

March 18, 2014

The Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'Trentai Dos Na Liheslaturan Guahan
Ste. 201
155 Hesler Street
Hågatña, Guam 96910

2014 MAR 18 PM 5:05

32-14-1423
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 3-18-14
Time 4:46 PM
Received by [Signature]

Hafa Adai Speaker Won Pat:

I am writing in furtherance of my February 19, 2014 letter to Senator Thomas C. Ada, my subsequent discussions with him, and pursuant to *I Mina'Trentai Dos Na Liheslaturan Guahan Otden Areklamento* (Standing Rules), Rule III, Section 3.01, relating to the delivery of communications to *I Liheslaturan Guahan*.

The Guam Economic Development Authority was court-ordered to enter into mediation with Guam Resource Recovery Partners (GRRP), and the discussions that resulted in a mediated settlement were court-ordered. This resulted in a settlement that included our review of a waste-to-energy (WTE) proposal by GRRP.

As you know, GRRP has alleged a breach of contract and has asked for 20 million dollars in damages. Consideration of GRRP's proposal may resolve that matter.

Following the mediation and pursuant to the settlement, the parties successfully negotiated a new WTE contract on terms more favorable to the Government than the 1996 Contract. Significant components of the new WTE contract and project include.

- i. Chevron will partner with GRRP to finance and operate the WTE facility;
- ii. Based on the project proposed by GRRP and Chevron, the life of the *Layon* landfill will be significantly extended thereby avoiding hundreds of millions of dollars in costs necessary to build additional cells at *Layon*;

- iii. the new WTE contract does not obligate the Government to deliver a minimum guaranteed tonnage; and
- iv. the new WTE contract does not contain a liquidated damages provision.

The most important part of the new WTE contract is that *it is subject to the approval of the Legislature, as Guam's policy-making body*. Our position is that the Legislature has a duty to consider responsible means to improve the quality of life of Guamanians and, whenever possible, lower their cost of living. A decision on this matter is of islandwide importance, and thus *requires legislative policy and direction*.

GEDA's work under the settlement is now complete. We leave this matter to you and your colleagues to make the best decision on behalf of the Guamanian people. Please call me at your convenience if you have questions or wish to discuss this matter further.

Sincerely,


HENRY J. TAITANO
GEDA Administrator

Enclosures



Brief history of the old WTE proposal to today's proposal

1982: GEDA and the Government of Guam ("Government") entered into a license agreement with International Energy Enterprises, Inc., GRRP's predecessor in interest, to produce renewable energy using the solid waste production at the time.

1990: GEDA and the Government entered into an amended license with GRRP. Attached hereto is a copy of the license and amended license (collectively, the "License").

1996: GRRP and the Government entered into a WTE contract in 1996. For the next several years the 1996 Contract was the subject of extensive litigation. Ultimately, the Guam Supreme Court held the 1996 Contract to be invalid due to a provision regarding liquidated damages.

Late 2011: A civil action was commenced by GRRP against the Government and GEDA claiming the Government failed to negotiate a new WTE contract and therefore breached the License (the "Lawsuit"). GRRP seeks \$20,000,000 in damages in the Lawsuit against the Government and GEDA for failure to negotiate a contract for the financing, construction and operation of a municipal WTE facility pursuant to the License.

August 12, 2013: The court ordered the government, GEDA and GRRP to engage in mediation to attempt to settle the Lawsuit. Attached is copy of the Order for mediation.

November 2013: the Government, GEDA and GRRP engaged in the court ordered mediation. As a result of that mediation, the parties entered into a Memorandum of Understanding settling the Lawsuit and claims between the parties subject to satisfaction of certain terms and conditions. See attached Statement by Mediator.

Law Offices
 ARRIOLA, COWAN, ARRIOLA
 AUG 13 2013
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 By: CS Time: 1:25

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 COURT
 2013 AUG 12 PM 4:32

SUPERIOR COURT OF GUAM	[Reserved for Court stamp file] COURT
ORDER FOR MEDIATION (Pursuant to Local Rule M.R. 4.1, as amended December 23, 2011)	
Plaintiff(s): GUAM RESOURCE RECOVERY PARTNERS,	CASE NUMBER(S): CV1680-11
Defendant(s): GOVERNMENT OF GUAM , GEDA	

- The Court has determined this matter appropriate for mediation.
- The parties have mutually agreed or stipulated to refer this matter to mediation.

Now Therefore It Is Ordered, that this matter be referred to the following mediation service provider:

- Inafa' Maolek 297 W'OBRIEN DRIVE Hagatna, GU 96910 (475-1977)
- Pacific Arbitration & Mediation Services, Inc., 140 Aspinall Ave., Ste. 201, Hagatna, GU 96910 (477-7892/4)
- Other:

It is Further Ordered that the parties immediately contact the mediation service provider to make arrangement for scheduling mediation. While this matter remains referred to mediation it is:

Stayed in its entirety. Stayed as to the following parties: _____

A Hearing on Status of Mediation is set for September 30, 2013 at 2pm

SO ORDERED this: August 12, 2013

Original Signed By:
 Hon. Alberto C. Lamorena III
 JUDGE, Superior Court of Guam

AUG 12 2013

Contact Information for parties. Parties are required to schedule mediation promptly.		
Name: <u>ATTY ANITA ARRIOLA</u>	Contact: <u>477-9730</u>	I hereby certify that the foregoing is a full true and correct copy of the original on file in the office of the Clerk of the Superior Court of Guam.
Name: <u>OFFICE OF THE ATTORNEY GENERAL</u>	Contact: <u>475-3406</u>	
Name: _____	Contact: _____	
		AUG 12 2013

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SUPERIOR COURT
GUAM

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CLERK OF COURT

PACIFIC ARBITRATION & MEDIATION SERVICES, INC.
140 Aspinall Ave, Ste. 201
Hagåtña, GU 96910
Telephone: (671) 477-7892/4
Facsimile: (671) 477-7889
e-mail: info@pamsguam.com

IN THE SUPERIOR COURT OF GUAM

GUAM POWER INC. on behalf of
GRRP.

Plaintiff,

v.

GOVERNMENT OF GUAM and
GEDA,

Defendants.

CIVIL CASE NO. CV1680-11

STATEMENT BY MEDIATOR

Pursuant to Rule 4.1.8 of the Court Referred Mediation Pilot Program-Amended Interim on Rules, the undersigned advises the court as to the following:

1. The parties have reached
 - () no agreement;
 - () partial agreement; or
 - (X) entire agreement.
2. The parties have agreed that:
 - () the Court shall enter an order confirming their agreement;
 - () mediation should be terminated;
 - () the complaint herein shall be dismiss;

COPY

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By: *AK* Time: *3:28pm*

- (X) Other: Their agreement is subject to certain conditions which the parties are proceeding diligently to fulfill.
3. () The mediator recommends a status hearing be held within ninety (90) days.

Dated this 20th day of December, 2013.



RANDALL TODD THOMPSON
Mediator

P138084 RTT