offloaded when the island went into COR 2 on May 21, 2023.
- The U.S. Coast Guard was able to supply Mobil with radio communication devices which were required in order for Mobil to discharge fuel to the Agat holding tanks.
- We worked closely with FEMA and the U.S. Coast Guard to acquire the necessary communication devices to allow for fuel operations to take place.
- Island power has been restored to Cabras Island which has allowed the Port to get back online and resume full operations.

***May 30, 2023 – Port Operations Continue with Arrival of APL***

- Port employees continue to work around-the-clock with the arrival of APL to ensure essential commodities make it into our community.
- We began unloading cargo from the APL CC Herodote. APL's cargo ship arrived dockside at 6:23 a.m. with 225 containers to unload. In the afternoon, Port personnel moved more than half the containers off the ship. The Port offloaded 148 containers using Gantry 5 and APL's ship's gear.
- Matson Maunawili left the Port at 4:52 a.m. after 566 cargo containers were offloaded. Due to push-to-talk services being entirely down, Port employees took pen to paper and went "old school" to process the movement and release of cargo containers.
- We received 52 hand-held land mobile radio devices from FEMA to support cargo operations. We requested FEMA to provide radio communications on May 27, 2023 when the island's communication system collapsed due to Typhoon Mawar.

***May 31, 2023 – Gantry 6 is now Operational and Back Online***

- Gantry 6 went down as a result of issues with the computer board due to water damage from Typhoon Mawar. The Port's crane mechanics worked tirelessly to get the crane back into operation.
- Placing Gantry 6 back online increases the Port's cargo handling capacity and expedites the flow of critical commodities into our community.
- The Port is nearly caught up with the pre-storm vessel sequence schedule and will continue to make progress to bring the Port to its pre-storm capacity.

- Matson's Manoa container vessel arrived dockside at 8:56 a.m. Port employees worked non-stop to discharge 342 containers for Guam while the remaining 75 are slated for transshipment. As of 3:00 p.m. 77 or nearly 20% containers were offloaded utilizing Gantry 5. As of 4:50 p.m., Gantry 6 was placed in service and will work to unload the Manoa along with Gantry 5.
- We distributed the 52 hand-held land mobile radio devices received from FEMA to support cargo operations. FEMA Emergency Communications Programmers programmed the radio devices, channels, and tested the units throughout Port facilities. These devices have a 1-2 mile operational radius. The radio test spanned from the terminal yard, gatehouse, along Route 11 to Hotel Wharf.

***June 1, 2023 – Port Capacity Increases with Two Gantry Cranes***

- Gantry Crane 6 was placed in service as of 4:50 p.m. on May 31<sup>st</sup> which has increased the Port's container cargo handling capacity to an additional 21 moves per hour.
- Once Gantry 6 was placed in service, night shift was able to unload containers with both Gantry cranes 5 and 6. As of 4:08 p.m. only 46 containers remained to be offloaded.
- As we continued to conduct assessments of damage sustained from Typhoon Mawar, arriving vessels continue to call Port.
- The Port's crane mechanics focused their efforts to get Gantry 4 back online as it sustained computer board water damage during the typhoon.
- Matson Manoa container vessel arrived dockside May 31<sup>st</sup> at 8:56 a.m. Port employees worked non-stop to discharge 342 containers for Guam while the remaining 75 were transshipment. As of 4:08 p.m. 371 or nearly 89% containers were offloaded utilizing Gantries 5 and 6.

***June 5, 2023 – Commercial and Fuel Cargo Operations Continue***

- Container operations continued with MEL Lines Kota Ratu discharging 190 containers (6 transshipments, 148 stuffed for Guam, 37 empties) and load back 126 containers.
- We resumed operations within three days following Typhoon Mawar. Since then a total of 139 reefers and 700 containers containing dry goods have been processed and released into our island community.
- Matson Manukai arrived on June 6, 2023.

- Fuel operations continued at F1 Pier with Chang Hang Kai discharging petroleum products. Soon after, Ambyth's Epic St. Kitts returned to discharge the second half of liquefied petroleum gas for the island.
- Both marinas sustained extensive damage. Port's Commercial Division worked with U.S. Coast Guard, marina tenants, and industry partners to mitigate the damage. Water and power at both facilities have been restored, however, the Port Facilities Division is actively assessing power restoration for the Agat Marina's Docks C and D.
- Six vessels at the Hagatna marina went underwater as a result of Typhoon Mawar. All sunken vessels at this facility have since been lifted and the Port's Commercial Division, with help from marina tenants, worked to mitigate and contain any oil spills.
- Other damages at the Hagatna marina facility include damage to the Port Police and Custom and Quarantine Agency's shared on-site office space as well as dockside damage including damaged pedestals, light posts, fenders, bumper guards, marina signage and the electrical panel on the dry dock sustained damage from power surges.
- The Agat Small Boat Marina also sustained extensive damage to the facility including dockside damage such as broken planks, pedestals, and dock slates. The Guam Fire Department's rescue building located at the site, which is a Port-owned structure, also sustained damage. A total of five vessels at the facility became submerged and the Port's Commercial Division is actively working with its tenants to lift these vessels out of the water.

***June 6, 2023 – Port gets caught up with Cargo and Fuel Vessel Sequence***

- Cargo operations continued on Matson Manukai which offloaded 437 local containers consisting of 118 reefers, 205 dry goods, 114 transshipments, and then 459 containers to be loaded back onto the vessel. Upon this vessel's estimated departure time of 7 a.m., June 7<sup>th</sup>, Barge 2-2011 is scheduled to dock along F6 at 8 a.m., followed by a Kyowa Eagle scheduled to dock along F4 at 5 p.m.
- Fuel operations continued at F1 Pier with the discharge of petroleum products off the Chang Hang Kai. Soon after, Ambyth's Epic St. Kitts returned to discharge the second half of liquefied petroleum gas.
- We resumed operations just three days after Typhoon Mawar hit the island. A total of 146 reefers and 788 containers with dry goods have been released into our island community since reopening the Port on Sunday, May 28, 2023.

- The Port's Terminal Operating System (TOS), which consists of hand-held devices used to automatically upload cargo movement data into the TOS system, has gone offline as a result of damage sustained to antennas within the Port's terminal yard. This system expedites the movement of cargo as Cargo Checkers enter container data for vessel planners to track. Cargo Checkers have resorted to going "old-school" by utilizing push-to-talk devices and those FEMA hand-held devices to relay container data to vessel planners who are entering it into the Terminal Operating System from a stationary location. G4S and our IT team continue to conduct an assessment of damage to these antennas and equipment.

***June 7, 2023 – FEMA delivers Prime Power Generators to the Port***

- Army Corps of Engineers visited the Port on June 4, 2023 to assess damage to its prime power generators from Typhoon Mawar. Four of the Port's 5 generators suffered water and salt spray damage to its electrical units.
- Gantry 5 was taken off line at 2:30 a.m. due to a worn out fan belt that caused the engine to overheat. Gantry 5 was cooled down, fixed within six hours and returned to operations at 8:30 a.m.
- On Gantry 4, all joint trouble shooting with ABB through teleconference has been done to repair trolley motor communication, but further diagnosis is needed. As part of the Port's Performance Management Contract with Matson, an ABB engineer was flown in from off island and will be reporting on June 8, 2023 to assist in getting Gantry 4 operational.
- Cargo Operations Status: Discharge of Guam bound cargo from the Matson Manukai completed with 327 local containers (73 reefers), 109 transshipments (45 reefers) containers and load back 459 containers. MSA's Barge S-2011 was docked after the completion of the Matson Manukai.
- Cargo and Fuel Processed Since Reopening: A total of 192 reefers and 907 containers with dry goods have been released into our island community since reopening the Port on Sunday, May 28, 2023. A total of 740 bundle of rebar, 2 boxed steel pipes, 35 bundle steel plates and 156 vehicles have been processed by the Port.
- Fuel operations continued with Ambyth's Epic St. Kitts discharging the second half of liquefied petroleum gas for our island community.

***June 8, 2023 – Repairs to Gantry 4 Continue***

- ABB Engineer Myu Tun continued to diagnose Gantry 4. Once repairs are made to the ABB drive, Port team will perform wire rope lube and conduct a



- function load test. Gantry 4 will then be turned over to operations once given the all-clear.
- The Port Users Group was presented with a status update on the Port's response to Typhoon Mawar.
  - We met with Cementon to address Typhoon Mawar-related damages to their facilities. Cementon is currently without island or generator power after their generator sustained typhoon damage. A generator owned by Cabras Marine was deployed to Cementon to be used as their source of power generation. Cementon also presented their mitigation plans to the Port to allow the continuation of their cement products into our island community. Meanwhile, Hanson Permanente Cement is fully operational.
  - Cargo Operations Status: MSA's Barge S-2011 operation was completed June 7<sup>th</sup> with 9 containers discharged for Guam, 14 transshipments and breakbulk consisting of 1 crate, 7 pallets, and 5 vehicles. Twenty-five full containers (8 reefers, 17 dry goods) and breakbulk cargo consisting of 3 vehicles and 2 pallets of general goods destined for Saipan were loaded onto the barge. Operations on the Kyowa Eagle had 31 containers for Guam (3 reefers). Load back includes 232 bundles of rebar, and 56 units of general cargo (pallets, skits, packages) destined for the Federated States of Micronesia.
  - Cargo and Fuel Processed Since Reopening: Fuel or cargo commodities have been released into our island community since reopening the Port on Sunday, May 28, 2023 - 220 reefers; 1046 containers with dry goods; 972 bundles of rebar; 2 boxed steel pipes; 35 bundle steel plates; 319 vehicles; 66 units of general cargo; and 5 barges – fuel operations.

#### *June 9, 2023 – Gantry 4 is Now Operational*

- The function load test was conducted on Gantry 4 by ABB Engineer Myu Tun along with the Port team. This load test was successful, permitting Gantry 4 to be turned over to Operations. Gantry 4 is the last of the three gantry cranes to be placed in service after each sustained damage from Typhoon Mawar. The Port's Equipment and Maintenance Division conducted extensive troubleshooting and repairs to bring Gantry cranes 5 and 6 online. Gantry 5 was placed in service on May 28 and Gantry 6 was placed in service on May 31, 2023.
- As part of the Port's Performance Management Contract with Matson, ABB Engineer Myu Tun was flown in to troubleshoot Gantry 4 and provide maintenance support for all the cranes. Tun also made a thorough assessment

- to Gantry cranes 5 and 6, which identified additional parts needing to be procured and repaired in the next few days.
- Gatehouse Weekend Hours: There remain 555 full containers in the yard and ready to be released. In an effort to expedite the flow of these commodities into our island community, "normal gate house operations" were open for the weekend - Saturday, June 10, and Sunday, June 11, 2023 from 8 a.m. to 5 p.m.
  - Cabras Marine continues to work on lifting and draining their tugboat Polaris. This vessel is owned and operated by Cabras Marine Corporation.
  - Cargo and Fuel Processed Since Reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 236 reefers; 1193 containers with dry goods; 1204 bundles of rebar; 2 boxed steel pipes; 35 bundle steel plates; 481 vehicles; 129 units of general cargo; and 5 barges – fuel operations.

***June 10, 2023 – Release of Containers Continue***

- We resumed the issuance of containers three days after Typhoon Mawar.
- By extending normal gate house operations for the weekend to expedite the flow of commodities into our island community, we went from 555 containers in the yard on June 9<sup>th</sup> to 324 containers, with cargo still being issued throughout the day.
- Cargo and Fuel Processed Since Reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 236 reefers; 1240 containers with dry goods; 1433 bundles of rebar; 2 boxed steel pipes; 35 bundle steel plates; 556 vehicles; 129 units of general cargo; 1 excavator; 1 bundle of chassis; and 5 barges – fuel operations.

***June 11, 2023 – Port Cargo Update***

- By extending normal gate house operations for the weekend to expedite the flow of commodities into our island community, we went from 324 containers in the yard June 10<sup>th</sup> to 301 containers, with cargo still being issued throughout the day.
- We caught up with regular vessel arrivals just two weeks after Typhoon Mawar hit Guam.
- Matson Matsonia is scheduled to dock on June 13, 2023 with 35 reefers, 446 containers of dry goods and 252 vehicles to be discharged from the vessel.
- APL CC Herodote is scheduled to arrive on June 14, 2023 and is slated to discharge 30 reefers and 418 containers with dry goods.

- Barge S-2011 is also scheduled to arrive on June 14, 2023 with 41 containers of dry goods, 2 vehicles and 2 pallets of general cargo to be discharged.
- Cargo and Fuel Processed Since Reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023: 236 reefers; 1263 containers with dry goods; 1540 bundles of rebar; 2 boxed steel pipes; 35 bundle steel plates; 556 vehicles; 129 units of general cargo; 1 excavator; 1 bundle of chassis; and 5 barges – fuel operations.

#### *June 12, 2023 – Port Cargo Update*

- 1610 containers have been issued to the community from May 28 – June 11, 2023, of which 235 consist of reefers and 1,375 consist of dry goods.
- We were fully operational just three days after Typhoon Mawar hit Guam and has caught up with regular vessel arrivals just two weeks thereafter.
- We continue to address all the pre and post-Typhoon Mawar challenges so that the Port remains 100% operational. Additionally, we have to navigate through all available resources to address the damage sustained by our facility and port properties.
- Cargo and Fuel Processed Since Reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 235 reefers; 1375 containers with dry goods; 1540 bundles of rebar; 2 boxed steel pipes; 35 bundle steel plates; 556 vehicles; 129 units of general cargo; 1 excavator; 1 bundle of chassis; and 5 barges – fuel operations.

#### *June 13, 2023 – Employees at the Forefront of Recovery*

- At the Port, employee health and welfare is at the forefront. We were able to reopen the Port in just three days after Typhoon Mawar because of our dedicated workforce and the tremendous amount of support received from Governor Lou Leon Guerrero, Lt. Governor Josh Tenorio, our Board, our federal and local partners, and industry partners.
- I reached out to the Port's Employee's Association to find ways to ease the road to recovery for our employees to include providing a hot meal for them while at work.
- Leadership of the PAG's Goodwill and Morale Association (PAGGMA) have been on the frontlines assisting Port employees in ways to ease their road to recovery. In addition to providing daily meals for day and night shifts, PAGGMA has coordinated the distribution of FEMA water to employees.

- Cargo Operations Status: Gantries 4, 5 and 6 offloaded cargo from Matson Matsonia vessel that discharged 54 reefers, 358 containers of dry goods, along with roll-on/roll-off 252 vehicles.
- Cargo and Fuel Processed Since Reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 235 reefers; 1456 containers with dry goods; 1540 bundles of rebar; 2 boxed steel pipes; 35 bundle steel plates; 556 vehicles; 129 units of general cargo; 1 excavator; 1 bundle of chassis; and 5 barges – fuel operations.

***June 14, 2023 – System for Terminal Cargo Movement is Rebounding***

- The Port Authority, through its contractor G4S, has replaced two antennas which service the Terminal Operating System (TOS) allowing for real-time data on cargo movement.
- Two antennas have been replaced by G4S, allowing cargo checkers the ability to enter container information directly into portable hand-held units for real-time wireless transmission into our central TOS database.
- G4S is in the process of replacing the remaining 7 antennas, the cost of which the Port has included as part of its damage assessment.
- The TOS system is a vital part of operations which controls the movement and storage of cargo in and around the terminal yard. It provides real-time reporting on the status of containers, its location, aids in vessel planning, yard management and equipment allocation.
- Cargo and Fuel Processed Since Reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 240 reefers; 1527 containers with dry goods; 1540 bundles of rebar; 2 boxed steel pipes; 35 bundle steel plates; 556 vehicles; 129 units of general cargo; 1 excavator, 4 trucks, 1 tractor; 1 bundle of chassis; and 5 barges – fuel operations.

***June 15, 2023 – FEMA sets up Satellite Site at the Port***

- Federal Emergency Management Agency (FEMA) opened up a Registration Intake Center at the Port's Training Room.
- The FEMA satellite disaster recovery center allows for Port employees, tenants, industry partners, and all businesses within Cabras Island the opportunity to file FEMA claims at this location. We are so thankful that they have boots on the ground.

- Representatives will assist claimants with registration, filing a claim, provide updates on the status of an application, and general inquiries. The intake center opened from 9 a.m. to 9 p.m., June 15 through June 17, 2023.

#### *June 15, 2023 – Cargo Flows to CNMI and FSM*

- We have caught up with our pre-storm vessel arrival schedule, moving goods and commodities throughout the Commonwealth of the Northern Mariana Islands and the Federated States of Micronesia.
- 545 transshipment containers consisting of 443 containers of dry goods and 102 reefers have moved through the Port since reopening three days after Typhoon Mawar devastated the island's only commercial seaport.
- Gantry 4 was taken offline to redeploy personnel to support cargo operations. The decision was the result of a shortage of equipment operators brought on by the loss of personnel to retirement, other employment opportunities, employees on leave, and six calling out sick. Our employees have worked long hours to restore the Port to pre-storm conditions, so this burnout is something we also track as part of our overall recovery efforts. Consequently, we hired four new equipment operators two weeks ago and expect them to start next week.
- APL CC Herodote is on track to leave the dock at its estimated time of departure. MEL Lines Kota Raja will feel an impact of three additional hours dockside.
- Cargo and Fuel Processed Since Reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 275 reefers; 1651 containers with dry goods; 1540 bundles of rebar; 2 boxed steel pipes; 35 bundle steel plates; 568 vehicles; 129 units of general cargo; 1 excavator, 4 trucks, 1 tractor; 1 bundle of chassis; and 5 barges – fuel operations.

#### *June 16, 2023 – Port conducts Employee Wellness Checks*

- Employee well-being and recovery has been essential in returning the Port Authority to its pre-storm capacity and keeping the Port 100% operational.
- The Human Resource division reached out to employees regarding their conditions at home and many reported back that they are still without power, water or both. A big part of our recovery is finding ways to help our co-workers recover at home. We have demonstrated this kind of compassionate leadership and management approach pre-Typhoon.

- PAG's Goodwill and Morale Association (PAGGMA) have been assisting Port employees. In addition to providing daily meals for day and night shifts, PAGGMA has coordinated the distribution of FEMA water to employees, and procured and installed six washers and six dryers throughout the Port for employees to be able to do laundry at the facility.
- FEMA stood up a Registration Intake Center at the Port's Training Room. FEMA Representatives will continue to be available to assist claimants with registration, filing a claim, provide updates on the status of an application, and general inquiries. The intake center will remain open until Saturday, June 17, 2023 from 9 a.m. to 9 p.m.
- Gatehouse Weekend Hours: We extended normal gate house operations for the weekend of June 17 - June 18, 2023 from 8 a.m. - 5 p.m. in an effort to push out commodities into our island community.
- Cargo and fuel processed since reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 298 reefers; 1812 containers with dry goods; 1636 bundles of rebar; 2 boxed steel pipes; 75 bundle steel plates; 690 vehicles; 132 units of general cargo; 1 excavator, 4 trucks, 1 tractor; 2 dump trucks, 1 fuel truck; 1 bundle of chassis; and 5 barges – fuel operations.

***June 19, 2023 – More Cargo Processed and Released over the Weekend***

- We extended gate house operations into the weekend to continue to push commodities out into the community.
- Gate house remained open over the weekend which allowed the delivery of an additional 80 containers with both dry goods and refrigerated goods to consignees.
- FEMA's Registration Intake Center has assisted 133 Cabras Island tenants and employees with registration, filing a claim, providing updates on the status of an application, and general inquiries.
- Cargo and fuel processed since reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 – 315 reefers; 2034 containers with dry goods; 1636 bundles of rebar; 2 boxed steel pipes; 75 bundle steel plates; 698 vehicles; 144 units of general cargo; 1 excavator, 4 trucks, 1 tractor; 2 dump trucks, 1 fuel truck, 1 drill rig; 1 bundle of chassis; and 5 barges – fuel operations.

***June 20, 2023 – All Three Cranes Unload Matson's Kaimana Hila***

- We continue to receive vessels with cargo destined for Guam and the Commonwealth of the Northern Mariana Islands utilizing all three gantry cranes.
- Our Port Strong team worked tirelessly to reopen the Port in just three days and get all three gantry cranes collectively operational by June 9, 2023.
- Matson Kaimana Hila arrived dockside in the morning at 7:25 a.m. By 4:00 p.m., a total of 243 containers were unloaded accounting for 200 containers for Guam and 43 transshipment containers. Of the 200 local containers, 142 contain dry goods and 58 are refrigerated containers also known as "reefers".
- FEMA's Registration Intake Center has assisted 161 Cabras Island tenants and employees with registration, filing a claim, providing updates on the status of an application, and general inquiries. The satellite intake center remained open until 7:30 p.m.
- Cargo and fuel processed since reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 330 reefers; 2146 containers with dry goods; 1636 bundles of rebar; 2 boxed steel pipes; 75 bundle steel plates; 751 vehicles; 149 units of general cargo; 1 excavator, 4 trucks, 1 tractor; 2 dump trucks, 1 fuel truck, 1 drill rig; 1 bundle of chassis; and 5 barges – fuel operations.

***June 21, 2023 – FEMA's Port Intake Center Assists 175 Workers***

- FEMA's Satellite Registration Intake Center at the Port Authority assisted 175 in the five days it was open.
- FEMA was able to assist 151 Port employees and 24 Cabras Island tenants in the five days they were here at the Port. We are grateful that FEMA was here to help our employees and tenants which enabled them to continue working to keep Guam's commodities flowing into the community. I also want to thank Governor Lou Leon Guerrero, Lt. Governor Josh Tenorio, our Board, and our federal, local and industry partners for the tremendous amount of support they have given us on this road to recovery.
- The Port satellite center operated on extended hours to accommodate those working the night shift and allowed Cabras Island tenants and employees with registration, filing a claim, providing updates on the status of an application, and general inquiries. June 20, 2023 was the last day this location was open for assistance.
- Vessel Operations: Matson Kaimana Hila was fully discharged as of 7 a.m. and departed the Port at 9:14 a.m. having unloaded a total of 446 containers. 367

containers were for Guam of which 67 contained refrigerated goods also known as "reefers." 79 transshipment containers were loaded onto the vessel including 54 containers of dry goods and 25 reefers. MSA Kyowa Falcon arrived at 10:36 a.m. As of 4 p.m., 58 vehicles were unloaded along with 10 containers of which two were reefers. APL CMA CGM Dakar arrived at 2:48 p.m. Unloading operations continued into the evening on both vessels. MSA Barge S-2011 left the Port at 1:17 p.m. bound for Saipan with a load of 33 full containers. Of the 33 containers, 22 were transshipment including 7 reefers. The remaining 11 containers were export containers stuffed in Guam that include 2 reefers.

- Cargo and Fuel Processed Since Reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 330 reefers; 2146 containers with dry goods; 1636 bundles of rebar; 2 boxed steel pipes; 75 bundle steel plates; 824 vehicles; 2 office trailers; 175 units of general cargo; 1 excavator, 1 backhoe; 4 trucks, 1 tractor; 2 dump trucks, 3 fuel truck, 1 drill rig; 1 school bus; 1 bundle of chassis; and 5 barges – fuel operations.

#### *June 22, 2023 – Port Reopens Family Beach for Public Use*

- Typhoon Mawar damaged not just our main terminal yard and key facilities but also many of our recreational areas such as Family Beach. The results of an assessment determined that the beach was unsafe for recreational use so we deployed teams to begin clean-up efforts to reopen.
- Port employees have been working since June 9, 2023 to ready the beach for recreational use. Clean-up initiatives included tree cutting, clearing the site of debris and fallen trees, and moving all green waste to the nearest green waste disposal site. Soft sand deposits that remained were pushed inland to prevent motorists from getting stuck.
- The beach area officially opened to the public on Saturday, June 24, 2023.
- Vessel Operations: APL CMA CGM Dakar was fully discharged at 10:28 a.m. and departed the Port today at 1:06 p.m. A total of 225 containers were unloaded including 23 refrigerated goods also known as reefers. MSA Kyowa Falcon arrived June 21<sup>st</sup> at 10:36 a.m. As of 4 p.m. June 22<sup>nd</sup>, 44 containers with dry goods, 2 reefers, and 235 bundles of rebar have been unloaded.
- Cargo and Fuel Processed Since Reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 371 reefers; 2293 containers with dry goods; 1636 bundles of rebar; 2 boxed steel pipes; 75 bundle steel plates; 828 vehicles;



2 office trailers; 175 units of general cargo; 1 excavator, 2 backhoe; 4 trucks, 1 tractor; 2 dump trucks, 3 fuel truck, 1 drill rig; 1 school bus; 1 bundle of chassis; and 5 barges – fuel operations.

***June 23, 2023 – Port Gatehouse to Open this Saturday***

- We have extended normal Gatehouse hours and accommodated Truckers on Saturday, June 24<sup>th</sup> from 8 a.m. until 5 p.m. Maintaining the island's supply chain is our top priority and that is why we continue to extend the Gatehouse operations to ensure goods and commodities continue to flow into our community.
- Vessel Operations: MSA Kyowa Falcon departed at 10:36 a.m. While in Port, employees discharged 50 full containers, 4 bundles of cutters, 562 bundles of rebar, 15 total general cargo crates, packages and pallets and 250 vehicles. There were 114 transshipment containers and 34 export containers from Guam loaded on the Falcon heading to the FSM. Barge 2011 arrived on June 24<sup>th</sup> which is a chartered barge for commerce heading to Saipan. Matson Papa Mau arrived on June 25<sup>th</sup> to discharge cargo bound for Guam and transshipment cargo.
- Cargo and fuel processed since reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 400 reefers; 2,450 containers with dry goods; 1,636 bundles of rebar; 2 boxed steel pipes; 75 bundle steel plates; 831 vehicles; 2 office trailers; 188 units of general cargo; 1 excavator, 2 backhoe; 4 trucks, 1 tractor; 2 dump trucks, 3 fuel truck, 1 drill rig; 1 school bus; 1 bundle of chassis; and 5 barges – fuel operations.

***June 26, 2023 – Families Enjoy Reopened Family Beach***

- Members of the community came out last weekend to enjoy the reopened Family Beach facility at the Port Authority.
- I am so grateful to see that the people of Guam can once again enjoy Family Beach. Typhoon Mawar damaged not just our main terminal yard and key facilities but also many of our recreational areas such as Family Beach. The results of an assessment determined that the beach was unsafe for recreational use so we deployed teams to begin clean-up efforts to reopen Family Beach for the people of Guam.
- Port employees worked since June 9, 2023 to ready the beach for recreational use. Clean-up initiatives included tree cutting, clearing the site of debris and fallen trees, and moving all green waste to the nearest green waste disposal

- site. Soft sand deposits that remained were pushed inland to prevent motorists from getting stuck. The beach area officially opened to the public on Saturday, June 24, 2023.
- Gatehouse Weekend Hours: We extended Gatehouse hours on June 24<sup>th</sup> and operations were open from 8 a.m. until 5 p.m. for Truckers to come and pickup cargo. Maintaining the island's supply chain is our top priority and that is why we continue to extend the Gatehouse operations to ensure goods and commodities continue to flow into our community.
  - Vessel Operations: Barge 2011 operations began in the morning hours. Barge 2011 is a chartered barge for commerce heading to Saipan and is expected to depart in a few days. Matson Papa Mau arrived at 4:02 p.m. June 25<sup>th</sup> and departed at 11:23 p.m. once cargo operations concluded. Matson Lurline arrived on June 27<sup>th</sup> in the morning for cargo operations.
  - Cargo and Fuel Processed Since Reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 2605 containers with dry goods and 419 refrigerated containers; 1740 bundles of rebar; 2 boxed steel pipes; 75 bundle steel plates; 968 vehicles; 192 units of general cargo; 1 excavator, 2 backhoe, 4 trucks, 1 tractor; 2 dump trucks, 3 fuel truck, 1 drill rig; 1 school bus; 1 bucket truck, 1 flatbed truck, 2 office trailers, 1 trailer 1 bundle of chassis; and 5 barges – fuel operations.

#### ***June 27, 2023 – Port Refutes GTA TeleGuam Allegations***

- According to the June 20, 2023 "Petition of TeleGuam Holdings, LLC for Waiver and Certain Other Relief" filed with the Federal Communications Commission, "The local commercial port that imports 90 percent of all goods entering Guam was hobbled by physical and structural damage from the storm, which has impeded the transportation of goods and supplies onto the island." – This is not true.
- We are shocked that GTA TeleGuam would provide misinformation in their federal FCC filings regarding the Port's operations as well as our successful and swift recovery from Typhoon Mawar.
- Many of our Port Strong employees left their families and homes to ride out the typhoon here at the Port and many reported in to begin cleanup immediately once the road was cleared for passage. Three days after the storm passed, U.S. Coast Guard Captain Nicholas Simmons, Captain of the Port, issued the all-clear to open from the waterway perspective and I immediately issued the all-clear from the dockside. This was done after Governor Lou Leon

- Guerrero gave the directive to place the island back to COR 4. It was at this point that we became fully operational.
- Despite the damage done to the Port, the island's only commercial seaport was able to open up 100% operational only 3 days after the storm passed with normal operations and normal vessel sequence within 4 days.
  - The statements by GTA TeleGuam are reckless as they create a false narrative about what really happened and this can have an extremely negative impact in the bond markets. It is also an insult to our hard-working men and women who showed their true Port Strong Spirit and their dedication to public service and commitment to our island community by getting our Port fully operational in only 3 days.
  - The federal filings do not present true facts about the power and water restoration efforts on the island following Typhoon Mawar. I wrote to FCC refuting GTA's erroneous claims.
  - Vessel Operations: Matson Lurline arrived in the morning hours and Port employees began off-loading operations at 11:30 a.m. As of 4 p.m., Port employees have discharged 119 containers with 769 more containers scheduled for discharge and loading as well as 7 vehicles scheduled to be loaded onto the ship. They have off-loaded a total of 115 vehicles of the 185 scheduled to be off-loaded which includes 14 vehicles scheduled for transshipment.
  - Cargo and Fuel Processed Since Reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 2704 containers with dry goods; 421 refrigerated containers; 1986 bundles of rebar; 2 boxed steel pipes; 75 bundle steel plates; 973 vehicles; 214 units of general cargo; 1 excavator, 2 backhoe, 4 trucks, 1 tractor; 2 dump trucks, 3 fuel truck, 1 drill rig; 1 school bus; 1 bucket truck, 1 flatbed truck, 2 office trailers, 1 trailer, 1 air burner, 1 water tanker, 1 truck screener 1 bundle of chassis; and 5 barges – fuel operations.

***June 28, 2023 – More Heavy Equipment comes to Guam***

- The Port's impact on the quality and sustenance of life for the island and region cannot be understated. Our hard work continues as we focus on the critical need for these goods to get out into our community as our island recovers from the damage caused by Typhoon Mawar.
- In the past few days cargo coming into Guam has included bucket trucks, flatbed trucks, trailers, a truck screener, vehicles, an air burner and a water tanker.

- Vessel Operations: Matson Lurline arrived on June 27<sup>th</sup> and Port employees began off-loading operations at 11:30 a.m. and concluded operations at 1:13 p.m. on June 28<sup>th</sup>. During the operation, Port employees conducted a total of 1003 moves on the ship to include discharge and loading. They discharged a total of 443 containers including 72 transshipment containers.
- At 870 feet long, 114 feet wide (beam), with a deep draft of 38 feet and weighing in at over 50,000 metric tons, Lurline is Matson's largest ship and the largest con-ro vessel ever constructed in the U.S. Matson Lurline last called on Guam in July of last year.
- Dream Jasmine (ro-ro) docked the Port by 5 p.m.
- Other vessels expected to arrive during the week include the MEL Lines Kota Ratu, APL CMA CGM Herodote, Fuel Tanker Endurance IV and the Break Bulk Ship Koga Revolution.
- Cargo and Fuel Processed Since Reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 2807 containers with dry goods; 421 refrigerated containers; 1986 bundles of rebar; 2 boxed steel pipes; 75 bundle steel plates; 1064 vehicles; 219 units of general cargo; 1 excavator, 2 backhoe, 4 trucks, 1 tractor; 2 dump trucks, 3 fuel truck, 1 drill rig; 1 school bus; 1 bucket truck, 1 flatbed truck, 2 office trailers, 1 trailer, 1 air burner, 1 water tanker, 1 truck screener; 1 modified container; 1 bundle of chassis; and 5 barges – fuel operations.

***June 29, 2023 – Port GM writes to FCC on GTA TeleGuam***

- I wrote a letter to FCC Acting Chairwoman Jessica Rosenworcel requesting that the Emergency Petition filed by GTA TeleGuam be rejected or amended.
- The letter provides that, "GTA TeleGuam knows or should have known at the time of that filing that despite the damage done to the Port, the island's only commercial seaport was able to open up 100% operational only 3 days after the storm passed with normal operations and normal vessel sequence within 4 days. As such, the importation of goods and supplies into the island was not impeded. This was reported daily to all the media, on all social media accounts and via the Government of Guam's Joint Information Center."
- The response letter is in reference to GTA TeleGuam's Emergency Petition WC Docket No. 10-90, WC Docket No. 11-42 and WC Docket No. 21-450 *In the Matter of Petition of TeleGuam Holdings, LLC for Waiver and Certain Other Relief* filed with the Federal Communications Commission on June 20, 2023. Specifically, the filing states, "The local commercial port that imports 90

- percent of all goods entering Guam was hobbled by physical and structural damage from the storm, which has impeded the transportation of goods and supplies onto the island.”
- The statements by GTA TeleGuam are irresponsible as they create a false narrative about what really happened and this can have an extremely negative impact for the Port Authority of Guam in the bond markets. The false statements are an insult to the hard work of the men and women of the Port Authority of Guam who showed their true “Port Strong” spirit and their dedication to public service and commitment to our island community by getting our Port fully operational in only 3 days.
  - I further told the FCC Chairwoman that GTA TeleGuam’s FCC filing provided more false information about the overall recovery of our island that has been remarkable and swift under the leadership of Governor Lou Leon Guerrero and Lt. Governor Joshua Tenorio.
  - When this Emergency Petition was filed on June 20, 2023, GTA TeleGuam stated that half of our island residents were without power and water, I also stated that, “This is also a false statement as nearly 80 percent of our island residents had their power restored prior to the filing and the Guam Waterworks Authority had 80 percent of operable wells on-line and was producing approximately 33.8 million gallons of water per day which is approximately 99 percent of pre-typhoon production.”
  - I asked the FCC to reject the GTA TeleGuam Emergency Petition or to require them to amend their filing and remove the false and misleading statements. I also sent a copy of her letter to Paul Huntsman, the President & CEO of Huntsman Family Investments who also is the Chairman of the Board of Directors of GTA TeleGuam.
  - Vessel Operations: Two ships – the Kota Ratu and the Herodote - are being serviced simultaneously on the docks. MEL Lines Kota Ratu arrived at 12:45 a.m. and the APL CMA CGM Herodote arrived at 2 a.m. As of 4 p.m., Port employees have discharged 178 of 212 containers on the Kota Ratu as well as 127 of 189 container load backs. They have also discharged 118 of 262 containers from the Herodote and have 369 containers to load.
  - Cargo and fuel processed since reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 2935 containers with dry goods; 466 refrigerated containers; 2179 bundles of rebar; 2 boxed steel pipes; 75 bundle steel plates; 1083 vehicles; 222 units of general cargo; 1 excavator, 2 backhoe, 4 trucks, 1 tractor; 2 dump trucks, 3 fuel truck, 1 drill rig; 1 school bus; 1 bucket truck, 1

flatbed truck, 2 office trailers, 1 trailer, 1 air burner, 2 water tanker, 1 truck screener; 1 modified container; 1 bundle of chassis; and 5 barges – fuel operations.

***June 30, 2023 – Snake found on Ship Coming to Guam***

- At 8p.m. June 29<sup>th</sup>, Port Stevedores were below deck on Bay 18 of the container vessel APL CMA CGM Herodote when they discovered a snake. The vessel arrived on Guam on June 29<sup>th</sup> in the morning from Saipan.
- Our Port employees immediately notified officials at Guam Customs and Quarantine Agency and the USDA of what they had found and sent photos and video of the snake.
- Guam Customs and USDA arrived at 10:05 p.m. and brought their dogs to try and locate the snake but were unable to find the snake.
- The vessel operations continued except for a pause in Bay 18 as Guam Customs and USDA were trying to locate the snake.
- Guam Customs and USDA officials left the Port at 1:15 a.m. June 30<sup>th</sup> and indicated that although the snake could not be located, they were able to identify the snake through the photos and videos as a brown tree snake.
- Vessel Operations: Two ships – the Kota Ratu and the Herodote – finished operations at the Port. Port employees discharged a total of 212 containers and loaded 177 containers onto the Kota Ratu. As for the CMA CGM Herodote, employees discharged 262 containers and loaded 364 containers onto the ship. Breakbulk vessel Koga Revolution arrived at 9:30 p.m. Barge S-2011 will return in the morning hours of July 1<sup>st</sup> from Saipan and the Cronas Leader (ro-ro) is scheduled to arrive July 2<sup>nd</sup>.
- Cargo and Fuel Processed Since Reopening: Fuel and cargo commodities have been processed and released into our island community since reopening the Port on Sunday, May 28, 2023 - 3054 containers with dry goods; 477 refrigerated containers; 2204 bundles of rebar; 2 boxed steel pipes; 75 bundle steel plates; 1184 vehicles; 228 units of general cargo; 2 excavators, 3 backhoe, 4 trucks, 5 tractors; 2 dump trucks, 3 fuel trucks, 1 drill rig; 3 school bus; 1 bucket truck, 1 flatbed truck, 2 office trailers, 1 trailer, 1 air burner, 3 water tankers, 1 truck screener; 1 modified container; 1 boom lift; 1 fork lift; 1 telehandler; 1 boom truck; 1 bundle of chassis; and 5 barges – fuel operations.

9. **PAG Meets New OLDCC Pacific Readiness Senior Project Manager.** On June 6, 2023, we had an opportunity to meet Mr. Steve Chung, Guam & CNMI Pacific Readiness Senior Project Manager with the Office of Local Defense Community Cooperation (OLDCC). As you recall, Senior Project Manager Gary Kuwabara's final days with OLDCC was on June 2023. We had briefed Mr. Chung on the port modernization program, thereafter, conducted a tour of port facilities.
  
10. **Moody's Investors Service on Issuer Rating.** A virtual meeting, through GEDA, was held with Moody's Investors Service on June 9, 2023 regarding the issuer rating on Government Guam (GPA, DOA, GEDA, BBMR, GIAA, GWA) and the Port Authority given the extensive damage caused by Typhoon Mawar. As to the Port Authority, Mr. William Oh, Moody's Vice President Senior Analyst states, "Based on what we've learned from publicly available information, we do not anticipate reviewing the port's credit rating in committee at this time as a result of Typhoon Mawar". However, Moody's fielded questions which we responded to, such as: totality of damage to the port facilities, time to repair/remediate those damages and cost associated, funding source for repair/restoration, business interruption insurance, Jones Act implications for recovery period, financial impacts and FY22 financial data.
  
11. **Governor's Summer Youth Employment Program.** We are hosting a total of 52 Summer Interns from the GSYEP program. The Summer trainees started on July 3 and will complete this program on August 4, 2023. We have assigned the interns to the various divisions of the Port, excluding divisions in the port terminal yard area for security and safety reasons.

An island-wide cleanup at the Tumon Bay area was held on July 5, 2023 where most of the summer interns from various agencies (GVB, DPW, DPR and few Mayor's office) participated in this project. The Port's summer trainees also took part in this cleanup effort.

**12. General Manager's Notes for YTD Finances. We are providing the following summary for May 31, 2023:**

**REVENUES AND CARGO THROUGHPUT:**

- The Port's Total YTD Operating revenue for May 31, 2023, is \$37.7 million, 8% or \$3.3M lower than the YTD May FY 23 budget projection of \$41.0M.
- The total number of containers handled as of May 31, 2023, is 55,005, 5.2% or 3,000 containers lower than last year's May 2022 YTD total of 58,005. The vessels that were worked on after Typhoon Mawar only unloaded full containers and majority did not load back any containers. This is one reason for the variance between the results of May this year compared to May last year. Majority of the containers that were left behind was loaded in the month of June

**OPERATING EXPENSES:**

- Overall Operating expenses, as of May 31, 2023, is \$36.0M, which is 2.0% or \$199K higher than the YTD budget for May with a total of \$35.4M. The current total expenses as of May is 67% of the total approved FY2023 Budget in the amount of \$53.1 M.

**OVERTIME EXPENSE AND DIRECT LABOR REVENUE:**

- YTD Overtime for Divisions involved in Operations is \$1.1M, 15% or \$148K higher than the overtime budget for YTD May at \$1.0M.

Direct Labor reimbursement is \$2.5M, 6% or \$172K lower than the FY23 budget of \$2.6M. Here is the breakdown:

Direct Labor Revenue:	\$2,478,860
Operations Overtime:	<u>\$1,158,967</u>
Variance:	\$1,319,893

**YTD OPERATING REVENUES MINUS YTD EXPENSES:**

- Operating revenues minus operating expenses resulted in an operating income of \$1.7M. The final result for May is a net income of \$2.4M, after deducting the net of Other Income/Expenses totaling -\$714K.



*Note: \$714K is a net balance of Other Income and Expense composed of Interest Income, Interest Expense, Federal Reimbursements, Federal Expenses, Retirees COLA, Supplemental, Medical and Dental, and Other Non-Operating Income & Expenses.*

Other Financial Highlights, as of May 31, 2023:

Days Cash on Hand is 930 days, 86% or 430 days higher than the 500 days requirement of Moody's Rating agency. The calculation for the debt service ratio is still being worked on because of adjustments that may be reimbursed by federal agency or insurance company due to the typhoon damages. Other adjustments on reclassifications made to CIPs and Fixed Asset accounts may impact the debt ratio calculation.

### 13. Grant Awards and Ongoing Grant Submissions

- **U.S. Economic Development Administration (EDA) Fuel Pipeline Connectivity Project.** *Status update:* The A&E contract was sent to Am Orient on June 15, 2023. Am Orient returned signed contract on June 27, 2023. Purchase Order No. 18992-OS was routed to AM Orient for signatures on June 28, 2023.
- **Department of Agriculture Grant (DOAG)**
  - **Agat Marina Dock B Construction.** The Official NTP was issued to AIC International on August 4, 2022. Project completion is 243 calendar days from NTP issuance, including obtaining all permitting requirements.  
*Status Update:* Awaiting arrival of Certified Docking System Technician from Hawaii, ETA July 2023. Preparatory meeting ongoing to discuss details and logistics of assembling the floating dock at Contractor's Warehouse/Yard.
- **Harbor of Refuge Repairs.** *Status Update:* Final closeout report in progress.
- **Gantry Crane Acquisition.**
  - **Acquisition of an STS Gantry Crane by the PAG.** *Status Update:* Requisition for one (1) crane has been entered. WSP submitted additional information to include Liftech update to the STS crane specification and the Wharf Periods of Vibration Report. This update will be incorporated into the crane specifications. *Status Update:* The PAG Legal Team is reviewing the IDIQ draft package provided by the Procurement Division. **Status Quo.**

- **USDA Direct Loan.** PAG Finance was assigned to develop a request for proposal to select a lender to provide commercial loan financing for replacing the PAG's Ship-to-Shore Gantry Cranes and acquiring additional cargo handling equipment, e.g., Tractors, Telescopic 150 Ton Crane, Top lifters, Forklifts. PAG will be guided by the USDA Communities Facilities Rural Development Leadership, PAG Legal Counsel, and PAG Procurement Team moving forward. *Status Update:* Status quo.
- **MARAD Marine Highway Program.** The Grants Management Specialist informed Planning staff that reduced scope was approved (reduced tractor count from 11 to 9) and removed Admin and Legal funding request due to CatEx documentation finished by MARAD. *Status Update:* PAG awaiting MARAD's reconsideration of a reduction in the grant's budget due to the proposed scope modification.
- **Office of Local Defense Community Cooperation (Formerly Office of Economic Adjustment OEA).** \$1.2 Million OLDCC grant was awarded to the Port for a comprehensive two-phase in-water infrastructure feasibility study and a military support assessment for Area A and Hotel Wharf. Notice to Proceed was issued on October 31, 2022. *Status Update:* Ongoing - WSP is currently working on Task Orders 10/10S Master Plan, 11 Construction Technical Oversight, and 12 In-water Infrastructure Feasibility Study.
- **EPA Diesel Emissions Reduction Act (DERA) Program.** *Status Update:* PO#18862-OS for the purchase of four (4) terminal yard tractors was issued to American Material Handling, Inc. on May 2, 2023. Delivery: 330 Days or April 2024.
- **US DOT Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program.** *Status Update:* PAG's OAE (WSP) is in discussion with a local environmental consultant who is experienced in the preparation of environmental assessment documentation under the National Environmental Policy Act (NEPA). OAE to develop detail SOW for local environmental consultant.

- **Office of Insular Affairs Maintenance Assistance Program (MAP).** The PAG Welding Shop Phase 1 & 2 project (awarded in 2020 & 2021) is currently pending the HABS/HAER report prior to construction. *Status Update:* The PAG submitted the Determination of Eligibility (DOE) as part of the SHPO's HABS requirement on April 28, 2023. The SHPO has 30 days to review and provide comments. The SHPO stated on June 13, 2023 that their office is still recovering from the storm and will look to provide feedback on the DOE as soon as possible.
- **Office of Insular Affairs Maintenance Assistance Program (MAP).** PAG was awarded the FY22 MAP grant on June 29, 2022 for the Generator Maintenance Program. *Status Update:* The generator maintenance & sustainment bid IFB-PAG-012-23 was announced on March 6, 2023 in the Guam Daily Post and on the Port website. Purchase order was signed by Hawthorne Pacific Corporation on May 8, 2023. On June 28, 2023, Requisition 21382-ON, 21383-ON and 21384-ON were entered into the system and is currently undergoing the procurement process for generator parts.

**14. Port Revenue Bonds Project Status.** As of June 27, 2023, the attachment provides information on the status of the revenue bond projects that consist of rehabilitation of the hotel wharf, golf pier repairs and improvements, waterline replacement/relocation, EQMR building, and warehouse one repair/upgrades, new admin annex building, and other priority projects.

Respectfully submitted,



Rory J. Respicio  
General Manager

## 2018 Port Revenue Bonds Status Report As of June 27, 2023

Bond Project	Total Award Amount	Total Draw Down	Total Remaining Balance	PROCUREMENT IFB/RFP/PO Number	Status
Rehabilitation of "H" Wharf	\$46,331,895.00	\$1,298,983.83	\$45,032,911.17	PO No. 17043-OF for \$2,249,945.54 awarded to GHD Inc. New Contract Amount: \$2,656,621.37   PO No. 18140-OS was issued to Sumitomo Mitsui Construction Company, Ltd. for \$46,331,895.00	On April 28, 2023, PAG submitted a grant application under the 2023 Port Infrastructure Development Program. The proposed project is for the Rehabilitation of H-Wharf to augment escalated construction cost due to inflation, Build America, Buy America (BABA) Act and if project is aligned with the merit criteria. The FY 2023 PIDP grant application process consists of an Intake Review Phase, a Technical Review Phase, and a Senior Review Phase. MARAD will announce projects selected for award by First Quarter of FY 2024.
Golf Pier Repairs and Improvements	\$2,000,000.00	\$372,147.93	\$1,627,852.07	RFP No. 2019-02: A&E Design for \$484,000.17 awarded to NC Macario	The PAG OAE is currently developing a draft design.
Waterline Replacement and Relocation	\$6,000,000.00	\$1,433,613.59	\$4,566,386.41	PO No. 177900S for \$4,856,568.91 awarded to BME & Sons Inc.	Installation of the new waterline along Route 11 is ongoing. Locations of new pipelines in the container yard have been identified and marked.
EQMR Building Repairs and Upgrades	\$3,628,800.00	\$929,595.19	\$2,699,204.81	PO No. 180070S for \$3,980,000.00 awarded to JJ Global Service	Roof repairs are complete and roof coating and spall repairs is ongoing.
Warehouse 1 Repairs	\$2,000,000.00	\$447,013.13	\$1,552,986.87	RFP No. 2019-03: A&E Design for \$1,406,427.48 awarded to NC Macario	Procurement packet is being developed prior to PAG in-house legal review. Status Quo.
Other Priority Projects 1. Repair of F-1 Fuel Pier and wharves F-2, F-3, F-4, F-5, and F-6 waterfront facilities 2. Upgrade of the Port's IT system and integration of TOS	\$4,980,745.00	\$0.00	\$4,980,745.00	See status	1. Please refer to MARAD RAISE - Wharves Service Life Extension Hardening of Wharves F1-F6 for more information. 2. PAG reviewing Cargo Velocity recommendations on the TOS upgrade. The next step will be to develop the draft scope of work with the assistance the PAG OAE.
Other Priority Projects - EnterpriseOne Financial Management System	\$2,500,000.00	\$2,365,568.22	\$134,431.78	See status	Module updates are ongoing, including work on Job order modules for vessels and SSRs. Status Quo.
New Admin. Annex Building	\$10,445,000.00	\$0.00	\$10,445,000.00	See status	Project is currently on hold pending Management decision.
<b>Grand Total</b>	<b>\$77,886,440.00</b>	<b>\$6,846,921.89</b>	<b>\$71,039,518.11</b>		

**From:** Lester Carlson <[lester.carlson@bbmr.guam.gov](mailto:lester.carlson@bbmr.guam.gov)>  
**Date:** September 18, 2020 at 7:36:30 PM GMT+10  
**To:** "Luis R. Baza" <[lrbaza@portofguam.com](mailto:lrbaza@portofguam.com)>, Lester Carlson <[lester.carlson@bbmr.guam.gov](mailto:lester.carlson@bbmr.guam.gov)>  
**Subject:** Re: Public Law 34-116

Sir

Your read is accurate, Stay Safe!!

Lester Carlson

On Sep 18, 2020, at 4:37 PM, Luis R. Baza <[lrbaza@portofguam.com](mailto:lrbaza@portofguam.com)> wrote:

Hi Lester,

Hope my email finds you and your family in good health.

I have a quick question and seeking your take on the force and effect of the subject law, specifically page 171.

Background:

When we implemented the salary increments for our Port Employees, we effectuated the increment date on September 16, 2019. However the law places a freeze to all position, for executive, legislative and judicial branches for the period 10/1/2018 to 9/30/2019.

In my reading of this budget law, it did not include autonomous agencies ... and since we are not receiving funds from the "general fund", I did not see that the Port is covered under the language of this law. I had contacted GPA ... and had informed us that they also did not follow this law as they generate their budget and ratified by their board.

If you don't mind, I just need clarification if the force and effect of this law covers autonomous agencies.

Thank you in advance for your assistance in this matter.

V/R  
Luis



**PORT OF GUAM**

ATURIDAT / PUEYTON GUAHAN

Jose D. Leon Guerrero Commercial Port

1026 Cabras Highway, Suite 201, Piti, Guam 96925

Telephone: 671-477-5931/35 Facsimile: 671-477-2689/4445

Website: [www.portguam.com](http://www.portguam.com)



Lourdes A. Leon Guerrero  
Governor of Guam

Joshua F. Tenorio  
Lieutenant Governor

November 22, 2022

Mr. John Limtiaco  
President  
Pacific Unlimited Inc.  
Post Office Box 10838  
Tamuning, Guam 96911

Hafa Adai Mr. Limtiaco:

In response to your email dated November 10, 2022, Subject: Extended Free Time, it was agreed in the meeting held on October 24, 2022, with the Port Authority of Guam, Pacific Unlimited and Guam Power Authority's contractor, that the demurrage free time will be extended for the generator modules from the time the free storage had expired that was off-loaded from the UHL Faith vessel on November 2 to 4, 2022.

The Port will provide for an extension of free period up to 12 weeks, from November 15, 2022 thru January 31, 2023. This was determined necessary for the greater good of the Island community. However, as agreed, immediately after the twelve-week free period extension, demurrage charges will be assessed on February 1, 2023 in accordance with the Port Terminal Tariff.

You are asked to provide this office on a weekly basis the status of the permit with Department of Public Works and transit to Okudu construction project site.

Should you have any questions, please feel free to contact this office.

Si Yu'os Ma'ase,

**RORY J. RESPICIO**  
General Manager

Cc: Deputy General Manager, Administration & Finance  
Deputy General Manager, Operations & Maintenance  
Operations Manager  
Corporate Services Manager



**PORT OF GUAM**  
 ATURIDAT I PUETTON GUAHAN  
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Lourdes A. Leon Guerrero  
 Governor of Guam  
 Joshua F. Tenorio  
 Lieutenant Governor

April 5, 2021

**MEMORANDUM**

TO: Chief Procurement Officer, General Services Agency  
 FROM: Rory J. Respicio, General Manager *Rory Respicio*  
 SUBJECT: Assignment

*Hafa Adai!* We discussed the training needed to be conducted with Mrs. JoyJean Arceo, Port's Procurement & Supply Manager as pointed out by her attorney. Her attorney informed us the Port did not provide Mrs. Arceo with a reasonable opportunity to correct inadequate performance, including specific training to improve the level of her job performance or correct unacceptable habits or practices. Based on our discussion, you agreed to have her assigned to General Services Agency.

To ensure that she receives the training required to efficiently perform her duties and responsibilities as a Procurement & Supply Manager, she has been advised that she will be assigned to the General Services Agency (GSA), Department of Administration effective Tuesday, April 6, 2021.

She will report to you, who will be supervising her work performance and attendance on a daily basis, and provide her with the expertise training in the Guam Procurement rules, regulations, policies and procedures.

During her assignment at GSA, she will not have any oversight responsibilities for the programs and activities of the Port Procurement & Supply Division, including the staff. She will be required to obtain permission from me should she wish to come to the Port Administration Building or Supply Division within the terminal yard.

Her assignment will terminate once you are of the opinion that her job performance satisfies your expectations that she is proficient in the Guam Procurement law and effectively perform her duties and responsibilities as the Procurement & Supply Manager for the Port.

Your cooperation is appreciated. *Si Yu'os Ma'ase.*

Cc: Deputy General Manager, Administration & Finance  
 Deputy General Manager, Operations & Maintenance  
 Acting Personnel Services Administrator

**ACKNOWLEDGEMENT COPY**

RECEIVE BY *[Signature]*

DATE 4/5/21 @ 10:49am



**PORT OF GUAM**

ATURIDAT / PUETTON GUAHAN

Jose D. Leon Guerrero Commercial Port

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Lourdes A. Leon Guerrero  
Governor of Guam

Joshua F. Tenorio  
Lieutenant Governor

April 5, 2021

**INTER-OFFICE MEMORANDUM**

TO: JoyJean R. Arceo, Procurement & Supply Manager

FROM: Rory J. Respicio, General Manager *Rory Respicio*

SUBJECT: Assignment

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*Hafa Adai!* In your response to the Notice of Proposed Adverse Action, your representative, Attorney Jaqueline Terlaje stated that the Port did not provide you a reasonable opportunity for you to correct inadequate performance, including specific training to improve the level of your job performance or correct unacceptable habits or practices.

To ensure that you will receive the training required for you to efficiently perform your duties and responsibilities as a Procurement & Supply Manager, you will be assigned to the General Services Agency (GSA), Department of Administration effective Tuesday, April 6, 2021.

You will report to Mrs. Claudia Acfalle, Chief Procurement Officer, who will be supervising your work performance and attendance on a daily basis and provide you with the expertise training in the Guam Procurement rules, regulations, policies and procedures.

During your assignment at GSA, you will not have any oversight responsibilities for the programs and activities of the Port Procurement & Supply Division, including the staff. You will be required to obtain permission from me should you wish to come to the Port Administration Building or Supply Division within the terminal yard.

Your assignment will terminate once Mrs. Acfalle is of the opinion that your job performance satisfies her expectations that you are proficient in the Guam Procurement law and effectively perform your duties and responsibilities as the Procurement & Supply Manager for the Port.

Your cooperation is appreciated. *Si Yu'os Ma'ase.*

Cc: Deputy General Manager, Administration & Finance  
Deputy General Manager, Operations & Maintenance  
Acting Personnel Services Administrator  
Employee Personnel Jacket





**PORT OF GUAM**  
ATURIDATI PUETTON GUAHAN  
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Lourdes A. Leon Guerrero  
Governor of Guam  
Joshua F. Tenorio  
Lieutenant Governor

April 5, 2021

Ms. JoyJean Arceo  
Procurement and Supply Manager  
Port Authority of Guam  
Piti, Guam 96925

Dear Ms. Arceo:

On March 15, 2021, I presented you with a letter informing you that a proposed adverse action is being taken against you, which may result in disciplinary action in accordance with the Port Authority of Guam's (Port) Adverse Action Rules and Regulations.

On March 23, 2021, at 6:52 p.m., your representative, Attorney Jacqueline Terlaje, transmitted the written response via email. The response included:

1. The notice of proposed adverse action (NPAA) did not provide a sufficient factual basis to which you could directly respond to. However, based on your knowledge of ongoing procurement projects, you stated the allegations in the notice were unfounded and sought for reconsideration.
2. The March 8, 2021 report prepared by Deputy General Manager, Administration & Finance Luis R. Baza was not provided and requested for a copy.
3. You provided a summary of procurement projects which you claimed was successfully collaborated and/or coordinated with the Special Assistant Attorney General to ensure timely closing/award of procurements.
4. You alleged the NPAA was non-compliant with the Personnel Rules and Regulations and that:
  - a. progressive disciplinary action did not occur prior to the issuance of the NPAA; and
  - b. a reasonable opportunity for you to correct inadequate performance, including specific training to improve the level of your job performance or correct unacceptable habits or practices was not provided.
5. Absent the informal counseling and reasonable opportunity to correct inadequate performance, the NPAA is not permitted by the strict requirement imposed by the Personnel Rules and Regulations.

You then requested to meet in person to allow you the opportunity to discuss in detail your response to the NPAA.

On March 25, 2021, at about 4:00 pm, you appeared before me and provided an oral response. Present at this meeting were Dominic G. Muna, Deputy General Manager, Operations & Maintenance, Luis R. Baza, Deputy General Manager, Administration & Finance, Shawn B. Cepeda, Acting Personnel

---

Port of Guam, Jose D. Leon Guerrero Commercial Port is an Equal Employment Opportunity Employer.  
Complaints of discrimination should be sent to the Human Resources Division.

Services Administrator, Port Staff Attorney Christine K. Claveria, and your representative, Attorney Terlaje.

Your attorney stated you had made every effort to consult with Legal Counsel in compliance with Guam's Procurement Act, specifically Section 5150. She requested that I speak to Special Assistant Attorney General Tom Keeler, to obtain details about the deficiencies he pointed out in his emails, and to identify the specific projects in which you failed to communicate with him, and those projects which you were deficient in your performance.

At the end of the hearing, you were advised that a final decision would be made within the next ten (10) days, and you will continue to be placed on administrative leave.

After careful consideration of your response, I decided not to issue a formal adverse action. I have decided instead to give you this letter of reprimand.

As a division head of the Port, I would like to stress the programs and activities and the overall management of the Port's procurement and supply activities fall under you, as the Authority's Procurement & Supply Manager. The nature of work for your position includes:

1. Responsible for the development and implementation of Port-wide policies and procedures governing contract administration and procurement;
2. Provide functional direction to management in these areas; and
3. Develop, publish and maintain policies and procedures applicable to all Port staff relative to the procurement of goods, services, and construction and, in concert with others, and promote consistent compliance with the same.

As the Procurement and Supply Manager, you should be fully aware of the procurement laws and regulations. However, since the inception of my employment as General Manager of the Port Authority of Guam, I, together with Deputy General Managers Muna and Baza and all division heads, except for you, have been operating in crisis-management mode. Suffice it to say that our resolving problems have mainly been exacerbated because you mishandled procurement matters. The specific incidents in which your performance and behavior as a division head remain inadequate. I am citing just a few instances where you have made matters unnecessarily worse as if though you are willfully attempting to sabotage Port's operations by stymying procurement matters. Here are a few of those instances:

1. Port's Insurance: Below is a listing of events in which the Port's insurance was almost canceled because of your position that the contract amount was fixed and increases are prohibited:
  - a. 2019 Insurance Coverage: On October 2, 2018, AM Insurance advised the Port of an increase in the insurance premiums. They explained the factors attributing to the premium hike were: (a) increased property and revenue values declared by the Port for Fiscal Year 2019; and (b) the global catastrophic events in the United States and Asia.

On October 10, 2018, the Port informed AM Insurance of their dispute on the premium increases. The position the Port took was the contract amount was fixed; therefore, premium increases was not justified.

On October 12, 2018, AM Insurance pointed out the provision in the policy which the Port accepted which annual premiums will be adjusted (increase or decrease) depending on the reinsurance market situation. They also noted that if the Port does not accept such terms and conditions, the policy shall lapse.

On November 12, 2018, the former General Manager wrote to the Chief Procurement Officer to review the AM Insurance's notification to increase the insurance premiums.

On November 30, 2018, the Port issued payment to AM Insurance for the FY2019 insurance amount.

On December 4, 2018, AM Insurance acknowledged receipt of the Port's payment which they said was a partial payment for the FY2019 insurance premium. They requested that the remaining balance be remitted no later than December 31, 2018, to avoid coverage interruption.

Upon my knowledge of the impending insurance cancellation in December 2018, I spoke to the President of AM Insurance and asked her not to cancel the insurance coverage since this would be addressed at the first Board meeting in January 2019, to which she agreed.

On December 27, 2018, a written determination for ratification of bid specification was signed by the Chief Procurement Officer. Such determination stated that the premium insurance increase was authorized under the Guam Procurement Act, which you failed to provide to this office upon my employment on January 8, 2019.

At the January 8, 2019 meeting, the Board of Directors was advised of the impending insurance cancellation by AM Insurance because of the non-receipt of the Port's remaining payment and their agreement with new management to continue coverage until approval has been acquired for the additional premium amount.

- b. 2020 Insurance Coverage: When we received AM Insurance's notification that the premium rates had increased, you again expressed concerns that their contract was a fixed amount and such increases could not occur.

To ensure we are complying with contract protocol, we requested guidance from the Public Utilities Commission (PUC) on November 23, 2019, on its contract with AM Insurance, specifically because the insurance premium cost has gradually risen since PUC first approved the insurance contract in 2017. The Port was notified of the PUC's hearing on our insurance petition to be held December 5, 2019, to which you were notified.

Usually, at these hearings, it is proper that the division head be present with management in the event questions or clarifications are posed to Port staff by the Commissioners. On the day of the hearing, you informed your staff that you were not attending. You then informed them that they may attend the hearing since it is open to the public, however, they are not authorized to represent the Procurement Division.

For your information, the PUC Administrative Law Judge, in his report, found:

1. The insurance of the Port's assets is instrumental in its operations; as such, insurance safeguards its assets from all risks, including natural disasters or catastrophic events, as well as coverage for any liabilities resulting from PAG's operations;
2. The market trend for insurance rates appears within the range indicated by the global market forecasts;
3. Port is obligated to carry such insurance in order to comply with its bond obligations as indicated in its 2018 bond indenture; and
4. Recommended approval of FY 2020 insurance coverage premiums.

The Commissioners also ordered once the Port receives notice of the total premium cost by AM Insurance of Fiscal Year 2021, we are to submit copies of such invoices to PUC for their review.

- c. 2021 Insurance Coverage: On September 23, 2020, AM Insurance informed the Port of the premium increase for the 2021 insurance coverage. They explained the factors which contributed to the increase. Again, you disagreed that AM Insurance can increase the insurance premiums, and your position is that the contract is a fixed amount despite PUC's decision.

Because of your position, I had asked the Financial Affairs Controller to conduct a comparative analysis on the insurance premiums for the past 12 years. Based on his review of September 30, 2020, he found that:

1. Insurance premiums over the past 12 years have increased/decreased based on market conditions and coverage of Port assets;
2. The Port did anticipate a change in premium and budgeted such increase which the Board approved in the FY 2021 Budget;
3. AM Insurance provided justification for the premium increase;
4. The 2018 Bond Indenture states that the Port will maintain insurance on Port properties and assets; and
5. The COVID-19 pandemic did impact the current insurance market, resulting in a slight increase in the overall premiums.

We also sent the Fiscal Year 2021 invoice from AM Insurance with PUC decision.

The Board of Directors in their meeting of September 24, 2020, approved the additional insurance premium increase.

After consulting with the Chief Procurement Officer, she said she had submitted a written determination for the 2019 insurance, and the concerns expressed by you were moot. This was the first time I became aware of the written determination by the Chief Procurement Officer.

A written determination was prepared, which I signed on September 30, 2020, stating failure to have insurance puts the Port in violation of its bond covenants, and such increase in premium for the Fiscal Year 2021 with the term of the contract is authorized under the Guam Procurement Act rules and regulations.

2. **Legal Services:** When the procurement for legal services was protested by a local attorney on July 23, 2020, an automatic stay of procurement was put in place. I then advised you to prepare a response for me to inform the protester that he lacks standing because the protester is not considered a prospective offerer. You disagreed with me.

On February 16, 2021, Assistant Attorney General Keeler prepared a response for me citing that the protester lacks standing and recommended that the protest stay be lifted. Attorney Keeler legal opinion was 100% in-line with my initial reading of this situation. This was done over your objections. And, you reached out to another Assistant Attorney General to support your position.

The Port consulted with the Office of the Attorney General to review the procurement record and proposed contract. As a matter of consequence, the Attorney General's Office identified technical deficiencies, such as lack of procurement planning, communication log, and removal of specific provisions in the legal services contract, and recommended the procurement for legal services be canceled.

At the March 25, 2021 meeting, the Board of Directors approved my request to cancel the procurement for legal services.

3. **Lawyer Shopping and Disparaging Comments:** I want to bring to your attention just one example in which your personal opinion obstructed procurement bid despite legal guidance from the Attorney General's Office or the Port's In-house Counsel. For example, is when you recommended to the Assistant Attorney General the lowest bidder for the fender system should be disqualified because the company did not include a current business license in their bid offer. The Assistant Attorney General informed you the lack of current license is considered a minor informality and can be waived or corrected without prejudice to other bidders. You were not satisfied with his response and sought advice from the Port Staff Attorney, who also told you that she agreed with the Assistant Attorney General's opinion. You were not satisfied with her advice and sought guidance from another Assistant Attorney General.

Despite the legal guidance you received, you informed me that you disagree and still recommend that this bidder be disqualified and that in your words, "*you are the General Manager, and it is up to you.*" I have repeatedly informed you that I will NOT sign anything unless your signature is present whenever required because I do NOT ever want to be seen as going against the Port's Procurement and Supply Manager, even for good cause. Well, this company was denied and immediately filed a protest. This bid was awarded to another company. We then received a legal opinion that this company should not have been disqualified, and when this company's sealed bid was opened, they were deemed the lowest qualified bidder. Our award had to be taken back and

then awarded to the previously disqualified company. Once again, more unnecessarily delay because of your unwillingness to heed counsel's advice.

Upon the hiring of the Port's In-House Counsel and the full execution of the MOA with the Attorney General's Office for legal services, specifically procurement matters, I instructed you to adhere to the legal advice from the Port's lawyers and not to go lawyer shopping to advance your reading of the procurement law.

Moreover, you cause harm to the Port's reputation by telling others that you disagree with my final decisions and even the legal opinions from the Port's attorneys. Your comments place a dark cloud over the Port, and in the general public's eyes that the Port is making decisions in contravention to the Procurement law.

Additionally, your behavior in seeking other legal advice is intolerable. The Port's legal counsels—assigned Assistant Attorney General and Port Staff Attorney—will be the ones to represent the Port in the judicial courts if challenged in one of our procurement solicitations—not you, or me.

4. Training for End-Users and Non-Responsive to Inquiries: DGMA Baza and I asked you on many occasions to conduct training for end-users, which you failed to do. Such training is necessary so that the Port's end-users will understand their responsibilities during all phases of the procurement formulation process and reasons for rejecting or holding in abeyance their requisitions or procurement bids. The Port's end-users did not understand why all of a sudden, the procurement staff could no longer provide them with guidance in formulating the necessary documentation. You claimed the Chief Procurement Officer told you in a training session this was the end-user's responsibility.

Deputy General Managers Muna, Baza and I have received numerous complaints from Port end-users that you would not respond to their emails on their requisition's status. Your justification to us for not being responsive was because you did not want to put anything in writing since in your opinion is an active procurement matter. We tasked you with providing management with a list of requisitions processed and pending approval within the AS400 system and purchase orders processed and signed, which you failed to do. The only way an end-user would know if their requisitions or purchase orders have been signed is through an email that my staff would issue to the division heads.

It is your division's responsibility to notify the end-users of the status of their requisitions. This responsibility falls under your purview; however, you consistently disassociate yourself from advising division heads or ignore an end-user's requests, resulting in chaos and lag in pushing out procurement matters.

For your information, the only listing we would get from you is a list of Invitation of Bids or Request for Proposals being processed by your staff or has been issued. Your attorney did NOT go into detail about the reports—which only included active procurement of less than \$500,000 or \$500,000 more requiring Special Assistant Attorney General's review. Nowhere in your response did you indicate that you provided a listing of requisitions and purchase orders to management and end-users.

5. Procurement Purchase Orders: On several occasions, you deliberately place in abeyance purchase orders that required my signature, despite the fact that the requisitions had my approval in writing. The recent specific purchase orders are:
  - a. Vehicles: Transportation Division had placed five used vehicles on hold with General Services Agency. The acquisition of such vehicles had a deadline. You held onto the purchase order because you claimed management did not inform you that it was a priority. It was only when you were advised that the Superintendent informed your staff that he would bring this to my attention did you finally initial off on this purchase order. You then agreed to do it, but to do it for the benefit of the requesting employee and NOT for the benefit of Port operations.
  - b. Televisions: The requisition was approved on November 11, 2020, however, you refused to initial on the purchase order. You refused to initial on this purchase order because of an incident between you and the Port's Chief Planner regarding the transfer of Planning's current television. The purchase order was finally signed by me on March, 2021—5 months after I approved it.
6. Lack of Empathy Over Subordinate: In February 2021, one of your staff encountered the loss of his father and his mother being hospitalized for COVID-19. He had a casual conversation with one of the managers who offered to donate sick leave hours. Upon your knowledge of such leave donation, you informed Deputy General Manager Baza that this manager had overstepped her jurisdiction and approved the leave for this employee without consulting with you. DGM Baza informed you that the employee just received donated leave from this manager, and the approval rests with you then with me. However, when the employee experienced the loss of his mother and needed to prepare her funeral arrangements, you refused to sign off on the timesheet. You told the staff because the General Manager approved his leave donation request, you refused to sign his timesheet. Your refusal to sign the timesheet for this employee could have resulted in him not receiving a paycheck which could have had a financial impact on him and his family.

Your behavior as a manager is shameful and shows that you lacked compassion for an employee under your supervision. In this case, your willful neglect to assist this employee get through a very difficult and painful period—especially for this employee to lose both of his parents. And, what is even more egregious, Ms. Arceo, is all that was needed from you was your signature on his timesheet.

From March 15, 2021, to the present, the procurement staff's productivity increased tremendously under the leadership of Ms. Annie L.G. Sablan, who I immediately appointed as the Acting Procurement and Supply Manager. Through my observation and feedback from other division heads, there is a much more cohesive relationship between the end-users and the procurement staff, resulting in requisitions and purchase orders being entertained and processed without any delays. As a direct result of Ms. Sablan's experience with procurement, procurement planning meetings are being held with the end-users and legal counsels to ensure compliance with the procurement law. I am saddened to say this level of productivity and compliance with the procurement law sorely lacked under your watch.

As the Procurement and Supply Manager, one of your responsibilities is to provide functional direction for the procurement of goods, services, construction, and disposal of surplus property to all Port divisions and staff delegated the authority to perform such procurement.

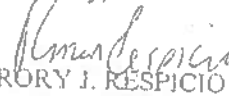
Lastly, I stated in your proposed adverse action notice that the email from Assistant Attorney General Keeler was extremely alarming. Attorney Keeler pointed out that "procurement regularly disregarded the most basic procurement requirements, and if any of the procurement solicitations were challenged, the Port will lose not necessarily on merits, but simply failing to follow Guam's Procurement law's technical requirements." As the manager responsible for the Port's Procurement and Supply division, you failed to ensure compliance with the procurement laws and regulations.



Because of your inadequate performance as detailed above, I am issuing you an official letter of reprimand for the willful neglect of your duties and responsibilities, which presented a clear and present danger to Port operations and, if left unchecked, would have continued to jeopardize millions of dollars and delay the Port's Modernization Projects.

You are hereby further advised that this letter of reprimand serves as a final notice, and any future violations of established rules, regulations, policies and your prescribed duties and responsibilities will result in a more severe disciplinary action against you.

Lastly, a copy of this letter will be filed in your personnel jacket for a period of one (1) year.

Sincerely,

  
RORY J. RESPICIO  
General Manager

Signature of Employee Served:  JOY JEAN R. ARCEO	Date/Time: April 5, 2021 9:35am.
I, hereby certify that the original notice was served to the employee on April <u>5</u> , 2021.	<input checked="" type="checkbox"/> Served personally <input type="checkbox"/> Copy left at last known address <input type="checkbox"/> Registered mail
Print name of person who served notice: SHAUN B. COPEDA	Signature of person who served: 

Cc: Personnel Jacket



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6 **BEFORE THE CIVIL SERVICE COMMISSION**  
7 **GOVERNMENT OF GUAM**

8  
9 IN THE MATTER OF: )  
10 **JOYJEAN ARCEO,** )  
11 Employee, )  
12 vs. )  
13 **JOSE D. LEON GUERRERO** )  
14 **COMMERCIAL PORT aka PORT** )  
15 **AUTHORITY OF GUAM,** )  
16 Management. )

ADVERSE ACTION APPEAL  
CASE NO. 21-AA09D

**MOTION TO DISMISS**

17  
18 COMES NOW, undersigned counsel on behalf of Management, Jose D. Leon Guerrero  
19 Commercial Port aka Port Authority of Guam ("the Port"), and moves to dismiss Employee  
20 Joyjean Arceo's ("Ms. Arceo") Notice of Adverse Action Appeal filed April 23, 2021 ("Appeal"  
21 or "Adverse Action Appeal"), pursuant to Rule 9.5 of the CSC Rules of Procedure for Adverse  
22 Action Appeals, for lack of jurisdiction. The Port respectfully requests that the Guam Civil  
23 Service Commission ("CSC") dismiss Ms. Arceo's appeal simply because the CSC lacks  
24 jurisdiction to hear a matter for which an adverse action has not been issued.  
25  
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1 **FACTUAL BACKGROUND**

2 On March 4, 2021, the Port, through its General Manager, served Ms. Arceo, Procurement  
3 and Supply Manager, a letter placing her on administrative leave for twenty (20) working days  
4 pursuant to Port Personnel Rules and Regulations, Chapter 11, Rule 11.309 in order to address  
5 concerns raised by Assistant Attorney General Tom Keeler ("AAG Keeler") in a string of emails  
6 dated March 2, 2021, and March 3, 2021, regarding the Port's non-compliance with Guam  
7 Procurement Law. A true and correct copy is attached as **Exhibit M-1**. A formal investigation  
8 into this matter was immediately conducted by the Port's Deputy General Manager of Finance  
9 and Administration ("Deputy General Manager") to look into the allegations of misconduct by  
10 Ms. Arceo, since those deficiencies raised by AAG Keeler are ultimately vested in the duties and  
11 responsibilities of the Port's Procurement and Supply Manager to uphold and comply with Guam  
12 Procurement Law.  
13  
14

15 On March 8, 2021, the Deputy General Manager issued a Staff Report. A true and correct  
16 copy is attached as **Exhibit M-2**. After a thorough and complete review of the concerns raised  
17 by AAG Keeler in his emails, Guam Procurement Law, and the critical and essential duties and  
18 responsibilities of the Port's Procurement and Supply Manager, the formal investigation revealed  
19 that Ms. Arceo, in her capacity as the Port's Procurement and Supply Manager, continually failed  
20 to satisfactorily perform the duties required of the Port's Procurement and Supply Manager by  
21 repeatedly failing to comply with Guam Procurement Law, namely, Title 5 GCA § 5150, which  
22 mandates that agencies consult with an Assistant Attorney General or Special Assistant Attorney  
23  
24  
25  
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1 General during all phases of procurements valued at over Five Hundred Thousand Dollars  
2 (\$500,000.00).

3 On March 15, 2021, based on the results of the investigation set forth in the Staff Report,  
4 the Port served Ms. Arceo with a Notice of Proposed Adverse Action ("NPAA"), alleging  
5 violations of the following Port Personnel Rules and Regulations: 1) Refusal or Failure to  
6 Perform Prescribed Duties and Responsibilities; and 2) Unsatisfactory Performance. Ms. Arceo  
7 was advised of the notice period and her right to seek reconsideration of the NPAA pursuant to  
8 the Port's Personnel Rules and Regulations, Chapter 11, Rule 11.307. Ms. Arceo was also  
9 advised that during such period, she would retain her pay status. A true and correct copy is  
10 attached as **Exhibit M-3**.

11 On March 23, 2021, Ms. Arceo, through counsel, submitted her written response to the  
12 NPAA and requested a meeting with the PAG General Manager. The following day, on March  
13 24, 2021, Ms. Arceo, present with counsel, met with PAG General Manager and the PAG's  
14 Management team and presented her oral response. At the conclusion of the meeting, Ms. Arceo  
15 was advised that a final decision would be made within the next ten (10) days, and that she would  
16 continue to be placed on administrative leave. Shortly thereafter, Ms. Arceo provided a  
17 supplemental response on March 29, 2021. *See Adverse Action Appeal, Exhibit E-6.*

18 Instead of taking further disciplinary action on the NPAA, the Port, on April 5, 2021,  
19 served Ms. Arceo with a written Letter of Reprimand. A true and correct copy is attached as  
20 **Exhibit M-4**. The letter of reprimand was not intended to serve as an adverse action and thus, no  
21 formal adverse action was issued.

1 In her March 23, 2021, response to the NPAA, Ms. Arceo's counsel stated that the Port  
2 did not provide Ms. Arceo a reasonable opportunity to correct inadequate performance, including  
3 specific training to improve the level of job performance or correct unacceptable habits or  
4 practices. A true and correct copy is attached as **Exhibit M-5**. Thus, to ensure Ms. Arceo receives  
5 adequate training to efficiently and effectively perform her duties and responsibilities as the  
6 Port's Procurement and Supply Manager, the Port, with approval from Chief Procurement  
7 Officer, Claudia Acfalle, temporarily assigned Ms. Arceo to the General Services Agency  
8 ("GSA"), Department of Administration, in order to provide her with the expertise training in the  
9 Guam Procurement rules, regulations, policies, and procedures. A true and correct copy is  
10 attached as **Exhibits M-6 and M-7**.

11  
12  
13 On April 5, 2021, Ms. Arceo, through counsel, improperly filed her informal grievance  
14 to the Notice of Reprimand with the Port. A true and correct copy is attached as **Exhibit M-8**.  
15 Because Ms. Arceo's informal grievance to the Port's Notice of Reprimand against her was  
16 noncompliant with the Port's Personnel Rules and Regulations, the Port was not required to  
17 respond.

#### 18 ANALYSIS

19  
20 Title 4 GCA § 4403(b) provides that the CSC "shall hear appeals from the adverse actions  
21 taken to suspend, demote, or dismiss an employee from the classified service if such right of  
22 appeal to the Commission is established in the personnel rules governing the employee." 4 GCA  
23 § 4403(b) (2005); *see also* 4 GCA § 4406 (2005). Here, the CSC lacks jurisdiction to hear this  
24 matter simply because no final adverse action was issued. Further, Ms. Arceo was neither  
25  
26

1 suspended, demoted, nor temporarily dismissed. Therefore, the Port's decision to temporarily  
2 reassign Ms. Arceo to GSA did not constitute an adverse action pursuant to Sections 4403(b) and  
3 4406 *Id.* Finally, the Port's decision to temporarily reassign Ms. Arceo to GSA was not in  
4 retaliation against her, as her assignment occurred prior to her filing of a "grievance" and thus,  
5 remains status quo. For these reasons, as will be explained in more detail below, the CSC must  
6 dismiss Ms. Arceo's Notice of Adverse Action Appeal for lack of subject matter jurisdiction.  
7

8 **I. Ms. Arceo was not issued a formal Final Adverse Action as required by Title 4**  
9 **GCA §§ 4403 and 4406, and Rule 5 of the CSC Rules of Procedure for Adverse**  
10 **Action Appeals.**

11 "The appeals procedure is premised on a final adverse action." *Santos v. Gov't of Guam*,  
12 2012 Guam 9 ¶ 11. Under CSC Rule 5, the CSC only has jurisdiction to hear a matter when a  
13 final adverse action has actually been issued. *See* CSC AA R. 5; *see also id.*, at ¶ 12 ("the CSC  
14 Rules of Procedure do not provide for a procedure to allege that a demotion, suspension, or  
15 dismissal occurred in the absence of an issuance of a Final Adverse Action.") (emphasis added).  
16 In *Santos*, the Guam Supreme Court rejected the proposition that the CSC had jurisdiction to hear  
17 a case where no final adverse action was issued. *Id.* Further, the Court held that even if an  
18 employee could somehow prove he suffered a demotion, suspension, or dismissal, the CSC still  
19 lacked jurisdiction over the matter when the employee was never formally issued a Final Adverse  
20 Action. *Id.* Thus, formal issuance of a final adverse action is necessary. *Id.*

21  
22  
23 Here, although Ms. Arceo was served with a Notice of Proposed Adverse Action, the Port  
24 chose not to take further disciplinary action. Instead of effectuating the most severe penalty  
25 possible under the Port's Personnel Rules and Regulations, the Port alternatively issued a letter  
26

1 of reprimand. A letter of reprimand is not an adverse action under the Port's Personnel Rules and  
2 Regulations and thus, adverse action procedures do not apply. *See* Port Authority R. & Regs.  
3 11.401(f); *see also* Port Authority R. & Regs. 11.402. Accordingly, because the Port never  
4 formally issued a Final Adverse Action in this matter, no adverse action was taken against Ms.  
5 Arceo for which she has a right to appeal to the CSC under Title 4 GCA §§ 4403(b) and 4406,  
6 and Rule 5 of the CSC Rules of Procedure for Adverse Action Appeals. Thus, for this reason  
7 alone, the CSC must dismiss Ms. Arceo's Notice of Adverse Action Appeal for lack of subject  
8 matter jurisdiction.  
9

10  
11 **II. Ms. Arceo's temporary assignment to GSA does not constitute an adverse action  
within the meaning of Title 4 GCA §§ 4403(b) and 4406.**

12 Any employee who suffered from suspension, demotion, or dismissal is entitled to review  
13 by the CSC. *Santos*, 2012 Guam 9 ¶ 9 (citing *Blas v. Guam Customs & Quarantine Agency*, 2000  
14 Guam 12 ¶ 16). Again, appeals to the CSC are limited to those actions taken under its jurisdiction.  
15 4 GCA § 4403(b). Although the CSC's enabling statute does not define suspension, demotion,  
16 or dismissal, the Port Authority Personnel Rules and Regulations define these types of  
17 disciplinary adverse actions as follows:  
18

19 *11.302 Definition*  
20

- 21 A. Suspension: The temporary removal of an employee from his position with  
22 loss of pay as a disciplinary measure.  
23  
24 B. Demotion: The involuntary reduction in status of an employee for  
25 disciplinary reasons from a position which he occupies in a specific class,  
26 to a position in another class, where the maximum rate if [sic] pay is less  
27 than the maximum rate of pay for the class which he had held, or a reduction  
28 to a lower salary step in the same class.

1 C. Dismissal: The termination of an employee for authorized cause for adverse  
2 action.

3 Port Authority R. & Regs. 11.302. Here, Ms. Arceo was not terminated from her employment.  
4 Thus, the question is whether the Port's decision to temporarily assign Ms. Arceo to GSA  
5 constitutes a suspension or demotion. The answer is, it does not.

6 Ms. Arceo asserts that her temporary assignment to GSA constitutes a removal from her  
7 position as the Port's Procurement and Supply Manager. *See* Employee's CSC Adverse Action  
8 Appeal, p. 3 at 17-20. First, Ms. Arceo has not been removed nor stripped from her title as the  
9 Port's Procurement and Supply Manager, and has retained her salary since being temporarily  
10 assigned to GSA, and will maintain her salary during her assignment. Second, such assignment  
11 does not warrant review by the CSC as it is not one of the types of disciplinary actions appealable  
12 under Title 4 GCA § 4403(b). *See Santos*, 2012 Guam 9 at ¶ 12 ("Title 4 GCA § 4403 explicitly  
13 lays out the types of adverse actions that are appealable, and reassignment is not one of them.").  
14 Under Rule 11.302 of the Port's Personnel Rules and Regulations, temporary removal or  
15 reassignment is appealable as an adverse action only if it is accompanied by "loss of pay as a  
16 disciplinary measure," or what is defined under the policy as "suspension." Port Authority R. &  
17 Regs. 11.302(a). Further, Ms. Arceo has not been de facto demoted. *See* Employee's CSC  
18 Adverse Action Appeal, pp. 3-4 at 21-25. Again, Ms. Arceo has not suffered a loss of pay as a  
19 result of management's reassignment. Moreover, Ms. Arceo's temporary assignment to GSA was  
20 not taken against her for disciplinary reasons nor was it retaliatory. The sole purpose of Ms.  
21 Arceo's temporary assignment to GSA is to ensure she receives adequate training in the Guam  
22 Procurement rules, regulations, policies, and procedures in order to efficiently and effectively  
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1 perform her duties and responsibilities as the Port's Procurement and Supply Manager. See Port  
2 Authority R. & Regs. 11.202 (a list of an employee's job protection rights and consideration  
3 including "[a] reasonable opportunity for the employee to correct inadequate performance  
4 including providing specific training to the employee to improve the level of his job performance,  
5 or to correct unacceptable habits or practices . . ."). Compare *Port Auth. Of Guam v. Civ. Serv.*  
6 *Comm'n*, 2015 Guam 14 ¶ 24 (finding a personnel action cancelling an employee's hiring  
7 tantamount to a final adverse action due to its effect of terminating employment absent issuance  
8 of a formal adverse action).

9  
10 Ms. Arceo was neither suspended nor demoted. Disciplinary action was not taken against  
11 Ms. Arceo, nor was the decision to temporarily assign her to GSA made in retaliation against  
12 her. Most importantly, Ms. Arceo has not suffered from a loss of pay, and was neither terminated  
13 nor removed from her position as the Port's Procurement and Supply Manager. Thus, Ms. Arceo  
14 did not suffer from an adverse action within the meaning of Title 4 GCA § 4403(b). Further, even  
15 if Ms. Arceo could somehow prove she suffered a demotion, suspension or dismissal, the CSC  
16 still would not have jurisdiction over the matter because Ms. Arceo was never issued a formal  
17 adverse action as required under Rule 5 of the CSC Rules of Procedure for Adverse Action  
18 Appeals. See *Santos*, 2012 Guam 9 at ¶ 12, ("Under CSC Rule 5, the CSC only has jurisdiction  
19 when a Final Adverse Action has been issued."). Accordingly, the CSC should dismiss Ms.  
20 Arceo's Notice of Adverse Action Appeal for lack of subject matter jurisdiction.  
21  
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23

24 **III. Ms. Arceo's temporary assignment to GSA is not properly reviewable as a**  
25 **personnel action pursuant to Title 4 GCA § 4403(d).**  
26



1 The CSC's ability to hear and declare null and void personnel actions under Title 4 GCA  
2 § 4403(d) is limited to those actions taken "under its jurisdiction," meaning jurisdiction must be  
3 independently conferred upon the CSC by means of another statutory provision or by agency  
4 regulations. *See Guam Fed'n of Tchrs. v. Gov't of Guam*, 2013 Guam 14 ¶ 68 (citing 4 GCA §  
5 4403(d)). In other words, the CSC can properly review Ms. Arceo's appeal as a personnel action  
6 only if the CSC has appellate jurisdiction over that personnel action. *Id.* For the reasons  
7 aforementioned, the CSC lacks subject matter jurisdiction. *See* Sections I and II, *supra*.


9 The CSC however, does have appellate jurisdiction over grievances under the Port's  
10 Personnel Rules and Regulations, but only once that grievant reaches Step 4 in the multi-step  
11 administrative procedure. *See* Port Authority R. & Regs. 12.800; *see also Guam Fed'n of Tchrs.*,  
12 2013 Guam 14 at ¶ 72. Here, Ms. Arceo, through counsel, improperly filed her informal  
13 grievance to the Notice of Reprimand with the Port and thus, was noncompliant with the Port's  
14 Personnel Rules and Regulations. *See* Port Authority R. & Regs, Chapter 12 *et seq.* Thus, absent  
15 exhaustion of administrative remedies, any grievance presented to the CSC at this juncture is  
16 premature. Consequently, the CSC lacks subject matter jurisdiction pursuant to Title 4 GCA §  
17 4403(d).  
18  
19

### 20 CONCLUSION

21 The CSC has the duty to determine jurisdiction at the onset, and Ms. Arceo, who has the  
22 burden of proof, failed to establish such jurisdiction upon the filing of her Notice of Adverse  
23 Action Appeal. Thus, for the reasons set forth above, the CSC must dismiss this matter for lack  
24 of subject matter jurisdiction as no formal final adverse action was ever issued to or served on  
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1 Ms. Arceo, nor did the Port take adverse action against Ms. Arceo for which she has a right to  
2 appeal to the CSC under Title 4 GCA §§ 4403(b) and 4406, and Rule 5 of the CSC Rules of  
3 Procedure for Adverse Action Appeals. Further, the CSC lacks subject matter jurisdiction to  
4 hear this matter as a personnel action pursuant to Title 4 GCA § 4403(d). Accordingly, the CSC  
5 should grant the Port's Motion to Dismiss for lack of subject matter jurisdiction.  
6

7 Respectfully submitted this 28<sup>th</sup> day of July 2021,  
8

9  
10   
11 CHRISTINE K. CLAVERIA, ESQ.  
12 Attorney for Management  
13 Port Authority of Guam  
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**BEFORE THE  
GUAM CIVIL SERVICE COMMISSION**

**BOARD OF COMMISSIONERS**



**IN THE MATTER OF:**

**JOYJEAN ARCEO,**

**Employee,**

**vs.**

**PORT AUTHORITY OF GUAM,**

**Management.**

**ADVERSE ACTION APPEAL  
CASE NO.: 21-AA09D**

**DECISION AND JUDGMENT**

**INTRODUCTION**

This matter came before the Civil Service Commission (“CSC”) on Management’s Motion to Dismiss on November 9, 2021, via Zoom. Employee JoyJean Arceo (“Employee”) appeared with counsel, Attorney Jacqueline T. Terlaje. Both General Manager Rory J. Respicio, and Deputy General Manager of Administration and Finance Luis R. Baza, were present on behalf of the Port Authority of Guam (“Management”), and were represented by counsel, Attorney

**DECISION AND JUDGMENT**

Page 1 of 4

*Joyjean Arceo vs. Port Authority of Guam*  
Adverse Action Appeal CSC Case No.: 21-AA09D

1 Christine K. Claveria. Commissioners present were Chairman Juan K. Calvo, Vice  
2 Chairman John A. Smith, Commissioner Priscilla T. Tuncap, Commissioner  
3 Anthony P. Benavente, and Commissioner Robert C. Taitano.

#### 4 JURISDICTION

5 The jurisdiction of the Commission is based upon Title 4 Guam Code  
6 Annotated, § 4401, *et seq.*, and relevant portions of the Port Authority of Guam's  
7 Personnel Rules and Regulations. Management's Motion to Dismiss is made  
8 pursuant to Rule 9.5 of the CSC Rules of Procedure for Adverse Action Appeals.

#### 9 DISCUSSION

10 Management moved to dismiss the Employee's Notice of Adverse Action  
11 Appeal filed April 23, 2021, on the grounds that the CSC lacked jurisdiction  
12 pursuant to Title 4 GCA §§ 4403(b), as no final adverse action was issued to  
13 Employee, nor did Management take adverse action against Employee for which  
14 she has a right to appeal. The Employee opposed, arguing that the Employee's  
15 temporary assignment to the Department of Administration's Guam Services  
16 Agency ("GSA") for training purposes constituted an unlawful removal, *de facto*  
17 demotion, and/or suspension from her position as the Port's Procurement and  
18 Supply Manager and therefore, was an adverse action.

#### 19 **DECISION AND JUDGMENT**

20 *Joyjean Arceo vs. Port Authority of Guam*  
21 Adverse Action Appeal CSC Case No.: 21-AA09D

1 On March 15, 2021, Management served Employee with a Notice of  
2 Proposed Adverse Action ("NPAA"). On April 5, 2021, instead of taking action  
3 on the NPAA, Management served Employee with a Letter of Reprimand. A Letter  
4 of Reprimand is not an adverse action and thus, adverse action procedures do not  
5 apply. Further, in Employee's March 23, 2021, response to the NPAA, Employee's  
6 counsel stated that Management failed to provide Employee with a reasonable  
7 opportunity to correct inadequate performance, including specific training to  
8 improve the level of job performance or correct unacceptable habits or practices.  
9 Thus, Management assigned Employee to GSA temporarily for training purposes  
10 with respect to Guam Procurement rules, regulations, policies and procedures.

11 Employee was neither suspended nor demoted. Employee did not suffer  
12 from a loss of pay. Neither was Employee ever terminated nor removed from her  
13 position as the Port's Procurement and Supply Manager. Accordingly, Employee  
14 did not suffer from an adverse action within the meaning of Title 4 GCA § 4403(b).  
15 Finally, this matter is not reviewable as a personnel action pursuant to Title 4 GCA  
16 § 4403(d).

### 17 DECISION AND JUDGMENT

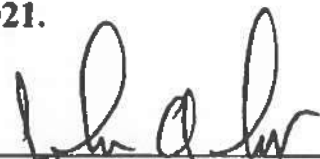
18 After deliberations, the Commission voted four (4) to one (1) (Commissioner  
19 Tuncap dissenting) in favor of Management's Motion to Dismiss, finding that  
20 Management met its burden of proof that the CSC lacks jurisdiction to hear this

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matter pursuant to Title 4 GCA § 4406 and CSC Rule 5 absent an adverse action.  
Accordingly, the CSC hereby **GRANTS** Management's motion, and **ORDERS** the  
Employee's Notice of Adverse Action **DISMISSED**.

**SO ORDERED** this 2nd of December, 2021.

  
\_\_\_\_\_  
**JUAN K. CALVO**  
Chairman

  
\_\_\_\_\_  
**JOHN SMITH**  
Vice Chairman

(absent)  
\_\_\_\_\_  
**PRISCILLA T. TUNCAP**  
Commissioner

  
\_\_\_\_\_  
**ANTHONY P. BENAVENTE**  
Commissioner

  
\_\_\_\_\_  
**ROBERT C. TAITANO**  
Commissioner

**BOARD OF DIRECTORS**

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



**Resolution No. 2023-05**

**RELATIVE TO HONORING THE LIFE AND SERVICE OF PORT  
AUTHORITY OF GUAM EMPLOYEE JUNIOR B. CAMACHO  
AND EXTENDING OUR HEARTFELT DEEP SYMPATHY AND  
CONDOLENCES TO THE BEREAVED FAMILY MEMBERS**

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

**WHEREAS**, Mr. Junior B. Camacho began his employment as a public servant with the Port Authority of Guam on April 6, 2015 as a Stevedore (Casual) with the Stevedoring Division and on April 10, 2017 was selected as a full-time employee occupying the Stevedore position; and

**WHEREAS**, during his latter part of his employment, he was assigned to the Terminal Division and assisted in issuing, receiving and verifying cargoes entering and exiting the container terminal yard; and

**WHEREAS**, Mr. Camacho upheld the highest level of integrity by carrying out his responsibilities with respect for fellow employees and Port customers and performed his duties in a satisfactory manner; and

**WHEREAS**, the Jose D. Leon Guerrero Commercial Port and the community of Guam lost a valued member on May 9, 2023 with the untimely death of Mr. Camacho; and

**WHEREAS**, Mr. Camacho was a Front-line Hero and will be remembered for his initiative and dedication to his family, friends and Port Strong Family and will be sorely missed; now therefore be it

**RESOLVED**, that the Board of Directors on behalf of the employees and management of the Jose D. Leon Guerrero Commercial Port recognize and acclaim the public service of Mr. Camacho to the people of Guam and extends its sincere condolences to his wife, Francine Camacho and his; and be it further

**RESOLVED**, that the Chairperson certifies to, and the Secretary attest to, the adoption hereof and that copies of the same be transmitted to his spouse, Francine and their family.

**PASSED AND ADOPTED UNANIMOUSLY BY THE BOARD OF  
DIRECTORS THIS 6<sup>th</sup> DAY OF JULY, 2023.**

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

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

**BOARD OF DIRECTORS**

Dorothy P. Harris, Vice Chairperson  
Dr. Judith P. Guthertz, Board Secretary  
Conchita S.N. Taitano, Member



**Resolution No. 2023-06**

**RELATIVE TO APPROVING A STIPULATED DISMISSAL IN CIVIL SERVICE COMMISSION ADVERSE ACTION APPEAL CASE NO. 13-AA06T SP, JEFFREY Q. CRUZ V. PORT AUTHORITY OF GUAM, BASED ON GUAM SUPREME COURT RULINGS IN THE CASES OF 2015 GUAM 14 (SUSUICO I) AND 2019 GUAM 15 (SUSUICO II), AND AUTHORIZING GENERAL MANAGER RORY J. RESPICIO TO EXECUTE THE AGREEMENT AND USE UP TO \$126,000.00 IN PORT FUNDS TO SATISFY THE STIPULATED DISMISSAL, THUS REALIZING A COST AVOIDANCE OF APPROXIMATELY \$210,128.43 IN BACK WAGES, AND TO HEREIN PROVIDE THE FINALIZED AGREEMENT TO THE HONORABLE BENJAMIN J.F. CRUZ, GUAM PUBLIC AUDITOR IN THE INTEREST OF TRANSPARENCY AND ACCOUNTABILITY.**

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

**WHEREAS**, on October 31, 2011, Employee was hired as a Cargo Checker described in Job Announcement No. 32-11, and subsequently began employment on November 14, 2011; and

**WHEREAS**, on October 16, 2012, as a result of a post-audit investigation conducted by the Guam Civil Service Commission ("CSC") of Employee's personnel action, the CSC unanimously found that Employee's appointment was in violation of the merit system and rendered his employment null and void; and

**WHEREAS**, the CSC then provided Management ninety (90) days to determine how to proceed with Employee's employment action; and

**WHEREAS**, on January 15, 2013, after the ninety (90) days had lapsed, Management appeared at a hearing before the CSC and deferred to the CSC's earlier determination that Employee's personnel action, Employee's initial appointment as a Cargo Checker, was null and void as a violation of the merit system; and

**WHEREAS**, on January 17, 2013, Management informed Employee that, as a result of the CSC's determination, Management was cancelling Employee's personnel action appointing him to the position of Cargo Checker; and

**WHEREAS**, on January 24, 2013, Employee filed a Letter of Appeal of Final Adverse Action with the CSC, asserting that the action taken against him by Management was wrongful and untimely; and

**WHEREAS**, on January 14, 2016, the CSC issued a Decision and Judgment granting Management's Motion to Dismiss the Employee's Adverse Action Appeal, finding that Employee lacked standing to appeal before the CSC and that it could not reinstate Employee via its adverse action appeal authority in light of its previous ruling that Employee's appointment was null and void; and

**WHEREAS**, on February 12, 2016, Employee filed a Petition for Judicial Review in Superior Court Case No. SP0014-16, requesting the Court reverse and remand the CSC's January 14, 2016, Decision and Judgment. Employee also requested that the Court determine that the CSC had jurisdiction over that matter, namely that he was a classified employee subjected to a final adverse action; and

**WHEREAS**, the grounds for the CSC's dismissal of Employee's appeal were substantially similar to the grounds for another CSC dismissal filed in an earlier matter involving Management in *Port Auth. of Guam v. Civil Serv. Comm'n (Susuico)*, 2015 Guam 14 (Susuico I), and *Port Auth. of Guam v. Civil Serv. Comm'n (Susuico)*, 2019 Guam 15 (Susuico II); and

**WHEREAS**, Employee and Management agreed that the Guam Supreme Court's ruling on the Susuico appeal would establish binding precedent that would control the resolution of Employee's appeal and consequently, agreed to stay the Petition for Judicial Review pending the outcome of the Susuico appeal; and

**WHEREAS**, the Guam Supreme Court rendered an Opinion in *Susuico I* holding that the CSC did have jurisdiction to preside over the adverse action appeal finding that when Susuico became a permanent, classified employee when he completed his probationary period and received a satisfactory rating on his performance evaluation report; and

**WHEREAS**, the Guam Supreme Court rendered an Opinion in *Susuico II* holding that Management violated the sixty (60) day rule when Management failed to act when the post-audit hearing was held and Management did not contest the CSC's factual findings. Instead, Management terminated Susuico's employment well after the sixty (60) day period in violation of Title 4 GCA § 4406; and

**WHEREAS**, in conformance with the holdings of *Susuico I* and *Susuico II*, the Superior Court of Guam remanded Employee's Petition for Judicial Review in SP0014-16 back to the CSC for proceedings not inconsistent with *Susuico I* and *Susuico II*; and

**WHEREAS**, the parties agree that the facts of *Susuico I* and *Susuico II* are substantially similar to the facts presented in Employee's appeal and therefore, the Opinions rendered by the Guam Supreme Court are dispositive of this matter; and

**WHEREAS**, the PAG Board of Directors ("BOD") by this Agreement states the BOD's intentions of terminating the CSC Adverse Action Appeal in an effort to avoid additional costs resulting therefrom; and

**WHEREAS**, the PAG Board of Directors ("BOD") finds that it is in the best interest of the PAG for Management to enter into a Settlement Agreement resolving all litigation against Employee resulting from the Adverse Action Appeal; and





**WHEREAS**, the Board of Directors found that it was in the best interest of the PAG for PAG Management to enter into a Stipulated Dismissal resolving all litigation against Cruz resulting from his Adverse Action Appeal; and

**WHEREAS**, the Board of Directors finds that it is in the best interest of the Port that without mitigation and this matter proceeding before the CSC to judgment, the Port could otherwise be liable to Employee in the approximate amount of \$323,856.80; however, due to the successful negotiated agreement, the amount payable to the Employee in back wages is \$113,728.37, having the Port realize a cost avoidance of approximately \$210,128.43; and

**NOW THEREFORE BE IT RESOLVED**, that the Board of Directors hereby provide General Manager Rory J. Respicio the latitude and authority to enter into and execute the Settlement Agreement which is to incorporate the benefits owed, execute and deliver such documents, undertake such acts, and provide direction to staff as are necessary to comply with the terms of the Stipulated Dismissal once signed and entered into by the CSC; and be it further

**RESOLVED**, that the Settlement Agreement be based on the following terms:

1. Back wages (net gross pay) \$113,728.37;
2. Reinstatement of annual leave hours owed;
3. Reasonable legal fees;
4. Remit to Retirement Fund retirement benefits owed to employee; and be it further

**RESOLVED**, that General Manager Rory J. Respicio forward the finalized and signed agreement to the Honorable Benjamin J.F. Cruz, Guam Public Auditor in the interest of transparency and accountability; and be it further

**RESOLVED**, that the Guam Civil Service Commission shall be notified of the agreement and the parties' desire to withdraw the litigation and comply with the Rules and Regulations of the Commission with regards to settlement of the Adverse Action Appeal; and be it further

**RESOLVED**, that General Manager Rory J. Respicio may allocate Port funds as necessary to satisfy the Stipulated Dismissal rendered by the Guam Civil Service Commission; and be it further

**RESOLVED**, the Chairman certify to and the Secretary attest to the adoption hereof and that a copy of this resolution be transmitted to the Civil Service Commission.

**PASSED AND ADOPTED UNANIMOUSLY BY THE BOARD OF  
DIRECTORS THIS 6<sup>th</sup> DAY OF JULY, 2023.**

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

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

5/18/23 *kb*

## SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT ("Agreement") is made and entered into on the date indicated below by and between JEFFREY Q. CRUZ ("Employee") whose address is PO Box 758 Agat, Guam 96928 and the PORT AUTHORITY OF GUAM ("Management") whose address is 1026 Cabras Highway, Ste. 201 Piti, Guam 96915, whereby both parties release and discharge all rights, claims, and demands upon the terms and conditions provided herein. Employee and Management are each a "Party" to this Agreement, and are collectively referred to herein as "Parties."

### RECITALS

WHEREAS, on October 31, 2011, Employee was hired as a Cargo Checker despite not meeting the minimum qualifications described in Job Announcement No. 32-11, and subsequently began employment on November 14, 2011; and

WHEREAS, on October 16, 2012, as a result of a post-audit investigation conducted by the Guam Civil Service Commission ("CSC") of Employee's personnel action, the CSC unanimously found that Employee's appointment was in violation of the merit system and rendered his employment null and void; and

WHEREAS, the CSC then provided Management ninety (90) days to determine how to proceed with Employee's employment action; and

WHEREAS, on January 15, 2013, after the ninety (90) days had lapsed, Management appeared at a hearing before the CSC and deferred to the CSC's earlier determination that Employee's personnel action, Employee's initial appointment as a Cargo Checker, was null and void as a violation of the merit system; and

WHEREAS, on January 17, 2013, Management informed Employee that, as a result of the CSC's determination, Management was cancelling Employee's personnel action appointing him to the position of Cargo Checker; and

WHEREAS, on January 24, 2013, Employee filed a Letter of Appeal of Final Adverse Action with the CSC, asserting that the action taken against him by Management was wrongful and untimely; and

WHEREAS, on January 14, 2016, the CSC issued a Decision and Judgment granting Management's Motion to Dismiss the Employee's Adverse Action Appeal, finding that Employee lacked standing to appeal before the CSC and that it could not reinstate Employee via its adverse action appeal authority in light of its previous ruling that Employee's appointment was null and void; and

WHEREAS, on February 12, 2016, Employee filed a Petition for Judicial Review in Superior Court Case No. SP0014-16, requesting the Court reverse and remand the CSC's January 14, 2016, Decision and Judgment. Employee also requested that the Court determine that the CSC had jurisdiction over that matter, namely that he was a classified employee subjected to a final adverse action; and

WHEREAS, the grounds for the CSC's dismissal of Employee's appeal were substantially similar to the grounds for another CSC dismissal filed in an earlier matter involving Management in *Port Auth. of Guam v. Civil Serv. Comm'n (Susuico)*, 2015 Guam 14 (Susuico I), and *Port Auth. of Guam v. Civil Serv. Comm'n (Susuico)*, 2019 Guam 15 (Susuico II); and

WHEREAS, Employee and Management agreed that the Guam Supreme Court's ruling on the Susuico appeal would establish binding precedent that would control the resolution of Employee's appeal and consequently, agreed to stay the Petition for Judicial Review pending the outcome of the Susuico appeal; and

WHEREAS, the Guam Supreme Court rendered an Opinion in *Susuico I* holding that the CSC did have jurisdiction to over to proceed over the adverse action appeal finding that when Susuico became a permanent, classified employee when he completed his probationary period and received a satisfactory rating on his performance evaluation report; and

WHEREAS, the Guam Supreme Court rendered an Opinion in *Susuico II* holding that Management violated the sixty (60) day rule when Management failed to act when the post-audit hearing was held and Management did not contest the CSC's factual findings. Instead, Management terminated Susuico's employment well after the sixty (60) day period in violation of Title 4 GCA § 4406; and

WHEREAS, in conformance with the holdings of *Susuico I* and *Susuico II*, the Superior Court of Guam remanded Employee's Petition for Judicial Review in SP0014-16 back to the CSC for proceedings not inconsistent with *Susuico I* and *Susuico II*; and

WHEREAS, the parties agree that the facts of *Susuico I* and *Susuico II* are substantially similar to the facts presented in Employee's appeal and therefore, the Opinion rendered by the Guam Supreme Court are dispositive of this matter; and

WHEREAS, the PAG Board of Directors ("BOD") by this Agreement states the BOD's intentions of terminating the CSC Adverse Action Appeal in an effort to avoid additional costs resulting therefrom; and

NOW, THEREFORE, in consideration of the mutual promises and obligations herein stated, the sufficiency of which both Employee and Management acknowledge, Employee and Management agree to dismiss with prejudice, end and terminate the CSC Adverse Action Appeal upon the following terms and conditions:

## TERMS AND CONDITIONS OF AGREEMENT

1. Employee and Management shall enter into a Stipulated Dismissal of the Adverse Action Appeal (in CSC Case No. Case No. 13-AA06T SP) with Prejudice in furtherance of this Agreement, which shall reference this Agreement but shall not result in disclosure or attachment of this Agreement, to be entered by the CSC, and by which Employee's appeal of the adverse action taken against Employee by Management shall be fully resolved. The stipulation shall be in substantially the form of the stipulation attached hereto as Exhibit A, and adopted by this reference.
2. Management agrees to pay Employee:
  - a. Back pay in the amount of One Hundred Thirteen Thousand Seven Hundred Twenty-Eight Dollars and Thirty-Seven Cents (\$113,728.37) in back wages owing from the date of termination to March 15, 2023, excepting those periods not covered by the "Employment dates" listed at the bottom of Exhibit B [per *Haeuser v. Dep't of Law*, 2005 Guam 14 ¶¶ 21-27], less applicable income taxes and withholding amounts, pursuant to the back pay calculation attached hereto as Exhibit B and adopted by this reference.
  - b. From the back wages, Management shall deduct and make payment to the Government of Guam Retirement Fund for Employee's share of retirement fund contributions in amounts that would restore Employee to what Employee would have contributed or paid had Employee remained in employment at the Port Authority of Guam (along with Management's matching contribution). Management shall also pay appropriate Medicare contributions. Within sixty (60) days Management will provide assurance to Employee that such withheld amounts have been timely paid to the appropriate entity.
  - c. Liquidated annual leave hours in the amount of Four Thousand Seven Hundred Sixty-Nine Dollars and Fifty-Four Cents (\$4,769.54), less applicable income taxes and withholding amounts.
  - d. Management agrees to pay Employee's attorney fees and costs related to the adverse action bases, and defenses, proceedings, and subsequent resolution and dismissal of the Adverse Action Appeal, in the amount of Seven Thousand One Hundred Five Dollars and twenty-eight cents (\$7,105.28), to be paid directly to Guam Federation of Teachers.
3. Management agrees to make all payments in paragraph 2 within sixty (60) days of approval of this Agreement by the Port of Guam Board of Directors, providing that the Agreement is first fully executed by all other parties to the Agreement.

4. Employee agrees that any post-judgment interest is waived if payment of back wages, liquidated annual leave hours, and attorney fees are made within ninety (90) days of the approval of this Agreement by the Port of Guam Board of Directors (provided that the Agreement is first fully executed by all other parties to the Agreement), otherwise Management will owe to Employee simple interest from the ninety-first (91st) day at the rate of 6% annum on the awarded back wages in paragraph 2.a.
5. No Admission of Liability. This Agreement is the result of a good faith compromise of disputed claims. This Agreement and any action taken by the Employee and Management, is not and shall never be used or considered to be an admission of the truthfulness or correctness of the claims advanced by any Party, or of any liability, fault or responsibility by any Party. Each Party continues to deny all liability, disclaim all responsibility, and dispute all factual allegations claimed by every other Party. In entering into this Agreement, the Parties simply intend to avoid all administrative or civil actions or litigation or other proceedings of whatsoever nature. Further, this Agreement is not and shall not be used as evidence of any admission of liability or wrongdoing for any purpose in any proceeding.
6. Management and Employee agree that this Agreement is meant to be a full and final release of all claims by the Parties.
7. It is stipulated and acknowledged that each Party hereto has read and understands the meaning of each term of this Agreement, that this Agreement is made without duress or undue influence of any kind, and that Employee and Management are aware of their respective rights, and have had a full and fair opportunity, to consult with independent legal counsel or seek legal advice in negotiating, executing, and understanding the legal effect of this Release and this Agreement.
8. It is intended by the Parties that this Agreement is complete and shall not be subject to any claim of mistake of fact or law. This Agreement has been carefully reviewed by all Parties, each of whom has had an opportunity to participate in its drafting by making changes, additions, or deletions. This Agreement expresses a full and complete settlement of all liabilities and all claims between the Parties. Other than what is specifically stated in this Agreement, no other promises of any kind have been made by any Party to this Agreement, and regardless of the adequacy or inadequacy of the consideration exchanged, this Agreement is intended to avoid further litigation and to be final and complete in full.
9. Upon execution of this Agreement, Management and Employee, on behalf of themselves and of any and all natural and non-natural persons or governmental instrumentality who may succeed in respective interest of the Port or of Employee (all such parties are hereinafter collectively referred to as "Releasers") hereby

mutually release any and all claims and forever discharge one another, together with each of their respective employees, agents, spouses, heirs, executors, administrators, directors, officers, insurers, successors and assigns as well as all other persons or entities (collectively "Releasees") of and from any and all legal liabilities, claims, obligations, demands, damages, actions and causes of action of every kind, arising out of or in any way connected with their employment relationship to date, including without limitation, those claims which were raised or might have been raised in the litigation of this matter, whether currently known or unknown, and whether knowable or unknowable.

10. Each Party expressly understands and acknowledges that it is possible that unknown losses or claims exist or that present losses may have been underestimated in amount or severity concerning this Settlement Agreement, and each Party explicitly took that into account in determining the amount of consideration to be given in the making of this Agreement, and a portion of said consideration and the mutual covenants contained in it have been bargained for between the Parties with the knowledge of the possibility of such unknown claims, and were given in exchange for a full accord and satisfaction and discharge of all such claims. Consequently, with respect to such unknown claims or losses, Employee and Management knowingly and voluntarily waive any and all rights, under principles of common law, or any comparable or similar law of any state or territory of the United States or any other applicable jurisdiction, and also under 18 G.C.A. § 82602, which provides that:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

11. The RECITALS stated herein are part and parcel of this Release and Agreement; and they accurately express the claims and intentions of the Parties.
12. It is agreed and stipulated by the Parties that the consideration for this Release and Agreement is a fair and reasonable settlement, and that this Release and Agreement are made in good faith.
13. Any Party who has to enforce this Agreement may disclose only such parts of this Agreement as are necessary to enforce its terms.
14. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's

opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

15. Notices. All notices required under this Agreement shall be made in writing and shall be sent by first class or registered mail, or personal delivery to the following persons or positions at the following addresses:

For Management:                      Attn: Mr. Rory Respicio, General Manager  
Port Authority of Guam  
1026 Cabras Highway, Suite 201 Piti,  
Guam 96915

For Mr. Cruz:                              Attn: Robert Koss  
Guam Federation of Teachers  
PO BOX 2301  
Hagatna, GU 96932

and

Mr. Jeffrey Q. Cruz  
PO Box 758  
Agat, Guam 96928

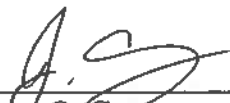
Notice given under this Agreement will be effective upon the other Party's receipt of the notice or if mailed, on the earlier of the other Party's receipt of it, or the third business day after the date of mailing.

16. Reasonable Cooperation. The Parties agree to cooperate in good faith to effectuate all the terms and conditions of this Agreement, including doing, or causing their agents and attorneys to do, whatever is reasonably necessary to take all necessary steps and to effectuate the signing, delivery, execution, filing, recording, and entry, of any documents necessary to conclude the matters arising from and to otherwise perform the terms of this Agreement, including but not limited to Employee signing a stipulated dismissal as described in Paragraph 1. above.
17. Preparation and Construction of Agreement. This Agreement was drafted by the Parties' respective representatives. This Agreement shall not be deemed prepared or drafted by one Party or another, or its attorneys, and will be construed accordingly.
18. Governing Law and Venue. This Agreement has been entered into in Guam, and shall be governed by, construed, and enforced in accordance with the laws of Guam. The Parties hereby expressly consent to the jurisdiction and venue of Guam courts with respect to any and all claims which may arise under this Agreement.

The undersigned are hereinafter bound to this Releases and this Agreement under the terms and conditions stated herein:

**Employee**

Dated: 5/17, 2023

  
\_\_\_\_\_  
**Jeffrey Q. Cruz**

**Management**

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
**Rory J. Respicio**  
General Manager  
Port Authority of Guam  
Authorized Representative

Approved as to form:

Approved as to form:

  
\_\_\_\_\_

By: **James L. Canto II**  
Staff Attorney  
Port Authority of Guam

Date: 6/27/23  
APPROVED:

  
\_\_\_\_\_

**Robert Koss**  
Lay Representative  
Guam Federation of Teachers

Date: 5/17/23

\_\_\_\_\_  
**HON. Dorothy P. Harris**  
Acting Chairperson, Board of Directors  
Port Authority of Guam

Date: \_\_\_\_\_

Initial: J.C.  
Initial: \_\_\_\_\_



Cruz, Jeffrey O.  
1/18/2013

EB1851

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)
From	To	Network Days	Hours	Per Hour	Gross Pay	Ret EE Share 6.2%	Medicare BE Share 1.45%	Net Pay (Excluding Ret and Medicare Employee Share)	Retirement Rate (Unfunded Employer Share)	Unfunded Employer Share	Medicare Employer Share 1.45%	Retirement Employer Share 6.2%	Total Pay (including Benefits)
10/13/2012	1/18/2013	70	560	\$ 0.25	\$ 140.27	\$ 8.70	\$ 2.03	\$ 129.54	23.89%	\$ 33.51	\$ 2.03	\$ 8.70	\$ 184.51
7/25/2013	8/22/2013	21	168	\$ 13.44	\$ 2,257.82	\$ 139.99	\$ 32.74	\$ 2,085.10	23.89%	\$ 539.39	\$ 32.74	\$ 139.99	\$ 2,969.94
1/31/2014	5/1/2014	65	520	\$ 13.72	\$ 7,136.75	\$ 442.48	\$ 103.48	\$ 6,590.79	21.96%	\$ 1,567.23	\$ 103.48	\$ 442.48	\$ 9,249.94
1/13/2015	3/25/2015	52	416	\$ 14.00	\$ 5,824.20	\$ 361.10	\$ 84.45	\$ 5,378.65	21.96%	\$ 1,278.99	\$ 84.45	\$ 361.10	\$ 7,548.75
2/14/2016	9/30/2016	165	1320	\$ 14.28	\$ 18,951.88	\$ 1,168.82	\$ 273.35	\$ 17,409.72	21.96%	\$ 4,139.87	\$ 273.35	\$ 1,168.82	\$ 24,433.99
6/14/2018	9/15/2018	67	536	\$ 14.61	\$ 7,831.59	\$ 485.35	\$ 113.56	\$ 7,232.42	21.21%	\$ 1,661.07	\$ 113.56	\$ 485.35	\$ 10,091.71
9/16/2018	9/14/2019	260	2080	\$ 14.90	\$ 31,002.00	\$ 1,922.12	\$ 449.33	\$ 28,630.35	21.63%	\$ 6,705.73	\$ 449.33	\$ 1,922.12	\$ 40,079.39
9/15/2019	9/14/2020	261	2088	\$ 17.48	\$ 36,491.82	\$ 2,262.49	\$ 529.13	\$ 33,700.19	20.36%	\$ 7,429.73	\$ 529.13	\$ 2,262.49	\$ 46,713.17
9/15/2020	9/14/2021	261	2088	\$ 17.83	\$ 37,225.63	\$ 2,307.99	\$ 539.77	\$ 34,377.87	20.05%	\$ 7,474.91	\$ 539.77	\$ 2,307.99	\$ 47,548.29
9/15/2021	9/14/2022	261	2088	\$ 18.19	\$ 37,973.49	\$ 2,354.36	\$ 550.62	\$ 35,068.52	20.77%	\$ 7,887.09	\$ 550.62	\$ 2,354.36	\$ 48,765.56
9/15/2022	3/15/2023	130	1040	\$ 18.55	\$ 19,294.50	\$ 1,196.26	\$ 279.77	\$ 17,818.47	22.17%	\$ 4,267.94	\$ 279.77	\$ 1,196.26	\$ 25,038.47
		0	0	\$ 18.93	\$ -	\$ -	\$ -	\$ -	22.23%	\$ -	\$ -	\$ -	\$ -

Estimated salary \$ 204,029.89 \$ 12,649.85 \$ 2,958.43 \$ 188,421.60

\$ 42,985.48 \$ 2,958.43 \$ 12,649.85 \$ 262,623.65

PAG calculation based on VCE	2013 wages	\$ (1,218.00)
PAG calculation based on VCE	2014 wages	\$ (4,100.00)
PAG calculation based on VCE	2015 wages	\$ (3,432.00)
Per 2016 W-2GU	2016 wages	\$ (2,327.12)
Per 2018 Form 1040 Tax transcripts	2018 wages	\$ (10,193.79)
Per 2019 Form 1040 Tax transcripts	2019 wages	\$ (21,222.00)
Per 2020 Form 1040 Tax transcripts	2020 wages	\$ (32,192.00)
Per 2021 Form 1040 Tax transcripts	2021 wages	\$ (47,023.29)
Per 2022 Form 1040	2022 wages	\$ (90,301.52)

\$ 113,728.37 \$ 7,051.16 \$ 1,649.06 \$ 105,028.15

NOTE: The above gross pay for years 2013-2015 were based on the assumption that Mr. Cruz worked for 8 hours/day. The employment dates and hourly rates were indicated in the VCE.

Employment dates:	From	To	Network Days	Hours	Hourly Rate	Hours	Total Gross Pay
Denanche Security - 07/25/2013 to 08/22/2013	7/25/2013	8/22/2013	21	168	\$ 12.16	168	\$ 2,042.88
Cabrera Marine - 01/31/2014 to 05/01/2014	1/31/2014	5/1/2014	65	520	\$ 7.50	520	\$ 3,900.00
Triple J - 01/13/2015 to 03/25/2015	1/13/2015	3/25/2015	52	416	\$ 7.50	416	\$ 3,120.00
Unlimited Services Group - 02/14/2016 to 09/30/2016							
Agat Office - 6/14/2018 to 12/20/2019							
Department of Labor - 7/27/20 to 8/10/21							
Department of Education - 1/31/2022 to 5/24/2022; 6/13/2022 to 7/29/22; 8/23/2022 to 9/30/22; and 10/1/2022 to 9/30/2023							

1 **James L. Canto II**  
2 **Attorney for Management**  
3 **PORT OF GUAM**  
4 *Aturidat I Puetton Guahan*  
5 1026 Cabras Highway  
6 Suite 201  
7 Piti, Guam 96925  
8 Tel. (671) 475-5931/35  
9 Fax. (671) 477-2689/4445  
10 jlcanto@portofguam.com

7 **BEFORE THE CIVIL SERVICE COMMISSION**  
8 **GOVERNMENT OF GUAM**

9  
10 IN THE MATTER OF: ) ADVERSE ACTION APPEAL:  
11 ) CASE NO. 13-AA06T SP  
12 )  
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11 **JEFFREY Q. CRUZ,**  
12 Employee,  
13 vs.  
14 **PORT AUTHORITY OF GUAM,**  
15  
16 Management.

ADVERSE ACTION APPEAL:  
CASE NO. 13-AA06T SP  
**STIPULATED DISMISSAL OF THE  
ADVERSE ACTION APPEAL**

19 COME NOW, the parties hereto and hereby stipulate pursuant to Rule 9.5 of the Rules of  
20 Procedure for Adverse Action Appeals, and subject to the terms of the parties' Settlement  
21 Agreement, dated \_\_\_\_\_, the terms and provisions of which are  
22 incorporated herein, hereby agree that the above-entitled Adverse Action be dismissed in its  
23 entirety, with prejudice, and that the parties' costs and attorney's fees shall be determined as per  
24 the parties' Settlement Agreement. In light of the foregoing referenced settlement agreement and  
25 parties' stipulation for dismissal, the parties jointly request this Commission enter an order of  
26 dismissal with prejudice.  
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Employee:

**PORT OF GUAM**

\_\_\_\_\_  
**JEFFREY Q. CRUZ**

By:

\_\_\_\_\_  
**JAMES L. CANTO II**  
Attorney for Management

Lay Representative for Employee:

\_\_\_\_\_  
**ROBERT E. KOSS**



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




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

June 27, 2023

**MEMORANDUM**

TO: Board of Directors

FROM: Rory J. Respicio, General Manager 

SUBJECT: Employee Wellness Programs; Request for \$50K

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*Hafa Adai!* The Government of Guam holiday events that are celebrated amongst our sister agencies are fast approaching. These are times shared together with government of Guam employee counter-parts, with their families and the island community. This also includes Port Week, honoring our port strong employees for their services and dedication giving them the opportunity to gather with their families, coworkers, and friends during these festive times.

In light of this, Board approval is being respectfully requested to authorize the use of \$50,000 to fund these events and that such funds are transferred to PAGGMA Association who will handle the disbursement of funds. A financial expense report will be submitted to the Finance Division that accounts for the expenditures of these events. Any unused funds will be remitted back to the Port Authority.

I am available for any questions you may have.

LOURDES A. LEON GUERRERO  
GOVERNOR



JOSHUA F. TENORIO  
LT. GOVERNOR

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

May 17, 2023

**BOARD OF DIRECTORS**

Port Authority of Guam  
1026 Cabras Highway, Suite 201  
Piti, Guam 96915

**Re: NOMINATION TO THE POSITION OF DEPUTY GENERAL MANAGER FOR  
ADMINISTRATION**

*Dear Board Members:*

Hafa Adai, I am writing to inform you that I am nominating Mr. Pacifico Martir for the Position of Deputy General Manager for Administration for the Port Authority of Guam (PAG).

Pursuant to my authority under the Organic Act of Guam, Title 5, Guam Code Annotated, Chapter 85, I respectfully request your favorable consideration of my nominee.

I am confident Mr. Martir possesses all that is necessary to assist PAG in increasing efficiencies in carrying out its statutory duties.

For your review and consideration, I have attached Mr. Pacifico's resume. *Dangku'lu Na Si Yu'os Ma'ase* for your support in this matter.

If you have any questions or concerns, please contact the Governor's Office.

*Senseremente,*

A handwritten signature in black ink, appearing to read "Lou Leon Guerrero".

**LOURDES A. LEON GUERRERO**  
Governor of Guam

Enclosure(s): Resume

# Pacifico Rivera Martir

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## PROFESSIONAL SUMMARY

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Enthusiastic business professional with over 40 years of managerial experience planning, coordinating and directing programs, activities, policies and procedures. Experience driving revenue performance, growth, and service excellence for Fortune 500 company. Proven expertise in executing robust strategies, managing large budgets, and improving processes that result in reduced costs, higher quality and greater yield. Instrumental in overseeing multiple venues, controlling costs, and maintaining effective working relationships with key managers and over 350 personnel.

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## EXPERIENCE

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### Property Manager

**Hågat, GU**  
1996-Current

- 26 years of experience in leasing, tenant services, and the maintenance and management of multiple rental properties.

### Ayuyu Corporation, a McDonald's Franchisee *Quality Service Cleanliness (QSC) Director*

**Tamuning, GU**  
May 2016 – April 2023

#### Personnel

- Manage, train, and maintain effective working relationships to ensure the shape and development of eight General Managers and over 350 employees.
- Implement and ensure all policies and procedures are met to current standards.
- Ensure all corrective actions are addressed and documented according to established protocols.

#### Quality Control

- Perform routine quality and food safety verification checks as specified by quality and food safety programs.
- Assure the proper maintenance of company supplies and equipment for long-term service.
- Assist and recommend appropriate resolutions to customer service issues.

#### Company Goals

- Communicate and collaborate with multiple business partners regarding the operations' strengths, trends, and potential weaknesses based on analyzed data.
- Provide overall evaluation, direction, planning and management of services.
- Coordinate and oversee the proper planning, development and execution of projects that aim for growth and modernization of the company.
- Hold high level meetings to improve and better understand how to manage a successful business.
- Create marketing and promotion campaigns to meet established sales targets.

**McDonald's Corporation**  
*Various Positions*

**Tamuning, GU**  
June 1973 – April 2016

- Tenure included 30 successful years in my role as an Operations Consultant contributing to the growth, development, and success of McDonald's Corporation.
- Direct reporting to the Operations Managers based in Hawaii, which is a part of the West Coast Regional Division of McDonald's
- Due to the nature of the role, work duties were similar to the responsibilities required by the Ayuyu Corporation

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#### **EDUCATION**

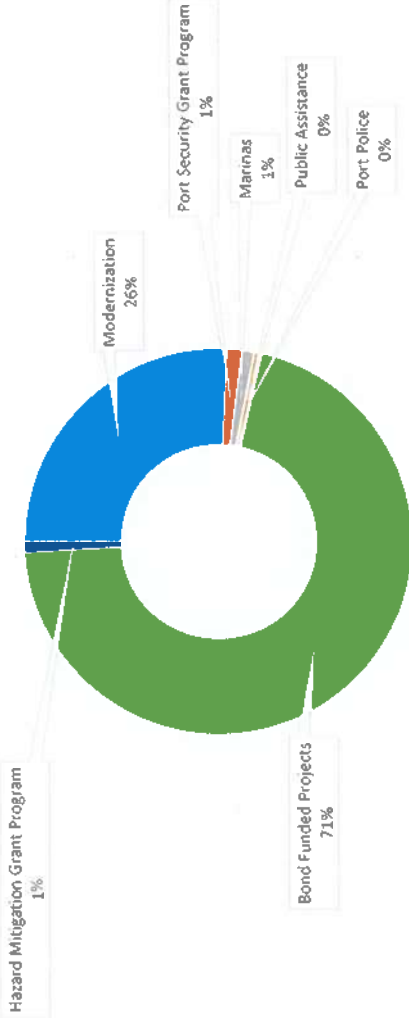
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**John F. Kennedy**  
High School Diploma

**Tamuning, GU**  
Class of 1976

FY 2023 Port Grant/Bond - Monthly Update  
As of June 27, 2023

PAG Federal and Bond Funding Percentage



Grant Program	Total Award Amount	Total Draw Down	Total Remaining Balance	PROCUREMENT (FB/RFP/PO Number)	Status
Modernization	\$28,493,777.00	\$4,886,840.74	\$23,597,236.26		
GR882-19-04 - 2020 Master Plan Update	\$1,600,000.00	\$1,546,413.02	\$53,586.98		No cost, one-year grant extension approved. New end date is Sept. 30, 2023. MOA to reflect new grant end date is currently being reviewed and processed. PAG received the Final DRAFT of the Master Plan. Document will now go through the Public Hearing, Submission and Adoption process outlined in 5 G.C.A. §1209, 1209.1 and 1209.
GR882-20-06 - OAE Supplemental Support Services	\$1,500,000.00	\$378,940.90	\$1,121,059.10	P.O. No. 17424-OS for \$1,500,000.00	Continued professional and technical assistance is being provided by the PAG's Owner's Agent Engineer (OAE) WSP under Task Order 11.
GR882-22-02 Growth Port Authority of Guam in Water Infrastructure Study	\$1,200,000.00	\$66,544.82	\$1,133,455.18		As previously reported, Task Order #12 outlines the different tasks and deliverables for this OUDC grant. Currently, WSP in coordination with the Port is performing these services.
Port Enterprise Fund - Port of Guam Construction Deficiencies and Equipment Purchases	\$2,844,530.00	\$2,844,530.00	\$0.00		Currently pending close out site visit by MARAD which is anticipated for the month of August.
07-79-07614 - F1 Pier to Golf Pier Fuel Connectivity Project	\$2,413,091.00	\$0.00	\$2,413,091.00	RFP-PAG-022-003 - A&E DESIGN CONSULTING SERVICES FOR The installation of a Fuel Pipeline System for F1 Pier and Golf Pier Connectivity.	Contract was sent to Amazon on June 15, 2023. Amazon returned signed contract on June 27, 2023. Purchase Order No. 18692-OS was routed to Amazon for signature on June 28, 2023.
020AP00136 - Phase 1: Port Authority of Guam - Working Shop	\$240,325.00	\$0.00	\$240,325.00		The PAG submitted the Determination of Eligibility (DOE) as part of the SHPO's HABS requirement on April 28, 2023. The SHPO has 30 days to review and provide comments. The SHPO stated on June 13, 2023 that their office is still recovering from the storm and will look to provide feedback on the DOE as soon as possible.
D21AP10142 - Phase 2: Port Authority of Guam - Working Shop	\$151,850.00	\$0.00	\$151,850.00		See above line item.
D22AP00124-00 Port Authority of Guam's Generator Maintenance and Sustainment Program	\$165,375.00	\$112.00	\$165,263.00		Grant award notification was received on June 29, 2022. PO# May 15, 2022 September 30, 2025. Requisition #21032-ON was entered on Jan. 19, 2023. Purchase Order No. 18867-OS for the Generator Maintenance Services was routed to Hawthorne Pacific Corp. on May 4, 2023 and was signed on May 8, 2023. Facilities Maintenance & Equipment Maintenance is currently routing Requisitions #21383-4-ON for genset parts for procurement.
9872710198734601 - Diesel Emissions Reduction Act (DERA) - Tractor Replacement	\$376,609.00	\$0.00	\$376,609.00		PO#18862-OS for the purchase of four (4) terminal yard tractors was issued to American Material Handling, Inc. on May 2, 2023. Delivery: 330 Days After Receipt of Order.
MARAD RAISE - Wharves Service Life Extension Hardening of Wharves F1-F6	\$17,941,997.00	\$0.00	\$17,941,997.00	PAG's OAE Task Order 11, Subtask 11.9 - P.O. was issued to WSP to conduct the HABS/HAER Study mandated by State Historic Preservation Officer (SHPO).	PAG's OAE (WSP) is in discussion with a local environmental consultant who is experienced in the preparation of environmental assessment documentation under the National Environmental Policy Act (NEPA), if an Environmental Assessment (EA) is required to be completed for the proposed project. OAE to develop detail SOW for local environmental consultant.



**FY 2023 Port Grant/Bond - Monthly Update**  
As of June 27, 2023

Grant Program	Total Award Amount	Total Draw Down	Total Remaining Balance	PROCUREMENT I/FB/RFP/PO Number	Status
<b>Marinas</b>					
F14AP00191 - Harbor of Refuge Repairs - 1. Repair Plan of Mooring System and Anchor Block - 2. Discovered - Wastewater Pump Station and Storage Facility	\$1,209,243.60	\$1,209,243.60	\$0.00		Final closeout report, in progress.
F15AP00261 - Harbor of Refuge Moorage Repairs	\$56,484.60	\$56,484.60	\$0.00		See above line item.
F17AP00486 - Harbor of Refuge Moorage Repairs	\$200,000.00	\$200,000.00	\$0.00		See above line item.
F19AP00334 - Harbor of Refuge Moorage Repairs	\$200,000.00	\$200,000.00	\$0.00		See above line item.
F19AP01199 - Guam Fisheries Development: Construction of Agat Marina's Dock B	\$512,759.00	\$512,759.00	\$0.00	P.O. No. 18129-05 was issued to AIC International, Inc. for \$1,494,750.00	AWarding arrival of Certified Docking System Technician from Hawaii, ETA July 2023. Preparatory meeting ongoing to discuss details and logistics of assembling the floating dock at Contractor's Warehouse/Ford.
					CLOSED
F19AF01210 - Repair of Agat Marina Boat Ramp Bumpers - 100%	\$40,000.00	\$40,000.00	\$0.00		
<b>Port Security Grant Program</b>	\$1,381,949.00	\$889,350.39	\$492,598.61		
EMW-2018-PU-00441-S01 - IDEN Technology Redundant Inoperable Communications System	\$94,844.00	\$94,304.28	\$639.72		Project complete; pending grant close out on May 31, 2023.
EMW-2018-PU-00441-S01 - Maintenance and Sustainment Contract for FEMA-acquired AS&E ZBV Backscatter X-Ray Van	\$195,669.00	\$161,638.33	\$34,030.67	PO No. 17626-05 - American Science & Engineering 70-724 04	Year 3 maintenance services from AS&E ended Dec 2022. Pending training component. POP bid date is May 31, 2023.
EMW-2018-PU-00441-S01 - Replacement CCTV System Existing Analog Cameras with Digital IP Cameras	\$180,867.00	\$180,867.00	\$0.00	IFB PAG-003-21	See Port Enterprise Fund - Project 6.
EMW-2021-PU-00230-S01 - Acquisition of Vessel Tracking/Radar Intrusion System	\$701,250.00	\$9,562.50	\$191,687.50	PO No. 1873005- G4S Security System \$347,000.00	IFB PAG-013-22 published on August 15, 2022. Bid opening held on 10/24/2022 with one (1) submission. A budget request to utilize portion of remaining II&Z funding to cover any shortfall of II #1, was reviewed and approved FEMA on 2/4/2023. Awarded to G4S Security Systems. Delivery 210 days.
	\$185,001.00	\$50,605.50	\$114,395.50	PO No. 18212-05 - Compaclic \$61,012.00	Award issued to Compaclic and equipment was delivered on September 29, 2022. Project Completed. A budget request to use remaining balance to purchase additional units was reviewed and approved by FEMA on 2/4/2023.
EMW-2022-PU-00149 - Acquisition of Unmanned Aerial Vehicles (UAV)	\$74,290.00	\$0.00	\$74,290.00		Grant was awarded on September 1, 2022. The Port Police Division is currently working on the DB&CT UAV Policy for submission to FEMA. This policy must be approved by FEMA prior to commencing the procurement process.
EMW-2022-PU-00149 - Primary Communications Replacement of Motorola Radio Units	\$405,478.00	\$0.00	\$405,478.00		Grant was awarded on September 1, 2022. Port Police Division is currently working closely with procurement to issue the purchase order.
EMW-2023-PU-00349- Integrated Digital Enhanced Network (IDEN) Technology Redundant Interoperable Communications System Service	\$84,450.00	\$9,361.00	\$75,089.00	PO No. 18297-05 I&E \$35,013.36	Grant was awarded on September 1, 2022. (IDEN) Services are ongoing provided by I&E (Period of October 1, 2022 - September 30, 2023.)
439BDR - Typhoon Mangkhut #66352	\$590,517.90	\$311,407.40	\$279,110.50		Funding project was completed on September 30, 2022. Requested no-cost time extension for the Management & Admin. project [CAT 2] Project #99994 up to March 1, 2023.
	\$530,517.90	\$311,407.40	\$219,110.50		
<b>Hazard Mitigation Grant Program</b>	\$989,564.00	\$0.00	\$989,564.00		IFB-PAG-CIP-022-008 posted on August 26, 2022. Pre-bid conference held on Sept. 7, 2022 and Site visit conducted on Sept. 9, 2022. Bid opening held on Oct. 27, 2022, 2:00 pm. Contract awarded to Cabras Marine. Notice to Proceed was given to Cabras Marine on January 10, 2023. Grant Period of Performance end date is November 4, 2023.
Fendering System Hardening Project	\$603,689.00	\$0.00	\$603,689.00		IFB-PAG-CIP-022-008 posted on Sept. 13, 2022. Pre-bid conference held on Sept. 20, 2022 and Site visit scheduled for Sept. 23, 2022. Bid opening was completed on October 20, 2022. There were two (2) bid submissions received by the deadline. Both bids were opened and the documents were reviewed by the Port Staff Attorney as well as the Procurement and Engineering divisions. Meeting held on December 7, 2022 with lowest bidder to discuss submission and specifications. Awarded to IAN Corporation. Notice to Proceed was given to IAN Corp on April 16, 2023. Grant Period of Performance end date is November 4, 2023.
Warehouse 1 Hardening Project	\$385,875.00	\$0.00	\$385,875.00		Signed grant agreement and NTP provided to the PAG on June 27, 2023. The next steps are to provide the DHS with an enforcement schedule prior to conducting grant activities.
	\$30,000.00	\$0.00	\$30,000.00		Project is currently on hold pending Management decision.
	\$30,000.00	\$0.00	\$30,000.00		Installation of the new watchline along Route 11 is ongoing. Locations of new pipelines in the container yard have been identified and marked.
<b>Bond Funded Projects</b>	\$77,886,440.00	\$6,946,921.89	\$70,939,518.11		Roof repairs are complete and roof coating and spall repair is ongoing.
New Administration Building	\$10,445,000.00	\$0.00	\$10,445,000.00		Procurement packet is being developed prior to PAG in-house legal review. Status Quo.
Waterline Replacement and Relocation	\$6,000,000.00	\$1,433,613.59	\$4,566,386.41	PO No. 1779005 for \$4,856,568.91 awarded to S&M & Sons Inc.	The PAG O&E is currently developing a draft design.
EDMR Building Repairs and Upgrades	\$3,628,800.00	\$925,595.19	\$2,699,204.81	PO No. 1800705 for \$3,980,000.00 awarded to J Global Service	
Warehouse 1 Repairs and Upgrades	\$2,000,000.00	\$447,013.13	\$1,552,986.87	PO No. 2019-03 - A&E Design awarded to MC Macario	
Gulf Pier Repairs and Improvements	\$2,000,000.00	\$371,147.93	\$1,627,852.07	RFP No. 2019-02 - A&E design for \$480,000 awarded to MC Macario	

**FY 2023 Port Grant/Bond - Monthly Update**  
As of June 27, 2023

Grant Program	Total Award Amount	Total Draw Down	Total Remaining Balance	PROCUREMENT IFS/RFP/PO Number	Status
Rehabilitation of "H" Wharf	\$46,331,895.00	\$1,298,983.83	\$45,032,911.17	PO No. 17043-Of for \$2,249,845.54 awarded to GHD Inc. New Contract Amount: \$2,656,621.37   PO No. 18140-OS was issued to Sumitomo Mitsui Construction Company, Ltd. for \$46,331,895.00	On April 28, 2023, PAG submitted a grant application under the 2023 Port Infrastructure Development Program. The proposed project is for the rehabilitation of H-Wharf to augment escalated construction cost due to inflation. Build America, Buy America (BABA) Act and if project is aligned with the merit criteria. The FY 2023 PIDP grant application process consists of an Intake Review Phase, a Technical Review Phase, and a Senior Review Phase. M&B&D will announce projects selected for award by First Quarter of FY 2024.
Other Priority Projects	\$4,980,745.00	\$0.00	\$4,980,745.00		1. Please refer to M&B&D BAISE - Wharves Service Life Extension Hardening of Wharves F1 F6 for more information. 2. PAG reviewing Cargo Velocity recommendations on the TDS upgrade. The next step will be to develop the draft scope of work with the assistance the PAG O&M.
Other Priority Projects - EnterpriseOne Financial Management System	\$2,500,000.00	\$2,365,568.22	\$134,431.78		Module updates are ongoing, including work on Job order modules for vestsab and SSBs. Status: On.
<b>Grand Total</b>	<b>\$110,461,491.50</b>	<b>\$13,690,512.24</b>	<b>\$96,770,979.26</b>		

PORT AUTHORITY OF GUAM  
CONTRACT SUMMARY UPDATE

No.	Consultant/Vendor	Type of Service	Solicitation Method Reference No.	Division	Contract Term	Initial Term	Expiration After Options	Next Renewal Due Date	Annual Amount (Comments / Notes)
<b>PROFESSIONAL SERVICES</b>									
1	A1 - Guam WEBZ	Web Development, Hosting, Support and Maintenance Svcs	IFB-PAG-002-20	IT	3 years w/2 1 yr options	04/01/2020 to 03/31/2023 w/ 2 1yr options	03/31/25	03/31/24	Fees based on rates
2	AM Insurance	Insurance Coverages	GSA/PAG-015-22	Finance	5 years	10/01/2022 to 09/30/2023	09/30/27		Premium Based/Annual renewal
3	AM Insurance	Workers Compensation Coverages	IFB-PAG-011-23	Finance/Safety	3-years			09/30/23	Currently in cost negotiations
4	Matson	PMC for Gantry Cranes	RFP-020-005	EQMR	5 years with options to 20 years	11/05/21 to 11/05/26		11/05/26	\$200K per annum
5	Bank of Guam	Banking Services	RFP 020-004	Finance	5 years	5/14/21 to 5/13/26	05/14/26	05/14/26	
6	Mobil Oil Guam	Management and Operations of Golf Pier	RFP-PAG-021-002	Commercial	5 years				Currently in cost negotiations
7	OMEGA Safety	OSHA Training & Certification Svc. for Maritime Terminal Ops.	RFP-017-003	Human Resources	3yr w/ 2- 1yr options NTE 5 years	8/13/2018 to 8/13/2021	08/13/23		Final Year next IFB Aug. 2023
8	Pacific Human Resources. Inc.	Drug Free Workplace Program	RFP-020-003	Human Resources	Initial 3yr term with 2 add'l 1-year options, not to exceed 5 yrs	6/15/23 to 6/14/23 (Option 1 signed)	06/15/25	06/15/24	Fees based on rates
9	Milo Appraisals	Real Estate Appraisal Services	RFP-021--004	Commercial	3yrs w/ 2 option	10/06/21 to 10/05/24	10/05/26	10/05/24	Task Order based
10	International Health Providers IHP	Medical Examination Services	RFP-022-005	Human Resources	3 yr. w/ 2 options NTE 5 years	6/14/23 to 6/14/26	06/14/28	06/14/26	Fees based on rates
11	Tristar Terminal Guam	M & O of F-1 Fuel Pier Facility	RFP-019-004	Commercial	5 years	4/01/21 to 3/31/26	04/01/21	03/31/26	
12	Ernst & Young	Annual Independent Audit Services	RFP 022-004	Fiscal	3 years w/2 1 yr option	FY22, FY23, FY24, (FY25 Option)	2025	2024	
13	WSP USA Inc.	OAE - Owner Agent Engineer	RFP-021-003	Planning	2 yr w/ 3 options NTE 5 yrs	10/22/21 to 10/21/23	10/22/26	10/21/23	\$1.5M
14	N.C. Macario & Associates	A/E Design and Consulting Services Golf Pier	RFP 019-002	Engineering	3 years w/2 1 yr options	11/20/19 to 11/19/22	11/19/2024	11/20/2022	Did not renew

PORT AUTHORITY OF GUAM  
CONTRACT SUMMARY UPDATE

No.	Consultant/Vendor	Type of Service	Solicitation Method Reference No.	Division	Contract Term	Initial Term	Expiration After Options	Next Renewal Due Date	Annual Amount (Comments / Notes)
15	N.C. Macario & Associates	A/E Design and Consulting Services EQMR, Warehouse No.1, Waterline Relocation	RFP 019-003	Engineering	3 years w/2 1 yr options	2/05/20 to 2/04/23	2/5/2025	2/4/2024	\$1,406,427.48
16	GHD	Construction Management Services	RFP 020-002	Engineering	Initial 2 years with 3 add'l 1-year options not to exceed 5 yrs	3/15/21 to 3/14/23	3/15/2025	3/14/2024	Contract signed 3/15/2021
17	AM Orient	A&E Design of Fuel Pipeline System	RFP 022-003	Planning/CIP	2 years w/ 1 add'l option	6/28/23 to 6/28/25	6/28/2027	6/27/2025	*Contract signed 6/28/23 *Task Order based

**CONSTRUCTION CONTRACTS**

No.	Consultant/Vendor	Type of Service	Solicitation Method Reference No.	Division	Contract Term	Initial Term	Expiration After Options	Next Renewal Due Date	Annual Amount (Comments / Notes)
1	Sumitomo Mitsui Construction Company	REBID - Construction Rehabilitation of H-Wharf & Hwy 11 Roadway Reconstruction	IFB-022-002	CIP/Planning	730 Calendar days from NTP				\$47M approx.
2	Guam Shipyard	Design Demolition of 5 inoperable Port Cranes and One Barge at F-6	MS IFB 021-002	CIP/EQMR	410 calendar days				\$2,573,155.00
3	Guam Shipyard	Supply and Install of Fendering system at F-3	IFB 021-001	CIP	243 calendar duty from NTP				\$297K NTP was issued
4	Cal Pac	Installation of CCTV Surveillance sys and ACS control replacement	IFB 003-21	Planning / CIP	210 days from NTP				\$1.2 million
5	Propacific Builders Corp.	Replacement of 125 each Reefer Receptacles	IFB -21-007	CIP	182 days from NTP				\$600,000.00
6	Pacific Federal Management Inc.	Design Build and Replacement Of 3 Metal Gate booths	IFB-0021-11	CIP	275 days from NTP				\$157,557.00
7	BME and Sons	Waterline Replacement Project	IFB -021-005	CIP	365 calendar days from NTP				\$4.8M
8	SPPC	Ultra Low Sulfur Diesel Fuel Bid	IFB-022-002	Trans/Ops	3 years with 2 options				\$450K approx.
9	ART Construction	Renovation and Repairs of the Harbor of Refuge Phases 2 thru 5	IFB 022-001	CIP/Planning	180 from NTP				\$870,000.00

PORT AUTHORITY OF GUAM  
CONTRACT SUMMARY UPDATE

No.	Consultant/Vendor	Type of Service	Solicitation Method Reference No.	Division	Contract Term	Initial Term	Expiration After Options	Next Renewal Due Date	Annual Amount (Comments / Notes)
10	ProPacific Builders	Design Build Agat Marina Bathrooms	IFB 022-006	CIP	360 calendar days from NTP				\$345,000.00
11	AIC International Inc.	Construction of Agat Marina Dock B	IFB 022-004	CIP/Planning	242 Calendar days from NTP				\$1.5M
12	RN Builders	Painting of Exterior,Interior,Roof Coating of PAG CFS Building.	IFB-022-007	CIP	180 Calendar days from NTP				\$390,000.00
13	Cabras Marine Corp	Supply and Install New 11 ea. Cylindrical Fendering System at F3 and 15 ea Rubber Leg Arch Fenders at F4 to F6	IFB 022-008	CIP	243 Calendar Day from NTP				\$301,077.47

**Status as of June 29, 2023**

Fact Sheet No. **124**

**Project Status  
Post-Award Projects**

Project Title	Replacement of 125 Each Reefer Outlet Receptacles
Project Number	IFB-PAG-CIP-021-007
Project Amount	\$ 600,000.00
Work in Progress (WIP)	80% Complete
Funding Source	PAG Bonded Project
Contractor	PRO PACIFIC Builders Corporation (PBBC)
Designer of Record	PAG In-House
Construction Manager	PAG Engineering Division
Notice to Proceed Issued	March 18, 2022
Project Completion Date	May 31, 2023 (Original date: February 28, 2023)
<p>Current Status: Received 4 of 12 electrical panels and performed conformity inspection. The outstanding 8 Panelboards are delayed due to manufacturing delay, and expected mid-August. Installations and inspection of remaining Panelboards will be performed once received. PBBC will request a “No-Cost Time Extension” to extend the project closeout to December 31, 2023. Currently holding a bi-weekly meeting with supplier and contractor to track the panelboards from manufacturing to delivery.</p>	

Project Title	Installation of Dock “B” Agat Marina
Project Number	IFB-PAG-CIP-022-002
Project Amount	\$ 1,494,750.00
Work in Progress (WIP)	75% Complete
Funding Source	DOI and USDA Grants + PAG FY21 Budget Share
Contractor	AIC International Inc.
Designer of Record	DCA
Construction Manager	PAG Engineering Division
Notice to Proceed Issued	August 15, 2022
Project Completion Date	September 12, 2023 (time extension)
<p>Current Status: All Build of Materials received, and PAG Engineering coordinated conformity inspection at AIC Laydown area. Project is at risk to miss the POP, as USACE in-water permit is pending and utilities installation and commissioning is dependent on structures installed. PAG and AIC in discussion to extend POP at no-cost to Government.</p>	



Project Title	Painting of exterior, interior and roof coating of the CFS Building
Project Number	IFB-PAG-CIP-022-007
Project Amount	\$390,000.00
Work in Progress (WIP)	95% Complete
Funding Source	PAG
Contractor	RN Builders
Designer of Record	PAG In-House
Construction Manager	PAG Engineering Division
Notice to Proceed Issued	November 3, 2022
Project Completion Date	June 15, 2023 (will extend POP)
<p>Current Status:  Project is 95% complete, with spall and crack repairs on-going. Contract modifications to repair cracks and spalls approved. Project POP will be renegotiated due to TS Mawar's caused damages.</p>	

Project Title	Design-Build Agat Marina Bathrooms
Project Number	IFB-PAG-CIP-022-006
Project Amount	\$ 345,000.00
Work in Progress (WIP)	40% Complete
Funding Source	PAG Budget FY22
Contractor	PRO PACIFIC Builders Corporation (PBBC)
Designer of Record	Coeval Design Partners
Construction Manager	PAG Engineering Division
Notice to Proceed Issued	July 18, 2022
Project Completion Date	July 18, 2023 (will extend POP)
<p>Current Status:  100% Design completed and reviewed by PAG Engineering. Materials submittal review is on-going. Project is at risk to miss POP - SHPO clearance/permit approved and site is ready for clearing pending Flood Certification.</p>	

Project Title	HMGP Supply and Install New 11 Ea. Cylindrical Fendering System at Wharf F-3 and 15 Ea. Rubber leg Arch Fender at Wharf F-4 to F-6
Project Number	IFB-PAG-CIP-022-008
Project Amount	\$ 301,077.47
Work in Progress (WIP)	50% Complete
Funding Source	FEMA
Contractor	Cabras Marine Corporation
Designer of Record	PAG In-House
Construction Manager	PAG Engineering Division
Notice to Proceed Issued	January 10, 2023
Project Completion Date	September 9, 2023 (will extend POP)
<p>Current Status:  Mod to increase quantity pending. Sent request to FEMA for extension approval. MOD Cost is approx. 90% of original contract. TS Mawar caused damages will require time extension at no cost to PAG.</p>	

Project Title	EQMR Building Maintenance
Project Number	IFB-PAG-CIP-021-010
Project Amount	\$ 2,500,000.00
Work in Progress (WIP)	25% Complete
Funding Source	PAG
Contractor	JJ Global Services
Designer of Record	NC Macario and Associates
Construction Manager	PAG Engineering Division
Notice to Proceed Issued	January 3, 2023
Project Completion Date	March 3, 2024
Current Status: Roof work on-going and paint first layer completed. Crack and spall repairs on-going.	

Project Title	PAG Waterline Replacements
Project Number	IFB-PAG-CIP-021-005
Project Amount	\$ 4,856,569.00
Work in Progress (WIP)	45% Complete
Funding Source	PAG
Contractor	BME & Sons
Designer of Record	NC Macario and Associates
Construction Manager	PAG Engineering Division
Notice to Proceed Issued	March 21, 2022
Project Completion Date	March 21, 2023 (will extend POP)
Current Status: GPR surveys and excavation by Route 11 on-going with waterlines installed. Missed POP- project was held up by SHPO permitting, BME will request no-cost time extension.	

Project Title	Design, Demolition, Removal & Proper Disposal of 5 Inoperable Cranes and Optional Removal/Disposal on one Barge YFN816
Project Number	IFB-PAG-CIP-021-002
Project Amount	\$ 2,573,155.00
Work in Progress (WIP)	75% Complete
Funding Source	PAG
Contractor	Guam Shipyard (Guam Industrial Services, Inc.)
Designer of Record	PAG In-House
Construction Manager	PAG Engineering Division
Notice to Proceed Issued	September 13, 2021
Project Completion Date	February 1, 2023
Current Status: Project on-hold, subject to crane availability.	



Project Title	Rehabilitation of H-Wharf and Access Road
Project Number	IFB-PAG-CIP-022-002
Project Amount	\$ 46,331,895.00 (Original Amount: \$23,000,000.00)
Work in Progress (WIP)	30% Complete
Funding Source	TIGER Grant and PAG Revenue Bond
Contractor	Sumitomo Mitsui Construction Co. LTD (SMCC)
Designer of Record	WSP
Construction Manager	GHD Engineering
Notice to Proceed Issued	TBD (On-Hold)
Project Completion Date	TBD
<p>Current Status:</p> <p>No change - MARAD denied PAG's request for BAA waiver on February 2023. PAG re-applied for MARAD grant to comply with BAA, submitted end of April and expected response from MARAD is end of September 2023. Full BAA compliance cost is \$60 M and includes all programmed phases (wharf, road and utilities).</p>	

Project Title	HMGP 18 Rollup Plus 1 Swing Aluminum Doors at Warehouse 1 North
Project Number	IFB-PAG-CIP-022-009
Project Amount	\$549,777.53
Work in Progress (WIP)	25% Complete
Funding Source	FEMA Grant
Contractor	IAN Corporation
Designer of Record	PAG In-House
Construction Manager	PAG Engineering Division
Notice to Proceed Issued	April 17, 2023
Project Completion Date	December 16, 2023
<p>Current Status:</p> <p>Contractor has mobilized and door spalls/crack repairs on-going. Door submittals were approved and order placed for the roll up doors.</p>	

## Pre-Award Project

Project Title	Warehouse 1 Building Maintenance
Project Number	IFB-PAG-CIP-022-009
Project Amount	\$ 4,215,000.00
Work in Progress (WIP)	0% Complete
Funding Source	PAG Bonded Project
Contractor	TBD
Designer of Record	NC Macario & Associates
Construction Manager	PAG Engineering Division
Notice to Proceed Issued	TBD
Project Completion Date	TBD
<p>Current Status:                      The construction documents with reduced scope of work has been provided to Procurement Division to prepare the IFB package and initiate the solicitation process. Project will require SAG and PUC review and approval.</p>	

Project Title	Golf Pier Repair and Improvements
Project Number	IFB-PAG-CIP-021-006
Project Amount	\$ TBD
Work in Progress (WIP)	0% Complete
Funding Source	PAG Bonded
Contractor	TBD
Designer of Record	NC Macario and Associates
Construction Manager	PAG Engineering Division
Notice to Proceed Issued	TBD
Project Completion Date	TBD
<p>Current Status:                      TS Mawar damages resulted in the pier's inoperability. "Repair to Serviceable Condition" cost is rough order of magnitude at \$25 – 30 Million.</p>	

Project Title	New Administration Building
Project Number	TBD
Project Amount	\$15-20 M (Current Estimate)
Work in Progress (WIP)	TBD
Funding Source	TBD
Contractor	TBD
Designer of Record	TBD
Construction Manager	PAG Engineering Division
Notice to Proceed Issued	TBD
Project Completion Date	TBD
<p>Current Status:                      Project is Pending fund allocation.</p>	

Port Authority of Guam  
Operations Division Report  
May 2023

I. OVERVIEW

Vessel Calls	16
Cans Handled	6,324
Special Service(s)	91

a. Productivity

Vessel Op	Avg NMPH	TOP GANG	M/Hr
Matson			
Domestics	25.3	5	28.1
Feeder (Papa Mau)	22.3	6	27.6
MSA			
Barges	25.8	2	34.3
Kyowa	16.4	2	24.3
Ambyth			
Pacific Dawn	22.8	2	27.7
MELL			
Kotas	24.0	2	26.4
APL			
Herodote/Dakar	21.3	1 & 5	25.2

b. Equipment Status

	ON HAND	UP	RM	Repair
As of : 05/17/2023				
GANTRYS	3	3		
TOP LIFTERS	9	4	5	
20T FORKLIFT	2	1	1	
10T FORKLIFT	4	2	2	
5T FORKLIFT	2	1	1	
TRACTORS	23	13	10	

II. YEAR TO DATE

a. Vessels\_YTD 157

b. Can\_Cnt YTD

May	FY22		FY23		Variance	
	I	E	I	E	I	E
Local	22569	22479	22316	21594	-1%	-4%
TS	4147	4364	3784	3658	-9%	-16%
TSMT	2230	2216	1975	1678	-11%	-24%
TTL	28946	29059	28075	26930	-3%	-7%

**FY-23 WORK INJURY REPORT**  
**(01/01/23 to 12/31/23)**

<b><u>Divisions</u></b>	<b><u>*Lost-time</u></b>	<b><u>**Recordable</u></b>	<b><u>*** Refused Treatment</u></b>
<b>Stevedoring</b>	<b>1</b>	<b>0</b>	<b>1</b>
<b>Transportation</b>	<b>1</b>	<b>1</b>	<b>1</b>
<b>Terminal</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>EQMR</b>	<b>2</b>	<b>0</b>	<b>0</b>
<b>Port Police</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Admin</b>	<b>0</b>	<b>1</b>	<b>2</b>
<b>Total:</b>	<b>0</b>	<b>0</b>	<b>0</b>

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**Work Injury Summary for this reporting period: 6/28/2023**

**Total Injuries for FY-23 to date: 11–Injuries**

**5-- Lost-time**

**2– Recordable**

**4– Refused Medical Attention**

**Last disabling work injury was on: 06/22/23**

**Number of days since last work injury: 6-days**

**Note: PAG best record was 222 days or 7 months w/o a disabling work injury**

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**\*Lost-time** = If an employee was injured on the job and medical doctor sent him/her home, his/her injury is considered a lost-time.

**\*\*Recordable** = If an employee was injured on the job and medical doctor treated him/her and released him/her back to work on the same day (Recordable because of medical charges).

**\*\*\*Refused Medical Attention:** Filed WC Forms 201 & 202 for record purposes only.

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