EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

MAY 19 2016

33-16-1659

Office of the Speaker
Judith T. Won Pat, Ed.D

Date: 05-19-16
Time: 3:22pm
Received By:

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Tres Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Dear Madame Speaker:

Transmitted herewith is Bill No. 268-33 (LS), **"AN ACT TO AUTHORIZE A COMMERCIAL LEASE BETWEEN THE DEPARTMENT OF LAND MANAGEMENT AND THE *DEDEDO* PAYLESS SUPERMARKET FOR USE OF A PORTION OF THE *DEDEDO* BUFFER STRIP, AS SPECIFIED BY § 68901 OF ARTICLE 9, CHAPTER 68, TITLE 21, GUAM CODE ANNOTATED,"** which lapsed into law on May 18, 2016, as **Public Law 33-161.**

Senseramente,

EDDIE BAZA CALVO

2016 MAY 19 PM 4:13

P.O. Box 2950 • Hagatna, Guam 96932
Tel: (671) 472-8931 • Fax: (671) 477-4826 • governor.guam.gov • calendar.guam.gov
Eddie Baza Calvo @eddiebazacalvo @governorcalvo governorofguam

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that **Substitute Bill No. 268-33 (LS), "AN ACT TO AUTHORIZE A COMMERCIAL LEASE BETWEEN THE DEPARTMENT OF LAND MANAGEMENT AND THE *DEDEDO* PAYLESS SUPERMARKET FOR USE OF A PORTION OF THE *DEDEDO* BUFFER STRIP, AS SPECIFIED BY § 68901, OF ARTICLE 9, CHAPTER 68, TITLE 21, GUAM CODE ANNOTATED,"** was on the 3rd day of May 2016, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 5 day of May, 2016, at 4:46 o'clock P.M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: MAY 18 2016

Public Law No. 33-161

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

Bill No. 268-33 (LS)
As substituted by the Sponsor;
and further substituted on the Floor.

Introduced by:

V. Anthony Ada
T. C. Ada
FRANK B. AGUON, JR.
Frank F. Blas, Jr.
B. J.F. Cruz
James V. Espaldon
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
R. J. Respicio
Dennis G. Rodriguez, Jr.
Mary Camacho Torres
N. B. Underwood, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO AUTHORIZE A COMMERCIAL LEASE BETWEEN THE DEPARTMENT OF LAND MANAGEMENT AND THE *DEDEDO* PAYLESS SUPERMARKET FOR USE OF A PORTION OF THE *DEDEDO* BUFFER STRIP, AS SPECIFIED BY § 68901 OF ARTICLE 9, CHAPTER 68, TITLE 21, GUAM CODE ANNOTATED.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Statement and Intent. § 68901(a) of Chapter 68, Article 9 of Title 21, Guam Code Annotated, authorized the Department of Land Management, with the approval of *I Maga'låhi,* after consultation with the *Dededo*

Municipal Planning Council, to enter into commercial lease agreements for properties known as the *Dededo* Buffer Strip. These properties have been leased to numerous business establishments and pursuant to law, commercial leases cannot extend more than ten (10) years.

In 2004, Payless Supermarket entered into a commercial lease agreement with the Department of Land Management, government of Guam, with concurrence by the *Dededo* Municipal Planning Council, and has maintained a portion of the *Dededo* Buffer Strip, particularly identified as that portion of the *Dededo* Buffer Strip, immediately adjacent to Lot 1-4, Lot 1-R4, Tract 217, Municipality of *Dededo*, as shown on map prepared by Roberto R. Ventura, RLS No. 54, Land Management No. 468FY96, Re-Subdivision Survey Map of Lot 1, Tract 217, Municipality of *Dededo*, recorded under Document No. 552211, and having the same length as the common boundary shared with LESSEE's property, containing an area of 2,410± Square Meters. The lease agreement expired in 2014, and they have requested to enter into another ten (10) year lease with the Department of Land Management, government of Guam. The *Dededo* Municipal Planning Council has supported this request through the passage of Resolution No. 2015-08, dated April 14, 2015, stating that Payless Supermarket has complied with the mandates of the lease agreement by paving the area for parking, beautification and maintenance of the property.

Furthermore, § 60112 of Title 21, Guam Code Annotated, as amended, mandated that any government-owned real property *shall not* be leased, sub-leased, exchanged or otherwise transferred without the prior approval by *I Liheslaturan Guåhan.* The *Dededo* Buffer Strip is considered government-owned property, and thereby pursuant to law any lease agreement *shall* be approved by *I Liheslaturan Guåhan.*

It is, therefore, the intent of *I Liheslaturan Guåhan* to authorize the Department of Land Management, government of Guam, to enter into a commercial lease agreement with Payless Supermarket for a portion of the *Dededo* Buffer Strip, particularly

identified as portion of the *Dededo* Buffer Strip, immediately adjacent to Lot 1-4, Lot 1-R4, Tract 217, Municipality of *Dededo*, as shown on map prepared by Roberto R. Ventura, RLS No. 54, Land Management No. 468FY96, Re-Subdivision Survey Map of Lot 1, Tract 217, Municipality of *Dededo*, recorded under Document No. 552211, and having the same length as the common boundary shared with LESSEE's property, containing an area of 2,410± Square Meters.

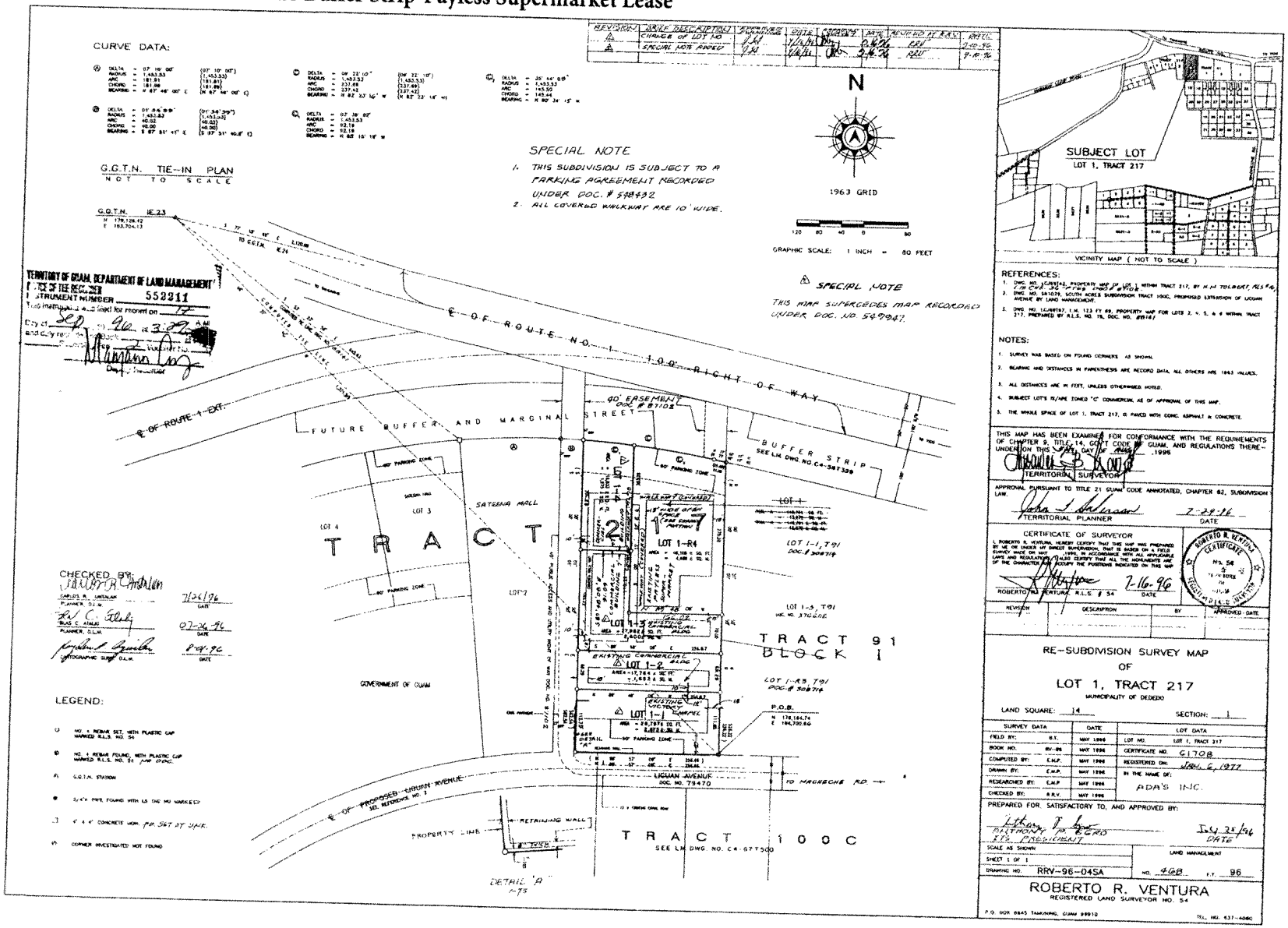
Section 2. Approval of commercial Lease Agreement (Exhibit C). Notwithstanding any other provision of law, *I Liheslaturan Guåhan* authorizes the Department of Land Management, government of Guam, to lease a portion of the *Dededo* Buffer Strip, particularly identified as portion of the *Dededo* Buffer Strip, immediately adjacent to Lot 1-4, Lot 1-R4, Tract 217, Municipality of *Dededo*, as shown on map prepared by Roberto R. Ventura, RLS No. 54, Land Management No. 468FY96, Re-Subdivision Survey Map of Lot 1, Tract 217, Municipality of *Dededo*, recorded under Document No. 552211, and having the same length as the common boundary shared with Tract 217, Lot 1-R4, Municipality of *Dededo*, containing an area of 2,410± Square Meters, for a period of ten (10) years. The commercial lease agreement is attached as Exhibit C and *shall* comply with the provisions of § 68901(a), Chapter 68, Article 9 of Title 21, Guam Code Annotated.

Section 3. Rental Stipulations. Notwithstanding any provision of the lease, the annual rent shall be set at Thirteen Thousand Eight Hundred Ninety Dollars ($13,890) beginning May 2016, and is to be paid annually in advance at the signing of the lease agreement and on subsequent anniversaries. The rent amount *shall* escalate 3% every three (3) years based on the previous amount for the duration of the lease agreement.

Section 4. Prohibited Use. The property *shall not* be used so as to make the property unusable upon the expiration of the lease term. This *shall* include, but *not* be limited to, such uses as ponding basins.

1 **Section 5. Severability.** *If* any provision of this Act or its application to any
2 person or circumstance is found to be invalid or contrary to law, such invalidity *shall not*
3 affect other provisions or applications of this Act that can be given effect without the
4 invalid provision or application and to this end the provisions of the Act are severable.

EXHIBIT "A": Dededo Buffer Strip-Payless Supermarket Lease



552211

Doc. No. 33GL-16-1659

DRAWING

DRAWING NUMBER 10611

DRAWING NUMBER 10611

CURVE DATA:

A	DELTA = 07° 10' 00"		(07° 10' 00")
	RADIUS = 1,463.53		(1,463.53)
	ARC = 181.81		(181.81)
	CHORD = 181.68		(181.68)
	BEARING = N 87° 46' 00" E		(N 87° 46' 00" E)
B	DELTA = 91° 34' 00"		(91° 34' 20")
	RADIUS = 1,463.53		(1,463.53)
	ARC = 40.02		40.02
	CHORD = 40.00		40.00
	BEARING = S 87° 51' 41" E		(S 87° 51' 41.5" E)
C	DELTA = 09° 12' 10"		(09° 12' 10")
	RADIUS = 1,463.53		(1,463.53)
	ARC = 237.48		(237.48)
	CHORD = 237.42		(237.42)
	BEARING = N 82° 23' 16" W		(N 82° 23' 19" W)
C1	DELTA = 07° 38' 05"		
	RADIUS = 1,463.53		
	ARC = 82.19		
	CHORD = 82.18		
	BEARING = N 80° 19' 19" W		
C2	DELTA = 06° 51' 00"		
	RADIUS = 1,463.53		
	ARC = 145.54		
	CHORD = 145.44		
	BEARING = N 80° 34' 15" W		

G.G.T.N. TIE-IN PLAN
NOT TO SCALE

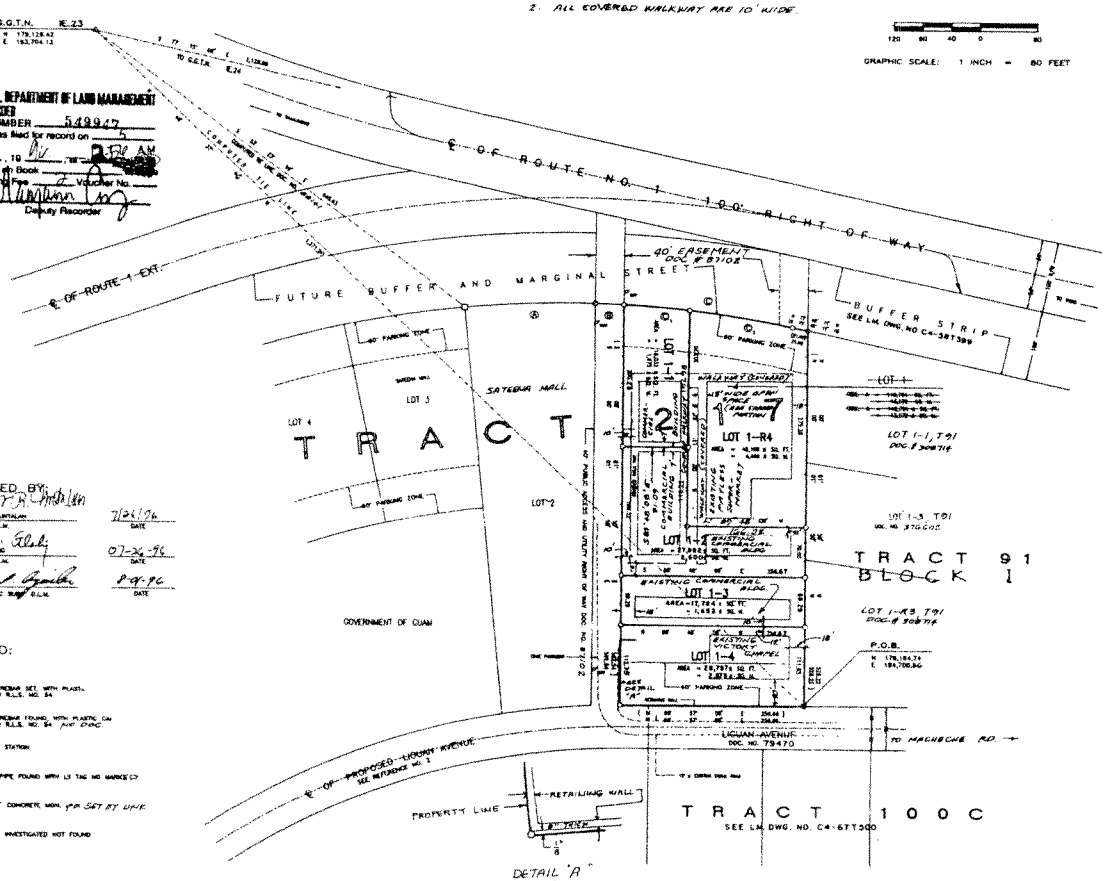
SPECIAL NOTE

1. THIS SUBDIVISION IS SUBJECT TO A PARKING AGREEMENT RECORDED UNDER DOC. # 548432
2. ALL COVERED WALKWAY ARE 10' WIDE.

N

1963 GRID

GRAPHIC SCALE: 1 INCH = 80 FEET



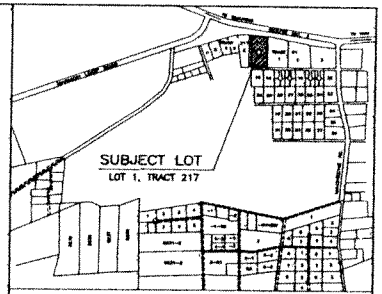
TERRITORY OF GUAM, DEPARTMENT OF LAND MANAGEMENT
OFFICE OF THE RECORDER
INSTRUMENT NUMBER 549947
This instrument was filed for record on 5 Day of May, 19 96 at 8:00 AM and duly recorded in Book ___ Page ___
Recording Fee ___ Voucher No. ___
Deputy Recorder

CHECKED BY:

CARLOS R. UNTALAN, PLANNER, D.L.M.		7/24/96 DATE
ELIAS C. KALIO, PLANNER, D.L.M.		07-24-96 DATE
CARTOGRAPHIC TECH. D.L.M.		8-9-96 DATE

LEGEND:

- NO. 4 REBAR SET WITH PLASTIC MARKED R.L.S. NO. 54
- NO. 4 REBAR FOUND WITH PLASTIC CAP MARKED R.L.S. NO. 54 PER DOC.
- G.G.T.N. STATION
- 3/4" PIPE FOUND WITH LS TAG NO MARKED
- 4" X 4" CONCRETE MON. PER SET BY LHK
- CORNER INVESTIGATED NOT FOUND



VICINITY MAP (NOT TO SCALE)

REFERENCES:

1. DWG. NO. LC4ST42, PROPERTY MAP OF LOT 1 WITHIN TRACT 217, BY N.J.H. TOLEDANT, REG'D R.L. LM CAP. 32-1T82 DWG. # 9708.
2. DWG. NO. 5K1678, 50.17H ACRES SUBDIVISION TRACT 100C, PROPOSED EXTENSION OF LIGUAN AVENUE BY LAND MANAGEMENT
3. DWG. NO. LC4RT67, L.M. 123 TV 99, PROPERTY MAP FOR LOTS 3, 4, 5, & 6 WITHIN TRACT 217, PREPARED BY R.L.S. NO. 16, DOC. NO. 28161

NOTES:

1. SURVEY WAS BASED ON FOUND CORNERS AS SHOWN.
2. BEARING AND DISTANCES IN PARENTHESIS ARE RECORD DATA, ALL OTHERS ARE 1963 VALUES.
3. ALL DISTANCES ARE IN FEET, UNLESS OTHERWISE NOTED.
4. SUBJECT LOT'S IS/ARE ZONED "C" COMMERCIAL AS OF APPROVAL OF THIS MAP.
5. THE WHOLE SPACE OF LOT 1, TRACT 217, IS PAVED WITH DENSE ASPHALT & CONCRETE.

THIS MAP HAS BEEN EXAMINED FOR CONFORMANCE WITH THE REQUIREMENTS OF CHAPTER 9, TITLE 14, GUAM CODE ANNOTATED, CHAPTER 82, SUBDIVISION LAW, UNDER ON THIS 7TH DAY OF AUG, 1996

TERRITORIAL SURVEYOR

APPROVAL PURSUANT TO TITLE 21 GUAM CODE ANNOTATED, CHAPTER 62, SUBDIVISION LAW.

TERRITORIAL PLANNER — DATE 7-23-96

CERTIFICATE OF SURVEYOR

I, ROBERTO R. VENTURA, HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, THAT IS BASED ON A FIELD SURVEY MADE ON MAY, 1996, IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS, AND I ALSO CERTIFY THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS DESIGNED ON THIS MAP.

ROBERTO R. VENTURA, R.L.S. # 54 — DATE 7-16-96

ROBERTO R. VENTURA CERTIFICATE No. 54 REGISTERED LAND SURVEYOR TERRITORY OF GUAM

REVISION	DESCRIPTION	BY	APPROVED: DATE

RE-SUBDIVISION SURVEY MAP
OF
LOT 1, TRACT 217
MUNICIPALITY OF DEDEDO

LAND SQUARE: 14 SECTION: 1

SURVEY DATA		DATE	LOT DATA	
FIELD BY:	B.T.	MAY 1996	LOT NO.	LOT 1, TRACT 217
BOOK NO.	RV-96	MAY 1996	CERTIFICATE NO.	G1708
COMPUTED BY:	E.M.P.	MAY 1996	REGISTERED ON:	JAN. 6, 1977
DRAWN BY:	E.M.P.	MAY 1996	IN THE NAME OF:	ADA'S INC.
RESEARCHED BY:	E.M.P.	MAY 1996		
CHECKED BY:	R.R.V.	MAY 1996		

PREPARED FOR, SATISFACTORY TO, AND APPROVED BY:

ANTHONY P. ECRO, ITS PRESIDENT — DATE July 25/96

SCALE AS SHOWN
SHEET 1 OF 1
DRAWING NO. RRV-96-04SA

LAND MANAGEMENT NO. 468 F.Y. 96

ROBERTO R. VENTURA
REGISTERED LAND SURVEYOR NO. 54
P.O. BOX 8645 TAMUNING, GUAM 96910 TEL. NO. 637-4080

Doc. No. 33GL-16-1659

EXHIBIT "B"

DEDEDO MUNICIPAL PLANNING COUNCIL
MUNICIPALITY OF DEDED

RECEIVED
DEC 04 2015
Department of Land Management
Time 10:22 am

RESOLUTION NO. 2015-08

Introduced by:
Melissa B. Savares, Chairperson
Andrew Peter A. Benavente, Vice Chairperson
MEMBERS:
Acda, Romy
Artero, Pascual V.
Chan, Jose-Arthur Jr.
Cruz, Elizia
Espinosa, Laura
Gines, Bernardo
Mafnas, Frank
Makepeace, Annie
Pangelinan, Edith
San Nicolas, Jospeh
Tainatongo, Carmen
Wusstig, Ernie

Relative to the Dededo Municipal Planning Council's (DMPC) support of Pay-Less Supermarkets request to lease a portion of the Dededo Buffer Strip, fronting Lot No. 1-4, Lot No. 1-R4, Tract No. 217, in the Municipality of Dededo.

BE IT RESOLVED BY THE DEDEDO MUNICIPAL PLANNING COUNCIL:

WHEREAS, on Tuesday, April 14, 2015, during a DMPC meeting, members reviewed and discussed the request from Pay-Less Supermarkets to renew the lease for a portion of the Dededo Buffer Strip, fronting Lot No. 1-4, Lot No. 1-R4, Tract No. 217; and

WHEREAS, members discussed that in the last ten (10) years, Pay-Less Supermarkets did pave the area for a parking and continue to beautify the property; and

WHEREAS, members agreed that Pay-Less Supermarkets staff continue to maintain the above property in a sanitary manner; and

WHEREAS, members motioned for Pay-Less Supermarkets to pay 6% of the appraised value per square foot for the lease of this property; and

BE IT RESOLVED, that after further discussion, members of the DMPC motioned to approve the lease for this portion of the Dededo Buffer Strip, fronting Lot No. 1-4, Lot No. 1-R4, Tract No. 217; and therefore be it

FURTHER RESOLVED, that the Chairperson of the Dededo Municipal Planning Council certify to and the secretary attest the adoption hereof and that copies of the same be therefore transmitted to the Department of Land Management, Department of Public Works and the Department of Administration.

DULY RECORDED AND REGULARLY ADOPTED BY THE DEDEDO MUNICIPAL PLANNING COUNCIL ON THIS 14th DAY OF April 2015.

MELISSA B. SAVARES, MAYOR OF DEDEDO

YVONNE S. ACDA, Secretary DMPM

EXHIBIT C – Bill No. 268-33 (LS)

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

DEDEDO BUFFER STRIP
PAYLESS SUPERMARKET LEASE AGREEMENT

This Agreement, made this _____ day of _____, 2016, by and between the DEPARTMENT OF LAND MANAGEMENT, GOVERNMENT OF GUAM, LESSOR, whose address is P.O. Box 2950, Hagatna, Guam 96932, and PAYLESS SUPERMARKET, LESSEE, whose address is 116 West Chalan Santo Papa, P.M. Calvo Building, Hagatna, Guam 96910; and

WHEREAS, Government of Guam is the owner of the "Dededo Buffer Strip", Municipality of Dededo, as identified on Land Management Drawing No. C4-58T399, recorded on the 5th day of August, 1960, under Document No. 39272; and

WHEREAS, the commercial lease of portions of the Dededo Buffer Strip has been authorized by Public Law 23-45, which is codified as 21 G.C.A., Subsection 68901, a portion of which was repealed and reenacted by Public Law 24-59, and amended by Public Law 24-237; and

WHEREAS, Public Law 33-____ has authorized the renewal of lease for a portion of the Dededo Buffer Strip between the LESSOR AND THE LESSEE.

WHEREAS, LESSEE is the owner of real property immediately adjacent to the Dededo Buffer Strip and has applied with LESSOR in accordance with applicable law to

lease that portion of the Dededo Buffer Strip immediately adjacent to LESSEE's real property (hereafter LEASED PREMISES); and

WHEREAS, the LEASED PREMISES is described as follows and is **Exhibit A**:

That portion of the Dededo Buffer Strip, immediately adjacent to Lot No. 1-4, Lot No. 1-R4, Tract No. 217, Municipality of Dededo, as shown on map prepared by Roberto R. Ventura, RLS No. 54, Land Management No. 468FY96, Re-Subdivision Survey Map of Lot 1, Tract 217, Municipality of Dededo, recorded under Document No. 552211, and having the same length as the common boundary shared with LESSEE's property, containing an area of 2,410± square meters; and

WHEREAS, LESSOR has consulted with the Dededo Municipal Planning Council on the terms and conditions of the LEASE AGREEMENT; and

WHEREAS, LESSEE has been leasing the LEASED PREMISES having already obtained approval of beautification plans for the LEASED PREMISES from the Department of Parks and Recreation in consultation with the Dededo Municipal Planning Council; and

WHEREAS, LESSEE has obtained two appraisals, within six months of the date of execution of this LEASE AGREEMENT, from Guam licensed appraisal companies, of the fair market value of the property to be leased, the average of which will be used in determining the annual lease fee for the LEASED PREMISES.

NOW, THEREFORE, in consideration of the terms and conditions set forth in this LEASE AGREEMENT, the PARTIES agree as follow:

1. The LEASED PREMISES shall be used by LESSEE only for the purposes of public parking, and beautification and landscaping.

2. The annual lease fee, which LESSEE SHALL PAY TO LESSOR, shall be based on a percentage of the fair market value of the LEASED PREMISES. That percentage shall be established by the Dededo Mayor's Municipal Planning Council and is **Exhibit B**. This annual fee does not exceed twenty percent (20%) of the fair market value of the

LEASED PREMISES as per P.L. 24-59. Fair market value and the annual lease fee is **Exhibit C**.

3. LESSOR shall immediately deposit all fees collected under this LEASE AGREEMENT into Department of Administration Account No. 326742802 (the Dededo Municipal Planning Council Buffer Strip Account).

4. This LEASE AGREEMENT shall be effective and commence only upon the date of execution by the Governor of Guam and shall end ten (10) years following the effective date of this LEASE AGREEMENT. In no event shall this LEASE AGREEMENT EXCEED a term of ten (10) years.

5. LESSEE shall provide its first annual lease payment directly to LESSOR at the time LESSEE executes this LEASE AGREEMENT. Thereafter, annual payments shall be made to LESSOR on or before the yearly anniversary of the execution of this LEASE AGREEMENT by the Governor.

6. Should LESSEE fail to meet the annual fee payment obligation, LESSEE shall be in default. Upon failure to cure the default within thirty (30) days after the due date of any payment, LESSOR may terminate the contract without notice and enter upon the premises to take possession thereof. In the event of default under this paragraph, LESSEE shall be liable for the unpaid annual lease fee plus interest as allowed by law.

7. Should LESSEE fail to begin, within three (3) months of the commencement of this LEASE AGREEMENT, or maintain the approved improvements upon the LEASED PREMISES, LESSEE shall be in default and LESSOR may terminate this LEASE AGREEMENT without notice and enter upon the premises to take possession thereof. In the event of default under this paragraph, the annual lease fee shall be kept by the LESSOR as liquidated damages.

8. LESSEE shall not sell, sublet, assign, or transfer in any way the LEASED PREMISES.

9. LESSEE shall indemnify, defend and hold LESSOR harmless against any claim for loss, liability or damage including claims for property demand by third persons for loss,

personal injury or wrongful deaths arising out of any accident on the LEASED PREMISES or in any way related to the LEASED PREMISES.

10. LESSOR shall not be held responsible for, and LESSEE shall indemnify LESSOR against, any claim or suit for loss, liability, or damage on account of any personal injury or death arising out of any accident or incident occurring on the LEASED PREMISES caused by the acts or omissions of LESSEE or its officers, agents, servants or employees.

11. LESSEE shall be responsible for the provision of water and power to the LEASED PREMISES as needed. Water and power are available within 100 feet of the LEASED PREMISES.

12. Should LESSEE change ownership of its private commercial business activity, or sell its assets, this LEASE AGREEMENT shall immediately terminate and the new owner must reapply to lease this property from the Government of Guam.

UPON all the terms and conditions contained herein, LESSOR and LESSEE hereby agree:

LESSOR:

_____

MICHAEL J.B. BORJA
Director, Department of Land Management

Date: _____

LESSEE:

_____

(NAME)
Vice President/Chief Financial Officer
Payless Supermarket

Date: _____

APPROVED AS TO FORM:

_____

APPROVED:

_____

ELIZABETH BARRETT-ANDERSON
Attorney General of Guam

Date: _____

EDDIE BAZA CALVO
Governor of Guam

Date: _____

Acknowledgements

On this _____ day of _____, 2015, before me, the undersigned notary, personally appeared MICHAEL J.B. BORJA, Director, Department of Land Management (LESSOR), known to me to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

IN WITNESS WHEREOF, I have hereunto affixed my name and official seal the day and year first above written.

_____

On this _____ day of _____, 2015, before me, the undersigned notary, personally appeared _____, Vice President/Chief Financial Officer, Payless Supermarket (LESSEE), known to me to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

IN WITNESS WHEREOF, I have hereunto affixed my name and official seal the day and year first above written.

_____