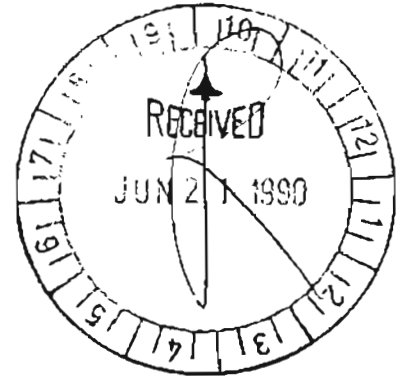




*Territory of Guam*  
*Territorio Guam*

OFFICE OF THE GOVERNOR  
LEFINAN I MAGAJAH  
AGANA, GUAM 96910

*Rec'd by*  
*JUN 11 1990*



The Honorable Joe T. San Agustin  
Speaker, Twentieth Guam Legislature  
155 Herman Cortez Street  
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Substitute Bill No. 974 (the version received on June 7, 1990) which I have signed into law as Public Law 20-188.

I have been advised by the Attorney General that the amendments made in Section 6 to the Adopt-a-Park program may not be applied to existing agreements despite the language of the section. She has advised that, "with respect to existing Adopt-a-Park agreements, the provisions of Section 6, page 4, lines 7 to 11 'impair the obligation of contracts' and, thus, are inorganic and unconstitutional."

Si Yu'os Maase,

*Joseph F. Ada*  
JOSEPH F. ADA  
Governor

200998

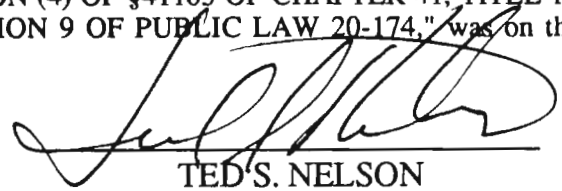


Commonwealth Now!

TWENTIETH GUAM LEGISLATURE  
1990 (SECOND) Regular Session

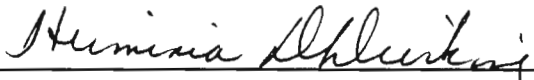
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 974 (LS), "AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY TO LEASE PARCELS IN ITS INDUSTRIAL PARK, TO AMEND §77117 OF TITLE 21, GUAM CODE ANNOTATED, PROHIBITING DIRECT OR INDIRECT COMPENSATION TO ANY PERSON WHO ADOPTS A PARK UNDER THE ADOPT-A-PARK PROGRAM OF THE DEPARTMENT OF PARKS AND RECREATION, TO ADD A NEW §61623 TO THE SAME TITLE PROHIBITING THE TERRITORIAL LAND USE COMMISSION FROM ALLOWING PARKS TO BE USED FOR THE BENEFIT OF PRIVATE LANDOWNERS, TO AMEND SUBSECTION (4) OF §41103 OF CHAPTER 41, TITLE 10, GUAM CODE ANNOTATED, AND TO AMEND SECTION 9 OF PUBLIC LAW 20-174," was on the 23rd day of May, 1990, duly and regularly passed.



TED S. NELSON  
Acting Speaker

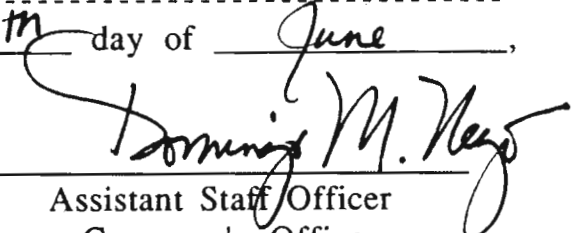
Attested:



HERMINIA D. DIERKING  
Senator and Acting Legislative Secretary

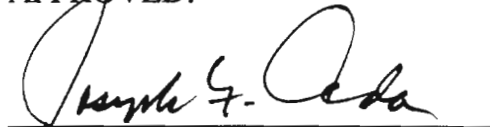
-----  
This Act was received by the Governor this \_\_\_\_\_ day of \_\_\_\_\_, 1990, at 5:10 o'clock P.m.

7<sup>th</sup> day of June,



Assistant Staff Officer  
Governor's Office

APPROVED:



JOSEPH F. ADA  
Governor of Guam

Date: JUN 11 1990

Public Law No. 20-188

TWENTIETH GUAM LEGISLATURE  
1990 (SECOND) Regular Session

Bill No. 974

As substituted by the Committees on  
Housing & Community Development  
and Federal, Foreign & Legal Affairs  
and Tourism & Transportation and  
as further substituted by the  
Committee on Rules

Introduced by:

T. S. Nelson  
J. P. Aguon  
F. R. Santos

AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY TO LEASE PARCELS IN ITS INDUSTRIAL PARK, TO AMEND §77117 OF TITLE 21, GUAM CODE ANNOTATED, PROHIBITING DIRECT OR INDIRECT COMPENSATION TO ANY PERSON WHO ADOPTS A PARK UNDER THE ADOPT-A-PARK PROGRAM OF THE DEPARTMENT OF PARKS AND RECREATION, TO ADD A NEW §61623 TO THE SAME TITLE PROHIBITING THE TERRITORIAL LAND USE COMMISSION FROM ALLOWING PARKS TO BE USED FOR THE BENEFIT OF PRIVATE LANDOWNERS, TO AMEND SUBSECTION (4) OF §41103 OF CHAPTER 41, TITLE 10, GUAM CODE ANNOTATED, AND TO AMEND SECTION 9 OF PUBLIC LAW 20-174.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. With the written approval of the Governor, the Guam  
3 Airport Authority (the "Authority") is authorized to lease the following  
4 described portions of land in the Authority's Industrial Park to the following  
5 tenants; provided, that the legal descriptions of such parcels are based on a  
6 map certified and approved by the Territorial Surveyor and Planner and duly  
7 recorded at the Department of Land Management:

1 (a) Lot No. 1, Block No. 1, Tract No. 1427, containing an area of  
2 approximately 3,192 square meters or 34,357 square feet, as shown on  
3 Drawing No. DSI-S-88-25, to MID-PAC FAR EAST, INC., a Guam  
4 corporation.

5 (b) Lots Nos. 4, Block No. 1, Tract No. 1427, containing an area of  
6 approximately 9,002 square meters or 96,901 square feet, as shown on  
7 Drawing No. DS1-S-88-25, to DAIRY FARM (GUAM) LTD., a Guam  
8 corporation.

9 (c) Block No. 2, Tract No. 1427, containing an area of  
10 approximately 5,709 square meters or 61,448 square feet, as shown on  
11 Drawing No. DS1-88-25, to ESSO EASTERN, INC. - GUAM BRANCH.

12 Section 2. The approvals of the leases set out in Section 1 of this Act  
13 (the "Leases") are subject to the following conditions, which conditions shall  
14 prevail over any provisions in the Leases to the contrary:

15 (a) The Leases shall not be assigned and no portions of any of  
16 the premises the subjects of the Leases shall be subleased without the  
17 written consent and approval of the Governor and of the Legislature.

18 (b) The minimum initial rent under each of the Leases shall be  
19 ten percent (10%) per annum of the then current highest appraised fair  
20 market value of the land based on two (2) appraisals, by two (2)  
21 independent licensed appraisers, made within six (6) months of  
22 execution of the lease, of the highest and best use for such land  
23 regardless of zoning restrictions, and taking into consideration the large  
24 investment the Guam Airport Authority has made in this land. Rent  
25 shall be charged retroactively to the date of execution of the lease, and  
26 shall escalate at the rate of ten percent (10%) every five (5) years. The  
27 land shall be reappraised and rent readjusted accordingly every thirty  
28 (30) years in the same manner as the initial rent determination,  
29 provided that rent shall not be reduced as a result of such reappraisal.

30 (c) The Governor and the Authority shall annually certify to the  
31 Legislature that the Leases are in compliance with all applicable federal  
32 and territorial laws, rules and regulations, and with the terms and  
33 conditions of the Joint Use Agreement relating to the use of the  
34 premises the subjects of the Leases.



1 Section 3. The Attorney General is directed to incorporate the  
2 conditions as expressed herein in the final Leases between the Authority and  
3 the lessees named in the Leases in such a manner as to facilitate enforcement  
4 thereof. The Governor shall execute all necessary documents to effectuate the  
5 Leases. The Leases are approved by the Legislature, subject to the conditions  
6 of Section 2 of this Act.

7 Section 4. If any provisions of this Act or the application thereof to  
8 any person or circumstance are held invalid, such invalidity shall not affect  
9 the other provisions or applications of this Act which can be given effect  
10 without the invalid provisions or applications, and to this end the provisions  
11 of this Act are severable.

12 Section 5. Notwithstanding the provisions of §2109 of Title 2, Guam  
13 Code Annotated, requiring only single transactions be considered on each bill  
14 and requiring certain appraisals before a lease of government land may be  
15 approved by the Legislature, the Legislature finds that the above Leases are  
16 generally identical in terms and conditions, the material submitted with the  
17 Leases constitutes and includes land value appraisals that establish the  
18 reasonableness of the rental provisions of the Leases and such material  
19 predates the introduction of the legislation which enacted §2109, and the  
20 approval of the Leases by the Legislature is therefore justified.

21 Section 6. §77117 of Title 21, Guam Code Annotated, is hereby  
22 amended to read:

23 "§77117. Voluntary improvements. The Director may grant  
24 permits to any individual or group to improve, without expense to the  
25 government, any part of the Guam Territorial Park System. The  
26 government of Guam may not, without approval of the Legislature by  
27 statute, directly or indirectly compensate any individual or group for  
28 the development or maintenance of a part of the Guam Territorial Park  
29 System except pursuant to a valid procurement contract. This  
30 prohibition includes monetary or in-kind credit towards the rent or sale  
31 amount in any transaction involving the government of Guam in  
32 consideration for improvements done under a permit issued under this  
33 section. No individual or group granted such a permit under this section  
34 shall in any way prevent or inhibit public access to a park or to the

TWENTIETH GUAM LEGISLATURE  
1989 (FIRST) Regular Session

ROLL CALL SHEET

Bill No. 974

Date: 4/27/89

Resolution No. \_\_\_\_\_

QUESTION: \_\_\_\_\_

	<u>AYE</u>	<u>NAY</u>	<u>NOT VOTING</u>	<u>ABSENT</u>
J. P. Aguon	✓			
E. P. Arriola				✓
J. G. Bamba	✓			
M. Z. Bordallo	+	✓		
D. F. Brooks	✓			
H. D. Dierking	✓			
E. R. Duenas	✓			
E. M. Espaldon	✓			
C. T. C. Gutierrez	✓			
P. C. Lujan	✓			
G. Mailloux			✓	
M. D. A. Manibusan	✓			
T. S. Nelson	✓			
D. Parkinson	✓			
F. J. A. Quitugua	✓			
E. D. Reyes	✓			
M. C. Ruth	✓			
J. T. San Agustin			✓	
F. R. Santos	✓			
T. V. C. Tanaka	✓			
A. R. Unpingco	✓			

18                      2                      1



**JOHN PEREZ AGUON**  
 SENATOR  
**20TH GUAM LEGISLATURE**  
 CHAIRMAN, COMMITTEE ON  
 TOURISM & TRANSPORTATION

324 Soledad Avenue, Suite 202, Quan's Building, Agana, Guam U.S.A. 96910 • (671)472-3435, 472-3497, 477-7569 • Fax: (671)477-8358

April 13, 1989

Honorable Joe T. San Agustin  
 Speaker  
 Twentieth Guam Legislature  
 155 Hernan Cortez  
 Agana, Guam 96910

Dear Mr. Speaker,

The Committees on Tourism & Transportation, Federal, Foreign & Legal Affairs and Housing & Community Development, to which the following was referred, wishes to report its findings and recommendations:

**BILL 974 - AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY TO LEASE PARCELS IN THE GAA INDUSTRIAL PARK.**

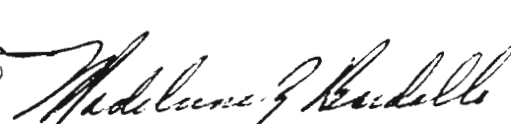
The voting records on Bill 974 as substituted by the Committees on Tourism & Transportation, Federal, Foreign & Legal Affairs and Housing & Community Development are as follows:

	TOURISM	FFLA	HOUSING
TO PASS	8	5	6
NOT TO PASS	1	-	1
TO REPORT OUT ONLY	1	1	2
TO PLACE IN INACTIVE FILE	—	—	—
NOT VOTING	—	—	—

Copies of voting sheets from both committees, a committee report and all pertinent documents are attached for your information.

Sincerely,

  
 FRANK SANTOS

  
 MADELEINE Z. BORDALLO  
 Acting

  
 JOHN PEREZ AGUON

Attachments

**VOTING SHEET • COMMITTEE ON TOURISM & TRANSPORTATION**

BILL NO. 974 as substituted by the Committees on Federal, Foreign and Legal Affairs, Housing & Community Development and Tourism & Transportation: AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY TO LEASE PARCELS IN THE GAA INDUSTRIAL PARK.

TO PASS                      TO NOT PASS                      TO REPORT OUT ONLY                      TO PLACE IN INACTIVE FILE

*John P. Aguon*

JOHN P. AGUON, Chairman

✓

OFF -ISLAND

CARL T. C. GUTIERREZ, Vice Chairman

JOE T. SAN AGUSTIN, Speaker

*George Bamba*

GEORGE BAMBA

✓

DORIS F. BROOKS

*Herminia D. Dierking*

HERMINIA D. DIERKING

✓

OFF-ISLAND

PILAR C. LUJAN

OFF-ISLAND

GORDON MAILLOUX

*Marilyn D.A. Manibusan*

MARILYN D.A. MANIBUSAN

✓ 4/19/90  
Mdm

*W*

✓

DON PARKINSON

*Franklin J. Quitugua*

FRANKLIN J. QUITUGUA

✓

*Edward D. Reyes*

EDWARD D. REYES

✓

*Martha C. Ruth*

MARTHA C. RUTH

✓  
4/19/90

*Antonio R. Unpingco*

ANTONIO R. UNPINGCO

✓

*Thomas V. C. Tanaka*

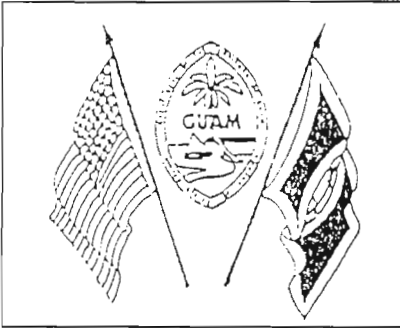
THOMAS V. C. TANAKA

COMMITTEE ON HOUSING & COMMUNITY DEVELOPMENT

VOTING SHEET

BILL NO. 974 as substituted by the Committees on Housign & Community Development, Federal, Foreign and Legal Affairs and Tourism & Transportation : AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY TO LEASE PARCELS IN THE GAA INDUSTRIAL PARK.

<u>Committee Members</u>	<u>To Do Pass</u>	<u>To Not Pass</u>	<u>To Report Out Only</u>	<u>To Place In Inactive File</u>	<u>Not Voting</u>
<u>OFF-ISLAND</u>					
GORDON MAILLOUX Chairman					
<i>Madeleine Z. Bordallo</i> ✓ MADELEINE Z. BORDALLO Vice-Chairperson					
<i>John P. Aguin</i> ✓ JOHN P. AGUON Member	✓				
<i>E. Parilla</i> ✓ ELIZABETH P. ARRIOLA Member	✓				
<u>OFF-ISLAND</u>					
PILAR C. LUJAN Member					
<i>Ted S. Nelson</i> ✓ TED S. NELSON Member			✓		
<i>Don Parkinson</i> DON PARKINSON Member					
<i>Eddie D. Reyes</i> ✓ EDDIE D. REYES Member	✓				
<i>F. R. Santos</i> ✓ FRANCISCO R. SANTOS Member	✓				
<i>J. George Bamba</i> ✓ J. GEORGE BAMBA Member	✓				
<i>Marilyn D.A. Manibusan</i> MARILYN D.A. MANIBUSAN Member					
				✓ 4/19/90 <i>Mdm</i>	



# 20th Guam Legislature COMMITTEE ON TOURISM and TRANSPORTATION

## COMMITTEE REPORT

**BILL 974: AN ACT AUTHORIZING THE GUAM AIRPORT  
AUTHORITY TO LEASE PARCELS IN THE GAA  
INDUSTRIAL PARK**

**PUBLIC HEARING:**

**Oct. 25, 1989**

**MARK-UP MEETINGS:**

**March 1, 1990; April 9, 1990**

**SENATOR JOHN PEREZ AGUON, Chairman**

**SENATOR CARL T.C. GUTIERREZ, Vice Chairman**

**Members:**

**SPEAKER JOE T. SAN AGUSTIN**

**SENATOR J. GEORGE BAMBA**

**SENATOR DORIS F. BROOKS**

**SENATOR HERMINIA D. DIERKING**

**SENATOR PILAR C. LUJAN**

**SENATOR GORDON MAILLOUX**

**SENATOR MARILYN D.A. MANIBUSAN**

**SENATOR DON PARKINSON**

**SENATOR FRANKLIN J.A. QUITUGUA**

**SENATOR EDWARD D. REYES**

**SENATOR MARTHA C. RUTH**

**SENATOR THOMAS V.C. TANAKA**

**SENATOR ANTONIO R. UNPINGCO**

TWENTIETH GUAM LEGISLATURE  
1989 (FIRST) Regular Session

Bill No. 974

As substituted by the Committees on Housing &  
Community Development and Federal, Foreign  
& Legal Affairs and Tourism & Transportation

Introduced by:

Committee on Rules

At the request of the Governor

AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY  
TO LEASE PARCELS IN THE GAA INDUSTRIAL PARK.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. With the written approval of the Governor, the Guam  
3 Airport Authority is authorized to lease the following parcels in the GAA  
4 Industrial Park provided the legal description of said parcels are based  
5 on a map certified and approved by the Territorial Surveyor and  
6 Planner duly recorded at the Guam Department of Land Management:

7 (a) Lot No. 1, Block No. 1, Tract No. 1427, containing an area  
8 of approximately 3,192 square meters or 34,357 square feet, as  
9 shown on Drawing No. DSI-S-88-25 to MID-PAC FAR EAST, INC., a  
10 Guam corporation.

11 (b) Lot Nos. 4, Block No. 1, Tract No. 1427, containing an area  
12 of approximately 9,002 square meters or 96,901 square feet, as  
13 shown on Drawing No. DS1-S-88-25 to DAIRY FARM (GUAM) LTD.,  
14 a Guam corporation.

15 (c) Block No. 2, Tract No. 1427, containing an area of  
16 approximately 5,709 square meters or 61,448 square feet, as  
17 shown on Drawing No. DS1-S-88-25 to ESSO EASTERN, INC. - GUAM  
18 BRANCH.

19 Section 2. The lease agreements for the parcels specified in Section  
20 1 shall not be assigned and no portion of the leased land shall be sub-

1 leased without the written consent and approval of the Governor and the  
2 Legislature.

3 Section 3. The Governor and the Guam Airport Authority shall  
4 certify to the Legislature that this Lease Agreement is in compliance  
5 with all applicable federal and local laws, rules and regulations and the  
6 terms and conditions of the Joint Use Agreement relating to the use of  
7 the premises as set forth in the agreement.

8 Section 4. The Attorney General is directed to incorporate the  
9 conditions as expressed herein in the final commercial lease agreements  
10 between the Guam Airport Authority and the Lessees in such a manner  
11 as to facilitate enforcement thereof. The Governor shall execute all  
12 necessary documents to effectuate such leases. Such leases are approved  
13 by the Legislature.

14 Section 5. If any provisions of this Act or the application thereof to  
15 any person or circumstance is held invalid, such invalidity shall not  
16 affect the other provisions or applications of this Act which can be given  
17 effect without the invalid provisions of application and to this end the  
18 provisions of this Act are severable.



## **COMMITTEE REPORT**

The Committees on Tourism and Transportation, Housing and Community Development and Federal, Foreign and Legal Affairs held a public hearing on Wednesday, Oct. 25, 1989 at 8:30 a.m. in the Legislative Session Hall on Bills no. 961 and 974.

**BILL NO. 961 - AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY TO LEASE THREE PARCELS IN THE GAA INDUSTRIAL PARK. (Introduced by Sen. T.S. Nelson)**

**BILL NO. 974 - AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY TO LEASE THREE PARCELS IN THE GAA INDUSTRIAL PARK. ( Introduced by Sen. H. Dierking)**

Present at the hearing were Chairpersons John Perez Aguon, Gordon Mailloux and Frank R. Santos and Senators Doris Brooks, Pilar C. Lujan, Franklin Quitugua, Edward Reyes, Martha Ruth, and Tony Unpingco.

Presenting testimony were the following:

Jess Torres, Guam Airport Authority, Executive Manager  
Leo Slotnick, Guam Airport Authority, Chairman  
Tony Sgro, Guam Airport Authority, Vice-Chairman  
Eduardo Calvo, Guam Airport Authority, Legal Counsel  
Roque Taimanglo, GAA Comptroller  
Joseph Cruz, GAA, Chief of Administrative Services  
Kent Hsieh, GAA, Airport Engineer  
Douglas Lenz, Exxon, General Manager  
Jim McDonald, Exxon, Sales Manager  
Steven Cruz, Dairy Farm, General Manager  
James A. Emery, Mid Pac Far East, General Manager

## **GAA INDUSTRIAL PARK LEASE**

**MID-PAC FAR EAST, INC.  
DAIRY FARM (GUAM) LTD.  
ESSO EASTERN, INC. - GUAM BRANCH**

### **BILLS 961 & 974**

**Sen. Aguon began the hearing by inviting testimony from the audience. James A. Emery, Sr., General Manager of Mid Pac Far East Inc., read the written testimony of James Moir, Sr., President of Mid Pac Far East Inc. since Moir was in California. (Vol. 1, Tab 9)**

**Jim McDonald, Sales Manager of Exxon, gave an oral testimony for Esso Eastern Inc. Their company has been in Guam since 1970. They intend to use the GAA property to service their clients in the rent a car and tour bus businesses.**

**Stephen Cruz, General Manager of Dairy Farm Guam Ltd. read his written testimony. (Vol. 1, Tab 9)**

**Sen. Santos publicly acknowledged Dairy Farm's contribution to the people of Guam. They have been lending their high lift trucks for those that are medi-vaced to Hawaii and the mainland. Sen. Santos requested them to add Tabasco in the airline food. Cruz explained that the food is cooked according to airline specification and that small bottles of Tabasco might be included on the Guam flights in the future.**

**Sen. Mailloux noted that in the lease agreement, the insurance coverage was for \$1 million and he asked if this was sufficient. Dairy Farm stated that in public liability alone, they had over \$5 million. Mid Pac said that they had \$1 million.**

**Sen. Lujan asked if the GAA Board had a commitment. The private sector stated that they have GAA Board approval. She inquired for the amount of the applicants' investments. They answered that it is now over \$500,000 while Dairy Farm was about \$250,000. Sen. Lujan expressed concern that with the tremendous amount of growth, another airport site might be needed. She wanted to know if the present arrangement would apply in the next site, like the northern part of the island. Dairy Farm stated that they need to be near the airport rather**

than in Harmon. Exxon answered that they need to be there because of the road network. They realize that the expenses they have made is a business risk they have taken.

Sen. Quitugua expressed surprise at the amount of the investments that the 3 applicants have made. One of them answered that they have been working on this project for about 2 years and valuable time has been spent. They realize that investments have to be made to get to the Legislature. Dairy Farms' expenditures relate to research and design for the new flight kitchen. Sen. Quitugua wanted the 3 applicants to realize that should the Legislature reject the leases, the investments they have made on the project cannot force the Legislature to pass the bill. One of the applicants explained that the expenses for the architectural design was necessary for them to get the approval of the GAA Board.

Sen. Santos requested those with parent companies in the Mainland to urge their corporations to write the Dept. of Defense to expedite the release of the rest of the NAS property to GAA because of the need for more land. Sen. Aguon asked that the Committee be provided with a copy of the letters to the Dept. of Defense.

Sen. Mailloux asked what the investments were for. Exxon explained that half of the \$500,000 was for the purchase of the land and the other was for the architectural design. Sen. Mailloux wanted to know from Mid Pac if they would retain their office in Harmon. They stated yes.

Sen Lujan inquired if all three applicants made the \$10,000 deposit. They stated yes. She asked if it was refundable. They answered affirmatively.

Sen. Aguon asked if the property they wanted to lease in the GAA Industrial Park was a relocation or an addition to their existing facilities. Mid Pac said that this would be their main base of operations. Dairy Farm stated that it would be a relocation. Exxon responded that this would be an addition. Sen. Aguon inquired that should the lease be approved, what would be their time frames. One said 180 days after approval, the other said 6 months and Dairy Farm said 1 year after approval. Sen. Aguon asked if there was a provision in the lease which compels the applicants to immediately commence construction and does not allow the lessee to keep the land idle. One respondent said that they will immediately start construction. Sen. Aguon questioned what were their intended use of the property since in the lease there were two categories, namely, 1.)

**Authorized Uses and Activities and 2) Required Uses and Activities. Exxon explained that they will put a service station primarily for their airport customers which are the rent a cars and the tour buses. The general public who use both roads will also be serviced. The Senator requested for the percentage breakdown of the services in relation to the Airport. Exxon replied that 30 - 40% will be airport related. Dairy Farm said 98% while Mid Pac said about 30%.**

**Sen. Santos asked if there was an escalation clause. Sen. Aguon said 10% every five years. Sen. Santos wanted to know if there was a provision for a sublease. The 3 applicants said that there were no provisions for a sublease in the lease agreement. Sen. Santos inquired if there was a provision for expansion or the leasing of more properties in the Industrial Park. Dairy Farm stated that the facility they are planning for takes into consideration their future needs for the duration of the lease agreement. Exxon will be leasing more land than they need because of the irregular shape of the property. Mid Pac feels that the property is sufficient for their needs. Sen. Santos asked if the lease agreement restricted competition. Mid Pac said no. Exxon stated that they have not asked GAA to bar competition and does not feel that it is needed. Dairy Farm responded that it would be to their benefit but they have not asked for it. Exxon emphasized that the economy is best served by free access and competition. Sen. Santos explained that his concern is over the situation with the Jones & Guerrero and Duty-Free in the current air terminal. He emphasized that he does not want the continuation of this practice which is an existing problem.**

**Sen. Mailloux inquired if they had any objections to fair market value of the property. All three applicants said no. Sen. Mailloux asked Dairy Farm what would be the impact if they were to loose the airline contracts. Dairy Farm explained that they have individual contracts with each airline and does not think that a situation will arise whereby they would have no customer. Sen. Mailloux inquired how they would feel if rather than leasing land, they were to lease a completed facility which was built to their specification but would have to make higher rent payments. Dairy Farm stated that this was not acceptable because they have made too much investment into their design, purchase of parts of their building and have made financing arrangement. Mid Pac would consider it. Exxon stated that they would prefer the leasing of land because of the efforts they have already spent on the project.**

**Sen. Aguon then called the GAA officials to present their testimonies.**

**Torres read his written testimony. (Vol. 1, Tab 9)**

**Hsieh, Airport Engineer proceeded to explain the map. He explained that the Airport Access Road is about 64-65 ft. wide and has 150 ft. right of way. They expect to expand the road to 4 lanes (2 lanes in each direction) in 1990. Exxon wants to lease the corner lot with about 5,700 sq. mts. Mid Pac's is about 3,300 sq. mts. Dairy Farm wants 4 lots amounting to about 9,000 sq. mts.**

**Sen. Quitugua inquired if the properties were bided out. Slotnick stated that they advertised and to date had 43 respondents. Slotnick explained that they want to maximize the use of the property and they want responsible companies only. They want Duty Free to locate a major facility in the area because it is economically viable and will help the airport. The size of the lots resulted from the topography and considerations relating to the maximum use of the land. Slotnick added that they want to immediately lease out the entire complex to get a return on their investment and move on to other projects.**

**Sen. Lujan asked if GAA is already committed to the 3 applicants. Slotnick explained that the 3 realize that the Legislature must approve the lease. Torres reviewed the history of the property. Sen. Lujan inquired about the agreement with Duty Free in the existing airport. Torres explained that the agreement is for a total of 20 years. She asked about the arrangement with Duty Free in reference to the proposed lease property. Slotnick stated that the conditions would be different. Sen. Lujan explained that local businesses with the Guam Product Seal would not be able to meet the GAA criteria should these companies wish to locate in the Industrial Park.**

**Sen. Quitugua inquired how GAA subdivided the properties. Slotnick explained that they followed the recommendation relating to topography. He added that the usage of the properties are limited.**

**Sen. Santos congratulated the GAA Board for allowing the Legislature to approve the Industrial Park leases.**

**Sen. Unpingco asked about the Exxon property which abuts to the property of Juan Pablo. Slotnick and Torres stated that a bull cart trail separates GAA and Mrs. Pablo's property. The bull cart trail is administered by the Dept. of Land Management. Sen. Aguon inquired if GAA has requested to use the bull cart trail. Torres stated no and added**

that Mrs. Torres should inquire with the Dept. of Land Management if she wants the bull cart trail.

Sen. Ruth asked who decided what company would get what lot. Slotnick explained that the property of Exxon was suitable only for a gas station because of its odd shape, height restriction and landing considerations. He added that only Exxon applied for it. Mid Pac and Dairy Farm chose the properties. Sen. Aguon inquired if there was a criteria for designating a property. Torres stated that GAA has a committee. Slotnick explained that properties are chosen by mutual agreement between GAA and the applicant. Dairy Farm stated that considering the fact that they are operating out of the Harmon Industrial Park, any lot in the Airport Industrial Park is an improvement. Dairy Farm also considered their needs for the future. The lot they have applied for is a 100% expansion from their current facility. The proposed building will have three levels of about 30,000 sq. ft. per level.

Sen. Aguon at this point opened the floor for general questions. Sen. Reyes asked for the value of the property. Torres and a GAA staff member stated that the last appraisal was done in 1988 and they are presently having one done. Sen. Reyes inquired what the per sq. mt. valuation was. Torres stated that Gaspard & Associates' findings were \$0.50 per sq. ft. per annum (p.a.) in 1987 and \$0.60 per sq. ft. per annum in 1988 based on a 10% escalation. The GAA staff member said that it was appraised at \$ 65 per sq. mts. Sen. Reyes asked how the 10% escalation was arrived at. The GAA staff member explained that this is the trend around Airport properties. Sen. Reyes inquired why the 10% escalation was only every 5 years. Sen. Aguon and Calvo explained that this was standard on Guam. Calvo added that an escalation every year would not make the property marketable since the applicant would have difficulty getting financing.

Sen. Reyes asked for the acceptance criteria. Torres stated that no applicant has been rejected and the three completed negotiations. Sen. Reyes wanted to make sure that the terminal does not need the Industrial Park properties for expansion. Torres explained that the expansion plans of the airport facility has the land that it needs.

Sen. Brooks inquired if a land use study was done to maximize the use for businesses. Slotnick stated that they have a few applicants who want to build another air terminal and they were not entertained. Slotnick stated that the applicants that are airport related get first priority. Sen. Brooks asked how much property was available for lease

and how much would GAA get every year. Slotnick and a GAA official explained that they would receive approximately \$511,724 p.a. (\$9,949 monthly) for 60,293 sq. mts. (650,883 sq. ft.). Sen. Brooks again asked about the land use study. Torres explained that part of the Master Plan identified the area as suitable for an industrial park and, based on this premise, the consultant designed the facility to maximize the rental potential. Sen. Brooks expressed her concern that a large chunk of cheap government land is slated for Duty Free. Sgro explained that they have been successful in breaking loose some of the restrictions in the Airport contract with Duty Free, like food & beverage, and are negotiating for some more items.

Sen. Unpingco wanted to know if there was an assignment of lease and a sublease provision in the contract. Calvo stated that any assignment and sublease must be approved in writing by the GAA Board. Sen. Unpingco asked how the 3 applicants proposed activities are airport related. Torres explained that Exxon would provide petroleum to airport employees and the general public. Sen. Unpingco asked for the percentages. Torres explained that 30% would be airport related. Slotnick and the consultant stated that the property was perfect for a gas station because of the noise level and the limitations because of the location. Sen. Unpingco wanted to know about Mid Pac's activities. Slotnick explained that Mic Pac maintains all of the airport's generators and supplies most of them. Torres added that the ground equipment is supplied by Mid Pac. Slotnick emphasized that only the Exxon property was specifically for a gas station. Sen. Unpingco asked about the appraisal and requested Mishan to submit his findings in writing.

Sen. Aguon requested GAA to submit in writing the rental projections on a monthly and annual basis, and, the formula and computation of the lease rate.

Mishan read the memo he wrote to GAA to update the land feasibility study. (Vol. 1, Tab 10)\_He added that he recommended and the GAA Board approved the inclusion of the fuel farm and adjacent lot in the Industrial Park. He explained that part of the inflated cost of land is because of foreign capital coming in to the island. Mishan emphasized that the type of tenants should be those that can pay the rent and should therefore be careful of companies who may default.

Mishan explained that \$0.50 per sq. mts. / per month was a common asking price for leases. To convert to per sq. ft. / per annum, you take  $.5 \times 10.765 = \$0.46$  per month/sq. ft. multiplied by 12 equals

**\$0.55 sq. ft./p.a. He explained that GEDA gets \$0.10 sq.ft/p.a. for the Harmon area, the Agana Shopping Center is leased for \$0.10 sq. ft./p.a., Calvo Industrial Park averages \$0.24 sq. ft./p.a. and Cabras \$0.06-\$0.07 sq. ft./ p.a. In combining Harmon, Calvo and Cabras, GEDA gets \$320,000 annually for 3,317,000 sq. ft. On the other hand, GAA will receive \$570,000 for the first year on 28% of the size of the land that GEDA leases out. He believes that the rate should be set reasonably to attract responsible tenants that will pay the rent. He projects that GAA's investments (design, construction and contingency costs) will be recovered in 5 years.**

**Sen. Unpingco asked if the price would be adjusted after the submission of the second appraisal. Slotnick stated that he is not in favor of changing the lease price and explained that they are seeking the approval of the contracts that they have executed. He added that the price is a commitment that they have made. Sen. Unpingco asked if the price will be changed for successive applicants. Slotnick answered that it will increase based on the escalation but will not charge more because the client came in later. Sen. Brooks inquired if an appraisal was going to be made every year. Slotnick stated that the price would be the same for 5 years and an appraisal will be made on the 5th year.**

**Sen. Unpingco asked if they are only complying with the request for the 2nd appraisal and will not use the findings for the basis of the price. Torres stated that they are complying with the Standing Rules of the Legislature.**

**Slotnick explained that they intend to lease the entire area at approximately the same time. They do not intend to stagger the leases so they can get the project on stream. Sen. Aguon inquired that should they lease the property out 5 years for now, would the price be different. Slotnick answered affirmatively.**

**Sen. Mailloux stated that the value of the GAA property is \$150 - \$170 per sq. mts., Harmon is about \$150 per sq. mts. and the best use of the GAA property is \$300 per sq. mts. He added that the possibility of getting the NAS property is in the horizon. He asked if they have considered the possibility of GAA constructing the buildings and that the building would be leased out. Slotnick pointed out that GAA will always own the land and GAA will be own the improvements in 50 years. He added that if GAA were to construct the buildings, the only way GAA could get financing would be through a long-term lease for 50 years. Sen. Mailloux explained that with his concept, GAA would lease out the**



land and the buildings. Sen. Mailloux proposed that all the warehouses be built on the NAS property and that the Industrial Park land be returned to GovGuam. Slotnick stated that he does not want to speculate on when the Navy will turn over the NAS property. Slotnick emphasized that the property is for lease so the appraisal value is lower especially with the restrictions on use. Sgro stated that the use is restricted to airport related activities. They would like to see tenants like United Parcel Service who needs to have access to the tarmac to load and unload. Sen. Mailloux stated that he would like a hotel built on the property.

Sen. Quitugua asked if the appraiser of the 1987 report considered the improvements that is now finished. A GAA official explained that the design was already completed then and taken into consideration when they appraised the property. Sen. Quitugua cautioned GAA to be very careful in leasing out the land. Slotnick explained that they looked at the investment they had made and the return on investment was very good. He emphasized that you cannot compare leased land to property that is bought.

Sen. Santos questioned Slotnick for the timetable of the terminal master plan (conceptual drawings). Slotnick said that there are 2 parts to this. One involves the master plan itself and the other is to find the financing. The master plan will cost about \$1 million. Sen. Santos is concerned that ones the Airport is built up, the lease of the 3 applicants would be much less when compared to others and would look low then. He also asked if the 10% escalation clause in the leases is up to par with the proposed development of the Airport. Slotnick answered affirmatively. Sen. Santos and Aguon requested GAA to make a presentation of the Airport master plan to the Legislature.

Sen. Brooks wanted clarification on the appraisal and the 10% escalation every 5 years. Slotnick and Sen. Aguon explained that future applicants' lease rate would be based on the value then and not the rate of the original 3 applicants. Sen. Brooks asked when the lease would be reevaluated. A GAA official explained that after the 30 year period, the next 10 year term's lease rate would be reevaluated. Sen. Brooks expressed surprise that GAA did not factor in fair market value for a shorter period than 30 years.

Sen. Aguon asked for the number of lots. A GAA official stated 14 parcels. Sen. Aguon inquired if all the leases were identical. The reply was affirmative. He asked if this would be used for all tenants. Torres

said that this is the master lease. Sen. Aguon asked about the water supply and if their development would impact Barrigada and Macheche Hill area. Slotnick said that they drilled and found water. Another GAA official explained that they had a water master plan which was initiated 2 years ago. Sen. Aguon expressed concern with the impact on the surrounding area. The GAA engineer explained that they currently have an excess of 200 GPN and their facilities will take them adequately into the year 2000. Sen. Aguon requested that the PUAG statement regarding water supply be submitted. Sen. Aguon asked about the expansion of the Access Road. A GAA engineer stated around the middle of 1990. Sgro added that the road is tied in with the expansion of the Airport terminal. Sen. Aguon asked who the appraiser was. Torres said Gaspard. The GAA official stated that Westco Pacific Ltd. has started the second appraiser. Sen. Aguon inquired as to the amount spent for the development of the Industrial Park. Torres answered that it was over \$3 million. Sen. Aguon asked if the lease rate was a fair price for their investment. Torres explained that they designed the park with considerations for the recovery of the their investment. Torres added that they will recover their investment in 5 1/2 years based on \$0.60 per sq. ft. Torres added that they have reserved 3 parcels for freight forwarders. Sen. Aguon asked that out of 43 applicants, how many of them qualify under the criteria they have set. Torres stated about 15. Sen. Aguon inquired if they still had other properties to develop. Torres said that the only property they have is the Industrial Park which is about 80+ acres cumulatively. Slotnick explained that the other lands have small hills which needs to be leveled. Sen. Aguon asked the background of how the land was acquired. Torres stated that part of the land were privately owned and others were GovGuam land. A GAA official explained that some of it was acquired by condemnation, purchase of private property, and, Navy and GovGuam land transfers. GAA will provide Committees with a detailed map. Sen. Aguon asked if GAA acquired any land on their own and not through the Dept. of Land Management. Torres answered negatively. Sen. Aguon pointed out that Federal land could have restrictions so GAA must clarify which lands have conditions. GAA stated that they will submit a copy of the Deed of Conveyance and the rent schedule on a monthly and annual basis. Sen. Aguon also requested for a clear rent formula.

Sen. Aguon requested clarification on the 2 categories relating to usage. The GAA official stated one is Required and Authorized Uses and the other is Authorized Uses. The basic difference is that Required Uses must be airport related. Sen. Aguon asked as to who will pay the taxes. Calvo stated that it will be the tenant. Sen. Aguon requested them to

look into this matter. Sen. Aguon inquired if the tenant will pay for all the insurances. They replied yes for the leased premises. The beneficiary will also include GAA. Sen. Aguon requested for a statement and asked if the stated amount for the coverage was sufficient. Calvo explained that the coverage was the standard in Guam. Sen. Aguon suggested that they look into other jurisdictions if their coverage was comparable. Sen. Aguon asked if the design was at the discretion of the tenants. Torres stated that GAA will have to approve the design so that they comply with FAA standards. He added that no changes can be made without GAA approval. Sen. Aguon noted that minor changes are not subject to GAA approval and pointed out that they might have problems with that. He suggested that they define what is "major and minor changes" so that problems relating to definition will not occur. He also suggested that they define "fixtures".

Sen. Reyes wanted clarification on the purpose of the land acquisitions. Torres stated that this was related to FAA standards and that airports have industrial parks. The decision was based on the 1977 master plan and the FAA provided the funds for the acquisition.

## **MARK-UP**

**Two mark-up meetings were held for the GAA Industrial Park leases to Dairy Farm (Guam), Inc., Esso Eastern, Inc. Guam and Mid-Pac Far East, Inc.**

**In the March 1, 1990 meeting, Sens. John Perez Aguon, Doris Brooks, Gordon Mailloux and Martha Ruth were present. James Haggetry (Legal Counsel of the Minority Party) and Francis Guzman (for Sen. Manibusan) also attended. Present for the Guam Airport Authority were Joe Cruz, Tom Jones, Kent Hsieh and Edward Calvo (Legal Counsel). Lea Santos was present as staff of Sen. Aguon.**

**During the second mark-up meeting on April 9, 1990, Sens. John Perez Aguon, George Bamba, Tommy Tanaka and Tony Unpingco, and Frank Palomo (for Sen. Mailloux) were the attendees. Representing the Guam Airport Authority were Jess Torres, Duane Siguenza, Tom Jones, Kent Hsieh, Joe Cruz, and Edward Calvo (Legal Counsel). The following applicants for the lease were also present: Mrs. Betty Moir for Mid-Pac, Jim Mc Donald for Exxon and Stephen Cruz for Dairy Farm. Lea Santos attended as staff of Sen. Aguon.**

**Senators Mailloux and Tanaka expressed disagreement over the use of the property as an industrial park. They stated that the view, location and accessibility to major roads makes the property ideal for commercial establishments or possibly a hotel and would generate more revenues for GAA. The GAA officials explained that based on the approved Master Plan, this site was already slated for an industrial park. In addition, there are FAA regulations (i.e. height restrictions) that are imposed on the property because it is adjacent to the Airport and is along the flight path. They also explained that the GAA Board has not considered the hotel proposals since the water pressure during the dry season is quite low and a hotel's need for water would compete with the airport's needs. In addition, the Board felt that since Tumon was 5 minutes from the Airport, GAA should not compete with private enterprise.**

**Another issue was over the proposed base lease rate of \$0.60 per square foot per annum. GAA arrived at this rate based on the Gaspard appraisal report completed in 1987 when the Industrial Park site was still undeveloped. GAA submitted a second appraisal by Westco/Pac that was completed on Dec. 8, 1989 when the Industrial Park development was already completed. Westco/Pac appraised the 14 lots individually and the recommended lease rate per square foot per annum was from a low of \$0.58 to a high of \$1.**

Sen. Bamba pointed out that based upon Westco/Pac's appraisal, the lease rates are as follows:

<u>LESSOR</u>	<u>LOT #</u>	<u>\$ SF</u>	<u>BASE RENT P.A.</u>
Mid Pac	1	0.90	\$ 32,024
Exxon	"A"	1.00	61,448
Dairy Farm	*4	0.62	20,688
Dairy Farm	*5	0.62	19,476
Dairy Farm	*6	0.70	22,520

\* Lots 4, 5 and 6 have been combined as Lot 4 in the attached map.

The Committees requested the 3 applicants to submit a letter explaining the actual costs that they have incurred in the project and to clarify the issue of whether they were aware that the leases would have to be approved by the Legislature. Sen. Aguon also requested GAA to submit a new Board resolution regarding their recommended lease rate in light of the new appraisal report.

### CHANGES IN THE LEASES

Six (6) sections were revised in the lease agreement as follows.

#### 3.01.02. Escalation - Extended Term

Language was added that specified that at the end every 5 year period of any extended term, the lease rate for the next 5 years will be increased by 10% before the effective date.

#### 6.01. Tenant's Right to Encumber With Landlord's Consent

Language was added which grants GAA the right to mandate that loan proceeds to any mortgage must be used only on improvements on the property.

#### 9.01. No Right to Assign and Sublease

In the revised lease, the Governor's and the Guam Legislature's written consent and approval must also be secured for subleases or assignment of the lease. In addition, the sale or transfer of at least 51% of the voting stocks of the lessee corporation is considered an assignment for the purpose of this section.

#### 10.05. Demand for Rent

In the revised lease, the phrase "or required by law" was added to allow for existing laws.

**14.12. Modification**

The Governor's written approval must also be secured for any modifications to the lease.

**16.04. Execution**

In compliance with PL 15-6 Sec. 3 (c), this section was revised for the Governor's, Lt. Governor's and the Attorney General's signatures.

## RECOMMENDATIONS

The Committees on Federal, Foreign & Legal Affairs, Housing & Community Development and Tourism & Transportation jointly recommends the passage of Bill No. 974 as substituted by the Committees on Federal, Foreign & Legal Affairs, Housing & Community Development and Tourism & Transportation, " AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY TO LEASE PARCELS IN THE GAA INDUSTRIAL PARK."

The Committees are recommending that the base for the lease rate of the 3 lessees, namely, Dairy Farm, Esso Eastern and Mid-Pac, be \$0.60 per square foot per annum for the first 5 years and that subsequent leases be subject to a lease rate that is based upon an appraisal that was completed no later than 6 months prior to the execution of the lease.

In recommending the base rate of \$0.60 per square foot per annum, the Committees considered the \$428,027.38 total investment of the 3 lessees (refer to attached documents). The following is a breakdown of the expenditures:

DAIRY FARM	\$148,061.20
ESSO EASTERN	204,721.18
MID-PAC	75,245.00
 	<hr style="width: 20%; margin: auto;"/>
TOTAL	\$428,027.38

Also, the Committees recognize that construction costs have risen from the time plans were drawn and cost estimates were made so that the 3 lessors will probably have higher construction costs.

In addition, GAA has invested \$3,366,708.66 for the construction of the Industrial Park.

The Committees are cognizant of the fact that use of the property must be airport related because of operational needs of the Airport and because use of the property is restricted by the Federal Aviation Administration.

GAA is in the process of submitting a duly recorded map certified by the Territorial Planner and Surveyor involving the parcels subject to the lease agreements. Absent a duly recorded map at this juncture poses a possible conflict with Section 13008 of the Government Code, as amended by Sec. 14 of PL18-32, which clearly provides in pertinent part: that all

**government owned real property shall not be leased without the prior approval of the Legislature specifically authorizing the particular lease and describing the real property description with particularity. In order to reconcile this provision with the current circumstances, language is provided rendering the approval conditional upon the GAA providing a duly certified and recorded map since there is no formal legal description of the lots at this time.**





**JOHN PEREZ AGUON**  
SENATOR  
**20TH GUAM LEGISLATURE**  
CHAIRMAN, COMMITTEE ON  
TOURISM & TRANSPORTATION

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April 14, 1990

The Honorable Joe T. San Agustin  
Speaker  
20th Guam Legislature  
155 Hernan Cortez St.  
Pacific Arcade  
Agana, Guam 96910

Dear Mr. Speaker,

The leases for the Airport Industrial Park have recently been the subject of several scathing editorials in the Pacific Daily News. A great deal of misinformation regarding these leases has been published. In addition, parties affected by the leases have expressed their displeasure with the Legislative process. I must emphasize that the Legislature has been acting in good faith to correct the many deficiencies found in the documentation submitted by the Governor and the Guam Airport Authority.

In the interest of fairness and to set the record straight, I have prepared this letter to be included in the committee report on the leases and as a part of the record to insure that the chronology of events which affected these leases is known to all.

Here are the major events that have taken place regarding the Airport Industrial Park leases:

**February 10, 1989** - The GAA Acting Executive Manager sends commitment letters to Dairy Farm, Exxon and MidPac regarding the proposed lease of lots at the Industrial Park. They are given 30 days to respond and to make their deposits of half a year's rent.

**March 13, 1989** - The GAA Executive Manager sends an addendum letter to the three lessors, acknowledging receipt of their deposits and indicating that it is the lessors' responsibility to obtain Legislative approval within 60 days.

**April 20, 1989** - Letter from the GAA Executive Manager dated April 12, 1989, is received by the Chairman of the Committee on Tourism & Transportation informing him that "...proposed bills (for the Industrial Park leases) have been forwarded to the Governor's office for formal introduction by the Governor to the Legislature."

**May 22, 1989** - The GAA Chairman and Executive Manager are informed by the Chairman of the Committee on Tourism & Transportation that the Standing Rules of the Legislature require two appraisals when requesting concurrence in a land transaction.

**May 23, 1989** - Letter from the GAA Executive Manager is received by the Chairman of the Committee on Tourism & Transportation informing him that the second appraisal would be forthcoming "...no later than mid-July of this year."

**September 15, 1989** - Governor Ada transmits to the Legislature leases of property at the Airport Industrial Park to Dairy Farm, Exxon and MidPac. The leases are accompanied by only one appraisal dated **September 14, 1987**. The leases have been transmitted to the Legislature **five months after they were originally sent to the Governor's office by GAA.**

**September 27, 1989** - Introduction of Bills 961 and 974, "AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY TO LEASE THREE PARCELS IN THE GAA INDUSTRIAL PARK."

**October, 1989** - Completion of Airport Industrial Park improvements.

**October 2, 1989** - The Committees on Tourism & Transportation, Housing & Community Development and Federal, Foreign & Legal Affairs receive joint referrals of Bills 961 and 974 from the Committee on Rules.

**October 25, 1989** - The Committees on Tourism & Transportation, Housing & Community Development and Federal, Foreign & Legal Affairs hold a joint public hearing on Bills 961 and 974.

**December 4, 1989** - GAA submits certain documents requested during the October 25, 1989, public hearing.

**December 18, 1989** - Letter from GAA Acting Executive Manager to the Chairman, Committee on Tourism & Transportation asking for a zone change for the Airport Industrial Park. GAA has discovered that the Industrial Park is zoned agricultural and no industrial activities can take place on the lots.

**December 23, 1989** - The Committee on Tourism & Transportation receives the requested second appraisal of the Airport Industrial Park property seven months after the requirement of a second appraisal was made known to GAA. Appraisal is dated December 8, 1989.

**December 27, 1989** - Introduction of Bill 1140, "AN ACT TO REZONE THE GUAM AIRPORT AUTHORITY LAND AS M-1 LIGHT INDUSTRY."

**January 11, 1990** - Committees on Tourism & Transportation and Housing & Community Development receive joint referral of Bill 1140 from Committee on Rules.

**February 12, 1990** - Committees on Tourism & Transportation and Housing & Community Development hold a joint public hearing on Bill 1140. The Department of Land Management recommends in their testimony that the Airport zone change be made to M-2 Heavy Industrial rather than M-1 Light Industrial.

**February 27, 1990** - Bill 1140 as substituted by the Committees on Tourism & Transportation and Housing & Community Development, "AN ACT TO REZONE GUAM AIRPORT AUTHORITY LAND AS 'M2' HEAVY INDUSTRIAL ZONE" is reported out of Committees to the full body of the Legislature.

**March 1, 1990** - First mark up meeting on Bill 974.

**March 2, 1990** - Bill 1140 is passed by the Legislature.

**March 20, 1990** - Bill 1140 is signed by the Governor and becomes Public Law

20-138. The Airport Industrial Park is now properly zoned for its intended usage.

**April 9, 1990** - Second mark up meeting on Bill 974.

**April 10, 1990** - GAA reveals that maps of the Industrial Park have not been recorded at the Department of Land Management as required by law, contrary to their earlier statements. The Lessors will not be able to obtain building permits from the Department of Public Works if they cannot produce maps legally recorded at Land Management. Even if the leases are approved, the lessors cannot build their structures.

**April 11, 1990** - GAA Board resolves to keep lease amounts at original amount for Dairy Farm, Exxon and MidPac because of their previous commitments. The Board also decides that future lessors will have to pay current market value as determined by a current appraisal.

**April 12, 1990** - GAA reveals that the sizes of some Industrial Park lots may change due to the improvements put in by the GAA. New drawings are being prepared but have not been completed. After the drawings are completed they must be recorded at the Department of Land Management.

Mr. Speaker, this is an accurate and true accounting of the events that have taken place to bring us to this point. All of the documents necessary to support these facts are contained in the very voluminous Committee Report on Bill 974. As anyone can now understand, the Legislature acted quickly to accommodate the GAA and the lessors, while at the same time insisting that the laws of the territory are followed.

The PDN editorials of April 5 and April 13 imply that this Legislature is primarily at fault for the delays in the approval of these leases. Nothing could be further from the truth. Their editorials accuse us of placing "after-the-fact obstacles" between the lessors and their leases by requiring a second appraisal. The PDN obviously doesn't know the facts. They don't know that the requirement of two appraisals for all land transactions was a part of the Legislature's Standing Rules **before** the three lessors and the GAA reached agreement. The GAA failed to meet the requirements of the law and we at the Legislature are being blamed for the problems.

The facts speak for themselves. The Legislature has had to become the manager of this project and direct agencies of the government to perform their proper duties. Without the active participation of the Legislature we would not be discussing this issue today, it would still be tied up with problems. For instance, if the rezoning of Airport land had to go through the regular administrative process, it would have taken many more months than have already passed. The Legislature took care of it in less than two-and-a-half months.

Despite the inappropriate statements by some members of the business community and notwithstanding the inaccurate and irresponsible editorializing of the Pacific Daily News, I believe we should turn the other cheek and consider this bill fairly and forthrightly.

Our Airport must grow and the industrial facilities adjacent to its location are

essential for logical, balanced development. Airport-related businesses need this area for their operations. The site, as beautiful as it is, can only be use for certain, restricted purposes. We can't really do what we want with the area, so let's do what we can.

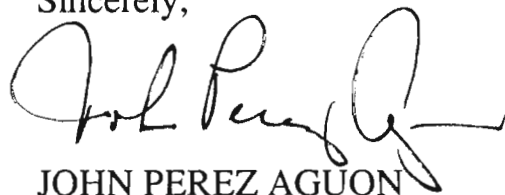
I would like to close by agreeing with the GAA Board resolution calling for keeping the original, agreed upon amount for the first three lessors and basing the rental amounts for future lessors on the current appraised value.

These businesses are part of our community, and when they prosper, we do too. These businesses acted in good faith. They have been waiting more than a year for action from this government. Now that we finally have taken the ball out of the Administration's court, let's run with it, but let's be fair.

These businesses have already incurred expenditures of nearly \$430,000, not including many man-hours of time spent by some of the parties involved. Since GAA accepted deposits on the properties, some construction costs are estimated to have risen by as much as one third. GAA itself has spent nearly \$3.4 million for the design and preparation of the Industrial Park. No matter who is to blame for the long delays, these businesses shouldn't be allowed to suffer any longer.

It's time to set things right.

Sincerely,

A handwritten signature in black ink, appearing to read "John Perez Aguon". The signature is fluid and cursive, with a long horizontal stroke at the end.

JOHN PEREZ AGUON

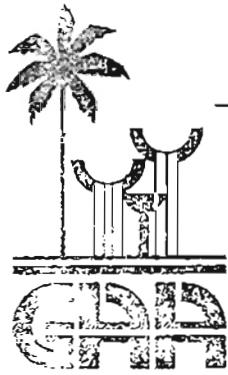
C: All Senators

# **CORRESPONDENCES**

## **AIRPORT INDUSTRIAL PARK LEASES**

- 1. APR. 17, 1990 LETTER OF DUANE SIGUENZA TO SEN. JOHN PEREZ AGUON  
RE: CONSOLIDATION OF THE 3 LOTS OF DAIRY FARM & THE FAIR  
RENTAL VALUE TABLE**
- 2. APR. 17, 1990 LETTER OF DUANE SIGUENZA TO SEN. JOHN PEREZ AGUON  
RE: MAR. 23, 1988 LEGAL OPINION OF JAMES BROOKS ON LEASING  
OF GAA LAND**
- 3. APR. 11, 1990 GAA BOARD OF DIRECTORS RESOLUTION NO. 90-02**
- 4. APR. 10, 1990 LETTER OF DAIRY FARM TO SEN. JOHN PEREZ AGUON  
RE: \$148,061.20 TOTAL EXPENDITURE**
- 5. APR. 11, 1990 LETTER OF MID-PAC FAR EAST INC. TO SEN. JOHN PEREZ  
AGUON  
RE: \$75,245 TOTAL EXPENDITURE**
- 6. APR. 12, 1990 LETTER OF ESSO EASTERN INC. TO SEN. JOHN PEREZ  
AGUON  
RE: \$204,721.18 TOTAL EXPENDITURE**
- 7. DEC 22, 1990 LETTER OF DUANE SIGUENZA TO SEN. JOHN PEREZ AGUON  
RE: SUBMISSION OF SECOND APPRAISAL REPORT DATED DEC. 8, 1989**
- 8. DEC. 18, 1989 LETTER OF DUANE SIGUENZA TO SEN. JOHN PEREZ AGUON  
RE: REQUEST FOR THE REZONING OF THE AIRPORT INDUSTRIAL PARK  
FROM "AGRICULTURAL" TO "LIGHT INDUSTRIAL"**
- 9. DEC. 4, 1989 LETTER OF JESS TORRES TO SEN. JOHN PEREZ AGUON  
RE: SUBMISSION OF VARIOUS DOCUMENTS REQUESTED IN THE PUBLIC  
HEARING**

10. NOV. 6, 1989 LETTER OF LEO SLOTNICK TO SEN. JOHN PEREZ AGUON  
RE: DEVELOPMENT OF LEASE RATE
11. OCT. 27, 1989 LETTER OF LEO SLOTNICK TO SEN. JOHN PEREZ AGUON  
RE: APPRAISED VALUE OF THE PROPERTIES & DUTY FREE
12. JUN. 1, 1989 LETTER OF SEN. JOHN PEREZ AGUON TO JESS TORRES  
RE: TRANSMITTAL OF AIRPORT INDUSTRIAL PARK LEASE DOCUMENTS
13. MAY 23, 1989 LETTER OF JESS TORRES TO SEN. JOHN PEREZ AGUON  
RE: COMPLIANCE WITH RULE IV - SECTION 8 OF THE TWENTIETH  
GUAM LEGISLATURE STANDING RULES - TWO APPRAISAL REPORTS
14. APR. 12, 1989 LETTER OF JESS TORRES TO SEN. JOHN PEREZ AGUON  
RE: ADVANCED COPIES OF SOME OF THE INDUSTRIAL PARK  
DOCUMENTS AND STATEMENT THAT SAID DOCUMENTS WERE  
FORWARDED TO THE GOVERNOR



# GUAM AIRPORT AUTHORITY

(ATURIDAT PUETTON DATKON AIREN GUAHAN)

P.O. BOX 5770 Agaña, Guam 96911 Telephone: 646-0100, 646-0357, 646-0302  
Telex: 6451 GUMATP1 GM  
Fax: (671) 646-9823

CHIEF OF POLICE  
TRANSPORTATION

April 17, 1990

REC'D BY: *Jenny*  
DATE: 4/17/90 TIME: 5:02

The Honorable John P. Aguon  
Chairman, Committee on Tourism & Transportation  
20th Guam Legislature  
P.O. Box CB-1  
Agana, Guam 96910

Dear Senator Aguon:

In the development process of the Airport Industrial Park (AIP), several different references have been used to describe individual lots within the park. We have just now received the commercial subdivision map from our surveyor that contains the official and final references for these lots.

In order to avoid any confusion, I am attaching a schedule with the appropriate references for all AIP lots. This schedule updates the lot references used in the WESTCO PAC appraisal report.

You will notice that the total number of lots to be leased has also been reduced. We have consolidated the three lots for assignment to Dairy Farm Ltd. into one. For the legislature's immediate consideration of the three proposed tenants, these specific lot references are as follows:

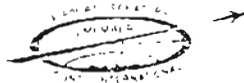
- A. MID PAC FAR EAST: Lot 1, Block 1, Tract No, 1427
- B. DAIRY FARM: Lot 4, Block 1, Tract No. 1427 (previously referenced as lots 4, 5 & 6)
- C. EXXON: Block 2, Tract 1427

Any other reference to these tenant assignments are outdated and should be disregarded. Should there be any questions, please give me a call at your earliest convenience.

Sincerely,

DUANE M.I. SIGUENZA  
Deputy Executive Manager

Attachment

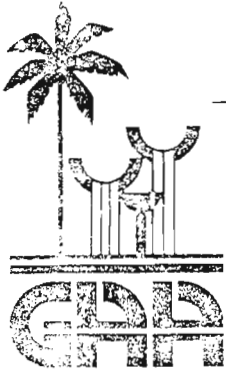


GUAM AIRPORT AUTHORITY  
AIRPORT INDUSTRIAL PARK

FAIR RENTAL VALUE TABLE

<u>SUBDIVISION LOT #</u>	<u>LOT ID</u>	<u>\$ SF</u>	<u>\$ SM</u>	<u>RENT</u>
LOT 1, BLOCK 1, TRACT 1427	1	0.90	9.69	\$ 32,024
LOT 2, BLOCK 1, TRACT 1427	2	0.70	7.54	33,128
LOT 3, BLOCK 1, TRACT 1427	3	0.75	8.07	25,787
LOT 4, BLOCK 1, TRACT 1427	{ 4	0.62	6.67	20,688
	{ 5	0.62	6.67	19,476
	{ 6	0.70	7.54	22,520
LOT 5, BLOCK 1, TRACT 1427	7	0.70	7.54	24,649
LOT 6, BLOCK 1, TRACT 1427	8	0.60	6.46	24,943
LOT 7, BLOCK 1, TRACT 1427	9	0.60	6.46	33,421
LOT 8, BLOCK 1, TRACT 1427	10	0.80	8.61	31,993
LOT 9, BLOCK 1, TRACT 1427	11	0.70	7.53	19,238
LOT 10, BLOCK 1, TRACT 1427	12	0.85	9.15	21,072
BLOCK 2, TRACT 1427	"A"	1.00	10.76	61,448
LOT 1, BLOCK 4, TRACT 1427	"B"	0.58	6.24	249,888
TOTAL RENTS:				620,275





# GUAM AIRPORT AUTHORITY

(ATURIDAT PNETTON BATKON AIREN GUAMAN)

P.O. BOX 8770 Tamuning, Guam 96911 Telephone: 646-0300, 646-0301, 646-0302  
Telex: 6455 GUMARPT GM  
FAX: (671) 646-8823

RECEIVED  
OFFICE OF THE ATTORNEY GENERAL

April 17, 1990

RECEIVED BY Jenny  
DATE 4/17/90 5:07

Honorable John P. Aguon  
Senator and Chairman  
Committee on Tourism, Transportation  
and Communication  
20th Guam Legislature  
Post Office Box CB-1  
Agana, Guam 96910

Dear Senator Aguon:

We are sending a copy of the March 23, 1988 legal opinion prepared by our former legal counsel, Brooks & Brooks, P.C., regarding the legislative approval process for the Airport Industrial Park leases. This was requested by Ms. Leah Santos of your office.

Sincerely,

DUANE M.I. SIGUENZA  
Deputy Executive Manager



LAW OFFICES OF  
**BROOKS & BROOKS, P.C.**

SUITE 101, 259 MARTYR STREET  
AGANA, GUAM 96910

JAMES S. BROOKS  
TERRENCE M. BROOKS

TELEPHONE: (671) 472-6848  
TELEX: 721-6283 BLITZ GM

WHEN RESPONDING, PLEASE MAKE  
REFERENCE TO \_\_\_\_\_

G-085-\_\_\_\_\_

March 23, 1988

Jess Q. Torres  
Executive Manager  
Guam Airport Authority  
Tamuning, Guam 96911

Dear Jess:

By your letter of March 4 you have inquired what effect Section 125 of Public Law 19-5 has upon the ability of the Guam Airport Authority to lease property that it owns.

It is my opinion that under this law the Authority may continue to lease property that it owns to third parties without the necessity of having to submit the leases to the Legislature for statutory ratification.

Section 125 added Chapter 18 to Title 1 of the Guam Code Annotated. The new chapter, in its entirety, provides:

No office, department, agency, institution, board, bureau, commission, council, authority, committee of territorial government, branch, or the Guam Visitors Bureau, of the government of Guam may privatize any function or transfer any real property of the government of Guam without the approval of the Legislature. Any plan or action taken by an office, department, instrumentality, agency, institution, board, bureau, commission, council, authority, committee of territorial government, branch, or the Guam Visitors Bureau purporting to privatize any function or transfer any real property of the government of Guam shall be transmitted to the Legislature which, by statute, may amend, approve, or disapprove the plan or the action taken. Any plan or action taken shall have no effect until legislative approval is obtained.

The operative phrase that must be construed in order to conclude that the Authority may continue granting leases without first obtaining the statutory concurrence of the Legislature is "transfer any real property of the Government of Guam."

The word "transfer" is a defined term in Guam's Civil Code.

Section 1039 of the Civil Code states:

"Transfer" is an act of the parties, or of the law, by which title to property is conveyed from one living person to another.

Section 1039 is identical to the same numbered section of the California Civil Code and has been judicially construed. Since the court interpretation of the provision antedates the adoption of Guam's Organic Act by the Congress, the California court's construction of the law is binding upon Guam courts under the doctrine of "borrowed statutes" adhered to by the U. S. Court of Appeals for the Ninth Circuit when confronted with a case of this sort.

In San Pedro Railway Co. v Hamilton (1911), 161 P 610, 119 P 1073, the California Supreme Court held that no title is passed by the making of a lease. A leasehold interest vests the lessee with possession, not title. Commercial Discount Co. v Cowen (1941), 18 C2d 610, 614, 116 P2d 599.

This concept that the word transfer deals with the conveyance of title and not mere possession is buttressed by Section 1083 of the Civil Code, which provides:

A transfer vests in the transferee all the actual title to the thing transferred which the transferor then has, unless a different intention is expressed or is necessarily implied.

[California repealed its Section 1083 of the Civil Code in 1931 but the Navy lieutenant who put together Guam's Civil Code before World War II was apparently working with a set of the California statutes that did not include the repealer. That fact is a historical curiosity but of no significance in the determination of whether Section 125 of Public Law 19-5 required statutory concurrence of leases granted by the Authority.]

In light of this opinion the Authority may go forward with its plans to lease property at the GIAT Industrial Park to third parties.

Cordially,

BROOKS & BROOKS, P. C.,

  
James S. Brooks

JSB/m



LEO D. SLOZNICK  
CHAIRMAN  
BOARD OF DIRECTORS

# GUAM AIRPORT AUTHORITY

(ATURIDAT PUETTON BATKON AIREN GUAHAN)

P.O. Box 2770 Tamuning, Guam 96911 Telephone: 646-0300, 646-0301, 646-0302  
Telex: 6458 GUMARPT GM

GUAM AIRPORT AUTHORITY  
BOARD OF DIRECTORS  
April 11, 1990

RESOLUTION NO. 90-02

## RELATIVE TO AIRPORT INDUSTRIAL PARK GROUND LEASE RATES

WHEREAS, the Guam Airport Authority (GAA) Industrial Park was developed to increase GAA revenues and accommodate businesses that are Airport/Aviation related.

WHEREAS, prior to the completion of the Industrial Park in October 1989, GAA requested proposals from parties who were interested in leasing property in the Industrial Park.

WHEREAS, GAA interviewed prospective lessees to determine if they met the criteria established for Industrial Park lessees.

WHEREAS, after due consideration by GAA, four companies were approved by GAA as lessees for the Industrial Park. These four prospective lessees were Duty Free Shoppers Limited Partnership, Mid Pac Far East, Dairy Farm (Guam), Ltd. and Esso Eastern (Exxon) Inc. - Guam.

WHEREAS, all four companies were required, upon receipt of GAA approval, to enter into a commitment letter and make a commitment deposit with GAA equivalent to six (6) months rent based on a rental rate of \$ .60 per square feet per annum.

WHEREAS, said established rental rate was based on an appraisal of the GAA Industrial Park by Gaspard & Co. (GASCO), updated by the GAA Industrial Park Consultant and further increased by GAA.

WHEREAS, GAA and the four prospective lessees understood and agreed that Legislative approval of the Industrial Park leases was required, the four leases with the said prospective lessees were recommended and sent to the Governor for transmittal to the Legislature for approval.

WHEREAS, the Industrial Park leases for Mid Pac Far East, Dairy Farm (Guam), Ltd. and Esso Eastern (Exxon) Inc. - Guam were forwarded to the Legislature by the Governor for approval. Duty Free Shoppers Limited Partnership, with the consent of GAA, voluntarily withdrew its Industrial Park lease application.

WHEREAS, the Legislature has questioned whether the rental rate agreed to by GAA and the three prospective lessees in the Industrial Park now before the Legislature should be adjusted upward.

NOW, THEREFORE, after due consideration and discussion the GAA Board of Directors has unanimously resolved as follows:

RESOLVED, GAA confirms that subject to Legislative approval, GAA has committed to lease Lot 1 to Mid Pac Far East, Lot 4 to Dairy Farm (Guam), Ltd., and Block 2 to Esso Eastern (Exxon), Inc. - Guam in the Industrial Park at a rental rate of \$ .60 per square feet per annum.

FURTHER RESOLVED, at the time GAA made its said commitments the rental rate of \$ .50 per square feet per annum was a fair and reasonable rental rate.

FURTHER RESOLVED, that although it was understood that the subject leases and GAA's commitment are subject to Legislative approval, GAA feels that it would be a good and equitable practice to stand behind the terms of its commitment letters and the leases now before the Legislature.

FURTHER RESOLVED, that all future Industrial Park leases will have rental rates based upon an appraisal covering the lease premises not less than six (6) months from the date the subject Industrial Park lease is duly executed.

I, Deirdre M. Lum, Secretary of the Board of Directors of the Guam Airport Authority, a public corporation and autonomous agency of the Government of Guam, do hereby certify that the foregoing is a full, true and correct copy of a resolution of the Board of Directors of the Guam Airport Authority, duly and regularly passed and adopted at a meeting of the Board of Directors of the Guam Airport Authority which was duly and regularly called and held on the 11th day of April, 1990, at which meeting a quorum of the Board of Directors of the Guam Airport Authority was at all times present and acting.

I FURTHER CERTIFY that said resolution is still in full force and effect and has not been amended or revoked.

IN WITNESS WHEREOF, I have hereunto set my hand as such Secretary of the Board of Directors of the Guam Airport Authority this 11th day of April, 1990.

Deirdre M. Lum  
DEIRDRE M. LUM  
GAA Board Secretary

ATTESTED:

Leo Slotnick  
LEO D. SLOTNICK  
GAA Board Chairman

Subscribed to and sworn before me this 11th day of April, 1990.

Antonio A. Quitugua  
ANTONIO A. QUITUGUA  
Notary Public in and for the Territory of Guam. My commission expires 5/30/90

The Dairy Farm (Guam) Ltd

Catering Division

P.O. Box 6172, Tamuning, Guam 96911

Telephone: 646-5862/69, 646-5860 Telex: 6387 DAFARM Fax: 646-6798

TRANSMISSION CENTER

REC'D BY: Janet

DATE: 4/10/90 TIME: 3:28



April 10th, 1990

Senator John P. Aguon  
20th Guam Legislature  
Chairman, Committee on  
Tourism and Transportation  
324 Soledad Avenue, Suite 202  
Quan's Building, Agana, Guam  
96910

HAND DELIVER  
-----

Dear Senator Aguon,

This is in response to your request made during the mark up meeting held on April 9th, 1990.

On February 10th, 1989 we received a letter from the Guam Airport Authority advising that the Board of Directors has considered and approved the proposal submitted with regards to the interest of Dairy Farm in leasing space at the Airport Industrial Park. It further stated that "GAA will commit to enter into a lease agreement" with certain conditions to be met. Dairy Farm fulfilled those commitments.

On March 13th, 1989 we received a letter from GAA acknowledging receipt of our commitment deposit in the amount of \$29,086.20. It further advised that an addendum to the letter of February 10th, 1990 was to be made incorporating a new paragraph which primarily states the lease agreement is conditioned upon legislative approval.

Dairy Farm fully recognized that final approval was required by the legislature however, it was our understanding that GAA had the authority to negotiate the terms and conditions of the lease to a agreement acceptable to both parties. On April 7th, 1989 a formal notice was submitted to Attorney Eduardo Calvo advising that Dairy Farm had reviewed the lease proposal and intends to execute the same subject to the conditions which had previously been agreed by both parties. A copy of this letter is enclosed for your reference.

Having met all the criterias set by the Guam Airport Authority and mutual agreement on the land lease agreement, Dairy Farm proceeded with its plans for a new flight kitchen. The total cost incurred to date is as follows:

Architectural Expenses	\$83,000
Legal Fees (local & corporate)	\$15,600
Off-Island Consultant Cost	\$20,375
	-----
Total as of April 1st, 1990	\$118,975

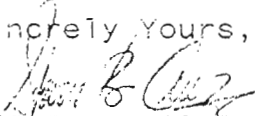
The Dairy Farm (Guam) Ltd.

Just for your information, our original cost estimates for this project amounted to \$7.2 million. As of November 1989, based on construction cost, the project has escalated to \$9.6 million, an increase of \$2.4 million or 33.3%. Due to the construction climate on Guam, this cost will continue to escalate until this project has been awarded to a contractor, this cannot be done without the lease agreement.

As for the rental rates. Our earlier discussions with GAA revealed that the rates would be approximately \$0.50 per square foot. At the time the commitment letter was issued by GAA, the rates then reflected \$0.60 per square foot an increase of \$0.10 or 20%. Another appraisal was conducted late last year, now the rates have increased once again. Instead of one figure per square foot, it now reflects the cost per square foot by lots. As you are aware, Dairy Farm proposes to lease 3 lots and it was our impression that it would be consolidated into one prior to execution. As a result of the recent appraisal and considering the added cost Dairy Farm will incur due to the delay in executing this lease agreement, we recommend that a flat rate of \$0.62 per square foot for the total area to be leased. This amounts to an increase of \$0.12 more per square foot or 24% compared to our original discussions with the Airport Authority.

We hope that we have addressed your questions and if you require any further information, please feel free to let me know.

Sincerely Yours,

  
STEVEN B. CRUZ  
GENERAL MANAGER  
GUAM AND SAIPAN

cc: Mr. Jesse Torres - Guam Airport Authority





PHONES:

646-1770 649-2412

646-5447 649-2413

FAX: 671-646-9848

**MID-PAC FAR EAST, INC.** 150 E. HARMON INDUSTRIAL PARK ROAD / TAMUNING GUAM 96911

A Subsidiary of Mid-Pacific Industries, Inc.

EQUIPMENT · PARTS · SERVICE · SALES · GENSETS

April 11, 1990

JSMP-094

CHAIRMAN, COMMITTEE ON TOURISM,  
TRANSPORTATION & COMMUNICATIONS

REC'D BY: Janet

DATE: 4/11/90 TIME: 9:30

Mr. John Perez Aguon  
Senator  
20th Guam Legislature  
Chairman, Committee on  
Tourism & Transportation  
324 Soledad Avenue  
Suite 202, Quan's Building  
Agana, Guam 96910

Dear Senator Aguon:

Prior to the conclusion of your Markup Meeting held April 9th at your office, you requested from my wife that we submit a breakdown of the out of pocket expenses that Mid Pac Far East, Inc. has expended since January 1989 to date. I should mention that our 1988 expenses were minimum so we are not detailing them at this time.

Please appreciate that at no time were we told or was it suggested, that the lease rate would vary by location and it was only at your office on April 9th, did we know for the first time that it has been suggested that our rate should be .90 cents per square foot rather than the .60 cents we feel was committed to us when we placed our deposit and our detailed construction drawings with the Guam Airport Authority and that this commitment should be honored.

We have documented proof that we did not know that the Legislature had to approve the lease or might want to change the rate until we had completed all our construction drawings, obtained our loan commitment and were ready to proceed with the project. Please appreciate these drawings are of zero value on any other lot or property.

As to cost from January 1989 to date, we detail as follows:

- |   |             |
|---|-------------|
| 1. Deposit check no. 2368 date 2/17/89 for:   | \$10,674.90 |
| 2. Al Tsutsui Architect fees and full construction drawings and the changes that GAA requested we make 3/20/89:             | 23,000.00   |
| 3. Special Trip of Mr. Herbert M. Richards (Chairman of the Board) to Guam for this project to finalize the lease with GAA: | 2,500.00    |

4. Paul Trende (a qualified Engineer from Honolulu) whom we retained to run and build the project for our company. 1989 salary:	\$ 11,246.00
5. Paul Trende for 1990:	2,400.00
6. Cost to obtain first loan commitment from Bank of Guam:	1,500.00
7. Cost to obtain second (2nd) loan commitment from Bank of Guam:	1,500.00
8. Related phone calls:	950.00
9. Related fax costs:	475.00
10. Cost of James S. Moir, Sr., President, for hours spent only on this project at \$150.00 per hour @ 100 hours. (Note: He would have more than earned this for the company doing normal business):	15,000.00
11. Cost of James Emery, Sr., General Manager, hours spent only on this project at \$100.00 per hour @ 20 hours:	2,000.00
12. Cost for DHL postage etc.:	1,500.00
13. Documentation cost at \$50.00 per hour @ 50 hours:	2,500.00
<b>Total Cost of Cash Spent:</b>	<b>\$75,245.00</b>
<b>Interest at 13% for 13 months (March 89 to April 90):</b>	<b>10,596.95</b>
<b>TOTAL COST TO MID PAC FAR EAST, INC.:</b>	<b>\$85,841.95</b>

These costs do not reflect loss on income. As you know, our business is very competitive and we need to do over three million dollars in sales to generate \$85,841.95 in after tax dollars.

Please appreciate that this delay of over one year, it appears, will add at least \$100,000.00 to our construction cost thus requiring a larger down payment and higher Principal and Interest payments to the Bank of Guam whom we hope for a third time, will agree to finance our new facility for us.

Please appreciate that we employ a realistic number of people and that we pay both in GRT Tax and Income Tax, a substantial amount of money here each year.

Very Truly Yours,

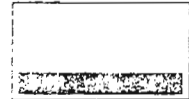
  
JIM S. MOIR, SR.  
President

cc: Jess Torres  
Monty Richards  
Jim Moir, Jr.  
James Emery, Sr.



**ESSO EASTERN INC.**

267 SO. MARINE DRIVE • UIU BLDG. • 3RD FLOOR • TAMUNING, GUAM 96911  
TEL: 649-5620-23 • TELEEX: 721-6172 • FAX: 649-5615



April 12, 1990 CHAIRMAN, COMMITTEE ON TOURISM  
TRANSPORTATION & COMMUNICATION

REC'D BY: Janet  
DATE: 4/12/90 TIME: 1:35

Honorable John P. Aguon, Chairman  
Committee on Transportation and Tourism  
Twentieth Guam Legislature  
Agana, Guam 96910

Dear Senator Aguon:

Thank you for affording me the opportunity to testify at the April 9 Mark -up hearing on the bill that concerns the Airport Industrial Park leases. This letter is written in response to your request for statements from the prospective lessees to determine if lessees were informed that any lease agreements with the Guam Airport Authority (GAA) were subject to legislative approval and to discover how much each prospective tenant has spent since the GAA concluded lease negotiations in January 1989.

It was our initial understanding that GAA had the sole right to negotiate leases for the industrial park. However, prior to the conclusion of negotiations, we were informed that the lease would require approval from the Legislature and the Governor. After we submitted our third bid for the subject property - we were the only bidder all three times - we were given a commitment that was subject to legislative approval. At the time the commitment was made, legislative approval was described as a pro forma matter. To seal the commitment, a \$10,000 non-refundable deposit was made by Exxon to the Airport Authority.

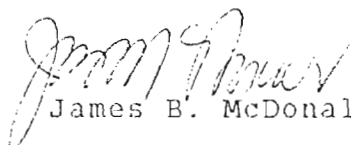
Since January 1989, Exxon has spent a total of \$204,721.18. This amount does not include any time spent by Exxon Guam Branch management nor any time by in-house engineers. This amount includes the deposit made at commitment time, detailed plans necessary to conclude the lease, and orders for equipment with long lead times. The long lead time equipment is here but unfortunately we have yet to consummate the lease.

Senator John Aguon  
April 12, 1990  
Page 2.

I would be remiss if I did not address the question of lease pricing and the latest appraisal on the industrial park property. Initial discussions on lease prices were in the \$0.30 - .40 per square foot range. After the first appraisal, GAA tasked its industrial park consultant with analyzing the initial appraisal and making a recommendation to the Board. He recommended a lease price of \$0.50 per square foot. The GAA mandated a price of \$0.60 per square foot. We protested the price because the subject property is oddly shaped and is much larger than needed for our purposes. Furthermore, road widening caused the loss of access onto Route 16. However, GAA has remained inflexible on both the property's size and lease price. It should be noted that the long delays further penalize us because the cost of construction continues to escalate. Any further delays threaten the economic viability of our project.

I appreciate your efforts in this matter. I believe that, once completed, this will be an exemplary industrial park. We hope to be a strong contributor to progress there.

Sincerely,

  
James B. McDonald

JBM:hp

2339U



**GUAM AIRPORT AUTHORITY**  
(ATURIDAT PUEYTON BATHON AIREN GUAHAN)

P.O. BOX 5770 Tamuning, Guam 96911 Telephone 646-0300 646-0301, 646-0302  
Telex 6456 GUMARPT GM  
FAX (671) 646-8823

CHAIRMAN, COMMITTEE ON TOURISM &  
TRANSPORTATION & COMMUNICATIONS

HAND DELIVER

REC'D BY: \_\_\_\_\_

December 22, 1989 DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

The Honorable John P. Aguon  
Senator and Chairman  
Committee on Tourism & Transportation  
20th Guam Legislature  
P.O. Box CB-1  
Agana, Guam 96910

Subject: Airport Industrial Park: Appraisal and Zoning

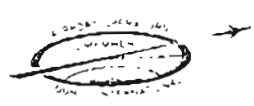
Dear Senator Aguon:

As requested, we are forwarding to you the recently completed appraisal report on leasable lots in the GAA airport industrial park. This is the second such appraisal conducted on the property and it appears to reconfirm the results of the first study.

With the answers provided earlier to questions raised during the public hearing on proposed tenant leases, I believe we have now responded fully with information for your committee mark-up session.

Your comments this morning regarding the process of correctly zoning the airport property are well understood and appreciated. Our legal counsel has already been instructed to draft legislation to address the zoning change. I have also asked that counsel look further into the possibility of amending Bill no. 974/961 before you to take care of all airport property zoning. I should be able to get this to you by Wednesday next week.

Again, it appears clear that the zoning issue was simply an administrative oversight some twelve years ago. All the documents available indicate that the land transfer, of public, private and federal properties, was for airport uses, i.e., for M-1 light industrial activities.



The Honorable John P. Aguon  
December 22, 1989  
page 2

We gratefully appreciate your understanding and assistance and will continue to work with you and your committee towards a timely resolution of these issues.

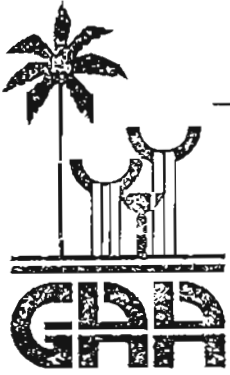
Sincerely,

A handwritten signature in black ink, appearing to read 'Duane M.I. Siguenza', with a long horizontal flourish extending to the right.

DUANE M.I. SIGUENZA  
Deputy Executive Manager

Attachment

Just Bill 7



# GUAM AIRPORT AUTHORITY

(ATURIDAT PUETTON BATKON AIREN QAHAN)

P.O. BOX 9770 Tamuning, Guam 96911 Telephone: 646-0300 646-0301 646-0302  
Telex: 6455 GUMARPY GM  
FAX: (671) 646-8823

December 19, 1989

CHAIRMAN, COMMITTEE ON TOURISM,  
TRANSPORTATION & COMMUNICATIONS

REC'D BY: Gant

DATE: 12-20-89 TIME: 10:30

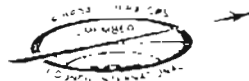
The Honorable John P. Aguon,  
Senator & Chairman  
Committee on Tourism and Transportation  
20th Guam Legislature  
21 Soledad Avenue, Suite 202  
Agana, Guam 96910

Dear Senator Aguon:

As you may have heard through the various media, the Airport Industrial Park is proposed on areas that are zoned "agricultural". This information was brought to our attention only recently by the Department of Land Management. Initially, the Authority thought that the area was zoned "light industrial" or M-1 as indicated in the Guam Public Land Use Plan dated September 1984. However, the Department of Land Management contends that the area was not reserved even though the properties were transferred to GAA in 1974 for airport related development. Presumably, the transfer implied an automatic change in zoning although the verbiage was never included in the land transfer documents.

In order to correct this deficiency, we are requesting the legislature, through your committee, to legislatively rezone the area to the appropriate designation (light industrial - M1) so the proposed activities for park may properly materialize. This will also correctly identify the land on which the existing terminal and the fuel facility now sit since these areas are also non-agricultural according to Land Management records.

We have discussed the above proposal with officials from the Department of Land Management and they do not object to legislative rezoning of the area. We would like also to meet with you to discuss this further if you feel is required.



Senator John Aguen  
December 18, 1939  
Page 2

Your favorable consideration will be greatly appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. H. B.' with a long horizontal flourish extending to the right.

JUANE M. I. SIGUENZA  
Acting Executive Manager

cc: GAA Board of Directors  
Department of Land Management  
Bureau of Planning





# GUAM AIRPORT AUTHORITY

(ATURIDAT PUETTON BATHKON AIREN GUAHAN)

P.O. BOX 8770 Tamuning, Guam 96911 Telephone: 646-0300, 646-0301, 646-0302  
Telex: 6456 GUMARPT GM  
FAX: (671) 646-8823

December 1, 1989 CHAIRMAN, COMMITTEE ON TOURISM,  
TRANSPORTATION & COMMUNICATIONS

REC'D BY: File

DATE: 12/4/89 TIME: 4:50

The Honorable John P. Aguen  
Senator and Chairman  
Committee on Tourism and Transportation  
20th Guam Legislature  
24 Soledad Avenue, Suite 202  
Agana, Guam 96910

Dear Senator Aguen:

My apologies for the delayed response to your letter of November 1, 1989 to our Board Chairman, Mr. Leo Slotnick. Enclosed are the following information provided in 21 sets.

1. Guam International Air Terminal Property Map illustrating all areas controlled by the Guam Airport Authority
2. Guam Airport Authority Property Map highlighting the various acquisitions undertaken by the Guam Airport Authority as certified by the Department of Land Management. All property transferred to CAA from Land Management are restricted for airport or airport related use only. This stipulation is noted in the Deed of Conveyance dated October 29, 1978. The land on which the Airport Industrial Park is situated is a former Government of Guam land.
3. a. Quitclaim Deed between the United States of America and Department of Land Management of Navy property transferred to GovGuam  
b. Deed of Conveyance dated October 29, 1978 between GovGuam and GAA
4. Rental Forecast (first 30 years) for Airport Industrial Park from initial tenants if approved by legislature as well as for complete (100%) occupancy
5. Cost Recovery Schedule/Plan for all expenditures (investment made on Airport Industrial Park)

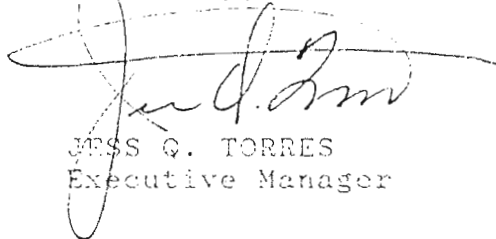
Letter to Senator John Aguen  
December 4, 1989  
Page 2

6. Letter from PHAG dated November 9, 1989 indicating their assurance of continued water supply for the airport and its expansion
7. Letter from GAA Legal Counsel (Law Firm of Carlsmith, Wichman, Case, Mukai and Ichiki) responding to question (f) through (j) of your November 1, 1989 letter
8. Calculation of Land Lease Rate

We appreciate your continued cooperation and assistance in developing the Guam Airport Authority, Airport Industrial Park. If you have further questions, please feel free to contact my office. We will await your notification of the mark up meeting which you mentioned will be scheduled prior to your December sessions.

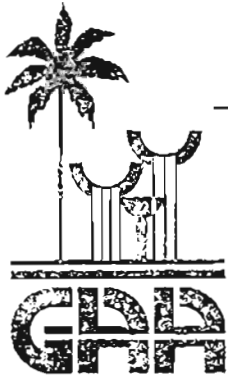
Thank you for your kind consideration.

Sincerely,



JESS Q. TORRES  
Executive Manager

cc: Senator Gordon Mailloux  
Senator Frank Santos



LEO D. SLOTNICK  
CHAIRMAN  
BOARD OF DIRECTORS

**GUAM AIRPORT AUTHORITY**  
(ATURIDAT PNEYTON BATKON AIREN QUAHAN)

P. O. Box 8770, Tamuning, Guam 96911 / Telephone: 646-0300, 646-0301, 646-0302  
Telex: 6456 GUMARPT GM

November 6, 1989

Senator John P. Aguon  
Chairman, Committee on Tourism  
& Transportation  
20th Guam Legislature  
324 Soledad Ave., Suite 202  
Agana, Guam 96910

CHAIRMAN, COMMITTEE ON TOURISM,  
TRANSPORTATION & COMMUNICATIONS

REC'D BY: Garnet

DATE: 11-17-89 TIME: 11:00

Dear Senator Aguon:

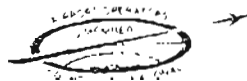
I have your letter of October 30, 1989, and have been told by the Airport Executive Manager that an appraisal is now in process. You will receive the results as soon as available.

I do want to assure you and your colleagues that the present GAA Board Members are most conscious of their duties and of their overriding responsibilities which are, to be concise, to direct the operations of a facility that must be efficient, comfortable and attractive, that must be financially stable, and must reflect honorably on the people of Guam to whom this Board owes its ultimate allegiance.

This Board is also most aware of the awesome responsibility it has in seeing to it that a base is provided which will lead to the tremendous expansion that must be accomplished to accommodate the projected growth that is forecasted by very expensive consultants and confirmed by what this Board sees looming on the horizon.

This Board knows that it is directing an autonomous agency which must find its expansion funds from its own resources. And that in order to provide the necessary finances, it must maximize its revenues and seek guarantees which will lead to the long-term financing at favorable terms underwritten by a legitimate and respected financial house.

Projected revenues from the Airport Industrial Park were one of the revenue sources which the Board hoped to use in marking the revenue sources for the necessary expansion.



Senator John P. Aguon  
November 6, 1989  
Page 2

This Board is experienced and has, in the private sector, been exposed to all facets of Guam real estate. It has bought and sold, it has leased from and to, and has negotiated widely and deeply. This Board is not blind to the fact that were the GAA Industrial Park sold in Fee Simple, with no development restrictions, the funds realized would be more than enough to make the necessary expansion without any outside financing assistance. The Board is also not naive. It knows that by using the subterfuge of very long, very cheap, very unrestricted leases, it could maintain the fiction of retaining ownership while gathering in vast sums which would similarly provide the much-needed finances for the monstrous growth which lies ahead.

But the Board knows that it cannot deal in fantasy, which this is. The Board must be realistic and realism calls for restrictions which limit its expectations.

The Board realized early on that it needed expert assistance to help it in handling this site. It, therefore, engaged a man of unquestioned integrity, with extensive real estate knowledge to advise the Board on the course of action that it should follow. This Consultant studied the market in depth with two goals in mind, 1) to achieve the maximum return possible, and 2) with a rental rate which would be high enough to achieve the return and low enough to fill the Park with desirable tenants.

After prolonged and intensive study, the Consultant at an open meeting gave the Board his rental rate recommendation. A member of the Board proposed that the Consultant's figure be raised approximately 10%, which the Board accepted. That rate is the figure on the Leases presented to you and to all prospective tenants.

Whether this is the ultimate figure which would accomplish both goals is, of course, unknown but it is an honest figure arrived at by knowledgeable people of unquestioned integrity with nothing to gain personally except maybe a thank you for the unselfish effort expended.

We do know that we have lost applicants because they considered the figure too high, other applicants withdrew because they had to "buy" too much land in relation to the working space needed, joint ventures have been requested, and we had pleas for lower rent until their buildings could be erected. There are also some applicants who have no objection to the rental fee but whose "game plan" would not, in our opinion, be what should be on Airport property.

Senator John P. Aguon  
November 6, 1989  
Page 3

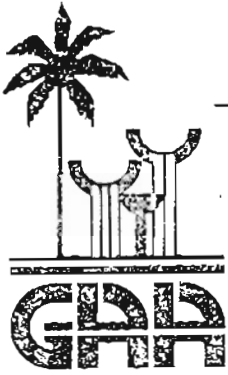
Again, let me assure you that this Board from day one has acted unselfishly with only the best interests in mind of those it works for, the people of Guam.

Sincerely,

A handwritten signature in cursive script that reads "Leo Slotnick".

LEO SLOTNICK

cc: Governor of Guam  
Lt. Governor of Guam  
GAA Board Members  
GAA Executive Manager



LEO D. SLOTNICK  
CHAIRMAN  
BOARD OF DIRECTORS

GUAM AIRPORT AUTHORITY  
(ATURIDAT PUETTON BATKON AIREN QUAHAN)

P.O. Box 8770/Tamuning, Guam 96911/Telephone 646-0300, 646-0301, 646-0302  
Telex 6456 GUMARPT GM

CHIEF OF BUREAU OF TOURISM  
TRANSPORTATION & COMMUNICATIONS

REC'D BY: [Signature]

DATE: 10/27

TIME: 11:00

October 27, 1989

Senator John P. Aguon  
Chairman, Committee on Tourism & Transportation  
20th Guam Legislature  
324 Soledad Avenue, Suite 202  
Agana, Guam 96910

Dear Senator Aguon:

As one of the witnesses at your Public Hearing on October 25, 1989, regarding the leases for the Airport Industrial Park (AIP), I would like to clarify some issues which arose and which I believe I can answer more adequately in this manner.

In the first place, I believe the land value should be viewed in the context of its allowed usage. In other words, a site with a beautiful view may have infinite value if it were used for a tourist hotel or multi-storied condominium, but would have much less value if had to be used for a warehouse/office complex or similar activities.

This same reasoning applies to "appraised value", which seems to have superseded "fair market value" as the standard. In my opinion, "appraised value" is what someone thinks property will be sold for while "market value" is a much more accurate gauge since it is the actual price which a willing buyer and a willing seller arrived at. In other words, the speculators' garbage is removed and the real facts are available.

In that context, I would instruct an appraiser to consider in valuing the AIP lease lots the following factors:

1. The restricted uses of the property.
2. The fact that the lots must be leased in full regardless of the size of the actual structures needed.
3. The construction plans are subject to Guam Airport Authority (GAA) review and approval.
4. Subleasing is not permitted without GAA permission.
5. Tenants are subject to unknown common area charges and maintenance of the entire lot.
6. Leases are subject to 10% escalation every five years.
7. Leases are subject to renegotiation on the 20th year.
8. Leases cannot be sold or transferred without GAA permission.

Senator John P. Aguon  
October 27, 1989  
Page 2

If it were I, unless I had a great need to be near the Airport, I would not go near this site given the above restrictions. For 55 cents or 60 cents a square foot per month, I could lease warehouse/office space in a good location and walk away if things went bad. Were one to get involved at the Airport, the initial investment would be tremendous, and if later on things went bad, the obligation would remain or the investment would belong to the Authority.

We tried to price realistically so that we could get tenants who were reliable and had the wherewithal to make the necessary investment, and who were willing to pay to be near the Airport.

We gave nothing away.

Now, let me get to the Duty Free situation which I feel has not been adequately addressed.

In the first place, we are planning an expansion of an airline Terminal that would not have existed had Duty Free not been willing to guarantee that, regardless of what the future held, and it could have gone either way, they would lay out \$140,000,000 in the period 1982-2002. For assuming that risk, they exacted a price - a price that was agreed upon by Guam's leadership at that time.

We, the present Board of Directors, have been the first that have prevailed upon Duty Free to soften some of the terms in that Agreement, such as

1) Duty Free gave back to GAA the Food & Beverage Concession which was, according to the Agreement, Duty Free's exclusively. This was accomplished as of July 1, 1988, and to date GAA is \$424,000 richer and Duty Free is poorer by the same amount. This concession will continue to generate funds for the Authority for the next 13 years.

2) Duty Free has agreed to allow GAA handle "Made in Guam" products, and in fact will assist in the encouragement of locally-made products. (Along these lines, I think Senator Santos should go a step further and foster the bottling of finadene as a Dairy Farm condiment.)

3) Duty Free has agreed to allow electronics to be separately vendored.

4) More importantly, Duty Free has expressed its willingness and interest in being helpful in the coming Airport expansion negotiations.

Senator John P. Aguon  
October 27, 1989  
Page 3

I must remind you that the Agreement that was signed has been deemed legal and binding, and I must also remind you that Duty Free would be entirely justified in stating that had things gone wrong, as they did in the "'70's", they would have paid the bill and could not have asked for adjustments as we are doing.

There are other inequities in the Agreement which we will continue to address and I have no doubt that we will succeed in a further softening of that Agreement, an Agreement which is legal and binding and could be strongly defended in any court action.

Duty Free's goodwill in making the changes should be commended.

Furthermore, I would call your attention to the Duty Free employment figures. Giving gainful employment to 650 or so of our local people, including many in the top hierarchy of the local company, is not a minor accomplishment and should be noted in a favorable manner.

We are strongly in favor of giving the designated lot to Duty Free and we hope the Governor and the Legislature concur, because we feel that Duty Free's use of that property as a major warehouse/office complex would be in the best interests of the Guam Airport Authority, and therefore in the best interests of the people of Guam.

I feel that the Airport is not a separate entity that does not belong to the people of Guam. This is Guam's Airport and statements like giving Airport property back to the people of Guam are, in my judgment, uncalled for.

I am sorry that you were unable to attend our Expansion Concept Presentation, but I have enclosed a copy of the remarks I made which you might find useful.

Very truly yours,



LEO D. SLOTNICK  
GAA Board Chairman

cc: Governor of Guam  
Lt. Governor of Guam  
GAA Board of Directors  
GAA Executive Manager

Attachment





JOHN PEREZ A GUON  
SENATC  
20TH GUAM LEGISLATURE  
CHAIRMAN, COMMITTEE ON  
TOURISM & TRANSPORTATION

6/1

324 Soledad Avenue, Suite 202, Quan's Building, Agaña, Guam U.S.A. 96910 • (671)472-3435, 472-3497, 477-7569 • Fax: (671)472-3435

June 1, 1989

Mr. Jess Q. Torres  
Executive Manager  
Guam Airport Authority  
P.O. Box 8770  
Tamuning, Guam 96911

FILE

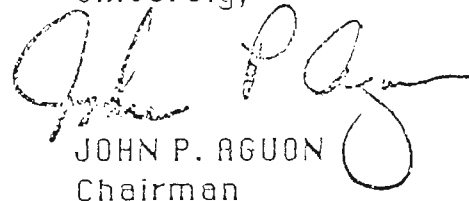
Dear Mr. Torres:

At our last meeting we had agreed to hold back on the transmittal of the lease documents for the Industrial Park until such time that the Authority has secured a second appraisal of the property in question. Subsequent legislative schedules for public hearings and sessions have caused me to suggest that the documents be transmitted at the earliest possible date for purposes of preparing for the scheduling of the public hearing. The second appraisal can be submitted to the Committee at a later date prior to the scheduled date for legislative review.

Please note that since the documents are to be officially transmitted to the Speaker via the Governor, it may take some time before the referral of the package is made to the appropriate committee. In that regard, please keep my office advised of when the transmittal is about to take place so that my staff can expedite the legislative referral processes.

Please contact my Special Assistant, Mr. Mike Carlson, should there be any questions on this matter.

Sincerely,

  
JOHN P. AGUON  
Chairman



# GUAM AIRPORT AUTHORITY (ATURIDAT PUETTON BATKON AIREN GUAHAN)

P.O. BOX #2770 Tamuning, Guam 96911 Telephone: 646-0300, 646-0301, 646-0302  
Telex: 6456 GUMARPT GM  
FAX: (671) 646-9823

MAY 22 1990

MAY 23 1990  
3:35  
J. J. ...

Honorable John F. ...  
Senator and Chairman  
Committee on Tourism and Transportation  
20th Guam Legislature  
P.O. Box 121  
Agaña, Guam 96909

Dear Senator Agaña:

Thank you for meeting with me, Mr. ... Board Chairman and myself for lunch on May 22, 1990 to discuss the progress of an Airport Industrial Park.

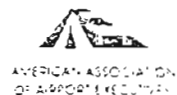
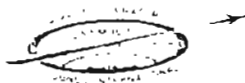
Based on our meeting, we understand that two additional reports are required by Sect. 11.1.1 of the Legislature's Standing Rules for any proposed government land re-zoning. Therefore, I am advised that the Board Chairman, when he presents the report of soliciting for sub-lease parcels to comply with certain conditions, only one approved contract has been completed for an industrial Park site. This report which was prepared by ... Company has been provided to your office per your earlier instructions.

As soon as the second report is completed a copy will be forwarded to your committee. We expect to have a complete approved report no later than mid July of this year.

Thank you again for your cooperative assistance and support.

Sincerely,  
  
J. J. ...  
Executive Manager

cc: Board of ...  
Mr. ...





# GUAM AIRPORT AUTHORITY

(ATURIDAT PLETTON BATKON AIREN QUAHAN)

P.O. BOX 8770 HONOLULU, GUAM 96911 Telephone: 646-0300, 646-0301, 646-0302  
Telex: 6456 GUMARPT GM  
FAX: (671) 646-8823

April 10, 1999

RECEIVED  
APR 20 1999  
*Jeanette*

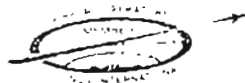
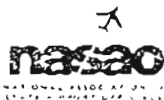
Honorable John Aguon  
Senator and Chairman  
Committee on Tourism and Transportation  
10th Guam Legislature  
P.O. Box 88-1  
-gasa, Guam 96911

Dear Senator Aguon:

Enclosed for your committee is advance review and the pertinent documents relative to the proposed ground leases for the Airport Industrial Park. The proposed bills have been forwarded to the Governor's office for formal introduction by the Governor to the Legislature.

The documents enclosed are as follows:

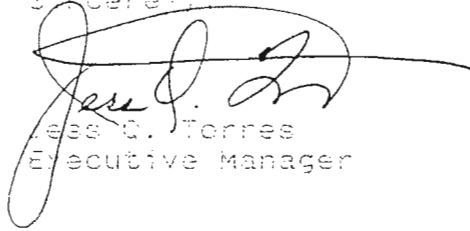
- A) The proposed bill and ground leases for the Airport Industrial
- B) An information package containing the following:
  1. Airport Industrial Park History and Background
  2. Airport Industrial Park General Data
  3. GAA Board Minutes of Meeting Approving the Terms
  4. Data pertaining to Duty Free Shopping Ltd. Partnership's proposed lease
  5. Data pertaining to Dairy Farm (Guam) proposed lease
  6. Data pertaining to Mid Pac Far East, Inc. proposed lease
  7. Data pertaining to Esso Eastern, Inc. - Guam proposed lease
  8. Cop. of the Airport Industrial Park Drawing showing leased lots.
- C) Airport Industrial Park - Request For Proposal
- D) Airport Industrial Park Real Estate Appraisal performed by Gasbard and Company in 1997



Letter to Senator John Aguon, 4/12/88  
re: Airport Industrial Park Leases

If you have any questions, please call me at your convenience.

Sincerely,



Jesse C. Torres  
Executive Manager

Enclosures



~~CONFIDENTIAL - LEGISLATIVE STAFF~~

10/2

**SENATOR**  
**HERMINIA D. DIERKING**  
**TWENTIETH GUAM LEGISLATURE**



COMMITTEES:

September 28, 1989

CHAIRPERSON  
Rules

MEMORANDUM

TO: Chairperson, Committee on Tourism & Transportation  
 Committee on Housing & Community Development  
 Committee on Federal, Foreign & Legal Affairs

FROM: Chairperson, Committee on Rules

SUBJECT: Referrals - Bill Nos. 974 and 961.

MEMBER:

The above Bill is referred to your Committee. It is recommended that a joint hearing be coordinated with the Committees involved.

*H. Dierking*  
HERMINIA D. DIERKING

Enclosures

CHAIRPERSON, COMMITTEE ON TOURISM,  
TRANSPORTATION & COMMUNICATIONS

REC'D BY: Jasnet

DATE: 10-2-89 TIME: 10:40

- VICE-CHAIRPERSON  
Ways & Means  
Energy, Utilities & Consumer Protection  
General Governmental Operations
- MEMBER:
- Economic Development
- Federal, Foreign & Legal Affairs
- Health, Welfare & Sociology
- Justice & Criminal
- Education
- Tourism & Transportation
- Youth, Senior Citizens, Cultural Affairs & Human Resources

TWENTIETH GUAM LEGISLATURE  
1989 (FIRST) Regular Session

Bill No. 974

Introduced by:

Committee on Rules *W. Dierking*  
At the request of the  
Governor

*TT  
HED  
FFVA*

AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY  
TO LEASE THREE PARCELS IN THE GAA INDUSTRIAL  
PARK.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. With the written approval of the Governor the  
Guam Airport Authority is authorized to lease the following  
parcels in the GAA Industrial Park:

(a) Lot No. 1, Block No. 1, Tract No. 1427, Guam  
International Air Terminal Industrial Park,  
Municipalities of Barrigada and Dededo, Guam,  
containing an area of approximately 3,306 square  
meters or 35,583 square feet, as shown on Drawing No.  
DSI-S-88-25 dated March 30, 1989, prepared by  
registered land surveyor Nestorio C. Ignacio,  
RLS No. 65 to MID PACIFIC FAR EAST, INC., a Guam  
corporation.

(b) Lot Nos. 4, 5 and 6, Block No. 1, Tract No. 1427,  
Guam International Air Terminal Industrial Park,  
Municipalities of Barrigada and Dededo, Guam,  
containing an area of approximately 9,007 square  
meters or 96,954 square feet, as shown on Drawing No.

~~CONFIDENTIAL~~

DSI-S-88-25 dated March 30, 1989, prepared by registered land surveyor Nestorio C. Igancio, RLS No. 65 to DAIRY FARM (GUAM) LTD., a Guam corporation.

(c) Block No. 2, Tract No. 1427, Guam International Air Terminal Industrial Park, Municipalities of Barrigada and Dededo, Guam, containing an area of approximately 5,709 square meters or 61,448 square feet, as shown on Drawing No.

DSI-S-88-25 dated March 30, 1989, prepared by registered land surveyor Nestorio C. Igancio, RLS No. 65 to ESSO EASTERN, INC.-GUAM BRANCH.

e

TWENTIETH GUAM LEGISLATURE  
1989 (FIRST) Regular Session

Bill No. 941

Introduced by:

T. S. Nelson

AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY  
TO LEASE THREE PARCELS IN THE GAA INDUSTRIAL  
PARK.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. With the written approval of the Governor the  
3 Guam Airport Authority is authorized to lease the following  
4 parcels in the GAA Industrial Park:

5 (a) Lot No. 1, Block No. 1, Tract No. 1427, Guam  
6 International Air Terminal Industrial Park,  
7 Municipalities of Barrigada and Dededo, Guam,  
8 containing an area of approximately 3,306 square  
9 meters or 35,583 square feet, as shown on Drawing No.  
10 DSI-S-88-25 dated March 30, 1989, prepared by  
11 registered land surveyor Nestorio C. Ignacio,  
12 RLS No. 65 to MID PACIFIC FAR EAST, INC., a Guam  
13 corporation.

14 (b) Lot Nos. 4, 5 and 6, Block No. 1, Tract No. 1427,  
15 Guam International Air Terminal Industrial Park,  
16 Municipalities of Barrigada and Dededo, Guam,  
17 containing an area of approximately 9,007 square  
18 meters or 96,954 square feet, as shown on Drawing No.





1 DSI-S-88-25 dated March 30, 1989, prepared by  
2 registered land surveyor Nestorio C. Iganctio,  
3 RLS No. 65 to DAIRY FARM (GUAM) LTD., a Guam  
4 corporation.

5 (c) Block No. 2, Tract No. 1427, Guam Interna-  
6 tional Air Terminal Industrial Park, Municipal-  
7 ities of Barrigada and Dededo, Guam, containing  
8 an area of approximately 5,709 square meters or  
9 61,448 square feet, as shown on Drawing No.

10 DSI-S-88-25 dated March 30, 1989, prepared by  
11 registered land surveyor Nestorio C. Iganctio,  
12 RLS No. 65 to ESSO EASTERN, INC.-GUAM BRANCH.





*Territory of Guam*  
*Territorio Guam*

OFFICE OF THE GOVERNOR  
LUPESMAN I MAGA LAHE  
AGANA, GUAM 96910 U.S.A.

*Rec'd* *Sag*  
SEP 15 1989



The Honorable Joe T. San Agustin  
Speaker  
20th Guam Legislature  
Post Office Box CB-1  
Agana, Guam 96910

Dear Mr. Speaker:

Enclosed for consideration by the 20th Guam Legislature is a bill to cover ground leases at the newly established Airport Industrial Park. These leases are being forwarded for legislative action pursuant to Public Law 19-5.

The Airport Industrial Park is presently being developed on property that the Guam Airport Authority (GAA) acquired through land conveyances and private land acquisition with assistance from the Federal Aviation Administration under its Airport Improvement Program. Its development will improve the efficiency of the overall terminal operation since direct airport businesses will be strategically located on properties adjacent to the Airport. Also, the Park will make full use of the new airport access road since tenants of the park will probably have a daily requirement to travel to and from the air terminal. In addition, GAA will be able to cater to airport related tenants as required by its assurances with the FAA.

The Guam Airport Authority has carefully planned the development of the park from its initial phase.

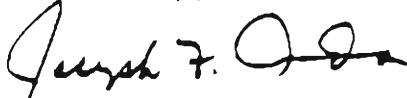
A comprehensive package for prospective tenants was provided to those who showed interest in the Industrial Park lots. On at least three different occasions, GAA publicly announced the availability of lots for lease at the Industrial Park in order to give the general public ample opportunities to lease an area from GAA for aeronautical related purposes. The three tenants who are being initially recommended for occupancy in the Park have undergone careful scrutiny by GAA officials to ensure that their selection remains in compliance of the Authority's objective in maximizing the use of limited airport property for aeronautical related purposes while simultaneously enhancing the operations of the airport. Others who have noted interests are presently being screened by GAA officials to determine the feasibility of their occupancy at the park from an operational standpoint.

The Honorable Joe T. San Agustin  
Page Two

It should be noted that the Guam Airport Authority has funded the construction of the Industrial Park in its entirety without cost to the General Fund. All revenues generated from the direct leases will be deposited into GAA's revenue account as mandated. However, the General Fund stands to benefit tremendously from increased gross receipts and income taxes due to the concomitant increase in sales generated by the expansion.

Accordingly, it is with great pleasure that I submit this bill for introduction in the 20th Guam Legislature. I have full confidence that passage of this bill would mean only greater things for our Territory.

Sincerely,

  
JOSEPH F. ADA  
Governor

200484

For Enclosures - see Legal Office



*Territory of Guam*  
*Territorio de Guam*

OFFICE OF THE GOVERNOR  
UPSONIAN I MAGA LAHE  
AGANA, GUAM 96910 U.S.A.

SEP 15 1989

	INITIAL	DATE
Mass	Jr	9/15
Legat	K	9/15
Wynn	-	9/15
Gov	[Signature]	9/15
File		

The Honorable Joe T. San Agustin  
Speaker  
20th Guam Legislatura  
Post Office Box CB-1  
Agana, Guam 96910

Dear Mr. Speaker:

Enclosed for consideration by the 20th Guam Legislatura is a bill to cover ground leases at the newly established Airport Industrial Park. These leases are being forwarded for legislative action pursuant to Public Law 19-5.

The Airport Industrial Park is presently being developed on property that the Guam Airport Authority (GAA) acquired through land conveyances and private land acquisition with assistance from the Federal Aviation Administration under its Airport Improvement Program. Its development will improve the efficiency of the overall terminal operation since direct airport businesses will be strategically located on properties adjacent to the Airport. Also, the Park will make full use of the new airport access road since tenants of the park will probably have a daily requirement to travel to and from the air terminal. In addition, GAA will be able to cater to airport related tenants as required by its assurances with the FAA.

The Guam Airport Authority has carefully planned the development of the park from its initial phase.

A comprehensive package for prospective tenants was provided to those who showed interest in the industrial Park lots. On at least three different occasions, GAA publicly announced the availability of lots for lease at the industrial Park in order to give the general public ample opportunities to lease an area from GAA for aeronautical related purposes. The three tenants who are being initially recommended for occupancy in the Park have undergone careful scrutiny by GAA officials to ensure that their selection remains in compliance of the Authority's objective in maximizing the use of limited airport property for aeronautical related purposes while simultaneously enhancing the operations of the airport. Others who have noted interests are presently being screened by GAA officials to determine the feasibility of their occupancy at the park from an operational standpoint.

The Honorable Joe T. San Agustin  
Page Two

It should be noted that the Guam Airport Authority has funded the construction of the Industrial Park in its entirety without cost to the General Fund. All revenues generated from the direct leases will be deposited into GAA's revenue account as mandated. However, the General Fund stands to benefit tremendously from increased gross receipts and income taxes due to the concomitant increase in sales generated by the expansion.

Accordingly, it is with great pleasure that I submit this bill for introduction in the 20th Guam Legislature. I have full confidence that passage of this bill would mean only greater things for our Territory.

Sincerely,

*Joseph F. Ada*  
JOSEPH F. ADA  
Governor

DEED OF CONVEYANCE

All that land designated as Lot P14.5 REM covered by C.T. 61109 situated in Machache, municipal jurisdiction of Dededo more particularly described as follows:

THIS INDENTURE, made and entered in the Municipality of Agana, territory of Guam, this 20<sup>th</sup> day of October, 1978, by and between the GOVERNMENT OF GUAM, of the territory of Guam, herein called the Grantor, and the GUAM AIRPORT AUTHORITY, an autonomous agency of the Government of Guam, herein called the Grantee.

WITNESSETH, that the Grantee, in consideration of the sum of TEN DOLLARS (\$10.00), and other good and valuable consideration, paid by the Grantee, the receipt whereof is hereby acknowledged, does hereby GRANT, BARGAIN, SELL AND CONVEY to the Grantee, and its successors and assigns, forever, that tract or parcel of land described as follows, to wit:

All that land designated as Lot P14.5 REM covered by C.T. 61109 situated in Machache, municipal jurisdiction of Dededo more particularly described as follows:

Commencing at a Guam Geodetic Triangulation Net Station "Fill", having coordinates of North 172,761.693 feet and East 187,794.668 feet;

Thence, a direct tie N 75° 56' 14" E, 296.19 feet to the point of beginning;

Thence, along a curve, a central angle of 65° 47' 00" a radius of 494.00 feet, an arc length of 567.18 feet, a chord of 538.54 feet and a chord bearing of N 88° 06' 02" W;

Thence, S 59° 00' 28" W, 1333.82 feet;

Thence, N 04° 45' 32" W, 868.07 feet;

Thence, N 60° 33' 11" E, 2280.97 feet;

Thence, along a curve, a central angle of 07° 04' 34", a radius of 318.57 feet, an arc length of 39.34 feet, a chord of 39.32 feet and a chord bearing of S 04° 18' 51" E;

Thence, S 07° 51' 08" E, 974.70 feet;

Thence, along a curve, a central angle of 09° 23' 13", a radius of 813.94 feet, an arc length of 133.35 feet, a chord of 133.20 feet and a chord bearing of S 12° 32' 44.5" E;

Thence, S 17° 14' 21" E, 0.62 feet;

Thence, along a curve, a central angle of 04° 42' 31", a radius of 1401.70 feet, an arc length of 115.19 feet, a chord of 115.18 feet and a chord bearing of S 19° 35' 36.5" E;

Thence, S 36° 17' 28" W, 310.70 feet;

Thence, N 55° 12' 32" W, 310.00 feet to the point of beginning containing an area of 2,012,436 square feet (186,962 square meters) more or less as shown on Sheet 8 of 16 of Drawing Number JCT-S-05-76 prepared by Juan C. Tenorio and Associates, Inc. as Land Management Drawing Number I4-77T037, recorded under Document Number 277169.

All that land designated as Lot 5169 (part) covered by C.T. G.C. 2291 situated in the municipalities of Barrigada and Dededo more particularly described as follows:

Commencing at a Guam Geodetic Triangulation Net Station "Pill" having coordinates of North 172,761.693 feet and East 187,756.033 feet;

Thence, a computed tie, S 86° 40' 15" W, 2305.672 feet;

Thence, S 32° 07' 00" E, 135.15 feet to the point of beginning;

Thence, N 55° 47' 21" E, 793.47 feet;

Thence, N 57° 18' 11" E, 130.02 feet;

Thence, S 04° 45' 32" E, 868.07 feet;

Thence, S 59° 00' 28" W, 202.65 feet;

Thence, S 59° 00' 28" W, 500.00 feet;

Thence, along a curve, a central angle of 40° 59' 11", a radius of 284.84 feet, a chord of 199.44 and a chord bearing of S 79° 30' 03" W;

Thence, along a curve, a central angle of 34° 33' 31", a radius of 1196.00 feet; a chord of 710.50 feet and a chord bearing of S 82° 42' 53" W;

Thence, S 65° 28' 08" W, 416.29 feet;

Thence, N 29° 49' 33" W, 528.78 feet;

Thence, N 81° 25' 58" E, 92.40 feet;

Thence, N 83° 31' 31" E, 339.85 feet;

Thence, S 38° 55' 13" E, 4.66 feet;

Thence, S 28° 50' 25" E, 64.24 feet;

Thence, N 66° 22' 19" E, 1012.72 feet to the point of beginning, containing an area of 1,278,279 square feet (118,570 square meters) more or less as shown on Sheet No. 11 of 16 of Drawing No. JCT-S-05-78 prepared by Juan C. Tenorio and Associates, Inc., as Land Management Drawing No. 14-777037, recorded under Document No. 277169.

All that land designated as Lot 5175-2 which lot is an integral part of Basio Lot 5175, covered by Certificate of Title GC 3708, situated in the municipality of Barrigada, more particularly described as follows:

Commencing at a Guam Geodetic Triangulation Net Station "Pill" having coordinates of North 172,781.89 feet and East 187,794.87 feet;

Thence, a computed tie, S 70° 18' 39" W, 7,498.35 feet to the point of beginning;

Thence, S 19° 25' 33" E, 278.43 feet;

Thence, S 73° 15' 02" W, 1131.88 feet;

Thence, N 26° 13' 33" W, 285.32 feet;



Thence, along a curve, a central angle of  $21^{\circ} 38' 16''$ , a radius of 1741.15 feet, an arc length of 657.55 feet, a chord of 653.65 feet and a chord bearing of  $N. 63^{\circ} 33' 16'' E$ ;

Thence,  $N 74^{\circ} 22' 24'' E$ , 95.87 feet;

Thence, along a curve, a central angle of  $18^{\circ} 15' 40''$ , a radius of 301.56 feet, an arc length of 96.11 feet, a chord of 95.71 feet and a chord bearing of  $N 65^{\circ} 14' 34'' E$ ;

Thence,  $S 69^{\circ} 57' 53'' E$ , 396.05 feet to the point of beginning containing an area of 410,052 square feet (38,095 square meters) more or less as shown on Sheet 4 of 16 of Drawing Number JCT-S-05-78 prepared by Juan C. Tenorio and Associates, Inc., Land Management Drawing Number IA-77T037, recorded under Document Number 277169.

All that land designated as Lot 5182-Part which lot is an integral part of Basis Lot 5182 covered by Certificate of Title GC 3707, situated in the municipality of Barrigada, more particularly described as follows:

Commencing at a Guam Geodetic Triangulation Net Station "P111" having coordinates of North 172,761.69 feet and East 187,794.67 feet;

Thence, a computed tie,  $S 70^{\circ} 18' 39'' W$ , 7,496.35 feet to the point of beginning;

Thence,  $S 87^{\circ} 15' 33'' E$ , 279.46 feet;

Thence,  $N 68^{\circ} 58' 27'' E$ , 551.25 feet;

Thence,  $N 81^{\circ} 08' 26'' E$ , 139.19 feet;

Thence,  $N 81^{\circ} 50' 41'' E$ , 354.88 feet;

Thence,  $S 12^{\circ} 05' 27'' W$ , 165.65 feet;

Thence,  $S 64^{\circ} 20' 67'' W$ , 281.81 feet;

Thence,  $S 64^{\circ} 34' 10'' W$ , 83.12 feet;

Thence,  $S 77^{\circ} 18' 20'' W$ , 852.81 feet;

Thence,  $S 73^{\circ} 15' 02'' W$ , 217.18 feet;

Thence,  $N 19^{\circ} 25' 33'' W$ , 276.43 feet to the point of beginning containing an area of 278,164 square feet (25,842 square meters) more or less as shown on Sheet 4 of 16 of Drawing Number JCT-S-05-78 prepared by Juan C. Tenorio & Associates, Inc., as Land Management Drawing Number IA-77T037, recorded under Document No. 277169.

All that land designated as Lot No. 5184-0 which lot is an integral part of Basis Lot 5184 covered by Certificate of Title GC 3708, situated in the municipality of Dedado, more particularly described as follows:

Commencing at a Guam Geodetic Triangulation Net Station "P111" having coordinates of North 122,781.693 feet and East 187,794.668 feet;

Thence, a computed tie,  $S 73^{\circ} 11' 40'' W$ , 9088.52 feet to the point of beginning;

Thence,  $S 87^{\circ} 14' 31'' E$ , 378.59 feet;

Thence, S 77° 08' 31" W, 158.60 feet;

Thence, N 37° 53' 55" W, 343.11 feet;

Thence, N 62° 14' 05" E, 217.08 feet to the point of beginning containing an area of 65,741 square feet (6,108 square meters) more or less as shown on Sheet 5 of 16 of Drawing Number JCT-S-05-76 prepared by Juan C. Tenorio & Associates, Inc., as Land Management Drawing Number I4-77T037, recorded under Document Number 277169.

All that land designated as Lot No. 5194-A-G, which lot is an integral part of Basic Lot 5194-A covered by Certificate of Title GC 3242, situated in the Municipality of Dededo, more particularly described as follows:

Commencing at a Guam Geodetic Triangulation Net Station "Fill" having coordinates of North 172,761.693 feet and East 187,794.668 feet;

Thence, a computed tie, S 73° 11' 40" W, 6026.52 feet to the point of beginning;

Thence, N 62° 14' 05" E, 197.78 feet;

Thence, S 43° 25' 09" E, 463.55 feet;

Thence, S 73° 58' 07" W, 333.27 feet;

Thence, N 27° 14' 31" W, 378.59 feet to the point of beginning, containing an area of 106,022 square feet (9,850 square meters) more or less, as shown on Sheet Number 5 of 16 of Drawing No. JCT-S-05-76 prepared by Juan C. Tenorio & Associates, Inc., as Land Management Drawing No. I4-77T037, recorded under Document No. 277169.

All that land designated as Lot 5197-2G which lot is an integral part of Basic Lot 5197 covered by Certificate of Title GC 3710, situated in Ilipog and Pinesgayan, municipal district of Barrigada, more particularly described as follows:

Commencing at a Guam Geodetic Triangulation Net Station "Fill" having coordinates of North 172,761.699 feet and East 187,794.668 feet;

Thence, a computed tie, S 77° 51' 25" W, 3,882.28 feet to the point of beginning;

Thence, N 86° 18' 32" E, 289.66 feet;

Thence, S 89° 49' 33" E, 526.78 feet;

Thence, S 85° 28' 08" W, 687.48 feet;

Thence, N 04° 07' 32" W, 314.88 feet;

Thence, S 79° 01' 27" W, 834.45 feet;

Thence, N 03° 50' 24" E, 201.85 feet;

Thence, N 68° 30' 18" E, 893.81 feet to the point of beginning containing an area of 485,173 square feet (45,074 square meters) more or less as shown on Sheet 7 of 16 of Drawing Number JCT-S-05-76 prepared by Juan C. Tenorio & Associates, Inc., as Land Management Drawing No. I4-77T037, recorded under Document No. 277169.

All that land designated as Basic Lot No. 5198-R1 which lot is an integral part of Basic Lot 5198 covered by Certificate of Title GC 3711, situated in the municipalities of Barrigada and Dededo more particularly described as follows:

Commencing at a Guam Geodetic Triangulation Net Station "Fill" having coordinates of North 172,761.693 and East 187,794.669;

Thence, S 79° 00' 22" W, 3,566.25 feet;  
Thence, S 85° 30' 30" W, 334.43 feet;  
Thence, S 68° 30' 19" W, 393.81 feet;  
Thence, S 68° 30' 19" W, 500.00 feet;  
Thence, S 03° 50' 24" W, 201.65 feet to the point of beginning;  
Thence, N 79° 01' 27" E, 834.15 feet;  
Thence, S 04° 07' 33" E, 314.86 feet;  
Thence, S 85° 26' 08" W, 1,071.28 feet;  
Thence, S 85° 52' 27" W, 29.31 feet;  
Thence, N 15° 01' 15" E, 184.78 feet;

Thence, N 15° 01' 15" E, 439.17 feet to the point of beginning containing an area of 402,124 square feet (37,358 square meters) more or less as shown on Sheet Number 11 of 16 of Drawing Number JCT-S-05-78 prepared by Juan C. Tenorio & Associates, Inc., as Land Management Drawing No. I4-77037, recorded under Document No. 277169.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD the same, together with all the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, to the Grantee, its successors and assigns, forever.

Excluded from this conveyance in the above-described properties are all rights, title and interest in and to Route 10A and drainage ditches, and provided further that the Grantor in its sole discretion shall retain its rights and privileges to designate utility easements and access rights-of-way for the construction, operation and maintenance of sewer, power, drainage systems, communication, roads, water and mineral rights.

The properties herein conveyed shall revert and re-vest to the Grantor if any part of the properties herein conveyed is used for other than airport or airport-related uses.

IN WITNESS WHEREOF, the Grantor has  
and yes - first above written.

GOVERNMENT OF GUAM:

By RICARDO J. BORDALLO  
Governor of Guam

Date: 10/20/78

APPROVED AS TO FORM:

[Signature]  
Attorney General

Date: 10-6-78

COUNTERSIGNED:

[Signature]

Date: 10/20/78

DEPT. OF RECORDS  
RECORDS DEPARTMENT  
DEPT. OF RECORDS  
RECORDS DEPARTMENT  
OFFICE OF THE GOVERNOR  
GOVERNMENT OF GUAM

FEB 23 1976

Honorable Joseph P. Ada  
Speaker, Thirteenth Guam Legislature  
Post Office Box 373  
Agana, Guam 96910

Dear Speaker Ada:

I am pleased to recommend the 1970 GIAT Master Plan for official adoption. The Plan has been accepted by the GAA (Guam Airport Authority) and reviewed at a public hearing as well as by the Central Planning Council. This procedure is stipulated by Public Law 12-200, as amended.

The proposed Resolution that I have enclosed was prepared to officially adopt the GIAT Master Plan. This adoption is necessary for GAA to continue with its construction, land acquisition, and development program. The conditions placed upon my recommendation for approval reflect comments and testimony by the public-at-large and the Central Planning Council.

We will be pleased to provide additional information if you require more details on either the Plan or its adoption. For your reference, I have also enclosed a three volume set of the Plan and a map depicting the proposed perimeter boundary.

Sincerely yours,

/s/ RICARDO J. BORDALLO

RICARDO J. BORDALLO

Enclosure  
RJB/DS:crq  
Bureau of Planning ✓  
FEB 18 1976

TO	Initial	Date
Dr. Bernaldo	[initials]	2/18
Secretary	[initials]	2/18
Gen. Secy.		
Asst. Secy.		
FILES		2/23

271835

Attachment A

ENCL. 31

~~CONFIDENTIAL~~

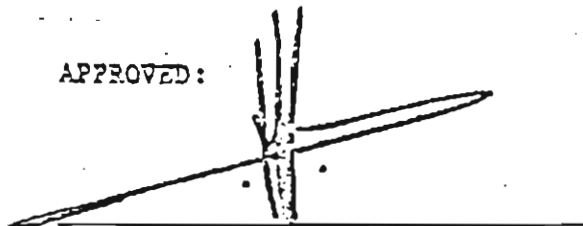
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The Territorial Planning Commission met on February 12 and reviewed the GIAT Master Plan. The Commission agreed to approve only the perimeter boundary as depicted by the Plan.

As attested by the attached signatures, the Central Planning Council hereby recommends that the GIAT Master Plan be approved subject to the following conditions:

1. That future design and construction plans at GIAT allow for a tie-in with a direct access road to the Harmon Industrial Park.
2. That future design and construction plans for support facilities do not duplicate qualified services that are available from other sources.
3. That if the PUAG water tank conflicts with future GIAT construction plans, the GAA must relocate the tank at GAA's expense to a site acceptable to the Public Utility Agency of Guam.
4. That this approval is limited to only the proposed perimeter boundary of the GIAT Master Plan.

APPROVED:



RICARDO U. BORDALLO  
Governor of Guam

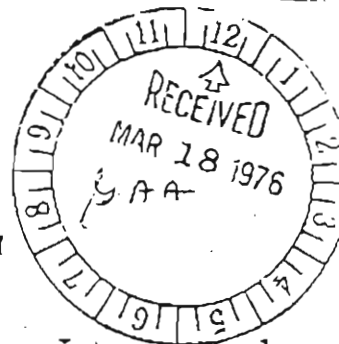
DATE:

2/23/76

271835



CENTRAL PLANNING COUNCIL  
RECOMMENDATION FOR THE  
GUAM INTERNATIONAL AIR TERMINAL MASTER PLAN



Pursuant to Public Law 12-200, Section 62015, the GIAT (Guam International Air Terminal) Master Plan has been reviewed at a public hearing and by the Central Planning Council.

The GIAT Master Plan proposes to expand the present 24 acre Air Terminal site by acquiring 63 acres of Federal land, 144 acres of Government of Guam land and 26 acres of private land. This site expansion provides for the construction of a new air terminal, aircraft parking aprons, auto parking lots, access roads, cargo and maintenance buildings, and related facilities as delineated in the 1970 Plan developed by Mackinlay/Winnacker and Associate and accepted by the GAA (Guam Airport Authority). Acquisition of the Federal land has been assured by the Joint Use Agreement executed on July 19, 1974.

The Central Planning Council reviewed this Master Plan on January 6, 1976 and determined that a public hearing should be scheduled, as provided for in Public Law 13-89. The public hearing was held on January 20, 1976, and approximately 30 people attended. Two new considerations were raised at the Public Hearing: (1) request by the Harmon Industrial Park complex for a new direct access between the Harmon industrial area and the warehouse facilities at the Air Terminal; and (2) that warehouses and support facilities at GIAT do not compete with similar services being provided by private enterprises on Guam.

The Bureau of Planning and the Central Planning Council do not agree that the proposed access road should be part of the Air Terminal extension plans. While this link-up would undoubtedly serve the Harmon Industrial firms with faster and more convenient access, it is not germane to the services provided by the Terminal, since other access already exists. The general GIAT Master Plan design is capable of accommodating this type of access, and future construction plans at GIAT must allow for such a tie-in to the Harmon Industrial Park in the event that a road is built.

The Bureau of Planning and the Central Planning Council agree that support facilities at GIAT should not duplicate any qualified services that are available by private enterprise. Future GIAT construction plans for these types of improvements must not proceed if services can be adequately obtain from other sources.

The Central Planning Council met on February 2 to review the GIAT Master Plan. An additional consideration was raised at this time about the eventual relocation of PUAG's (Public Utility Agency of Guam) water tank. The tank is now situated in an area to be developed as part of the Air Terminal expansion.

271835

Only Personnel Approved  
PC only

*[Signature]*  
\_\_\_\_\_  
CARL PETERSON, Member  
Territorial Planning Commission

\_\_\_\_\_  
Date 2-12

*[Signature]*  
\_\_\_\_\_  
TONY PEREZ, Member  
Territorial Planning Commission

\_\_\_\_\_  
Date 2-12-76

*[Signature]*  
\_\_\_\_\_  
LAMBERTO CERTEZA, Member  
Territorial Planning Commission

\_\_\_\_\_  
Date 2-12-76

*[Signature]*  
\_\_\_\_\_  
FRANK LUJAN, Member  
Territorial Planning Commission

\_\_\_\_\_  
Date 2-12

*[Signature]*  
\_\_\_\_\_  
DAVID ULLQA, Member  
Territorial Planning Commission

\_\_\_\_\_  
Date 2-12-

\_\_\_\_\_  
CARL BORDALLO, Member  
Territorial Planning Commission

\_\_\_\_\_  
Date

\_\_\_\_\_  
FRANK PEREZ, Member  
Territorial Planning Commission

\_\_\_\_\_  
Date

271835



*Paul B. Souder*  
PAUL B. SOUDER, Chairman  
Central Planning Council

\_\_\_\_\_  
Date

*O. V. Hatarajan*  
O. V. HATARAJAN, Administrator  
Guam Environmental Protection  
Agency

\_\_\_\_\_  
Date

*Doris Canina*  
DORIS CANINA, Director  
Bureau of Budget & Management  
Research

\_\_\_\_\_  
Date

*Felix Inatizani*  
FELIX INATIZANI, Director,  
Public Works

*Feb. 2, 1976*  
\_\_\_\_\_  
Date

*Pete Cruz*  
PETE CRUZ, Director  
Guam Housing & Urban Renewal  
Authority

*Feb 2, 1976*  
\_\_\_\_\_  
Date

*Esther Torres*  
ESTERAN TORRES, Director  
Land Management

*Feb 2, 1976*  
\_\_\_\_\_  
Date

*Ricardo Guerrero*  
RICARDO GUERRERO, Chief Officer  
Public Utility Agency of Guam

*Feb. 3, 1976*  
\_\_\_\_\_  
Date

271835

GOVERNMENT OF GUAM

DEPARTMENT OF LAND MANAGEMENT

LAND RECORDS SECTION

TERRITORY OF GUAM, DEPARTMENT OF LAND MANAGEMENT

OFFICE OF THE RECORDER

INSTRUMENT NUMBER 271835

TYPE OF INSTRUMENT Govt. Land Transfer

This instrument was filed for record on 22

day of Sept, 1976, at 4.00 P.M.

and duly recorded in Book \_\_\_\_\_ at page \_\_\_\_\_

Recording fee \_\_\_\_\_ Voucher No. \_\_\_\_\_

DEPUTY RECORDER

(1) TEMPORARY INDEX (LAND) (MISC.) \_\_\_\_\_ ( ) ( )

(2) NUMERICAL INDEX URBAN \_\_\_\_\_ SUB. \_\_\_\_\_ VOL \_\_\_\_\_ ( ) ( )

(3) ALPHABETICAL GRANTOR (LAND) (MISC.) \_\_\_\_\_ ( ) ( )

(4) ALPHABETICAL GRANTEE (LAND) (MISC.) \_\_\_\_\_ ( ) ( )

(5) MARGINAL NOTATION C.T. NO. \_\_\_\_\_ G.C. NO. \_\_\_\_\_ ( ) ( )

(6) ISSUANCE OF C.T. NO. \_\_\_\_\_ G.C. NO. \_\_\_\_\_ ( ) ( )

(7) CANCELLATION OF C.T. NO. \_\_\_\_\_ G.C. NO. \_\_\_\_\_ ( ) ( )

(8) COMPLETED DOCUMENT PROCESSED, FILED BY \_\_\_\_\_ ( ) ( )

GRANTEE \_\_\_\_\_ C.T. NO. \_\_\_\_\_ AGE \_\_\_\_\_

OCCUPATION \_\_\_\_\_ AND HIS WIFE \_\_\_\_\_

C.I. NO. \_\_\_\_\_ AGE \_\_\_\_\_ OCCUPATION \_\_\_\_\_

RESIDING AT \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

CHANGES PROPERTY LISTING DAILY SALES DATA NO. 20872

REMARKS: Recorded w/out attachment of map  
as approved by C.C. Perry

GOVERNMENT LAND TRANSFER

There is hereby transferred to the Guam Airport Authority those parcels of government land in the attached map entitled, Guam International Airport Terminal Long Range Regional Map (Revised), Airport Layout Plan, Agana, Guam. Government lands subject to this transfer include the following:

Lots within Ultimate Boundary of GIAT	Approximate Area in Acres
P14.5 Rem	46.83
5169, 5197, 5198	51.83
5194 and 5194-A Part	3.97
5182 Part including Utility Easement	6.38
5175 Part	9.34
Route 10A Part	2.46


Guam Airport Authority shall submit metes and bounds description of these parcels to the Department of Land Management immediately upon completion of its official severance map. This transfer is authorized by the Governor and concurred to by the Legislature per Attachments A and B, respectively.

The land herein transferred is further subject to those conditions contained in Attachments A & B and all rules and regulations, laws, ordinances and statutes that regulate, control and limit the use development ownership and alienation of such government land.

Guam Airport Authority agrees to submit to Department of Land Management for its review and other actions appropriate thereto, all development plans, agreements, contracts, leases, licenses, permits and all other proposals that are not authorized by this transfer. Guam Airport Authority agrees to submit to the Department of Land Management annually on or before May 30th of each fiscal year hereafter, a land inventory report which shall contain the development status of the lands transfer, the value of improvement therein, and contract agreements, etc., appurtenant thereto and other informations requested.

This transfer takes effect on the date and time Resolution No. 2982 was passed by the Thirteenth Guam Legislature.

Dated this 10th day of August, 1976.

  
ESTEBAN U. TORRES  
Department of Land Management

THIRTEENTH GUAM LEGISLATURE  
1976 (SECOND) Regular Session

Resolution No. 293

Introduced by \_\_\_\_\_  
F. F. Blas

Relative to Adoption of the GIAT (Guam  
International Air Terminal) Plan.

1 BE IT RESOLVED BY THE LEGISLATURE OF THE TERRITORY OF GUAM:

2 WHEREAS, the 1970 Guam International Air Terminal  
3 Master Plan has been accepted by the Guam Airport Authority;  
4 and

5 WHEREAS, the Plan has been presented at a public hearing  
6 and reviewed by the Central Planning Council, as required by  
7 Chapter I, Title LXVI of the Government Code; and

8 WHEREAS, the Governor of Guam has recommended approval,  
9 with conditions, of the Plan; now, therefore, be it

10 RESOLVED, that in accordance with Section 62016 of the  
11 Government Code, the Guam Legislature does hereby adopt the  
12 1970 Guam International Air Terminal Master Plan with the  
13 following conditions:

- 14 1. That future design and construction plans at  
15 GIAT allow for a tie-in with a direct access  
16 road to the Harmon Industrial Park.
- 17 2. That future design and construction plans for  
18 support facilities do not duplicate qualified  
19 services that are available from other sources.
- 20 3. That if the Public Utility Agency of Guam water  
21 storage tank conflicts with future GIAT  
22 construction plans, the GAA (Guam Airport  
23 Authority) must relocate the tank at GAA's  
24 expense to a site acceptable to the Public  
25 Utility Agency of Guam.



1           4.    That this approval is limited to only the  
 2                    proposed perimeter boundary of the GIAT  
 3                    Master Plan as shown on Official Map  
 4                    No. 266-03;

5   and be it further

6           RESOLVED, that the Speaker certify to and the Legislative  
 7   Secretary attest the adoption hereof and that copies of the  
 8   same be thereafter transmitted to the Guam Airport Authority;  
 9   and to the Governor of Guam.

DULY AND REGULARLY ADOPTED ON THE 21ST DAY OF JUNE, 1975.

*Concepcion Cruz Barrett*  
 \_\_\_\_\_  
 CONCEPCION CRUZ BARRETT  
 Legislative Secretary

*Joseph F. Aida*  
 \_\_\_\_\_  
 JOSEPH F. ADA  
 Speaker

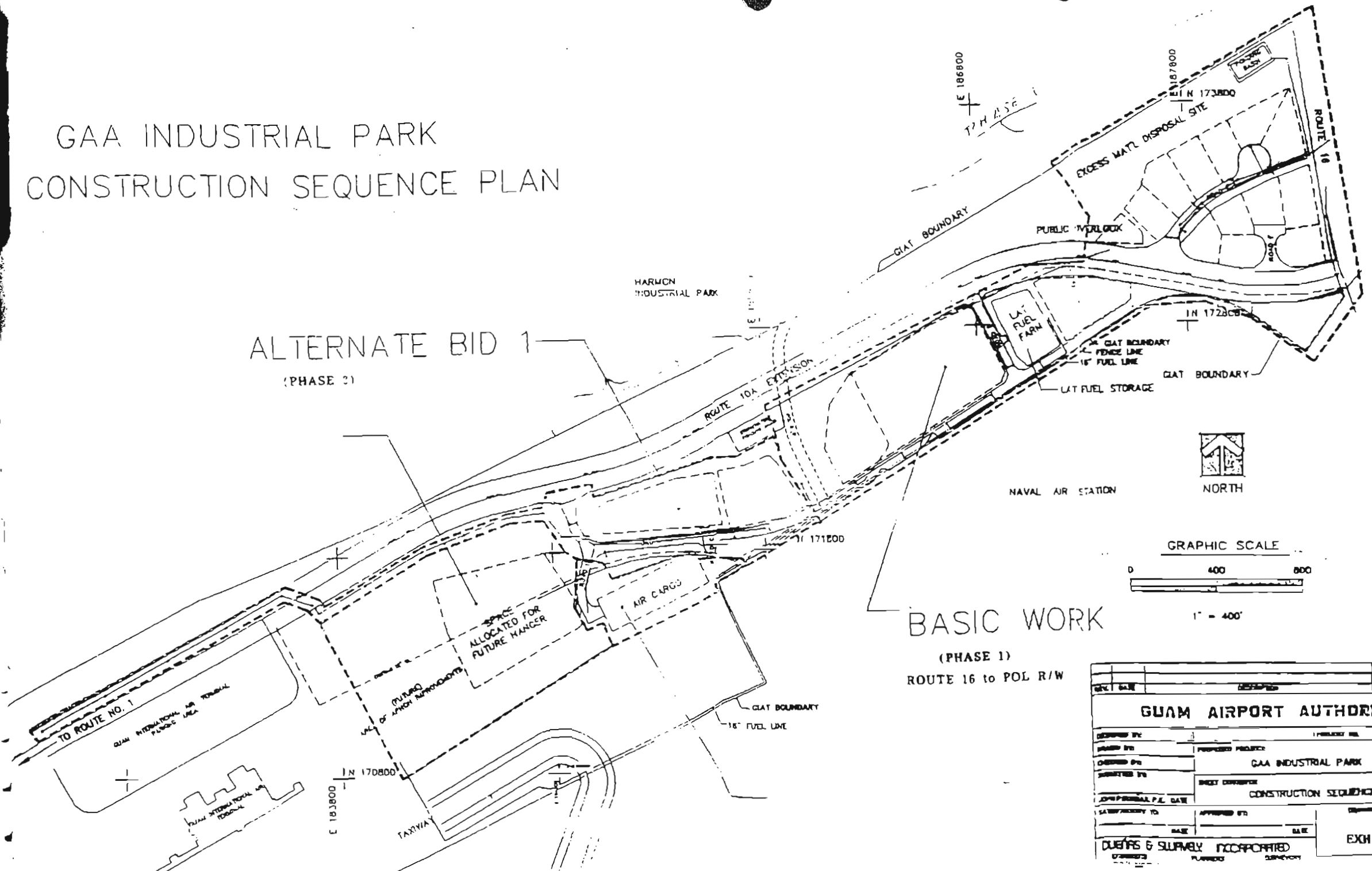




# GAA INDUSTRIAL PARK CONSTRUCTION SEQUENCE PLAN

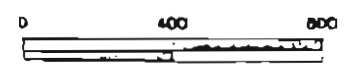
## ALTERNATE BID 1 (PHASE 2)

## BASIC WORK (PHASE 1) ROUTE 16 to POL R/W



NORTH

GRAPHIC SCALE

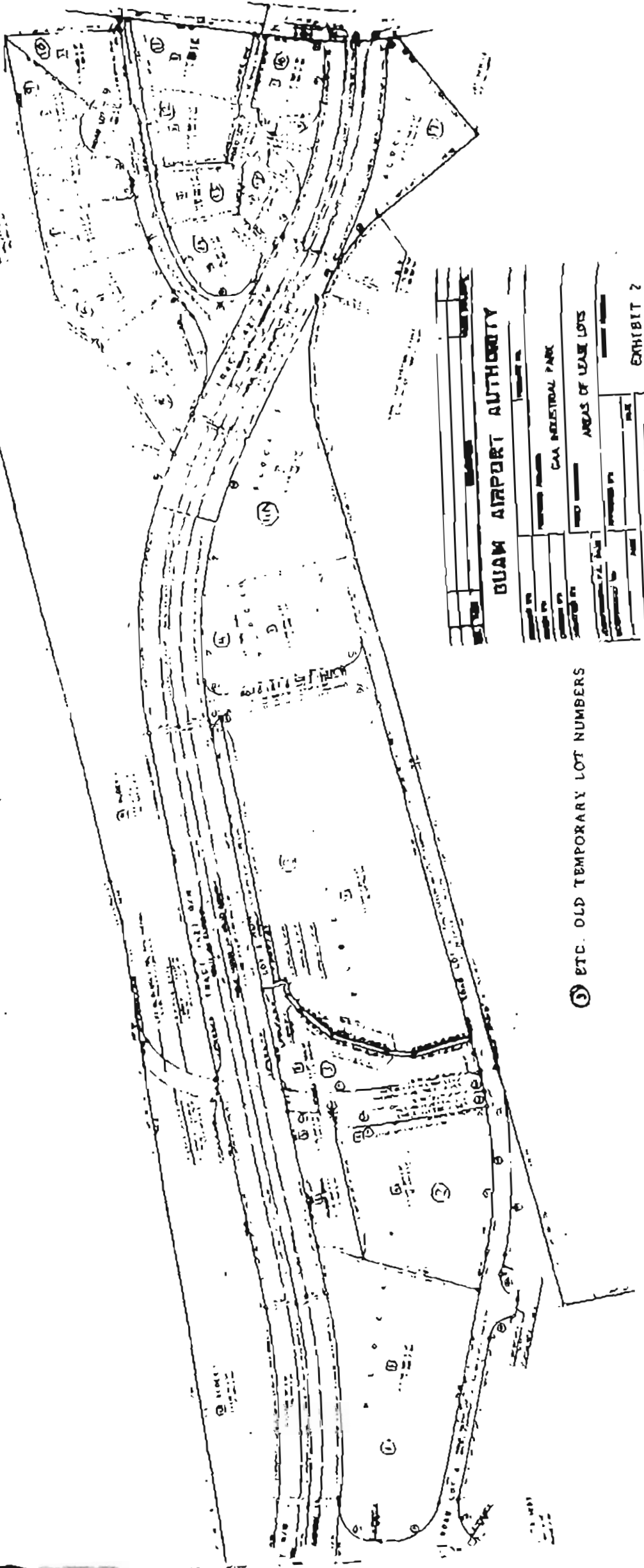


1" = 400'

REV. DATE	DESCRIPTION	DATE
<b>GUAM AIRPORT AUTHORITY</b>		
DESIGNED BY	PROJECT NO.	
DRAWN BY	PROPOSED PROJECT	
CHECKED BY	GAA INDUSTRIAL PARK	
SUBMITTED BY	SHEET DESCRIPTION	
JOHN PEREIRA, P.E. DATE	CONSTRUCTION SEQUENCE PLAN	
SUBMITTED TO	APPROVED BY	DATE
DATE	DATE	DATE
DUEY & SURELY INCORPORATED		EXHIBIT
ENGINEER	PLANNER	SURVEYOR



GAA INDUSTRIAL PARK  
 AREAS OF LEASE LOTS



QUAM AIRPORT AUTHORITY	
PROJECT NO.	
DATE	
DESIGNED BY	GAA INDUSTRIAL PARK
APPROVED BY	
DATE	
PROJECT NO.	AREAS OF LEASE LOTS
DATE	
APPROVED BY	
DATE	
EXHIBIT 2	
DUBITS & SURVEY INCORPORATED	

② ETC. OLD TEMPORARY LOT NUMBERS

① ETC. NEW AND FINAL LOT NUMBERS WITH BLOCK NUMBERS AS SHOWN

GAA INDUSTRIAL PARK GROUND LEASE

Preamble

THIS LEASE made and entered into by and between the GUAM AIRPORT AUTHORITY, a public corporation and autonomous instrumentality of the Government of Guam ("Landlord"), and DAIRY FARM (GUAM) LTD., a Guam corporation ("Tenant").

R E C I T A L S :

Landlord has undertaken a construction program for the development of vacant land consistent with the approved Master Plan for development of the Guam International Air Terminal, including land leased lots for commercial/industrial use, known as the Guam Airport Authority Industrial Park ("GAA Industrial Park").

Tenant has applied to Landlord to lease and occupy land within the GAA Industrial Park.

Landlord is willing to lease land to Tenant within the GAA Industrial Park upon the terms, conditions and covenants set forth below.

Agreement

In consideration of the premises and the mutual covenants and agreements herein contained, Landlord and Tenant agree as follows:

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ARTICLE 1.

DEMISE OF LEASE LAND

Leased Land

§1.01. Landlord for and in consideration of the rents, covenants, and conditions herein contained to be kept, performed, and observed by Tenant, does LEASE and DEMISE to Tenant, and Tenant does RENT and ACCEPT from Landlord, the real property, referred to as the "Leased Land", as particularly described and shown on the attached Exhibit "A".

ARTICLE 2.

LEASE TERM

Term

§2.01. The term of this lease shall be for a period of thirty (30) years, to begin on \_\_\_\_\_, 19\_\_ and end on midnight, \_\_\_\_\_, \_\_\_\_\_.

Options to Extend

§2.02. If this lease shall then be in full force and effect and Tenant shall have fully performed all of its obligations, terms and conditions hereunder, Tenant shall have the option to extend the term of this lease, upon the same terms and condition, for the following two (2) successive ten (10) year periods:

1. First Extended Period: \_\_\_\_\_, 19\_\_ through \_\_\_\_\_.
2. Second Extended Period: \_\_\_\_\_ through \_\_\_\_\_.

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Tenant shall not have the right to extend the term of this lease beyond the second extended term.

2.02.01. Exercise of Options. Tenant shall exercise its option to extend the term for each ten (10) year period by giving written notice to Landlord, at least one hundred twenty (120) days before the expiration of the initial term or first extended term (as the case may be), of its intention to extend the term of this lease as provided herein. Failure of Tenant to give the required written notice of its exercise of the option to extend or any termination of this lease shall terminate all rights to extend the term.

Holding Over

§2.03. If Tenant shall remain in possession of the Leased Land after the expiration or termination of this lease, such possession shall be on a month-to-month tenancy upon the same terms and conditions of this lease as existed immediately prior to the expiration or termination of the term, except, however, the duration of the lease shall be on a month-to-month basis with no option to extend.

ARTICLE 3.

RENT, COMMON AREA, EXPENSE, TAXES AND UTILITIES

Monthly Rent

§3.01. During the term of this lease, as may be extended, Tenant shall pay Landlord monthly rent as set forth on the Rental Schedule attached hereto as Exhibit "B".

[REDACTED]

3.01.01. Escalation. At the end of each fifth (5th) year of the term hereof, the rental rate for the next ensuing five (5) years shall be increased by ten percent (10%) of the prior effective rental rate. The rental to be paid by Tenant to Landlord during the extended periods, if extended, shall be such rental as mutually agreed upon by the parties. Should the parties fail to mutually agree on the rental to be paid during each extended period, if extended, by ninety (90) days prior to the commencement thereof, then the rental to be paid by Tenant to Landlord thereunder shall be the "fair rental value" of the Leased Land (exclusive of all buildings and improvements constructed thereon by Tenant) determined as hereinafter provided, or the then existing rental increased by ten percent (10%), whichever amount is greater. In the latter case, that is, if the existing rental increased by ten percent (10%) is greater than the "fair rental value" of the Leased Land, then the rental to be paid during the extended period shall automatically increase by ten percent (10%) after the fifth year of the extended period. As used herein, the term "fair rental value" shall mean ten percent (10%) per annum of the "fair market value" of the Leased Land exclusive of all buildings and improvements constructed thereon by Tenant. To determine such fair market value of the Leased Land the parties shall each select and appoint a qualified real estate appraiser licensed to do business in the Territory of Guam, and the two



hereinbelow or at such other address as may be from time to time designated in writing by Landlord; provided the first rental payment hereunder shall be due upon notice from Landlord to Tenant that the Leased Land is ready for possession or upon Tenant's possession of the Leased Land, whichever occurs first.

Common Area Expense

§3.02. Upon thirty (30) days prior notice from Landlord, Tenant shall commence paying to Landlord, on the same date the rent is due, a monthly common area expense based upon Tenant's monthly share of the projected common area expenses for the GAA Industrial Park for ensuing year, as reasonably determined from time to time by Landlord. From time to time, upon further thirty (30) days prior notice from Landlord to Tenant, the common area expense to be paid by Tenant to Landlord may be reasonably increased or decreased by Landlord to reflect Tenant's share of the total common area expense in the GAA Industrial Park. Common area expenses may include, without limitation, costs and expenses for security, maintenance, landscaping, street lights, road repair, and utilities within or related to the GAA Industrial Park.

Tenant to Pay Taxes

§3.03. Tenant agrees to pay direct to the taxing authorities all real property taxes, special taxes, charges or assessments, including street improvement liens, if any, and all property taxes on personal property located on the Leased





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and all other utilities used upon the Leased Land throughout the term of this lease, including any connection fees.

ARTICLE 4.

USE OF PREMISES, INSURANCE AND INDEMNITY

Use

§4.01. Tenant shall use the Leased Land specifically for the purpose of constructing, maintaining and operating thereon facilities limited to the airport and airport related purposes and activities specifically set forth on the attached Exhibit "C". Tenant shall not use, or permit the Leased Land, or any part thereof, to be used for any purpose or activity other than the purposes and activities set forth on Exhibit "C" hereto. Use of the Leased Land for any other purpose or activity without the express prior written consent of Landlord shall constitute a material breach of this lease. Tenant shall indemnify and hold harmless Landlord from any and all claims, demands, expenses (including attorneys' fees and court costs), damages and losses Landlord may suffer or incur as a result of Tenant's breach of this §4.01. Failure to use the Leased Land for any of the required purposes and activities set forth in Exhibit "C" for a period of one hundred twenty (120) days or more without the express prior written permission of Landlord shall also constitute a material breach of this lease.

Compliance with Laws

§4.02. Tenant covenants and agrees that during the term of this lease, Tenant shall promptly comply with all present and future laws, ordinances, orders, rules, regulations, and requirements of the Federal, territorial and municipal governments or any of their agencies (including Landlord) departments, bureaus, boards, commissions and officials thereof with respect to the Leased Land, the buildings and improvements erected thereon, or the use or occupancy thereof, whether said compliance shall be ordered or directed to or against Landlord or Tenant or both. This lease is subject to all consents, approvals and permits required by law or governmental rule or regulation. It shall be Tenant's duty and responsibility to obtain any such required consents, approvals and permits. Landlord shall cooperate with and assist Tenant in obtaining any such required consents, approvals or permits.

Tenant Not To Commit Waste; Nuisance

§4.03. Tenant shall not use the Leased Land in any manner that will constitute waste, nuisance, or unreasonable annoyance (including, without limitation, the use of a loud speakers or sound or light apparatus that can be heard or seen outside of the Leased Land) to other tenants of Landlord in property adjoining the Leased Land within the GAA Industrial Park.

Liability Insurance

§4.04. Tenant covenants and agrees, at its sole cost and expense, throughout the duration of this lease, to obtain, keep, and maintain in full force and effect for the mutual benefit of Landlord and Tenant the following types of insurance:

4.04.01. Liability. Comprehensive liability insurance against claims for damage to persons or property arising out of the use and occupancy of the Leased Land or any part or parts thereof in limits of not less than Five Hundred Thousand Dollars (\$500,000.00) in respect to bodily injury to or death of any one (1) person in any one (1) accident, and in limits of not less than One Million Dollars (\$1,000,000.00) in respect to bodily injury or death to more than one (1) person in any one (1) accident, and property damage in all instances in an amount not less than One Hundred Thousand Dollars (\$100,000.00).

4.04.01.01. Deductible. Such public liability policy or policies may provide for a deductible not in excess of One Thousand Dollars (\$1,000.00) or such other amount as Landlord may determine irrespective of the number of persons, parties or entities involved.

4.01.01.02. Adjustment of Coverage. In the event that Landlord shall at any time and from time to time deem the limits of liability insurance as hereinabove provided

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to be insufficient, upon notice to Tenant the parties shall promptly endeavor to agree on reasonable limits for such insurance coverage then to be carried, and such insurance shall thereafter be carried with the limits thus agreed on until further change pursuant to this Section. Should the parties be unable to agree upon the proper and reasonable limits for such liability insurance within five (5) days of notice from Landlord to Tenant, then Landlord may select any insurance company licensed to and engaged in business on the Territory of Guam (excluding the insurance company then carrying the liability insurance hereunder) to determine the proper limits of liability insurance to be provided and maintained by Tenant hereunder. Said insurance company's determination on the proper and reasonable limits of liability insurance shall be binding upon both parties until such limits shall again be changed pursuant to this Section.

4.04.02. Casualty Insurance. A policy of fire and typhoon insurance with standard form extended coverage endorsement, to the extent of the full insurable value, covering all buildings and improvements which may from time to time be located on the Leased Land. The proceeds from any such policy shall be used for the repair or replacement of such improvements and buildings except as otherwise provided herein.

4.04.03. Certificates. Copies or duplicate originals, certificates, or binders of such insurance policies

shall be furnished to Landlord at the commencement of the term of this lease and each renewal certificate of such policies shall be furnished to Landlord at least thirty (30) days prior to the expiration of the policy it renews. Each such policy of insurance shall contain an agreement by the insurer that such policy shall not be cancelled without thirty (30) days prior written notice to Landlord.

4.04.04. Forms. All insurance provided for in this Article may be in the form of a general coverage, floater policy or so-called blanket policies which may be furnished by Tenant, or a related corporation of Tenant or any related entity. The liability and casualty coverage set forth herein shall be issued by insurers of recognized responsibility, as may be reasonably approved by Landlord. All policies of insurance to be provided for herein by Tenant shall be issued in the names of Tenant and Landlord and for the mutual and joint benefit and protection of the parties as their interests may appear.

4.04.05. Failure to Comply Constitutes A Default. Tenant's failure to effectuate any and all such insurance and renewal policies of insurance required as set out in this §4.04, and to pay the premiums and renewal premiums on all such policies and insurance as they become due and payable, and to deliver all such certificates of insurance and renewals thereof or duplicate originals or copies to Landlord within the

time limits set out in this Article, shall constitute a material default by Tenant under the terms of this lease.

4.04.06. Landlord May Effect Insurance. In the event Tenant fails to cause the aforesaid insurance policies to be written and pay the premiums for the same and deliver all such certificates of insurance or duplicate originals or copies thereof to Landlord within the time provided for in this lease, Landlord shall nevertheless have the right, without being obligated to do so, to effect such insurance and pay the premiums therefor, and all such premiums paid by Landlord shall be repaid to Landlord on demand as additional rent, and Tenant's failure to repay the same as aforesaid shall constitute a material default under this lease.

4.04.07. Indemnity not Limited. Nothing contained in this §4.04 shall effect or limit Tenant's obligations under §4.05, infra.

Indemnity

§4.05. Tenant covenants and agrees that from and after the commencement of the term of this lease or any extended term, Tenant shall indemnify and hold harmless Landlord from any and all claims, demands, expenses (including attorneys' fees and court costs) or damages for any personal injury or injuries, death(s), damages, or losses to any person(s) or property that may be suffered or sustained by Tenant or any of its agents, servants, employees, patrons,

customers, invitees, visitors, licensees, departments, and concessionaires or by any other person or persons in, on or about the Leased Land or any part thereof, arising from any and all causes whatsoever, except the willful misconduct or gross negligence of Landlord.

ARTICLE 5.

CONSTRUCTION BY TENANT

Tenant's Obligation to Build

§5.01. Tenant shall, at its sole cost and expense, construct the building and improvements described in Exhibit "D" attached hereto (the "Building Project"). Construction of the Building Project shall commence within one hundred twenty (120) days after receipt of the building plans and specifications approval of Landlord as required hereunder. Construction of the Building Project shall be completed and the Building Project ready for occupancy and use within ninety (90) days of the projected construction completion date as set forth in Tenant's construction contract documents and approved by Landlord. Such time for completion shall be extended for so long as Tenant shall be prevented from completing the Building Project by interference or other causes beyond the reasonable control of Tenant, but in no event to exceed the period of three (3) years from the execution of this lease.

5.01.01. Specifications and Plans. Tenant shall, at its own cost and expense, engage a licensed architect

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or engineer to prepare plans and specifications for the Building Project, and, no later than ninety (90) days from the commencement of this lease, shall submit to Landlord for approval, two (2) copies of detailed working drawings, plans and specifications prepared by such architect or engineer, including the following:

(a) Drawings and materials in the form of plans, elevations, sections and rendered perspectives sufficient to convey the architectural design of the Building Project to Landlord;

(b) Outlined specifications in sufficient detail to indicate the general description of the Building Project, the type of building or structure, the kind and quality of materials, mechanical and electrical systems to be installed in the Building Project; and

(c) The architect's estimate of the Building Project's construction cost.

5.01.02. Review and Approval. Within sixty (60) days after submission of such plans and specifications by Tenant, Landlord will review and approve the plans and specifications by endorsing such review on the plans and specifications and returning one (1) set thereof to Tenant, or Landlord will inform Tenant in writing of any objections to such plans and specifications and Tenant shall have sixty (60) days thereafter to propose in writing corrective amendments



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which Landlord shall accept or reject within the next thirty (30) days. Failure of Landlord to inform Tenant of objections within such thirty (30) day period shall be deemed Landlord's approval of the changes.

5.01.03. Changes in Plans. Tenant shall submit to Landlord a statement of any substantial changes in the plans and specifications required to be reviewed and approved by Landlord under this section. Failure of Landlord to object to such changed plans and specifications within thirty (30) days shall be deemed Landlord's approval of the changes. Minor changes in work or materials, not affecting the general character of the Building Project, may be made in the plans and specifications at any time without the review and approval of Landlord, but a copy of the altered plans and specifications shall be furnished to Landlord.

5.01.04. No Liability to Landlord. The review and approval of Landlord of any plans and specifications refers only to the conformity of such plans and specifications to the general architectural plan for the Leased Land. Such plans and specifications are not reviewed and approved for architectural, structural or engineering design, and Landlord, by reviewing and approving such plans and specifications, assumes no liability or responsibility therefor or for any defect in any structure constructed or compliance from such plans or specifications or noncompliance therewith.

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5.01.05. Additional Documents. Tenant shall furnish Landlord with copies of the following documents, as soon as they are available:

(a) Contract between Tenant and its architects;

(b) Contract between Tenant and all contractors engaged to work on the Building Project;

(c) Copies of all plans, specifications and working papers for the Building Project, including "as built" drawings; and

(d) All contractor and subcontractor Performance and Payment Bonds.

5.01.06. Cost to be Tenant's. The cost of any construction, renovation, enlargement, reconstruction, demolition, or of any change, alterations, or improvements, on the Leased Land shall be borne and paid for by Tenant.

5.01.07. No Liens. The Leased Land shall at all times be kept free of mechanic's and materialman's liens, as provided in ARTICLE 8, infra.

Approval of All Construction.

§5.02. No building or other improvements, the plans and specifications of which have not first received the written review and approval of Landlord, as required above or which do not comply with such approved plans and specifications, shall be constructed or maintained on the Leased Land. No addition

to or alteration of any building or other improvement erected on the Leased Land shall be commenced unless and until plans and specifications covering such additions or alterations shall have first been submitted to reviewed and approved by Landlord. Failure to comply with approved plans and specifications for any building or other improvement to be constructed and maintained on the Leased Land shall constitute a material default of this lease.

Improvements To Conform To Law

§5.03. Throughout the duration of this lease, Tenant agrees that all buildings, structures, and other improvements that may be erected on the Leased Land by Tenant or any subtenants, including, but not limited to, all elevators, escalators, plumbing, electrical, heating, air conditioning and ventilation equipment and systems, and all other equipment, will be installed, operated, and maintained in accordance with the law and with the regulations and requirements of Landlord, including its Development and Building Standards, and of any and all governmental authorities, agencies, or departments, having jurisdiction thereof, without cost or expense to Landlord.

Tenant's Ownership of Improvements and Fixtures

§5.04. During the term hereof, any and all of Tenant's improvements, fixtures, machinery, and equipment of whatsoever nature at any time constructed, placed, or

[REDACTED]

maintained upon any part of the Leased Land shall remain the property of Tenant.

5.04.01. Tenant's Right to Remove Fixtures.

Tenant shall have the right at any time during Tenant's occupancy of the Leased Land to remove any and all of Tenant's trade fixtures, machinery and equipment owned or placed by Tenant in, under, or upon the Leased Land, or acquired by Tenant, whether before or during the lease term; provided, Tenant shall, at its sole cost and expense, immediately repair any damage or injury to any building or other improvement on the Leased Land caused by any such removal of trade fixtures, machinery and equipment. This provision shall survive the expiration or termination of this lease.

5.04.02. Landlord's Right to Improvements. As

provided in ARTICLE 11, infra, upon expiration or sooner termination of this lease, title to all buildings and other improvements on the Leased Land shall be vested in the Landlord without the payment of any consideration therefor. Landlord, alternatively, at its sole discretion, may require Tenant, at Tenant's sole cost and expense, to remove all buildings and other improvements on the Leased Land and return the Leased Land to the same condition as it was at the time of the commencement of the term hereof. This provision shall survive the expiration or termination of the term of this lease.

ARTICLE 6.

ENCUMBRANCE OF LEASEHOLD ESTATE

Tenant's Right to Encumber With Landlord's Consent

§6.01. Tenant shall not encumber by mortgage or other security instrument, by way of assignment, or otherwise, Tenant's interest under this lease and the leasehold estate hereby created for any purpose, without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

ARTICLE 7.

REPAIRS AND RESTORATION

Tenant's Duty to Repair

§7.01. Tenant, at Tenant's own cost and expense, at all times during the term of this lease, agrees to keep and maintain, or cause to be kept and maintained, all buildings and other improvements which may be erected upon the Leased Land in good condition and a good state of appearance and repair, reasonable wear and tear excepted.

Damage or Destruction - Repair

§7.02. If the Leased Land, any building or other improvement, or any part thereof are damaged or destroyed by reason of any cause whatsoever, Tenant shall within sixty (60) days, commence and diligently pursue to completion the repair or reconstruction of such buildings and improvements on the Leased Land, and this lease shall remain in full force and

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effect; provided, that during the last three (3) years of the term of this lease should the buildings and other improvements on the Leased Land be damaged or destroyed to such a substantial extent so as to render the Leased Land with the buildings and improvements thereon commercially unusable by Tenant, then within said sixty (60) day period, Tenant may elect to terminate the lease by delivering or assigning to Landlord all insurance proceeds received or to be received as a result of such damage or destruction and returning the Leased Land, at Tenant's sole cost, to the same condition or better as it was at the time of the commencement of the term hereof.

ARTICLE 8.

MECHANIC'S LIENS

Prohibition of Liens on Fee or Leasehold Interest

§8.01. Tenant shall not suffer or permit any mechanic's liens or other liens to be filed against the fee of the Leased Land nor against its leasehold interest nor any buildings or other improvements on the Leased Land by reason of any work, labor, services, or materials supplied or claimed to have been supplied to Tenant or anyone holding the Leased Land or any part thereof through or under Tenant. In the case of any construction on the Leased Land costing in excess of \$50,000.00, Tenant shall cause its contractor or builder to post performance and payment bonds to be approved in advance by Landlord.

Removal of Liens By Tenant

§8.02. If any such mechanic's liens or materialman's lien shall be recorded against the Leased Land, or any improvements thereon, Tenant shall cause the same to be removed or, and in the alternative, if Tenant in good faith desires to contest the same, Tenant shall be privileged to do so but in such case Tenant hereby agrees to indemnify and hold Landlord harmless from all liability for damages occasioned thereby and shall, in the event of a judgment of foreclosure upon said mechanic's lien, cause the same to be discharged and removed prior to the execution of such judgment.

ARTICLE 9.

ASSIGNMENT AND SUBLEASE

No Right to Assign and Sublease

§9.01. Tenant shall not sublet or assign the Leased Land or any part or portion thereof without the prior written consent of Landlord. Any unauthorized attempt to sublet or assign shall constitute a material default of this lease and such subletting or assignment shall be deemed null and void.

ARTICLE 10.

DEFAULT AND REMEDIES

Termination by Landlord on Specified Defaults

§10.01. If Tenant shall default in the payment of rent on the date provided for in this lease and such rent default continues for a period of five (5) or more days after

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written notice of said default from Landlord, or in the event that Tenant shall default or fail in the performance of a covenant or agreement on his part to be performed in this lease other than the payment of rent, and such non-rental default shall not have been cured for a period of thirty (30) days after written notice of said default from Landlord, or if such default cannot, with due diligence, be cured within thirty (30) days, and Tenant shall not have commenced the remedying thereof within such period or shall not be proceeding with due diligence to remedy it (it being intended in connection with a default not susceptible of being cured by Tenant with due diligence within thirty (30) days that the time within which to remedy same shall be extended for such period as may be necessary to complete the same with due diligence), then, and in such case, it shall and may be lawful for Landlord, at Landlord's option, with or without summary proceedings, or any other appropriate legal action or proceedings, to terminate this lease and to enter upon the Leased Land or any part thereof and expel Tenant, or any person or persons occupying the Leased Land and so to repossess and enjoy the Leased Land.

10.01.01. Other grounds for default. If, after the commencement of the term of this lease, (i) Tenant shall be adjudicated a bankrupt or adjudged to be insolvent; (ii) a receiver or trustee shall be appointed for Tenant's property and affairs; (iii) Tenant shall make an assignment for the



benefit of creditors or shall file a petition in bankruptcy for insolvency or for reorganization or shall make application for the appointment of a receiver; or (iv) any execution or attachment shall be issued against Tenant or any of Tenant's property, whereby the Leased Land or any building or buildings or any improvements thereon shall be taken or occupied or attempted to be taken or occupied by someone other than Tenant, except as may herein be permitted, and such adjudication, appointment, assignment, petition, execution, or attachment shall not be set aside, vacated, discharged, or bonded within thirty (30) days after the issuance of the same, then a default hereunder shall be deemed to have occurred so that the provisions of this §10.01 shall become effective and Landlord shall have the rights and remedies provided herein.

10.01.02. Peaceable Surrender. Should the term of this lease at any time be ended under the terms and conditions of this §10.01, or in any other way, Tenant hereby covenants and agrees to surrender and deliver up the Leased Land peaceably to Landlord immediately upon the termination of the term.

10.01.03. Reletting Leased Land. At any time or from time to time after any such default and notice thereof (if required) pursuant to this §10.01 Landlord or its representatives may, without notice, reenter the Leased Land by force, summary proceedings or otherwise, and remove all persons

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and contents therefrom, without being liable to prosecution therefor, and Tenant hereby expressly waives the service of any notice in writing of intention to reenter or to institute legal proceedings to that end and Tenant shall pay, at the same time as the rent becomes payable under the terms hereof, a sum equivalent to the rent and additional rent reserved herein, and Landlord may relet the Leased Land or any part or parts thereof in the name of Landlord or otherwise, for a term or terms which may at Landlord's option be less than or exceed the period which would otherwise have constituted the balance of the term of this lease without releasing Tenant from any liability, applying such rent first, to the cost of obtaining possession, second, to restoring the Leased Land to a rentable condition, third, to brokerage fees and the cost to Landlord of reletting the Leased Land, and then to the payment of rent, items or additional rent and all other charges due and to grow due to Landlord, any surplus to be paid to Tenant, who shall remain liable for any deficiency. The failure or refusal of Landlord to relet the Leased Land or any part thereof shall not release or affect Tenant's liability. Any sums due to Landlord shall be paid in monthly installments by Tenant on the rent day specified in this lease and any suit brought to collect the amount due for any month shall not prejudice in any way the rights of Landlord to collect any sums due for any subsequent month. Landlord at its option, may make alterations, repairs,

[REDACTED]

replacements or painting in the improvements on the Leased Land as Landlord may consider advisable for the purpose of reletting the Leased Land or any part thereof, and the making of such alterations, repairs, replacements or painting shall not operate to be construed to release Tenant from liability hereunder. Any mention in this lease of any particular remedy shall not preclude Landlord from any other remedy in law or in equity. Tenant hereby waives any and all rights of redemption granted by or under this lease. In the event of the termination of this lease pursuant to this §10.01, Landlord shall forthwith, notwithstanding any other provisions of this lease to the contrary, be entitled to recover from Tenant as liquidated damages an amount equal to the difference between the rent reserved in this lease for the unexpired portion of the term leased and the then fair and reasonable rental value of the Leased Land for the same period.

Other Remedies

§10.02. Any termination of this lease as herein provided shall not relieve Tenant from the payment of any sum or sums that shall then be due and payable to Landlord thereunder or any claim for damages then or theretofore accruing against Tenant hereunder, and any such termination shall not prevent Landlord from enforcing the payment of any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from Tenant for any

default thereunder. All rights, options, and remedies of Landlord contained in this lease shall be construed and held to be cumulative, and no one of them shall be exclusive to the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this lease.

Continuation of Lease During Breach

§10.03. At Landlord's option, if Tenant has breached this lease and abandoned the Leased Land, no notice of termination will be given and this lease will continue in effect for so long as Landlord does not terminate Tenant's right to possession. Landlord may in that case enforce all its right and remedies under this lease, including the right to recover rent as it becomes due.

No Waiver of Default

§10.04. Landlord's failure to take advantage of any default or breach of covenant on the part of Tenant shall not be, or be construed as a waiver thereof, nor shall any custom or practice which may grow up between the parties in the course of administering this lease be construed to waive or to lessen the right of Landlord to insist upon the performance by Tenant any term, covenant, or condition hereof, or to exercise any rights given it on account of any such default. A waiver of a particular breach, or default, shall not be deemed to be a waiver of the same or any other subsequent breach of default.

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The acceptance of rent hereunder shall not be, or be construed to be, a waiver of any term, or condition of this lease.

Demand for Rent

§10.05. Except as otherwise expressly provided herein, in the event that Tenant shall be in default in the payment of any rents provided for in this lease, Tenant waives the making by Landlord of any demand for rent prior to the commencement of any action in ejectment or to obtain possession of the Leased Land.

Late Charge

§10.06. Tenant shall pay Landlord a one and one-half percent (1 1/2%) late charge on every rent payment made five (5) days or more after due date.

ARTICLE 11.

SURRENDER AND REMOVAL

Surrender of Possession

§11.01. Upon the expiration of the term of this lease or any earlier termination thereof, Tenant shall surrender to Landlord possession of the Leased Land and all buildings and improvements thereon.

Removal of Personal Property

§11.02. If Tenant shall not then be in default under any of the covenants and conditions hereof, Tenant may remove or cause to be removed all of Tenant's machinery, equipment and trade fixtures on the Leased Land; provided, Tenant shall, at

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its sole cost and expense, immediately repair any damage or injury to any building or other improvement on the Leased Land caused by such removal. Any of said machinery, equipment or trade fixtures that are not removed from the Leased Land within thirty (30) days after the date of expiration or any termination of this lease shall belong to Landlord without the payment of any consideration; provided, Landlord, may require Tenant to remove any or all of such machinery, equipment or trade fixtures at Tenant's sole cost and expense. The provisions of this §11.02 shall survive the expiration or termination of this lease.

Tenant's Quitclaim

§11.03. Upon the expiration of the lease term, or any sooner termination of this lease, at Landlord's request, Tenant agrees to execute, acknowledge and deliver to Landlord a proper instrument in writing, releasing, and quitclaiming to Landlord all right, title and interest of Tenant in and to the Leased Land and all buildings and other improvements thereon.

ARTICLE 12.

LANDLORD'S GENERAL PROTECTIVE PROVISIONS

Landlord's Right of Entry and Inspection

§12.01. Tenant shall permit Landlord or Landlord's agents, representatives, or employees to enter upon the Leased Land at reasonable times for the purpose of conducting an inspection in a reasonable manner to determine whether

agreements in this lease are being complied with, or for the purpose of showing the Leased Land to prospective tenants, purchasers or mortgagees.

Performance of Tenant's Obligations  
After Notice or Without Notice in Emergency

§12.02. If Tenant shall default in the performance of any covenant or condition in this lease required to be performed by Tenant, Landlord may, after thirty (30) days' notice to Tenant, or without notice if in Landlord's opinion an emergency exists, perform such covenant or condition for the account and at the expense of Tenant. If Landlord shall incur any expense, including reasonable attorneys' fees, in instituting, prosecuting, or defending any action or proceeding instituted by reason of any default of Tenant, Tenant shall reimburse Landlord for the amount of such expense. Should Tenant, pursuant to this lease, become obligated to reimburse or otherwise pay Landlord any sum of money in addition to the basic rent, the amount thereof shall be deemed additional rent and may, at the option of Landlord, be added to any subsequent installment of the basic rent due and payable under this lease, in which event Landlord shall have the remedies for default in the payment thereof provided by this lease. The provisions of this §12.02 shall survive the termination of this lease.

Release of Landlord After Sale

§12.03. In the event of a sale or conveyance by Landlord of the Leased Land or any part containing the Leased Land, Landlord shall be released from any future liability upon any of the covenants or conditions, expressed or implied, in favor of Tenant, and in such event, Tenant agrees to look solely to the responsibility of the successor in interest of Landlord in and to this lease.

Accord and Satisfaction

§12.04. No payment by Tenant or receipt by Landlord of a lesser amount than the rental shall be deemed to be other than on account of the rental, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of the rental or pursue any other remedy provided for in this lease.

Landlord's Contractual Security Interest

§12.05. Landlord shall have at all times a valid security interest to secure payment of all rent and other sums of money becoming due hereunder from Tenant, and to secure payment of any damages which Landlord may suffer by reason of the breach by Tenant of any covenant, agreement or condition contained herein, upon all fixtures and personal property of Tenant presently, or which may hereafter be, situated on the



Leased Land, and all proceeds therefrom, and such property shall not be removed without the consent of Landlord until all arrearages in rent as well as any and all other sums of money then due to Landlord or to become due to Landlord hereunder shall first have been paid and discharged and all the covenants, agreements and conditions hereof have been fully complied with and performed by Tenant. Upon the occurrence of an event of default by Tenant, Landlord may, in addition to any other remedies provided herein, enter upon the Leased Land and take possession of any and all fixtures and personal property of Tenant situated on the Leased Land, without liability for trespass or conversion, and sell the same at public or private sale, with or without having such property at the sale, after giving Tenant reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, at which sale Landlord or its assigns may purchase unless otherwise prohibited by law. Unless otherwise provided by law, and without intending to exclude any other manner of giving Tenant reasonable notice, the requirement of reasonable notice shall be met if such notice is given in the manner prescribed in the lease at least seven (7) days before the time of sale. Any sale made pursuant to the provision of this §12.05 shall be deemed to have been a public sale conducted in a commercially reasonable manner if held on the Leased Land or where the property is located after the time, place, and method

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of sale and a general description of the types of property to be sold have been advertised in a daily newspaper published in Guam, for five (5) consecutive days before the date of the sale. The proceeds from any such disposition, less any and all expenses connected with the taking of possession, holding and selling of the property (including reasonable attorneys' fees and legal expenses), shall be the security interest granted in this §12.05. Any surplus shall be paid to Tenant or as otherwise required by law; Tenant shall pay any deficiencies forthwith. Upon request by Landlord, Tenant agrees to execute and deliver to Landlord a financing statement in form sufficient to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the provisions of the Guam Uniform Commercial Code.

Landlord's Title

§12.06. Nothing herein contained shall empower Tenant to do any act which can, may or shall cloud or encumber Landlord's fee simple title. This lease does not grant any rights to light and air over property except over public streets, alleys or ways kept open by public authority.

Reserved Rights

§12.07. Landlord reserves the following rights: (i) To change the street address of the Leased Land without notice or liability of Landlord to Tenant; (ii) to display during the last ninety (90) days of the term without hinderance or

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molestation by Tenant "For Rent" and similar signs on windows or elsewhere in or on the Leased Land; (iii) during the last ninety (90) days of the term or any part thereof, if during or prior to that time Tenant vacates the Leased Land, or at any time after Tenant abandons the Leased Land, to enter and decorate, remodel, repair, alter or otherwise prepare the Leased Land for reoccupancy; and (iv) to take any and all reasonable measures, including inspections, repairs, alterations, additions and improvements to the Leased Land as may be reasonably necessary or desirable for the safety, protection or preservation of the Leased Land or Landlord's interest. Landlord may enter upon the Leased Land and may exercise any or all of the foregoing rights hereby reserved without being deemed guilty of any eviction or disturbance of Tenant's use or possession and without being liable in any manner to Tenant.

Landlord's Right to Cure Default

§12.08. In the event Tenant shall fail to pay and discharge or caused to be paid and discharged, when due and payable any tax, assessment, or other charge upon or in connection with the Leased Land, or any lien or claim for labor or material employed or used in or any claim for damages arising out of the construction, repair, restoration, replacement, maintenance, and use of the Leased Land and the improvements, or any judgment on any contested lien or claim,

or any insurance premium or expense in connection with the Leased Land and improvements, or any other claim, charge, or demand which Tenant has agreed to pay or caused to be paid under the covenants and conditions of this lease, and if Tenant, after ten (10) days written notice from Landlord to do so, shall fail to pay and discharge the same, then Landlord may, at its option, pay any such tax, assessment, insurance expense, lien, claim, charge, or demand, or settle or discharge any action therefor, or judgment thereon, and all costs, expenses, and other sums incurred or paid by Landlord in connection with any of the foregoing shall be paid by Tenant to Landlord upon demand, together with interest thereon at the rate of one and one-half percent (1 1/2%) per month from the date incurred or paid, and any default in such repayment shall constitute a breach of the covenants and conditions of this lease.

ARTICLE 13

GAA ASSURANCES TO FAA AND JOINT USE AGREEMENT

Compliance

§13.01. Tenant agrees to observe and obey all applicable rules and regulations promulgated by the Federal Aviation Administration ("FAA") or Landlord governing conduct on and operations at the Guam International Air Terminal and all related facilities owned and operated by Landlord including the GAA Industrial Park (collectively referred to as "GIAT").

Landlord has received federal assistance through several executed Grant Agreements for GIAT development and certain land acquisition transactions. This lease and Tenant's use of the Leased Land and GIAT shall be subject to any and all applicable terms of those certain Sponsor's Assurances that Landlord (as Sponsor therein) has made to FAA as they relate to the application, acceptance and use of federal funds for GIAT development. The Assurances applicable to this lease shall include, but not be limited to, the following specific terms and conditions:

13.01.01. Non-discrimination. (a) Tenant for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the Leased Land that in the event facilities are constructed, maintained, or otherwise operated on the Leased Land for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended; (b) Tenant for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the Leased Land

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that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the Leased Land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Tenant shall use the Leased Land in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

13.01.02. Books, Records, Accounts. Upon written request of FAA, Tenant shall provide all information reports required by FAA rules, regulations or directives issued pursuant thereto, and shall permit the examination of its books, records, and its facilities, as may be determined by FAA to be pertinent to ascertain compliance with such rules, regulations, orders and directives.

13.01.03. Service, Prices. Tenant shall furnish services and products on a fair, equal, and not unjustly discriminatory basis to all customers and users. Tenant shall charge fair, reasonable and not unjustly discriminatory prices for each unit of service and product.

13.01.04. Compatibility with GIAT Operations and Use. Compatibility with GIAT operations and use is a vital concern for any development on or near GIAT. Safety of nearby aircraft flight and ground operations must be and shall be given primary concern at all times. Thus, the development and use of the GAA Industrial Park, including this lease, are subject to and shall not be inconsistent with GIAT operations and use.

§13.02. Joint Use Agreement. The parties hereto are aware that Landlord has right to use the landing area of GIAT under a Joint Use Agreement entered into by the Government of Guam with the United States of America dated July 19, 1974. The rights and obligations under such Joint Use Agreement have been transferred to and assumed by Landlord. It is expressly agreed that this lease is subject and subordinate to the said Joint Use Agreement and all its terms and conditions.

ARTICLE 14.

GENERAL PROVISIONS

Covenant to Execute Additional Instruments

§14.01. Landlord and Tenant agree to execute and deliver any instruments in writing necessary to carry out the agreement, term, condition, or assurance in this lease whenever the occasion shall arise and request for such instruments shall be made by the other party.

No Waiver of Breach

§14.02. No failure by either Landlord or Tenant to insist upon the strict performance by the other of any covenant, agreement, term, or condition of this lease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this lease, but each and every covenant, condition, agreement, and term of this lease shall continue in full force and effect with respect to any other then existing or subsequent breach.

Time of Essence

§14.03. Time is of the essence of this lease, and of each provision.

Successors In Interest

§14.04. Each and all of the covenants, conditions, and restrictions in this lease shall inure to the benefit of and shall be binding upon the successors in interest of Landlord, and subject to the restrictions of ARTICLES 6 and 9, supra, the authorized encumbrancers, assignees, transferees, subtenants, licensees, and other successors in interest of Tenant.

Entire Agreement

§14.05. This lease contains the entire agreement of the parties with respect to the matters covered by this lease,



and no other agreement, statement, or promise made by any party, or to any employee, officer, or agent of any party, which is not contained in this lease shall be binding or valid.

Waiver of Subrogation

§14.06. All insurance policies carried by Tenant covering the Leased Land and the buildings and other improvements thereon, including but not limited to contents, fire, casualty, and other insurance, shall expressly waive any right of the insurer against Landlord. Tenant agrees that its insurance policies will include such waiver clause or endorsement.

Partial Invalidity

§14.07. If any terms, condition, or provision of this lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

Relationship of Parties

§14.08. Nothing contained in this lease shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, and neither the provisions contained in this lease nor any acts of the parties shall be deemed to

create any relationship between Landlord or Tenant, other than the relationship of landlord and tenant.

Interpretation and Definitions

§14.09. The language in all parts of this lease shall in all cases be simply construed according to its fair meaning and not strictly for or against Landlord or Tenant. Unless otherwise provided in this lease, or unless the context otherwise requires, the following definitions and rules of construction shall apply to this lease:

14.09.01. Number and Gender. In this lease the neuter gender includes the feminine and masculine, the singular number includes the plural, and vice versa.

14.09.02. Mandatory and Permissive. "Shall", "will", and "agrees" are mandatory, "may" is permissive.

14.09.03. Captions. Captions of articles, sections, and subsections of the lease and of its table of contents are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this lease.

14.09.04. Term Includes Extensions. All references to the "term" of this lease or the "lease term" shall include any extensions of such term.

14.09.05. Other Definitions. Additionally, the following words and phrases shall have the following meanings:

14.09.05.01. Authorized Representatives:  
Any officer, agent, employee, or independent contractor retained or employed by either party, acting within authority given him by that party.

14.09.05.02. Damage: Injury, deterioration, or loss to a person or property caused by another person's acts or omissions. Damage includes death.

14.09.05.03. Good Condition: The good physical condition of any improvements on the Leased Land and each portion of such improvements, including, without limitation, signs, windows, appurtenances, and Tenant's personal property as defined here. "In good condition" means first-class, neat, clean and broom-clean, and is equivalent to similar phrases referring to physical adequacy in appearance and for use.

14.09.05.04. Hold Harmless: To defend and indemnify from all liability, losses, penalties, damages as defined here, costs, expenses (including, without limitation, attorneys' fees), causes of action, claims, or judgments arising out of or related to any damage, as defined here, to any person or property.

14.09.05.05. Law: Any judicial decision, statute, constitution, ordinance, resolution, regulation, rule, administrative order, or other requirement of any municipality, territorial, Federal, or other government agency or authority

having jurisdiction over the parties or the Leased Land, or both, in effect either at the time of execution of the lease or at any time during the term, including, without limitation, any rule or regulation of Landlord.

14.09.05.06. Lien: A charge imposed on the Leased Land by someone other than Landlord, by which the Leased Land is made security for the performance of an act. Most of the liens referred to in this lease are mechanics' liens.

14.09.05.07. Maintain: Includes repair, replace, repaint, and clean.

14.09.05.08. Person: One or more human beings, or legal entities or other artificial persons, including, without limitation, partnerships, corporations, trusts, estates, associations, and any combination of human beings and legal entities.

14.09.05.09. Repair: The reconstruction, rebuilding and rehabilitation that are necessary to return destroyed portions of any improvements on the Leased Land and other property to substantially the same physical condition as they were in immediately before the destruction.

#### Attorneys' Fees

§14.10. In the event that either party hereto shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the

alleged failure of the other to perform or keep any term, covenant, or condition of this lease by it to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover, in addition to its court costs, reasonable attorneys' fee to be fixed by the court, and such recovery shall include court costs and attorneys' fees on appeal, if any. The court will determine who is the "prevailing party", whether or not the suit proceeds to final judgment; provided, however, that if an action is voluntarily dismissed, or dismissed pursuant to a settlement of the case, neither party will be entitled to recover its attorneys' fees.

#### Interest

§14.11. Any sum accruing to Tenant or Landlord under the provisions of this lease which shall not be paid when due shall bear interest at the rate of one and one-half percent (1 1/2%) per month from the date the rent was due with respect to rent and from the date written notice specifying such nonpayment is given to the defaulting party, with respect to sums due other than rent.

#### Modification

§14.12. This lease is not subject to modification except in writing signed by both parties.

#### Delivery of Rent and Notices - Method and Time

§14.13. All rents or other sums, notices, demands, or requests from one party to another may be personally

delivered or sent by mail, registered, return receipt requested, postage prepaid, to the addresses stated in this §14.13, and shall be deemed to have been given at the time of personal delivery or at the time of mailing.

14.13.01. Payment of Rent. All rents and other sums payable by Tenant to Landlord shall be by check payable to Landlord, delivered in person to the Landlord, or mailed to Landlord at P. O. Box 8770, Tamuning, Guam 96911.

14.13.02. Notices to Landlord. All notices, demands, or requests from Tenant to Landlord shall be given to Landlord by personal delivery or by mailing the same to P. O. Box 8770, Tamuning, Guam 96911.

14.13.03. Notices to Tenant. All notices, demands, or requests from Landlord to Tenant shall be given to Tenant at Post Office Box 6172, Tamuning, Guam 96911.

14.13.04. Change of Address. Each party shall have the right, from time to time, to designate a different address by notice given in conformity with this §14.13.

#### ARTICLE 15.

#### CONDEMNATION

##### Consequences of Condemnation

§15.01. In the event during the term of this lease the Leased Land or any part thereof shall be taken or condemned by any authority having the power of eminent domain, then and in every such case the estate and interest of Tenant in any

part of the Leased Land so taken or condemned shall at once cease and terminate; and the rental to be paid under this lease shall be reduced for and during the unexpired balance of the term hereof, effective as of the date when Tenant shall by reason of such taking or condemnation lose the right to possession of such part of the Leased Land, in an amount which shall be that proportion of the rental which is equivalent to the reduction in the area of the Leased Land as a result of the taking or condemnation, and Landlord shall refund to Tenant any unearned portion of the rental thereof paid in advance prior to the effective date of such taking or condemnation.

15.01.01. Compensation and Damages. In every such case of taking or condemnation of the Leased Land or any part thereof, all compensation and damages payable for or as a result of such taking or condemnation shall be payable to and be the sole property of Landlord, and Tenant shall have no interest in or claim to such compensation or any part thereof whatsoever; and all compensation and damages payable for or on account of any buildings and other improvements on the Leased Land and any plans and other preparations therefor shall be payable to Landlord and Tenant as their respective interest shall appear, and said respective interest in such compensation and damages payable for or on account of any such buildings or other improvements shall be fixed and determined, as of the date when Tenant shall by reason of such taking or condemnation

lose the right to possession of such buildings or other improvements so taken or condemned, as follows:

15.01.01.01. Landlord's Interest. The interest of Landlord therein shall be a proportionate amount of such compensation and damages in the ratio which the expired portion of the term of this lease bears to the full term of this lease; and

15.01.01.02. Tenant's Interest. Tenant's interest therein shall be the balance of such compensation and damages after first deducting therefrom the amount of the interest of Landlord therein as hereinbefore defined.

15.01.02. Termination of Lease. In the event only part of the Leased Land shall be so taken or condemned, and either the balance of the Leased Land is unsuitable for the purpose for which leased to Tenant, or all of the buildings on the Leased Land shall be so taken or condemned, or only a part of the buildings shall be so taken or condemned, thereby rendering the remaining portion of the buildings unsuitable for Tenant's purposes under this lease, and Tenant shall remove all remains of said buildings and any other improvements from the balance of the Leased Land and restore the Leased Land to good and orderly condition under its option as herein provided, then and in every such case Tenant shall have the right at its option, by giving prior written notice thereof to Landlord within sixty (60) days after such event, to terminate this



lease. Upon such termination Tenant shall be relieved of all further obligations under this lease, and Landlord shall refund to Tenant any unearned portion of the rental therefor paid in advance prior to the effective date of such termination.

ARTICLE 16.

EXECUTION, RECORDING, AND INCORPORATION BY REFERENCE

Recording

§16.01. Tenant shall not record this lease without the written consent of Landlord; provided, however, upon the request of Tenant, the Landlord shall join in the execution of a memorandum of "short form" of this lease for the purpose of recordation. The memorandum or short form shall describe the parties, the Leased Land, the term of this lease, shall incorporate this lease by reference, and shall be in the form set out in Exhibit D attached hereto and incorporated herein.

Counterparts

§16.02. This lease, consisting of fifty (50) pages, plus exhibits, may be executed in several counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement, which shall be binding upon all parties hereto notwithstanding that all of the parties are not signatories.

Exhibits

§16.03. All Exhibits attached hereto are made a part of this lease by reference.

Execution

§16.04. This lease has been executed by the parties as of \_\_\_\_\_, 19\_\_.

GUAM AIRPORT AUTHORITY  
Landlord

\_\_\_\_\_  
Its

DAIRY FARM (GUAM) LTD.  
Tenant

\_\_\_\_\_  
Its

TERRITORY OF GUAM  
Municipality of Agana

On this \_\_\_\_\_ day of \_\_\_\_\_, 1989, before me, a notary public in and for the Territory of Guam, personally appeared \_\_\_\_\_, the duly authorized representative of GUAM AIRPORT AUTHORITY, known to me to be the person who executed the foregoing GAA Industrial Park Ground Lease, and acknowledged to me that he executed the same on behalf of said corporation.

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

)SEAL(

\_\_\_\_\_

TERRITORY OF GUAM

Municipality of Agana

On this \_\_\_\_\_ day of \_\_\_\_\_, 1989, before me,  
a notary public in and for the Territory of Guam, personally  
appeared \_\_\_\_\_, the duly authorized  
representative of DAIRY FARM (GUAM) LTD., known to me to be the  
person who executed the foregoing GAA Industrial Park Ground  
Lease, and acknowledged to me that he executed the same on  
behalf of said corporation.

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

)SEAL(

\_\_\_\_\_

10-25-88  
04-10-89 (rev.)

EXHIBIT "A"

Property Description

Lot Nos. 4, 5, and 6, Block No. 1, Tract 1427, Guam International Air Terminal Industrial Park, Municipalities of Barrigada and Dededo, Guam, containing an area of approximately 9,007 square meters or 96,954 square feet, as shown on Drawing No. DS1-S-88-25 dated March 30, 1989, prepared by registered land surveyor Nestorio C. Ignacio, RLS No. 65.

EXHIBIT "B"

§1. Rental Schedule. For the first five (5) year period commencing \_\_\_\_\_, 19\_\_ the rental rate shall be 60¢ per square foot per year for the total area of the Leased Land. At the end of each fifth (5th) year of the term of this lease, the rental rate for the ensuing five (5) years shall be increased by ten percent (10%) of the prior effective rental rate. Rental shall be paid monthly as specified in Section 3.01.02 of the lease.

§2. Rental Projections. Upon commencement of the term of this lease Landlord shall provide Tenant with 30 year rental projections on an annual and monthly basis.

§3. Rental During Option Periods.

The rental during the extended periods, if extended pursuant to Section 2.02 of the lease, shall be as agreed upon in writing by the parties or as determined pursuant to Section 3.01.01 of the lease.

EXHIBIT "C"

§1. Authorized Uses and Activities:

- a. Any lawful purpose that is airport or aviation related.\*
- b. Support facilities for the restaurant and all concessions.
- c. Catering.
- d. Bakery.

§2. Authorized and Required Uses and Activities:

- a. Inflight Services.
- b. All auxiliary services required or related to the airport or airlines.

\* Subject to prior review and written approval by Landlord, the Airport Authority.

EXHIBIT "D"

PROPOSED FLIGHT KITCHEN  
FOR THE DAIRY FARM (GUAM) LTD.

PROJECT DESCRIPTION

- Building: Two story building containing the kitchen, dry and refrigerated storage, dishwashing, offices, employee lunchroom, lockers, showers and laundry room.
- Structural System: Reinforced concrete and steel, Type I or II fire rated construction.
- Site Development: Parking for 150 employees, loading and receiving, storm drainage, fence and landscaping.
- Utilities: On-site generators for full standby power, on-site storage for emergency use, LP Gas tanks, underground vehicle fuel tanks, steam boiler, garbage sterilizer or incinerator.

## GAA INDUSTRIAL PARK GROUND LEASE

### Preamble

THIS LEASE made and entered into by and between the GUAM AIRPORT AUTHORITY, a public corporation and autonomous instrumentality of the Government of Guam ("Landlord"), and MID-PAC FAR EAST, INC., a Guam corporation ("Tenant").

### R E C I T A L S :

Landlord has undertaken a construction program for the development of vacant land consistent with the approved Master Plan for development of the Guam International Air Terminal, including land leased lots for commercial/industrial use, known as the Guam Airport Authority Industrial Park ("GAA Industrial Park").

Tenant has applied to Landlord to lease and occupy land within the GAA Industrial Park.

Landlord is willing to lease land to Tenant within the GAA Industrial Park upon the terms, conditions and covenants set forth below.

### Agreement

In consideration of the premises and the mutual covenants and agreements herein contained, Landlord and Tenant agree as follows:



ARTICLE 1.

DEMISE OF LEASE LAND

Leased Land

§1.01. Landlord for and in consideration of the rents, covenants, and conditions herein contained to be kept, performed, and observed by Tenant, does LEASE and DEMISE to Tenant, and Tenant does RENT and ACCEPT from Landlord, the real property, referred to as the "Leased Land", as particularly described and shown on the attached Exhibit "A".

ARTICLE 2.

LEASE TERM

Term

§2.01. The term of this lease shall be for a period of thirty (30) years, to begin on \_\_\_\_\_, 19\_\_ and end on midnight, \_\_\_\_\_, \_\_\_\_\_.

Options to Extend

§2.02. If this lease shall then be in full force and effect and Tenant shall have fully performed all of its obligations, terms and conditions hereunder, Tenant shall have the option to extend the term of this lease, upon the same terms and condition, for the following two (2) successive ten (10) year periods:

1. First Extended Period: \_\_\_\_\_, 19\_\_ through \_\_\_\_\_.
2. Second Extended Period: \_\_\_\_\_ through \_\_\_\_\_.

Tenant shall not have the right to extend the term of this lease beyond the second extended term.

2.02.01. Exercise of Options. Tenant shall exercise its option to extend the term for each ten (10) year period by giving written notice to Landlord, at least one hundred twenty (120) days before the expiration of the initial term or first extended term (as the case may be), of its intention to extend the term of this lease as provided herein. Failure of Tenant to give the required written notice of its exercise of the option to extend or any termination of this lease shall terminate all rights to extend the term.

#### Holding Over

§2.03. If Tenant shall remain in possession of the Leased Land after the expiration or termination of this lease, such possession shall be on a month-to-month tenancy upon the same terms and conditions of this lease as existed immediately prior to the expiration or termination of the term, except, however, the duration of the lease shall be on a month-to-month basis with no option to extend.

### ARTICLE 3.

#### RENT, COMMON AREA EXPENSE, TAXES AND UTILITIES

##### Monthly Rent

§3.01. During the term of this lease, as may be extended, Tenant shall pay Landlord monthly rent as set forth on the Rental Schedule attached hereto as Exhibit "B".

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3.01.01. Escalation. At the end of each fifth (5th) year of the term hereof, the rental rate for the next ensuing five (5) years shall be increased by ten percent (10%) of the prior effective rental rate. The rental to be paid by Tenant to Landlord during the extended periods, if extended, shall be such rental as mutually agreed upon by the parties. Should the parties fail to mutually agree on the rental to be paid during each extended period, if extended, by ninety (90) days prior to the commencement thereof, then the rental to be paid by Tenant to Landlord thereunder shall be the "fair rental value" of the Leased Land (exclusive of all buildings and improvements constructed thereon by Tenant) determined as hereinafter provided, or the then existing rental increased by ten percent (10%), whichever amount is greater. In the latter case, that is, if the existing rental increased by ten percent (10%) is greater than the "fair rental value" of the Leased Land, then the rental to be paid during the extended period shall automatically increase by ten percent (10%) after the fifth year of the extended period. As used herein, the term "fair rental value" shall mean ten percent (10%) per annum of the "fair market value" of the Leased Land exclusive of all buildings and improvements constructed thereon by Tenant. To determine such fair market value of the Leased Land the parties shall each select and appoint a qualified real estate appraiser licensed to do business in the Territory of Guam, and the two



hereinbelow or at such other address as may be from time to time designated in writing by Landlord; provided the first rental payment hereunder shall be due upon notice from Landlord to Tenant that the Leased Land is ready for possession or upon Tenant's possession of the Leased Land, whichever occurs first.

Common Area Expense

§3.02. Upon thirty (30) days prior notice from Landlord, Tenant shall commence paying to Landlord, on the same date the rent is due, a monthly common area expense based upon Tenant's monthly share of the projected common area expenses for the GAA Industrial Park for ensuing year, as reasonably determined from time to time by Landlord. From time to time, upon further thirty (30) days prior notice from Landlord to Tenant, the common area expense to be paid by Tenant to Landlord may be reasonably increased or decreased by Landlord to reflect Tenant's share of the total common area expense in the GAA Industrial Park. Common area expenses may include, without limitation, costs and expenses for security, maintenance, landscaping, street lights, road repair, and utilities within or related to the GAA Industrial Park.

Tenant to Pay Taxes

§3.03. Tenant agrees to pay direct to the taxing authorities all real property taxes, special taxes, charges or assessments, including street improvement liens, if any, and all property taxes on personal property located on the Leased

Land, levied or assessed upon or against the Leased Land during the term of this Lease.

3.03.01. Contesting Taxes. Nothing herein contained shall prevent Tenant from contesting in good faith, by any appropriate proceedings commenced before the same becomes delinquent, the validity or amount of any such tax, assessment or charge, nor require the payment thereof until the final determination of such contest adversely to Tenant; provided, however, that Tenant will pay all such taxes, assessments or charges, together with all interest, penalties, fines and costs accrued thereon or imposed in connection therewith, forthwith upon the commencement of proceedings to foreclose any lien which may attach to the Leased Land or any interest or part thereof; and provided, further, that if Tenant shall fail to pay any such taxes, assessments or other charges as herein provided, Landlord may at any time thereafter pay the same, together with any interest, penalties, fines and costs accrued thereon or imposed in connection therewith, and Tenant will repay to Landlord upon demand therefor the full amount so paid by Landlord, together with interest thereon at the rate of one and one-half percent (1 1/2%) per month.

Tenant to Pay Utility Charges

§3.04. Tenant shall pay or cause to be paid all charges for water, gas, electricity, sewer, telephone and any



Compliance with Laws

§4.02. Tenant covenants and agrees that during the term of this lease, Tenant shall promptly comply with all present and future laws, ordinances, orders, rules, regulations, and requirements of the Federal, territorial and municipal governments or any of their agencies (including Landlord) departments, bureaus, boards, commissions and officials thereof with respect to the Leased Land, the buildings and improvements erected thereon, or the use or occupancy thereof, whether said compliance shall be ordered or directed to or against Landlord or Tenant or both. This lease is subject to all consents, approvals and permits required by law or governmental rule or regulation. It shall be Tenant's duty and responsibility to obtain any such required consents, approvals and permits. Landlord shall cooperate with and assist Tenant in obtaining any such required consents, approvals or permits.

Tenant Not To Commit Waste; Nuisance

§4.03. Tenant shall not use the Leased Land in any manner that will constitute waste, nuisance, or unreasonable annoyance (including, without limitation, the use of a loud speakers or sound or light apparatus that can be heard or seen outside of the Leased Land) to other tenants of Landlord in property adjoining the Leased Land within the GAA Industrial Park.



Liability Insurance

§4.04. Tenant covenants and agrees, at its sole cost and expense, throughout the duration of this lease, to obtain, keep, and maintain in full force and effect for the mutual benefit of Landlord and Tenant the following types of insurance:

4.04.01. Liability. Comprehensive liability insurance against claims for damage to persons or property arising out of the use and occupancy of the Leased Land or any part or parts thereof in limits of not less than Five Hundred Thousand Dollars (\$500,000.00) in respect to bodily injury to or death of any one (1) person in any one (1) accident, and in limits of not less than One Million Dollars (\$1,000,000.00) in respect to bodily injury or death to more than one (1) person in any one (1) accident, and property damage in all instances in an amount not less than One Hundred Thousand Dollars (\$100,000.00).

4.04.01.01. Deductible. Such public liability policy or policies may provide for a deductible not in excess of One Thousand Dollars (\$1,000.00) or such other amount as Landlord may determine irrespective of the number of persons, parties or entities involved.

4.01.01.02. Adjustment of Coverage. In the event that Landlord shall at any time and from time to time deem the limits of liability insurance as hereinabove provided

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to be insufficient, upon notice to Tenant the parties shall promptly endeavor to agree on reasonable limits for such insurance coverage then to be carried, and such insurance shall thereafter be carried with the limits thus agreed on until further change pursuant to this Section. Should the parties be unable to agree upon the proper and reasonable limits for such liability insurance within five (5) days of notice from Landlord to Tenant, then Landlord may select any insurance company licensed to and engaged in business on the Territory of Guam (excluding the insurance company then carrying the liability insurance hereunder) to determine the proper limits of liability insurance to be provided and maintained by Tenant hereunder. Said insurance company's determination on the proper and reasonable limits of liability insurance shall be binding upon both parties until such limits shall again be changed pursuant to this Section.

4.04.02. Casualty Insurance. A policy of fire and typhoon insurance with standard form extended coverage endorsement, to the extent of the full insurable value, covering all buildings and improvements which may from time to time be located on the Leased Land. The proceeds from any such policy shall be used for the repair or replacement of such improvements and buildings except as otherwise provided herein.

4.04.03. Certificates. Copies or duplicate originals, certificates, or binders of such insurance policies

shall be furnished to Landlord at the commencement of the term of this lease and each renewal certificate of such policies shall be furnished to Landlord at least thirty (30) days prior to the expiration of the policy it renews. Each such policy of insurance shall contain an agreement by the insurer that such policy shall not be cancelled without thirty (30) days prior written notice to Landlord.

4.04.04. Forms. All insurance provided for in this Article may be in the form of a general coverage, floater policy or so-called blanket policies which may be furnished by Tenant, or a related corporation of Tenant or any related entity. The liability and casualty coverage set forth herein shall be issued by insurers of recognized responsibility, as may be reasonably approved by Landlord. All policies of insurance to be provided for herein by Tenant shall be issued in the names of Tenant and Landlord and for the mutual and joint benefit and protection of the parties as their interests may appear.

4.04.05. Failure to Comply Constitutes A Default. Tenant's failure to effectuate any and all such insurance and renewal policies of insurance required as set out in this §4.04, and to pay the premiums and renewal premiums on all such policies and insurance as they become due and payable, and to deliver all such certificates of insurance and renewals thereof or duplicate originals or copies to Landlord within the

time limits set out in this Article, shall constitute a material default by Tenant under the terms of this lease.

4.04.06. Landlord May Effect Insurance. In the event Tenant fails to cause the aforesaid insurance policies to be written and pay the premiums for the same and deliver all such certificates of insurance or duplicate originals or copies thereof to Landlord within the time provided for in this lease, Landlord shall nevertheless have the right, without being obligated to do so, to effect such insurance and pay the premiums therefor, and all such premiums paid by Landlord shall be repaid to Landlord on demand as additional rent, and Tenant's failure to repay the same as aforesaid shall constitute a material default under this lease.

4.04.07. Indemnity not Limited. Nothing contained in this §4.04 shall effect or limit Tenant's obligations under §4.05, infra.

Indemnity

§4.05. Tenant covenants and agrees that from and after the commencement of the term of this lease or any extended term, Tenant shall indemnify and hold harmless Landlord from any and all claims, demands, expenses (including attorneys' fees and court costs) or damages for any personal injury or injuries, death(s), damages, or losses to any person(s) or property that may be suffered or sustained by Tenant or any of its agents, servants, employees, patrons,

customers, invitees, visitors, licensees, departments, and concessionaires or by any other person or persons in, on or about the Leased Land or any part thereof, arising from any and all causes whatsoever, except the willful misconduct or gross negligence of Landlord.

ARTICLE 5.

CONSTRUCTION BY TENANT

Tenant's Obligation to Build

§5.01. Tenant shall, at its sole cost and expense, construct the building and improvements described in Exhibit "D" attached hereto (the "Building Project"). Construction of the Building Project shall commence within one hundred twenty (120) days after receipt of the building plans and specifications approval of Landlord as required hereunder. Construction of the Building Project shall be completed and the Building Project ready for occupancy and use within ninety (90) days of the projected construction completion date as set forth in Tenant's construction contract documents and approved by Landlord. Such time for completion shall be extended for so long as Tenant shall be prevented from completing the Building Project by interference or other causes beyond the reasonable control of Tenant, but in no event to exceed the period of three (3) years from the execution of this lease.

5.01.01. Specifications and Plans. Tenant shall, at its own cost and expense, engage a licensed architect

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or engineer to prepare plans and specifications for the Building Project, and, no later than ninety (90) days from the commencement of this lease, shall submit to Landlord for approval, two (2) copies of detailed working drawings, plans and specifications prepared by such architect or engineer, including the following:

(a) Drawings and materials in the form of plans, elevations, sections and rendered perspectives sufficient to convey the architectural design of the Building Project to Landlord;

(b) Outlined specifications in sufficient detail to indicate the general description of the Building Project, the type of building or structure, the kind and quality of materials, mechanical and electrical systems to be installed in the Building Project; and

(c) The architect's estimate of the Building Project's construction cost.

5.01.02. Review and Approval. Within sixty (60) days after submission of such plans and specifications by Tenant, Landlord will review and approve the plans and specifications by endorsing such review on the plans and specifications and returning one (1) set thereof to Tenant, or Landlord will inform Tenant in writing of any objections to such plans and specifications and Tenant shall have sixty (60) days thereafter to propose in writing corrective amendments

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which Landlord shall accept or reject within the next thirty (30) days. Failure of Landlord to inform Tenant of objections within such thirty (30) day period shall be deemed Landlord's approval of the changes.

5.01.03. Changes in Plans. Tenant shall submit to Landlord a statement of any substantial changes in the plans and specifications required to be reviewed and approved by Landlord under this section. Failure of Landlord to object to such changed plans and specifications within thirty (30) days shall be deemed Landlord's approval of the changes. Minor changes in work or materials, not affecting the general character of the Building Project, may be made in the plans and specifications at any time without the review and approval of Landlord, but a copy of the altered plans and specifications shall be furnished to Landlord.

5.01.04. No Liability to Landlord. The review and approval of Landlord of any plans and specifications refers only to the conformity of such plans and specifications to the general architectural plan for the Leased Land. Such plans and specifications are not reviewed and approved for architectural, structural or engineering design, and Landlord, by reviewing and approving such plans and specifications, assumes no liability or responsibility therefor or for any defect in any structure constructed or compliance from such plans or specifications or noncompliance therewith.

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5.01.05. Additional Documents. Tenant shall furnish Landlord with copies of the following documents, as soon as they are available:

(a) Contract between Tenant and its architects;

(b) Contract between Tenant and all contractors engaged to work on the Building Project;

(c) Copies of all plans, specifications and working papers for the Building Project, including "as built" drawings; and

(d) All contractor and subcontractor Performance and Payment Bonds.

5.01.06. Cost to be Tenant's. The cost of any construction, renovation, enlargement, reconstruction, demolition, or of any change, alterations, or improvements, on the Leased Land shall be borne and paid for by Tenant.

5.01.07. No Liens. The Leased Land shall at all times be kept free of mechanic's and materialman's liens, as provided in ARTICLE 8, infra.

Approval of All Construction.

§5.02. No building or other improvements, the plans and specifications of which have not first received the written review and approval of Landlord, as required above or which do not comply with such approved plans and specifications, shall be constructed or maintained on the Leased Land. No addition



to or alteration of any building or other improvement erected on the Leased Land shall be commenced unless and until plans and specifications covering such additions or alterations shall have first been submitted to reviewed and approved by Landlord. Failure to comply with approved plans and specifications for any building or other improvement to be constructed and maintained on the Leased Land shall constitute a material default of this lease.

Improvements To Conform To Law

§5.03. Throughout the duration of this lease, Tenant agrees that all buildings, structures, and other improvements that may be erected on the Leased Land by Tenant or any subtenants, including, but not limited to, all elevators, escalators, plumbing, electrical, heating, air conditioning and ventilation equipment and systems, and all other equipment, will be installed, operated, and maintained in accordance with the law and with the regulations and requirements of Landlord, including its Development and Building Standards, and of any and all governmental authorities, agencies, or departments, having jurisdiction thereof, without cost or expense to Landlord.

Tenant's Ownership of Improvements and Fixtures

§5.04. During the term hereof, any and all of Tenant's improvements, fixtures, machinery, and equipment of whatsoever nature at any time constructed, placed, or

maintained upon any part of the Leased Land shall remain the property of Tenant.

5.04.01. Tenant's Right to Remove Fixtures.

Tenant shall have the right at any time during Tenant's occupancy of the Leased Land to remove any and all of Tenant's trade fixtures, machinery and equipment owned or placed by Tenant in, under, or upon the Leased Land, or acquired by Tenant, whether before or during the lease term; provided, Tenant shall, at its sole cost and expense, immediately repair any damage or injury to any building or other improvement on the Leased Land caused by any such removal of trade fixtures, machinery and equipment. This provision shall survive the expiration or termination of this lease.

5.04.02. Landlord's Right to Improvements. As

provided in ARTICLE 11, infra, upon expiration or sooner termination of this lease, title to all buildings and other improvements on the Leased Land shall be vested in the Landlord without the payment of any consideration therefor. Landlord, alternatively, at its sole discretion, may require Tenant, at Tenant's sole cost and expense, to remove all buildings and other improvements on the Leased Land and return the Leased Land to the same condition as it was at the time of the commencement of the term hereof. This provision shall survive the expiration or termination of the term of this lease.

ARTICLE 6.

ENCUMBRANCE OF LEASEHOLD ESTATE

Tenant's Right to Encumber With Landlord's Consent

§6.01. Tenant shall not encumber by mortgage or other security instrument, by way of assignment, or otherwise, Tenant's interest under this lease and the leasehold estate hereby created for any purpose, without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

ARTICLE 7.

REPAIRS AND RESTORATION

Tenant's Duty to Repair

§7.01. Tenant, at Tenant's own cost and expense, at all times during the term of this lease, agrees to keep and maintain, or cause to be kept and maintained, all buildings and other improvements which may be erected upon the Leased Land in good condition and a good state of appearance and repair, reasonable wear and tear excepted.

Damage or Destruction - Repair

§7.02. If the Leased Land, any building or other improvement, or any part thereof are damaged or destroyed by reason of any cause whatsoever, Tenant shall within sixty (60) days, commence and diligently pursue to completion the repair or reconstruction of such buildings and improvements on the Leased Land, and this lease shall remain in full force and

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effect; provided, that during the last three (3) years of the term of this lease should the buildings and other improvements on the Leased Land be damaged or destroyed to such a substantial extent so as to render the Leased Land with the buildings and improvements thereon commercially unusable by Tenant, then within said sixty (60) day period, Tenant may elect to terminate the lease by delivering or assigning to Landlord all insurance proceeds received or to be received as a result of such damage or destruction and returning the Leased Land, at Tenant's sole cost, to the same condition or better as it was at the time of the commencement of the term hereof.

ARTICLE 8.

MECHANIC'S LIENS

Prohibition of Liens on Fee or Leasehold Interest

§8.01. Tenant shall not suffer or permit any mechanic's liens or other liens to be filed against the fee of the Leased Land nor against its leasehold interest nor any buildings or other improvements on the Leased Land by reason of any work, labor, services, or materials supplied or claimed to have been supplied to Tenant or anyone holding the Leased Land or any part thereof through or under Tenant. In the case of any construction on the Leased Land costing in excess of \$50,000.00, Tenant shall cause its contractor or builder to post performance and payment bonds to be approved in advance by Landlord.

Removal of Liens By Tenant

§8.02. If any such mechanic's liens or materialman's lien shall be recorded against the Leased Land, or any improvements thereon, Tenant shall cause the same to be removed or, and in the alternative, if Tenant in good faith desires to contest the same, Tenant shall be privileged to do so but in such case Tenant hereby agrees to indemnify and hold Landlord harmless from all liability for damages occasioned thereby and shall, in the event of a judgment of foreclosure upon said mechanic's lien, cause the same to be discharged and removed prior to the execution of such judgment.

ARTICLE 9.

ASSIGNMENT AND SUBLEASE

No Right to Assign and Sublease

§9.01. Tenant shall not sublet or assign the Leased Land or any part or portion thereof without the prior written consent of Landlord. Any unauthorized attempt to sublet or assign shall constitute a material default of this lease and such subletting or assignment shall be deemed null and void.

ARTICLE 10.

DEFAULT AND REMEDIES

Termination by Landlord on Specified Defaults

§10.01. If Tenant shall default in the payment of rent on the date provided for in this lease and such rent default continues for a period of five (5) or more days after





and contents therefrom, without being liable to prosecution therefor, and Tenant hereby expressly waives the service of any notice in writing of intention to reenter or to institute legal proceedings to that end and Tenant shall pay, at the same time as the rent becomes payable under the terms hereof, a sum equivalent to the rent and additional rent reserved herein, and Landlord may relet the Leased Land or any part or parts thereof in the name of Landlord or otherwise, for a term or terms which may at Landlord's option be less than or exceed the period which would otherwise have constituted the balance of the term of this lease without releasing Tenant from any liability, applying such rent first, to the cost of obtaining possession, second, to restoring the Leased Land to a rentable condition, third, to brokerage fees and the cost to Landlord of reletting the Leased Land, and then to the payment of rent, items or additional rent and all other charges due and to grow due to Landlord, any surplus to be paid to Tenant, who shall remain liable for any deficiency. The failure or refusal of Landlord to relet the Leased Land or any part thereof shall not release or affect Tenant's liability. Any sums due to Landlord shall be paid in monthly installments by Tenant on the rent day specified in this lease and any suit brought to collect the amount due for any month shall not prejudice in any way the rights of Landlord to collect any sums due for any subsequent month. Landlord at its option, may make alterations, repairs,



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replacements or painting in the improvements on the Leased Land as Landlord may consider advisable for the purpose of reletting the Leased Land or any part thereof, and the making of such alterations, repairs, replacements or painting shall not operate to be construed to release Tenant from liability hereunder. Any mention in this lease of any particular remedy shall not preclude Landlord from any other remedy in law or in equity. Tenant hereby waives any and all rights of redemption granted by or under this lease. In the event of the termination of this lease pursuant to this §10.01, Landlord shall forthwith, notwithstanding any other provisions of this lease to the contrary, be entitled to recover from Tenant as liquidated damages an amount equal to the difference between the rent reserved in this lease for the unexpired portion of the term leased and the then fair and reasonable rental value of the Leased Land for the same period.

Other Remedies

§10.02. Any termination of this lease as herein provided shall not relieve Tenant from the payment of any sum or sums that shall then be due and payable to Landlord thereunder or any claim for damages then or theretofore accruing against Tenant hereunder, and any such termination shall not prevent Landlord from enforcing the payment of any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from Tenant for any

default thereunder. All rights, options, and remedies of Landlord contained in this lease shall be construed and held to be cumulative, and no one of them shall be exclusive to the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this lease.

Continuation of Lease During Breach

§10.03. At Landlord's option, if Tenant has breached this lease and abandoned the Leased Land, no notice of termination will be given and this lease will continue in effect for so long as Landlord does not terminate Tenant's right to possession. Landlord may in that case enforce all its right and remedies under this lease, including the right to recover rent as it becomes due.

No Waiver of Default

§10.04. Landlord's failure to take advantage of any default or breach of covenant on the part of Tenant shall not be, or be construed as a waiver thereof, nor shall any custom or practice which may grow up between the parties in the course of administering this lease be construed to waive or to lessen the right of Landlord to insist upon the performance by Tenant any term, covenant, or condition hereof, or to exercise any rights given it on account of any such default. A waiver of a particular breach, or default, shall not be deemed to be a waiver of the same or any other subsequent breach of default.

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The acceptance of rent hereunder shall not be, or be construed to be, a waiver of any term, or condition of this lease.

Demand for Rent

§10.05. Except as otherwise expressly provided herein, in the event that Tenant shall be in default in the payment of any rents provided for in this lease, Tenant waives the making by Landlord of any demand for rent prior to the commencement of any action in ejectment or to obtain possession of the Leased Land.

Late Charge

§10.06. Tenant shall pay Landlord a one and one-half percent (1 1/2%) late charge on every rent payment made five (5) days or more after due date.

ARTICLE 11.

SURRENDER AND REMOVAL

Surrender of Possession

§11.01. Upon the expiration of the term of this lease or any earlier termination thereof, Tenant shall surrender to Landlord possession of the Leased Land and all buildings and improvements thereon.

Removal of Personal Property

§11.02. If Tenant shall not then be in default under any of the covenants and conditions hereof, Tenant may remove or cause to be removed all of Tenant's machinery, equipment and trade fixtures on the Leased Land; provided, Tenant shall, at

its sole cost and expense, immediately repair any damage or injury to any building or other improvement on the Leased Land caused by such removal. Any of said machinery, equipment or trade fixtures that are not removed from the Leased Land within thirty (30) days after the date of expiration or any termination of this lease shall belong to Landlord without the payment of any consideration; provided, Landlord, may require Tenant to remove any or all of such machinery, equipment or trade fixtures at Tenant's sole cost and expense. The provisions of this §11.02 shall survive the expiration or termination of this lease.

Tenant's Quitclaim

§11.03. Upon the expiration of the lease term, or any sooner termination of this lease, at Landlord's request, Tenant agrees to execute, acknowledge and deliver to Landlord a proper instrument in writing, releasing, and quitclaiming to Landlord all right, title and interest of Tenant in and to the Leased Land and all buildings and other improvements thereon.

ARTICLE 12.

LANDLORD'S GENERAL PROTECTIVE PROVISIONS

Landlord's Right of Entry and Inspection

§12.01. Tenant shall permit Landlord or Landlord's agents, representatives, or employees to enter upon the Leased Land at reasonable times for the purpose of conducting an inspection in a reasonable manner to determine whether

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agreements in this lease are being complied with, or for the purpose of showing the Leased Land to prospective tenants, purchasers or mortgagees.

Performance of Tenant's Obligations  
After Notice or Without Notice in Emergency

§12.02. If Tenant shall default in the performance of any covenant or condition in this lease required to be performed by Tenant, Landlord may, after thirty (30) days' notice to Tenant, or without notice if in Landlord's opinion an emergency exists, perform such covenant or condition for the account and at the expense of Tenant. If Landlord shall incur any expense, including reasonable attorneys' fees, in instituting, prosecuting, or defending any action or proceeding instituted by reason of any default of Tenant, Tenant shall reimburse Landlord for the amount of such expense. Should Tenant, pursuant to this lease, become obligated to reimburse or otherwise pay Landlord any sum of money in addition to the basic rent, the amount thereof shall be deemed additional rent and may, at the option of Landlord, be added to any subsequent installment of the basic rent due and payable under this lease, in which event Landlord shall have the remedies for default in the payment thereof provided by this lease. The provisions of this §12.02 shall survive the termination of this lease.

Release of Landlord After Sale

§12.03. In the event of a sale or conveyance by Landlord of the Leased Land or any part containing the Leased Land, Landlord shall be released from any future liability upon any of the covenants or conditions, expressed or implied, in favor of Tenant, and in such event, Tenant agrees to look solely to the responsibility of the successor in interest of Landlord in and to this lease.

Accord and Satisfaction

§12.04. No payment by Tenant or receipt by Landlord of a lesser amount than the rental shall be deemed to be other than on account of the rental, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of the rental or pursue any other remedy provided for in this lease.

Landlord's Contractual Security Interest

§12.05. Landlord shall have at all times a valid security interest to secure payment of all rent and other sums of money becoming due hereunder from Tenant, and to secure payment of any damages which Landlord may suffer by reason of the breach by Tenant of any covenant, agreement or condition contained herein, upon all fixtures and personal property of Tenant presently, or which may hereafter be, situated on the

Leased Land, and all proceeds therefrom, and such property shall not be removed without the consent of Landlord until all arrearages in rent as well as any and all other sums of money then due to Landlord or to become due to Landlord hereunder shall first have been paid and discharged and all the covenants, agreements and conditions hereof have been fully complied with and performed by Tenant. Upon the occurrence of an event of default by Tenant, Landlord may, in addition to any other remedies provided herein, enter upon the Leased Land and take possession of any and all fixtures and personal property of Tenant situated on the Leased Land, without liability for trespass or conversion, and sell the same at public or private sale, with or without having such property at the sale, after giving Tenant reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, at which sale Landlord or its assigns may purchase unless otherwise prohibited by law. Unless otherwise provided by law, and without intending to exclude any other manner of giving Tenant reasonable notice, the requirement of reasonable notice shall be met if such notice is given in the manner prescribed in the lease at least seven (7) days before the time of sale. Any sale made pursuant to the provision of this §12.05 shall be deemed to have been a public sale conducted in a commercially reasonable manner if held on the Leased Land or where the property is located after the time, place, and method

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of sale and a general description of the types of property to be sold have been advertised in a daily newspaper published in Guam, for five (5) consecutive days before the date of the sale. The proceeds from any such disposition, less any and all expenses connected with the taking of possession, holding and selling of the property (including reasonable attorneys' fees and legal expenses), shall be the security interest granted in this §12.05. Any surplus shall be paid to Tenant or as otherwise required by law; Tenant shall pay any deficiencies forthwith. Upon request by Landlord, Tenant agrees to execute and deliver to Landlord a financing statement in form sufficient to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the provisions of the Guam Uniform Commercial Code.

Landlord's Title

§12.06. Nothing herein contained shall empower Tenant to do any act which can, may or shall cloud or encumber Landlord's fee simple title. This lease does not grant any rights to light and air over property except over public streets, alleys or ways kept open by public authority.

Reserved Rights

§12.07. Landlord reserves the following rights: (i) To change the street address of the Leased Land without notice or liability of Landlord to Tenant; (ii) to display during the last ninety (90) days of the term without hinderance or



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molestation by Tenant "For Rent" and similar signs on windows or elsewhere in or on the Leased Land; (iii) during the last ninety (90) days of the term or any part thereof, if during or prior to that time Tenant vacates the Leased Land, or at any time after Tenant abandons the Leased Land, to enter and decorate, remodel, repair, alter or otherwise prepare the Leased Land for reoccupancy; and (iv) to take any and all reasonable measures, including inspections, repairs, alterations, additions and improvements to the Leased Land as may be reasonably necessary or desirable for the safety, protection or preservation of the Leased Land or Landlord's interest. Landlord may enter upon the Leased Land and may exercise any or all of the foregoing rights hereby reserved without being deemed guilty of any eviction or disturbance of Tenant's use or possession and without being liable in any manner to Tenant.

Landlord's Right to Cure Default

§12.08. In the event Tenant shall fail to pay and discharge or caused to be paid and discharged, when due and payable any tax, assessment, or other charge upon or in connection with the Leased Land, or any lien or claim for labor or material employed or used in or any claim for damages arising out of the construction, repair, restoration, replacement, maintenance, and use of the Leased Land and the improvements, or any judgment on any contested lien or claim,

[REDACTED]

or any insurance premium or expense in connection with the Leased Land and improvements, or any other claim, charge, or demand which Tenant has agreed to pay or caused to be paid under the covenants and conditions of this lease, and if Tenant, after ten (10) days written notice from Landlord to do so, shall fail to pay and discharge the same, then Landlord may, at its option, pay any such tax, assessment, insurance expense, lien, claim, charge, or demand, or settle or discharge any action therefor, or judgment thereon, and all costs, expenses, and other sums incurred or paid by Landlord in connection with any of the foregoing shall be paid by Tenant to Landlord upon demand, together with interest thereon at the rate of one and one-half percent (1 1/2%) per month from the date incurred or paid, and any default in such repayment shall constitute a breach of the covenants and conditions of this lease.

ARTICLE 13

GAA ASSURANCES TO FAA AND JOINT USE AGREEMENT

Compliance

§13.01. Tenant agrees to observe and obey all applicable rules and regulations promulgated by the Federal Aviation Administration ("FAA") or Landlord governing conduct on and operations at the Guam International Air Terminal and all related facilities owned and operated by Landlord including the GAA Industrial Park (collectively referred to as "GIAT").

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Landlord has received federal assistance through several executed Grant Agreements for GIAT development and certain land acquisition transactions. This lease and Tenant's use of the Leased Land and GIAT shall be subject to any and all applicable terms of those certain Sponsor's Assurances that Landlord (as Sponsor therein) has made to FAA as they relate to the application, acceptance and use of federal funds for GIAT development. The Assurances applicable to this lease shall include, but not be limited to, the following specific terms and conditions:

13.01.01. Non-discrimination. (a) Tenant for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the Leased Land that in the event facilities are constructed, maintained, or otherwise operated on the Leased Land for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended; (b) Tenant for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the Leased Land

that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the Leased Land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Tenant shall use the Leased Land in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

13.01.02. Books, Records, Accounts. Upon written request of FAA, Tenant shall provide all information reports required by FAA rules, regulations or directives issued pursuant thereto, and shall permit the examination of its books, records, and its facilities, as may be determined by FAA to be pertinent to ascertain compliance with such rules, regulations, orders and directives.

13.01.03. Service, Prices. Tenant shall furnish services and products on a fair, equal, and not unjustly discriminatory basis to all customers and users. Tenant shall charge fair, reasonable and not unjustly discriminatory prices for each unit of service and product.

[REDACTED]

13.01.04. Compatibility with GIAT Operations and Use. Compatibility with GIAT operations and use is a vital concern for any development on or near GIAT. Safety of nearby aircraft flight and ground operations must be and shall be given primary concern at all times. Thus, the development and use of the GAA Industrial Park, including this lease, are subject to and shall not be inconsistent with GIAT operations and use.

§13.02. Joint Use Agreement. The parties hereto are aware that Landlord has right to use the landing area of GIAT under a Joint Use Agreement entered into by the Government of Guam with the United States of America dated July 19, 1974. The rights and obligations under such Joint Use Agreement have been transferred to and assumed by Landlord. It is expressly agreed that this lease is subject and subordinate to the said Joint Use Agreement and all its terms and conditions.

ARTICLE 14.

GENERAL PROVISIONS

Covenant to Execute Additional Instruments

§14.01. Landlord and Tenant agree to execute and deliver any instruments in writing necessary to carry out the agreement, term, condition, or assurance in this lease whenever the occasion shall arise and request for such instruments shall be made by the other party.

No Waiver of Breach

§14.02. No failure by either Landlord or Tenant to insist upon the strict performance by the other of any covenant, agreement, term, or condition of this lease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this lease, but each and every covenant, condition, agreement, and term of this lease shall continue in full force and effect with respect to any other then existing or subsequent breach.

Time of Essence

§14.03. Time is of the essence of this lease, and of each provision.

Successors In Interest

§14.04. Each and all of the covenants, conditions, and restrictions in this lease shall inure to the benefit of and shall be binding upon the successors in interest of Landlord, and subject to the restrictions of ARTICLES 6 and 9, supra, the authorized encumbrancers, assignees, transferees, subtenants, licensees, and other successors in interest of Tenant.

Entire Agreement

§14.05. This lease contains the entire agreement of the parties with respect to the matters covered by this lease,



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create any relationship between Landlord or Tenant, other than the relationship of landlord and tenant.

Interpretation and Definitions

§14.09. The language in all parts of this lease shall in all cases be simply construed according to its fair meaning and not strictly for or against Landlord or Tenant. Unless otherwise provided in this lease, or unless the context otherwise requires, the following definitions and rules of construction shall apply to this lease:

14.09.01. Number and Gender. In this lease the neuter gender includes the feminine and masculine, the singular number includes the plural, and vice versa.

14.09.02. Mandatory and Permissive. "Shall", "will", and "agrees" are mandatory, "may" is permissive.

14.09.03. Captions. Captions of articles, sections, and subsections of the lease and of its table of contents are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this lease.

14.09.04. Term Includes Extensions. All references to the "term" of this lease or the "lease term" shall include any extensions of such term.

14.09.05. Other Definitions. Additionally, the following words and phrases shall have the following meanings:



14.09.05.01. Authorized Representatives: Any officer, agent, employee, or independent contractor retained or employed by either party, acting within authority given him by that party.

14.09.05.02. Damage: Injury, deterioration, or loss to a person or property caused by another person's acts or omissions. Damage includes death.

14.09.05.03. Good Condition: The good physical condition of any improvements on the Leased Land and each portion of such improvements, including, without limitation, signs, windows, appurtenances, and Tenant's personal property as defined here. "In good condition" means first-class, neat, clean and broom-clean, and is equivalent to similar phrases referring to physical adequacy in appearance and for use.

14.09.05.04. Hold Harmless: To defend and indemnify from all liability, losses, penalties, damages as defined here, costs, expenses (including, without limitation, attorneys' fees), causes of action, claims, or judgments arising out of or related to any damage, as defined here, to any person or property.

14.09.05.05. Law: Any judicial decision, statute, constitution, ordinance, resolution, regulation, rule, administrative order, or other requirement of any municipality, territorial, Federal, or other government agency or authority

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having jurisdiction over the parties or the Leased Land, or both, in effect either at the time of execution of the lease or at any time during the term, including, without limitation, any rule or regulation of Landlord.

14.09.05.06. Lien: A charge imposed on the Leased Land by someone other than Landlord, by which the Leased Land is made security for the performance of an act. Most of the liens referred to in this lease are mechanics' liens.

14.09.05.07. Maintain: Includes repair, replace, repaint, and clean.

14.09.05.08. Person: One or more human beings, or legal entities or other artificial persons, including, without limitation, partnerships, corporations, trusts, estates, associations, and any combination of human beings and legal entities.

14.09.05.09. Repair: The reconstruction, rebuilding and rehabilitation that are necessary to return destroyed portions of any improvements on the Leased Land and other property to substantially the same physical condition as they were in immediately before the destruction.

#### Attorneys' Fees

§14.10. In the event that either party hereto shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the

alleged failure of the other to perform or keep any term, covenant, or condition of this lease by it to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover, in addition to its court costs, reasonable attorneys' fee to be fixed by the court, and such recovery shall include court costs and attorneys' fees on appeal, if any. The court will determine who is the "prevailing party", whether or not the suit proceeds to final judgment; provided, however, that if an action is voluntarily dismissed, or dismissed pursuant to a settlement of the case, neither party will be entitled to recover its attorneys' fees.

Interest

§14.11. Any sum accruing to Tenant or Landlord under the provisions of this lease which shall not be paid when due shall bear interest at the rate of one and one-half percent (1 1/2%) per month from the date the rent was due with respect to rent and from the date written notice specifying such nonpayment is given to the defaulting party, with respect to sums due other than rent.

Modification

§14.12. This lease is not subject to modification except in writing signed by both parties.

Delivery of Rent and Notices - Method and Time

§14.13. All rents or other sums, notices, demands, or requests from one party to another may be personally

delivered or sent by mail, registered, return receipt requested, postage prepaid, to the addresses stated in this §14.13, and shall be deemed to have been given at the time of personal delivery or at the time of mailing.

14.13.01. Payment of Rent. All rents and other sums payable by Tenant to Landlord shall be by check payable to Landlord, delivered in person to the Landlord, or mailed to Landlord at P. O. Box 8770, Tamuning, Guam 96911.

14.13.02. Notices to Landlord. All notices, demands, or requests from Tenant to Landlord shall be given to Landlord by personal delivery or by mailing the same to P. O. Box 8770, Tamuning, Guam 96911.

14.13.03. Notices to Tenant. All notices, demands, or requests from Landlord to Tenant shall be given to Tenant at 150 E. Harmon Industrial Park Road, Tamuning, Guam 96911.

14.13.04. Change of Address. Each party shall have the right, from time to time, to designate a different address by notice given in conformity with this §14.13.

## ARTICLE 15.

### CONDEMNATION

#### Consequences of Condemnation

§15.01. In the event during the term of this lease the Leased Land or any part thereof shall be taken or condemned by any authority having the power of eminent domain, then and

in every such case the estate and interest of Tenant in any part of the Leased Land so taken or condemned shall at once cease and terminate; and the rental to be paid under this lease shall be reduced for and during the unexpired balance of the term hereof, effective as of the date when Tenant shall by reason of such taking or condemnation lose the right to possession of such part of the Leased Land, in an amount which shall be that proportion of the rental which is equivalent to the reduction in the area of the Leased Land as a result of the taking or condemnation, and Landlord shall refund to Tenant any unearned portion of the rental thereof paid in advance prior to the effective date of such taking or condemnation.

15.01.01. Compensation and Damages. In every such case of taking or condemnation of the Leased Land or any part thereof, all compensation and damages payable for or as a result of such taking or condemnation shall be payable to and be the sole property of Landlord, and Tenant shall have no interest in or claim to such compensation or any part thereof whatsoever; and all compensation and damages payable for or on account of any buildings and other improvements on the Leased Land and any plans and other preparations therefor shall be payable to Landlord and Tenant as their respective interest shall appear, and said respective interest in such compensation and damages payable for or on account of any such buildings or other improvements shall be fixed and determined, as of the

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date when Tenant shall by reason of such taking or condemnation lose the right to possession of such buildings or other improvements so taken or condemned, as follows:

15.01.01.01. Landlord's Interest. The interest of Landlord therein shall be a proportionate amount of such compensation and damages in the ratio which the expired portion of the term of this lease bears to the full term of this lease; and

15.01.01.02. Tenant's Interest. Tenant's interest therein shall be the balance of such compensation and damages after first deducting therefrom the amount of the interest of Landlord therein as hereinbefore defined.

15.01.02. Termination of Lease. In the event only part of the Leased Land shall be so taken or condemned, and either the balance of the Leased Land is unsuitable for the purpose for which leased to Tenant, or all of the buildings on the Leased Land shall be so taken or condemned, or only a part of the buildings shall be so taken or condemned, thereby rendering the remaining portion of the buildings unsuitable for Tenant's purposes under this lease, and Tenant shall remove all remains of said buildings and any other improvements from the balance of the Leased Land and restore the Leased Land to good and orderly condition under its option as herein provided, then and in every such case Tenant shall have the right at its option, by giving prior written notice thereof to Landlord

within sixty (60) days after such event, to terminate this lease. Upon such termination Tenant shall be relieved of all further obligations under this lease, and Landlord shall refund to Tenant any unearned portion of the rental therefor paid in advance prior to the effective date of such termination.

ARTICLE 16.

EXECUTION, RECORDING, AND INCORPORATION BY REFERENCE

Recording

§16.01. Tenant shall not record this lease without the written consent of Landlord; provided, however, upon the request of Tenant, the Landlord shall join in the execution of a memorandum of "short form" of this lease for the purpose of recordation. The memorandum or short form shall describe the parties, the Leased Land, the term of this lease, shall incorporate this lease by reference, and shall be in the form set out in Exhibit D attached hereto and incorporated herein.

Counterparts

§16.02. This lease, consisting of fifty (50) pages, plus exhibits, may be executed in several counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement, which shall be binding upon all parties hereto notwithstanding that all of the parties are not signatories.

Exhibits

S16.03. All Exhibits attached hereto are made a part of this lease by reference.

Execution

S16.04. This lease has been executed by the parties as of \_\_\_\_\_, 19\_\_\_\_.

GUAM AIRPORT AUTHORITY  
Landlord

\_\_\_\_\_  
Its

MID-PAC FAR EAST, INC.  
Tenant

\_\_\_\_\_  
Its

TERRITORY OF GUAM

Municipality of Agana

On this \_\_\_\_\_ day of \_\_\_\_\_, 1989, before me, a notary public in and for the Territory of Guam, personally appeared \_\_\_\_\_, the duly authorized representative of GUAM AIRPORT AUTHORITY, known to me to be the person who executed the foregoing GAA Industrial Park Ground Lease, and acknowledged to me that he executed the same on behalf of said corporation.

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

)SEAL(



TERRITORY OF GUAM

Municipality of Agana

On this \_\_\_\_\_ day of \_\_\_\_\_, 1989, before me, a notary public in and for the Territory of Guam, personally appeared \_\_\_\_\_, the duly authorized representative of MID-PAC FAR EAST, INC., known to me to be the person who executed the foregoing GAA Industrial Park Ground Lease, and acknowledged to me that he executed the same on behalf of said corporation.

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

)SEAL( \_\_\_\_\_

EXHIBIT "A"

Property Description

Lot No. 1, Block No. 1, Tract No. 1427, Guam International Air Terminal Industrial Park, Municipalities of Barrigada and Dededo, Guam, containing an area of approximately 3,306 square meters or 35,583 square feet, as shown on Drawing No. DS1-S-88-25 dated March 30, 1989, prepared by registered land surveyor Nestorio C. Ignacio, RLS No. 65.

EXHIBIT "B"

§1. Rental Schedule. For the first five (5) year period commencing \_\_\_\_\_, 19\_\_ the rental rate shall be 60¢ per square foot per year for the total area of the Leased Land. At the end of each fifth (5th) year of the term of this lease, the rental rate for the ensuing five (5) years shall be increased by ten percent (10%) of the prior effective rental rate. Rental shall be paid monthly as specified in Section 3.01.02 of the lease.

§2. Rental Projections. Upon commencement of the term of this lease Landlord shall provide Tenant with 30 year rental projections on an annual and monthly basis.

§3. Rental During Option Periods.

The rental during the extended periods, if extended pursuant to Section 2.02 of the lease, shall be as agreed upon in writing by the parties or as determined pursuant to Section 3.01.01 of the lease.

EXHIBIT "C"

§1. Authorized Uses and Activities:

A. Services, Spare Parts and Sales of:

1. Generator Sets and Load Testing
2. Automatic Transfer Switches
3. Hydraulic Hose and Fittings
4. Filters for most Applications
5. Exhaust Components and Accessories
6. Lubricants for Hydraulics, etc.
7. Backhoes and Loaders - New, Used & Parts
8. Trucks and Trailers - New, Used & Parts
9. Mowing Equipment - All sizes and types
10. Storage Batteries - All sizes
11. Allison Transmissions
12. Torque Converters
13. Detroit Diesel Products
14. Cummins Products
15. Briggs and Stratton Products
16. John Deere Products
17. Grote Lights and Accessories
18. Bearings and Seals
19. Stow Concrete Products
20. Industrial Supplies
21. Forklifts - New and Used
22. Cranes - New and Used
23. Refuse Products
24. Tires and Tubes
25. Compressors
26. Pumps, Fuel and Water
27. Electric Motors
28. Special Tools - Pressers, Pullers, etc.
29. Brake Parts and Supplies
30. Hitches and Hooks - All types

§2. Authorized and Required Uses and Activities:

A. Service, Spare Parts and Sales of:

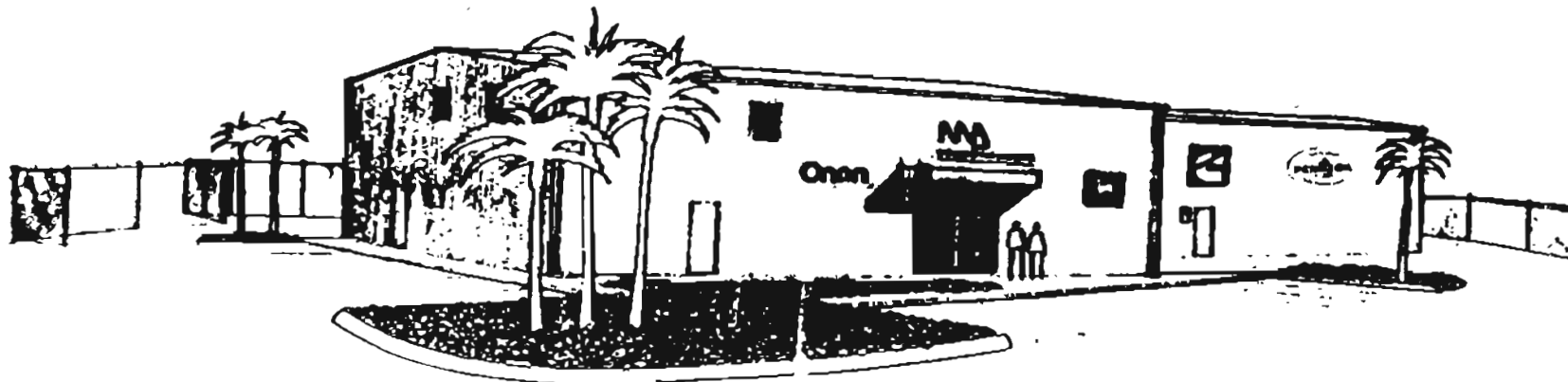
1. Clark, Tug and Ottawa Airport Tractors
2. Aircraft Parts for Beech, Piper and Cessna

EXHIBIT "D"

Pre-engineered metal building with structural concrete footings and building slab, concrete curbs and sidewalk, asphalt concrete paving with landscaped islands, surrounded by a 6 ft. high chain link fence.

BUILDING:

Width:	60'/40'
Length:	160'
Eave Height:	20'
Roof Slope:	2:12
Mezzanine Floor	2940 sq. ft.
Ground Floor	8000 sq. ft.
Total Floor	10,940 sq. ft.



GAA INDUSTRIAL PARK GROUND LEASE

Preamble

THIS LEASE made and entered into by and between the GUAM AIRPORT AUTHORITY, a public corporation and autonomous instrumentality of the Government of Guam ("Landlord"), and ESSO EASTERN, INC.-GUAM BRANCH, a Delaware corporation ("Tenant").

R E C I T A L S :

Landlord has undertaken a construction program for the development of vacant land consistent with the approved Master Plan for development of the Guam International Air Terminal, including land leased lots for commercial/industrial use, known as the Guam Airport Authority Industrial Park ("GAA Industrial Park").

Tenant has applied to Landlord to lease and occupy land within the GAA Industrial Park.

Landlord is willing to lease land to Tenant within the GAA Industrial Park upon the terms, conditions and covenants set forth below.

Agreement

In consideration of the premises and the mutual covenants and agreements herein contained, Landlord and Tenant agree as follows:

ARTICLE 1.

DEMISE OF LEASE LAND

Leased Land

§1.01. Landlord for and in consideration of the rents, covenants, and conditions herein contained to be kept, performed, and observed by Tenant, does LEASE and DEMISE to Tenant, and Tenant does RENT and ACCEPT from Landlord, the real property, referred to as the "Leased Land", as particularly described and shown on the attached Exhibit "A".

ARTICLE 2.

LEASE TERM

Term

§2.01. The term of this lease shall be for a period of thirty (30) years, to begin on \_\_\_\_\_, 19\_\_ and end on midnight, \_\_\_\_\_, \_\_\_\_\_.

Options to Extend

§2.02. If this lease shall then be in full force and effect and Tenant shall have fully performed all of its obligations, terms and conditions hereunder, Tenant shall have the option to extend the term of this lease, upon the same terms and condition, for the following two (2) successive ten (10) year periods:

1. First Extended Period: \_\_\_\_\_, 19\_\_ through \_\_\_\_\_.
2. Second Extended Period: \_\_\_\_\_ through \_\_\_\_\_.

Tenant shall not have the right to extend the term of this lease beyond the second extended term.

2.02.01. Exercise of Options. Tenant shall exercise its option to extend the term for each ten (10) year period by giving written notice to Landlord, at least one hundred twenty (120) days before the expiration of the initial term or first extended term (as the case may be), of its intention to extend the term of this lease as provided herein. Failure of Tenant to give the required written notice of its exercise of the option to extend or any termination of this lease shall terminate all rights to extend the term.

Holding Over

§2.03. If Tenant shall remain in possession of the Leased Land after the expiration or termination of this lease, such possession shall be on a month-to-month tenancy upon the same terms and conditions of this lease as existed immediately prior to the expiration or termination of the term, except, however, the duration of the lease shall be on a month-to-month basis with no option to extend.

ARTICLE 3.

RENT, COMMON AREA EXPENSE, TAXES AND UTILITIES

Monthly Rent

§3.01. During the term of this lease, as may be extended, Tenant shall pay Landlord monthly rent as set forth on the Rental Schedule attached hereto as Exhibit "B".



3.01.01. Escalation. At the end of each fifth (5th) year of the term hereof, the rental rate for the next ensuing five (5) years shall be increased by ten percent (10%) of the prior effective rental rate. The rental to be paid by Tenant to Landlord during the extended periods, if extended, shall be such rental as mutually agreed upon by the parties. Should the parties fail to mutually agree on the rental to be paid during each extended period, if extended, by ninety (90) days prior to the commencement thereof, then the rental to be paid by Tenant to Landlord thereunder shall be the "fair rental value" of the Leased Land (exclusive of all buildings and improvements constructed thereon by Tenant) determined as hereinafter provided, or the then existing rental increased by ten percent (10%), whichever amount is greater. In the latter case, that is, if the existing rental increased by ten percent (10%) is greater than the "fair rental value" of the Leased Land, then the rental to be paid during the extended period shall automatically increase by ten percent (10%) after the fifth year of the extended period. As used herein, the term "fair rental value" shall mean ten percent (10%) per annum of the "fair market value" of the Leased Land exclusive of all buildings and improvements constructed thereon by Tenant. To determine such fair market value of the Leased Land the parties shall each select and appoint a qualified real estate appraiser licensed to do business in the Territory of Guam, and the two

appraisers so appointed shall select and appoint a third appraiser, and in the event the two appraisers so appointed shall fail to appoint the third appraiser within ten (10) days after the second appraiser has been named, the third appraiser shall be selected and appointed by the Presiding Judge of the Superior Court of Guam, and the three appraisers so appointed shall thereupon proceed to determine the fair market value of the Leased Land. Should either party fail to select and appoint an appraiser pursuant hereto within five (5) days of written notice of the other party's selection and appointment of an appraiser then the first appointed appraiser shall determine such fair market value of the Leased Land. The determination of fair market value shall be made not less than thirty (30) days prior to the commencement of the extended period. The decision of any two of the three appointed appraisers, or of the single appointed appraiser, as the case may be, as to the fair market value of the Leased Land shall be final, conclusive and binding upon all parties. Landlord and Tenant shall pay the expenses of their own appraiser, and all other expenses, including that of the third appraiser, shall be divided equally between Landlord and Tenant.

3.01.02. Payments. Rental payments shall be paid to Landlord monthly in advance, on the first (1st) day of each month for that month's rental, without offset or deduction of any kind whatsoever, at Landlord's address listed

hereinbelow or at such other address as may be from time to time designated in writing by Landlord; provided the first rental payment hereunder shall be due upon notice from Landlord to Tenant that the Leased Land is ready for possession or upon Tenant's possession of the Leased Land, whichever occurs first.

Common Area Expense

§3.02. Upon thirty (30) days prior notice from Landlord, Tenant shall commence paying to Landlord, on the same date the rent is due, a monthly common area expense based upon Tenant's monthly share of the projected common area expenses for the GAA Industrial Park for ensuing year, as reasonably determined from time to time by Landlord. From time to time, upon further thirty (30) days prior notice from Landlord to Tenant, the common area expense to be paid by Tenant to Landlord may be reasonably increased or decreased by Landlord to reflect Tenant's share of the total common area expense in the GAA Industrial Park. Common area expenses may include, without limitation, costs and expenses for security, maintenance, landscaping, street lights, road repair, and utilities within or related to the GAA Industrial Park.

Tenant to Pay Taxes

§3.03. Tenant agrees to pay direct to the taxing authorities all real property taxes, special taxes, charges or assessments, including street improvement liens, if any, and all property taxes on personal property located on the Leased

Land, levied or assessed upon or against the Leased Land during the term of this Lease.

3.03.01. Contesting Taxes. Nothing herein contained shall prevent Tenant from contesting in good faith, by any appropriate proceedings commenced before the same becomes delinquent, the validity or amount of any such tax, assessment or charge, nor require the payment thereof until the final determination of such contest adversely to Tenant; provided, however, that Tenant will pay all such taxes, assessments or charges, together with all interest, penalties, fines and costs accrued thereon or imposed in connection therewith, forthwith upon the commencement of proceedings to foreclose any lien which may attach to the Leased Land or any interest or part thereof; and provided, further, that if Tenant shall fail to pay any such taxes, assessments or other charges as herein provided, Landlord may at any time thereafter pay the same, together with any interest, penalties, fines and costs accrued thereon or imposed in connection therewith, and Tenant will repay to Landlord upon demand therefor the full amount so paid by Landlord, together with interest thereon at the rate of one and one-half percent (1 1/2%) per month.

Tenant to Pay Utility Charges

§3.04. Tenant shall pay or cause to be paid all charges for water, gas, electricity, sewer, telephone and any

and all other utilities used upon the Leased Land throughout the term of this lease, including any connection fees.

ARTICLE 4.

USE OF PREMISES, INSURANCE AND INDEMNITY

Use

§4.01. Tenant shall use the Leased Land specifically for the purpose of constructing, maintaining and operating thereon facilities limited to the airport and airport related purposes and activities specifically set forth on the attached Exhibit "C". Tenant shall not use, or permit the Leased Land, or any part thereof, to be used for any purpose or activity other than the purposes and activities set forth on Exhibit "C" hereto. Use of the Leased Land for any other purpose or activity without the express prior written consent of Landlord shall constitute a material breach of this lease. Tenant shall indemnify and hold harmless Landlord from any and all claims, demands, expenses (including attorneys' fees and court costs), damages and losses Landlord may suffer or incur as a result of Tenant's breach of this §4.01. Failure to use the Leased Land for any of the required purposes and activities set forth in Exhibit "C" for a period of one hundred twenty (120) days or more without the express prior written permission of Landlord shall also constitute a material breach of this lease.

Compliance with Laws

§4.02. Tenant covenants and agrees that during the term of this lease, Tenant shall promptly comply with all present and future laws, ordinances, orders, rules, regulations, and requirements of the Federal, territorial and municipal governments or any of their agencies (including Landlord) departments, bureaus, boards, commissions and officials thereof with respect to the Leased Land, the buildings and improvements erected thereon, or the use or occupancy thereof, whether said compliance shall be ordered or directed to or against Landlord or Tenant or both. This lease is subject to all consents, approvals and permits required by law or governmental rule or regulation. It shall be Tenant's duty and responsibility to obtain any such required consents, approvals and permits. Landlord shall cooperate with and assist Tenant in obtaining any such required consents, approvals or permits.

Tenant Not To Commit Waste; Nuisance

§4.03. Tenant shall not use the Leased Land in any manner that will constitute waste, nuisance, or unreasonable annoyance (including, without limitation, the use of a loud speakers or sound or light apparatus that can be heard or seen outside of the Leased Land) to other tenants of Landlord in property adjoining the Leased Land within the GAA Industrial Park.

Liability Insurance

§4.04. Tenant covenants and agrees, at its sole cost and expense, throughout the duration of this lease, to obtain, keep, and maintain in full force and effect for the mutual benefit of Landlord and Tenant the following types of insurance:

4.04.01. Liability. Comprehensive liability insurance against claims for damage to persons or property arising out of the use and occupancy of the Leased Land or any part or parts thereof in limits of not less than Five Hundred Thousand Dollars (\$500,000.00) in respect to bodily injury to or death of any one (1) person in any one (1) accident, and in limits of not less than One Million Dollars (\$1,000,000.00) in respect to bodily injury or death to more than one (1) person in any one (1) accident, and property damage in all instances in an amount not less than One Hundred Thousand Dollars (\$100,000.00).

4.04.01.01. Deductible. Such public liability policy or policies may provide for a deductible not in excess of One Thousand Dollars (\$1,000.00) or such other amount as Landlord may determine irrespective of the number of persons, parties or entities involved.

4.01.01.02. Adjustment of Coverage. In the event that Landlord shall at any time and from time to time deem the limits of liability insurance as hereinabove provided

to be insufficient, upon notice to Tenant the parties shall promptly endeavor to agree on reasonable limits for such insurance coverage then to be carried, and such insurance shall thereafter be carried with the limits thus agreed on until further change pursuant to this Section. Should the parties be unable to agree upon the proper and reasonable limits for such liability insurance within five (5) days of notice from Landlord to Tenant, then Landlord may select any insurance company licensed to and engaged in business on the Territory of Guam (excluding the insurance company then carrying the liability insurance hereunder) to determine the proper limits of liability insurance to be provided and maintained by Tenant hereunder. Said insurance company's determination on the proper and reasonable limits of liability insurance shall be binding upon both parties until such limits shall again be changed pursuant to this Section.

4.04.02. Casualty Insurance. A policy of fire and typhoon insurance with standard form extended coverage endorsement, to the extent of the full insurable value, covering all buildings and improvements which may from time to time be located on the Leased Land. The proceeds from any such policy shall be used for the repair or replacement of such improvements and buildings except as otherwise provided herein.

4.04.03. Certificates. Copies or duplicate originals, certificates, or binders of such insurance policies



shall be furnished to Landlord at the commencement of the term of this lease and each renewal certificate of such policies shall be furnished to Landlord at least thirty (30) days prior to the expiration of the policy it renews. Each such policy of insurance shall contain an agreement by the insurer that such policy shall not be cancelled without thirty (30) days prior written notice to Landlord.

4.04.04. Forms. All insurance provided for in this Article may be in the form of a general coverage, floater policy or so-called blanket policies which may be furnished by Tenant, or a related corporation of Tenant or any related entity. The liability and casualty coverage set forth herein shall be issued by insurers of recognized responsibility, as may be reasonably approved by Landlord. All policies of insurance to be provided for herein by Tenant shall be issued in the names of Tenant and Landlord and for the mutual and joint benefit and protection of the parties as their interests may appear.

4.04.05. Failure to Comply Constitutes A Default. Tenant's failure to effectuate any and all such insurance and renewal policies of insurance required as set out in this §4.04, and to pay the premiums and renewal premiums on all such policies and insurance as they become due and payable, and to deliver all such certificates of insurance and renewals thereof or duplicate originals or copies to Landlord within the

time limits set out in this Article, shall constitute a material default by Tenant under the terms of this lease.

4.04.06. Landlord May Effect Insurance. In the event Tenant fails to cause the aforesaid insurance policies to be written and pay the premiums for the same and deliver all such certificates of insurance or duplicate originals or copies thereof to Landlord within the time provided for in this lease, Landlord shall nevertheless have the right, without being obligated to do so, to effect such insurance and pay the premiums therefor, and all such premiums paid by Landlord shall be repaid to Landlord on demand as additional rent, and Tenant's failure to repay the same as aforesaid shall constitute a material default under this lease.

4.04.07. Indemnity not Limited. Nothing contained in this §4.04 shall effect or limit Tenant's obligations under §4.05, infra.

Indemnity

§4.05. Tenant covenants and agrees that from and after the commencement of the term of this lease or any extended term, Tenant shall indemnify and hold harmless Landlord from any and all claims, demands, expenses (including attorneys' fees and court costs) or damages for any personal injury or injuries, death(s), damages, or losses to any person(s) or property that may be suffered or sustained by Tenant or any of its agents, servants, employees, patrons,

customers, invitees, visitors, licensees, departments, and concessionaires or by any other person or persons in, on or about the Leased Land or any part thereof, arising from any and all causes whatsoever, except the willful misconduct or gross negligence of Landlord.

ARTICLE 5.

CONSTRUCTION BY TENANT

Tenant's Obligation to Build

§5.01. Tenant shall, at its sole cost and expense, construct the building and improvements described in Exhibit "D" attached hereto (the "Building Project"). Construction of the Building Project shall commence within one hundred twenty (120) days after receipt of the building plans and specifications approval of Landlord as required hereunder. Construction of the Building Project shall be completed and the Building Project ready for occupancy and use within ninety (90) days of the projected construction completion date as set forth in Tenant's construction contract documents and approved by Landlord. Such time for completion shall be extended for so long as Tenant shall be prevented from completing the Building Project by interference or other causes beyond the reasonable control of Tenant, but in no event to exceed the period of three (3) years from the execution of this lease.

5.01.01. Specifications and Plans. Tenant shall, at its own cost and expense, engage a licensed architect

or engineer to prepare plans and specifications for the Building Project, and, no later than ninety (90) days from the commencement of this lease, shall submit to Landlord for approval, two (2) copies of detailed working drawings, plans and specifications prepared by such architect or engineer, including the following:

(a) Drawings and materials in the form of plans, elevations, sections and rendered perspectives sufficient to convey the architectural design of the Building Project to Landlord;

(b) Outlined specifications in sufficient detail to indicate the general description of the Building Project, the type of building or structure, the kind and quality of materials, mechanical and electrical systems to be installed in the Building Project; and

(c) The architect's estimate of the Building Project's construction cost.

5.01.02. Review and Approval. Within sixty (60) days after submission of such plans and specifications by Tenant, Landlord will review and approve the plans and specifications by endorsing such review on the plans and specifications and returning one (1) set thereof to Tenant, or Landlord will inform Tenant in writing of any objections to such plans and specifications and Tenant shall have sixty (60) days thereafter to propose in writing corrective amendments

which Landlord shall accept or reject within the next thirty (30) days. Failure of Landlord to inform Tenant of objections within such thirty (30) day period shall be deemed Landlord's approval of the changes.

5.01.03. Changes in Plans. Tenant shall submit to Landlord a statement of any substantial changes in the plans and specifications required to be reviewed and approved by Landlord under this section. Failure of Landlord to object to such changed plans and specifications within thirty (30) days shall be deemed Landlord's approval of the changes. Minor changes in work or materials, not affecting the general character of the Building Project, may be made in the plans and specifications at any time without the review and approval of Landlord, but a copy of the altered plans and specifications shall be furnished to Landlord.

5.01.04. No Liability to Landlord. The review and approval of Landlord of any plans and specifications refers only to the conformity of such plans and specifications to the general architectural plan for the Leased Land. Such plans and specifications are not reviewed and approved for architectural, structural or engineering design, and Landlord, by reviewing and approving such plans and specifications, assumes no liability or responsibility therefor or for any defect in any structure constructed or compliance from such plans or specifications or noncompliance therewith.

5.01.05. Additional Documents. Tenant shall furnish Landlord with copies of the following documents, as soon as they are available:

(a) Contract between Tenant and its architects;

(b) Contract between Tenant and all contractors engaged to work on the Building Project;

(c) Copies of all plans, specifications and working papers for the Building Project, including "as built" drawings; and

(d) All contractor and subcontractor Performance and Payment Bonds.

5.01.06. Cost to be Tenant's. The cost of any construction; renovation, enlargement, reconstruction, demolition, or of any change, alterations, or improvements, on the Leased Land shall be borne and paid for by Tenant.

5.01.07. No Liens. The Leased Land shall at all times be kept free of mechanic's and materialman's liens, as provided in ARTICLE 8, infra.

Approval of All Construction.

§5.02. No building or other improvements, the plans and specifications of which have not first received the written review and approval of Landlord, as required above or which do not comply with such approved plans and specifications, shall be constructed or maintained on the Leased Land. No addition

to or alteration of any building or other improvement erected on the Leased Land shall be commenced unless and until plans and specifications covering such additions or alterations shall have first been submitted to reviewed and approved by Landlord. Failure to comply with approved plans and specifications for any building or other improvement to be constructed and maintained on the Leased Land shall constitute a material default of this lease.

Improvements To Conform To Law

§5.03. Throughout the duration of this lease, Tenant agrees that all buildings, structures, and other improvements that may be erected on the Leased Land by Tenant or any subtenants, including, but not limited to, all elevators, escalators, plumbing, electrical, heating, air conditioning and ventilation equipment and systems, and all other equipment, will be installed, operated, and maintained in accordance with the law and with the regulations and requirements of Landlord, including its Development and Building Standards, and of any and all governmental authorities, agencies, or departments, having jurisdiction thereof, without cost or expense to Landlord.

Tenant's Ownership of Improvements and Fixtures

§5.04. During the term hereof, any and all of Tenant's improvements, fixtures, machinery, and equipment of whatsoever nature at any time constructed, placed, or

maintained upon any part of the Leased Land shall remain the property of Tenant.

5.04.01. Tenant's Right to Remove Fixtures.

Tenant shall have the right at any time during Tenant's occupancy of the Leased Land to remove any and all of Tenant's trade fixtures, machinery and equipment owned or placed by Tenant in, under, or upon the Leased Land, or acquired by Tenant, whether before or during the lease term; provided, Tenant shall, at its sole cost and expense, immediately repair any damage or injury to any building or other improvement on the Leased Land caused by any such removal of trade fixtures, machinery and equipment. This provision shall survive the expiration or termination of this lease.

5.04.02. Landlord's Right to Improvements. As

provided in ARTICLE 11, infra, upon expiration or sooner termination of this lease, title to all buildings and other improvements on the Leased Land shall be vested in the Landlord without the payment of any consideration therefor. Landlord, alternatively, at its sole discretion, may require Tenant, at Tenant's sole cost and expense, to remove all buildings and other improvements on the Leased Land and return the Leased Land to the same condition as it was at the time of the commencement of the term hereof. This provision shall survive the expiration or termination of the term of this lease.



ARTICLE 6.

ENCUMBRANCE OF LEASEHOLD ESTATE

Tenant's Right to Encumber With Landlord's Consent

§6.01. Tenant shall not encumber by mortgage or other security instrument, by way of assignment, or otherwise, Tenant's interest under this lease and the leasehold estate hereby created for any purpose, without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

ARTICLE 7.

REPAIRS AND RESTORATION

Tenant's Duty to Repair

§7.01. Tenant, at Tenant's own cost and expense, at all times during the term of this lease, agrees to keep and maintain, or cause to be kept and maintained, all buildings and other improvements which may be erected upon the Leased Land in good condition and a good state of appearance and repair, reasonable wear and tear excepted.

Damage or Destruction - Repair

§7.02. If the Leased Land, any building or other improvement, or any part thereof are damaged or destroyed by reason of any cause whatsoever, Tenant shall within sixty (60) days, commence and diligently pursue to completion the repair or reconstruction of such buildings and improvements on the Leased Land, and this lease shall remain in full force and

effect; provided, that during the last three (3) years of the term of this lease should the buildings and other improvements on the Leased Land be damaged or destroyed to such a substantial extent so as to render the Leased Land with the buildings and improvements thereon commercially unusable by Tenant, then within said sixty (60) day period, Tenant may elect to terminate the lease by delivering or assigning to Landlord all insurance proceeds received or to be received as a result of such damage or destruction and returning the Leased Land, at Tenant's sole cost, to the same condition or better as it was at the time of the commencement of the term hereof.

ARTICLE 8.

MECHANIC'S LIENS

Prohibition of Liens on Fee or Leasehold Interest

§8.01. Tenant shall not suffer or permit any mechanic's liens or other liens to be filed against the fee of the Leased Land nor against its leasehold interest nor any buildings or other improvements on the Leased Land by reason of any work, labor, services, or materials supplied or claimed to have been supplied to Tenant or anyone holding the Leased Land or any part thereof through or under Tenant. In the case of any construction on the Leased Land costing in excess of \$50,000.00, Tenant shall cause its contractor or builder to post performance and payment bonds to be approved in advance by Landlord.

Removal of Liens By Tenant

§8.02. If any such mechanic's liens or materialman's lien shall be recorded against the Leased Land, or any improvements thereon, Tenant shall cause the same to be removed or, and in the alternative, if Tenant in good faith desires to contest the same, Tenant shall be privileged to do so but in such case Tenant hereby agrees to indemnify and hold Landlord harmless from all liability for damages occasioned thereby and shall, in the event of a judgment of foreclosure upon said mechanic's lien, cause the same to be discharged and removed prior to the execution of such judgment.

ARTICLE 9.

ASSIGNMENT AND SUBLEASE

No Right to Assign and Sublease

§9.01. Tenant shall not sublet or assign the Leased Land or any part or portion thereof without the prior written consent of Landlord. Any unauthorized attempt to sublet or assign shall constitute a material default of this lease and such subletting or assignment shall be deemed null and void.

ARTICLE 10.

DEFAULT AND REMEDIES

Termination by Landlord on Specified Defaults

§10.01. If Tenant shall default in the payment of rent on the date provided for in this lease and such rent default continues for a period of five (5) or more days after

written notice of said default from Landlord, or in the event that Tenant shall default or fail in the performance of a covenant or agreement on his part to be performed in this lease other than the payment of rent, and such non-rental default shall not have been cured for a period of thirty (30) days after written notice of said default from Landlord, or if such default cannot, with due diligence, be cured within thirty (30) days, and Tenant shall not have commenced the remedying thereof within such period or shall not be proceeding with due diligence to remedy it (it being intended in connection with a default not susceptible of being cured by Tenant with due diligence within thirty (30) days that the time within which to remedy same shall be extended for such period as may be necessary to complete the same with due diligence), then, and in such case, it shall and may be lawful for Landlord, at Landlord's option, with or without summary proceedings, or any other appropriate legal action or proceedings, to terminate this lease and to enter upon the Leased Land or any part thereof and expel Tenant, or any person or persons occupying the Leased Land and so to repossess and enjoy the Leased Land.

10.01.01. Other grounds for default. If, after the commencement of the term of this lease, (i) Tenant shall be adjudicated a bankrupt or adjudged to be insolvent; (ii) a receiver or trustee shall be appointed for Tenant's property and affairs; (iii) Tenant shall make an assignment for the

default thereunder. All rights, options, and remedies of Landlord contained in this lease shall be construed and held to be cumulative, and no one of them shall be exclusive to the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this lease.

Continuation of Lease During Breach

§10.03. At Landlord's option, if Tenant has breached this lease and abandoned the Leased Land, no notice of termination will be given and this lease will continue in effect for so long as Landlord does not terminate Tenant's right to possession. Landlord may in that case enforce all its right and remedies under this lease, including the right to recover rent as it becomes due.

No Waiver of Default

§10.04. Landlord's failure to take advantage of any default or breach of covenant on the part of Tenant shall not be, or be construed as a waiver thereof, nor shall any custom or practice which may grow up between the parties in the course of administering this lease be construed to waive or to lessen the right of Landlord to insist upon the performance by Tenant any term, covenant, or condition hereof, or to exercise any rights given it on account of any such default. A waiver of a particular breach, or default, shall not be deemed to be a waiver of the same or any other subsequent breach of default.

The acceptance of rent hereunder shall not be, or be construed to be, a waiver of any term, or condition of this lease.

Demand for Rent

§10.05. Except as otherwise expressly provided herein, in the event that Tenant shall be in default in the payment of any rents provided for in this lease, Tenant waives the making by Landlord of any demand for rent prior to the commencement of any action in ejectment or to obtain possession of the Leased Land.

Late Charge

§10.06. Tenant shall pay Landlord a one and one-half percent (1 1/2%) late charge on every rent payment made five (5) days or more after due date.

ARTICLE 11.

SURRENDER AND REMOVAL

Surrender of Possession

§11.01. Upon the expiration of the term of this lease or any earlier termination thereof, Tenant shall surrender to Landlord possession of the Leased Land and all buildings and improvements thereon.

Removal of Personal Property

§11.02. If Tenant shall not then be in default under any of the covenants and conditions hereof, Tenant may remove or cause to be removed all of Tenant's machinery, equipment and trade fixtures on the Leased Land; provided, Tenant shall, at

its sole cost and expense, immediately repair any damage or injury to any building or other improvement on the Leased Land caused by such removal. Any of said machinery, equipment or trade fixtures that are not removed from the Leased Land within thirty (30) days after the date of expiration or any termination of this lease shall belong to Landlord without the payment of any consideration; provided, Landlord, may require Tenant to remove any or all of such machinery, equipment or trade fixtures at Tenant's sole cost and expense. The provisions of this §11.02 shall survive the expiration or termination of this lease.

Tenant's Quitclaim

§11.03. Upon the expiration of the lease term, or any sooner termination of this lease, at Landlord's request, Tenant agrees to execute, acknowledge and deliver to Landlord a proper instrument in writing, releasing, and quitclaiming to Landlord all right, title and interest of Tenant in and to the Leased Land and all buildings and other improvements thereon.

ARTICLE 12.

LANDLORD'S GENERAL PROTECTIVE PROVISIONS

Landlord's Right of Entry and Inspection

§12.01. Tenant shall permit Landlord or Landlord's agents, representatives, or employees to enter upon the Leased Land at reasonable times for the purpose of conducting an inspection in a reasonable manner to determine whether

agreements in this lease are being complied with, or for the purpose of showing the Leased Land to prospective tenants, purchasers or mortgagees.

Performance of Tenant's Obligations  
After Notice or Without Notice in Emergency

§12.02. If Tenant shall default in the performance of any covenant or condition in this lease required to be performed by Tenant, Landlord may, after thirty (30) days' notice to Tenant, or without notice if in Landlord's opinion an emergency exists, perform such covenant or condition for the account and at the expense of Tenant. If Landlord shall incur any expense, including reasonable attorneys' fees, in instituting, prosecuting, or defending any action or proceeding instituted by reason of any default of Tenant, Tenant shall reimburse Landlord for the amount of such expense. Should Tenant, pursuant to this lease, become obligated to reimburse or otherwise pay Landlord any sum of money in addition to the basic rent, the amount thereof shall be deemed additional rent and may, at the option of Landlord, be added to any subsequent installment of the basic rent due and payable under this lease, in which event Landlord shall have the remedies for default in the payment thereof provided by this lease. The provisions of this §12.02 shall survive the termination of this lease.



Release of Landlord After Sale

§12.03. In the event of a sale or conveyance by Landlord of the Leased Land or any part containing the Leased Land, Landlord shall be released from any future liability upon any of the covenants or conditions, expressed or implied, in favor of Tenant, and in such event, Tenant agrees to look solely to the responsibility of the successor in interest of Landlord in and to this lease.

Accord and Satisfaction

§12.04. No payment by Tenant or receipt by Landlord of a lesser amount than the rental shall be deemed to be other than on account of the rental, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of the rental or pursue any other remedy provided for in this lease.

Landlord's Contractual Security Interest

§12.05. Landlord shall have at all times a valid security interest to secure payment of all rent and other sums of money becoming due hereunder from Tenant, and to secure payment of any damages which Landlord may suffer by reason of the breach by Tenant of any covenant, agreement or condition contained herein, upon all fixtures and personal property of Tenant presently, or which may hereafter be, situated on the

Leased Land, and all proceeds therefrom, and such property shall not be removed without the consent of Landlord until all arrearages in rent as well as any and all other sums of money then due to Landlord or to become due to Landlord hereunder shall first have been paid and discharged and all the covenants, agreements and conditions hereof have been fully complied with and performed by Tenant. Upon the occurrence of an event of default by Tenant, Landlord may, in addition to any other remedies provided herein, enter upon the Leased Land and take possession of any and all fixtures and personal property of Tenant situated on the Leased Land, without liability for trespass or conversion, and sell the same at public or private sale, with or without having such property at the sale, after giving Tenant reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, at which sale Landlord or its assigns may purchase unless otherwise prohibited by law. Unless otherwise provided by law, and without intending to exclude any other manner of giving Tenant reasonable notice, the requirement of reasonable notice shall be met if such notice is given in the manner prescribed in the lease at least seven (7) days before the time of sale. Any sale made pursuant to the provision of this §12.05 shall be deemed to have been a public sale conducted in a commercially reasonable manner if held on the Leased Land or where the property is located after the time, place, and method

of sale and a general description of the types of property to be sold have been advertised in a daily newspaper published in Guam, for five (5) consecutive days before the date of the sale. The proceeds from any such disposition, less any and all expenses connected with the taking of possession, holding and selling of the property (including reasonable attorneys' fees and legal expenses), shall be the security interest granted in this §12.05. Any surplus shall be paid to Tenant or as otherwise required by law; Tenant shall pay any deficiencies forthwith. Upon request by Landlord, Tenant agrees to execute and deliver to Landlord a financing statement in form sufficient to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the provisions of the Guam Uniform Commercial Code.

#### Landlord's Title

§12.06. Nothing herein contained shall empower Tenant to do any act which can, may or shall cloud or encumber Landlord's fee simple title. This lease does not grant any rights to light and air over property except over public streets, alleys or ways kept open by public authority.

#### Reserved Rights

§12.07. Landlord reserves the following rights: (i) To change the street address of the Leased Land without notice or liability of Landlord to Tenant; (ii) to display during the last ninety (90) days of the term without hinderance or

EXHIBIT "A"

Property Description

Block No. 2, Tract No. 1427, Guam International Air Terminal Industrial Park, Municipalities of Barrigada and Dededo, Guam, containing an area of approximately 5,709 square meters or 61,448 square feet, as shown on Drawing No. DS1-S-88-25 dated March 30, 1989, prepared by registered land surveyor Nestorio C. Ignacio, RLS No. 65.

EXHIBIT "B"

§1. Rental Schedule. For the first five (5) year period commencing \_\_\_\_\_, 19\_\_ the rental rate shall be 60¢ per square foot per year for the total area of the Leased Land. At the end of each fifth (5th) year of the term of this lease, the rental rate for the ensuing five (5) years shall be increased by ten percent (10%) of the prior effective rental rate. Rental shall be paid monthly as specified in Section 3.01.02 of the lease.

§2. Rental Projections. Upon commencement of the term of this lease Landlord shall provide Tenant with 30 year rental projections on an annual and monthly basis.

§3. Rental During Option Periods.

The rental during the extended periods, if extended pursuant to Section 2.02 of the lease, shall be as agreed upon in writing by the parties or as determined pursuant to Section 3.01.01 of the lease.

EXHIBIT "C"

§1. Authorized Uses and Activities:

- a. Sale of Convenience Items.\*
- b. Car Wash Facilities.
- c. Automotive and Bus Parking and Servicing.

§2. Authorized and Required Uses and Activities:

- a. Motor Vehicle Service Station and Lube.

\* Subject to prior review and written approval by Landlord, the Guam Airport Authority.

EXHIBIT "D"

Facilities to be Constructed  
Plus Privately Owned Property  
GAA Industrial Park

Esso Eastern, Inc. plans initially to construct a service station offering petroleum products, lubricants, and convenience items on the above and privately-owned adjoining property. In subsequent phases, preliminary plans are to construct a drive-through carwash and possibly a lubrication facility, should demand justify.

Initial construction will consist of a service station building of approximately 1200 square feet. At the front of the building will be a canopy of some 4,000 square feet covering four petroleum multi-product dispensers (MPD's) offering premium unleaded gasoline, regular unleaded gasoline and automotive diesel oil.

Located beneath grade level will be three underground tanks for storage of the products and associated piping. All facilities will be constructed and installed in full compliance with EPA, territorial and federal laws and regulations.

Under the canopy, a concrete pad (drive) will be installed. Other areas around the facility will be asphalted, except for various planting areas.

An emergency operator also will be installed on the property to ensure continued operations during periods of power outages.

benefit of creditors or shall file a petition in bankruptcy for insolvency or for reorganization or shall make application for the appointment of a receiver; or (iv) any execution or attachment shall be issued against Tenant or any of Tenant's property, whereby the Leased Land or any building or buildings or any improvements thereon shall be taken or occupied or attempted to be taken or occupied by someone other than Tenant, except as may herein be permitted, and such adjudication, appointment, assignment, petition, execution, or attachment shall not be set aside, vacated, discharged, or bonded within thirty (30) days after the issuance of the same, then a default hereunder shall be deemed to have occurred so that the provisions of this §10.01 shall become effective and Landlord shall have the rights and remedies provided herein.

10.01.02. Peaceable Surrender. Should the term of this lease at any time be ended under the terms and conditions of this §10.01, or in any other way, Tenant hereby covenants and agrees to surrender and deliver up the Leased Land peaceably to Landlord immediately upon the termination of the term.

10.01.03. Reletting Leased Land. At any time or from time to time after any such default and notice thereof (if required) pursuant to this §10.01 Landlord or its representatives may, without notice, reenter the Leased Land by force, summary proceedings or otherwise, and remove all persons



and contents therefrom, without being liable to prosecution therefor, and Tenant hereby expressly waives the service of any notice in writing of intention to reenter or to institute legal proceedings to that end and Tenant shall pay, at the same time as the rent becomes payable under the terms hereof, a sum equivalent to the rent and additional rent reserved herein, and Landlord may relet the Leased Land or any part or parts thereof in the name of Landlord or otherwise, for a term or terms which may at Landlord's option be less than or exceed the period which would otherwise have constituted the balance of the term of this lease without releasing Tenant from any liability, applying such rent first, to the cost of obtaining possession, second, to restoring the Leased Land to a rentable condition, third, to brokerage fees and the cost to Landlord of reletting the Leased Land, and then to the payment of rent, items or additional rent and all other charges due and to grow due to Landlord, any surplus to be paid to Tenant, who shall remain liable for any deficiency. The failure or refusal of Landlord to relet the Leased Land or any part thereof shall not release or affect Tenant's liability. Any sums due to Landlord shall be paid in monthly installments by Tenant on the rent day specified in this lease and any suit brought to collect the amount due for any month shall not prejudice in any way the rights of Landlord to collect any sums due for any subsequent month. Landlord at its option, may make alterations, repairs,

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replacements or painting in the improvements on the Leased Land as Landlord may consider advisable for the purpose of reletting the Leased Land or any part thereof, and the making of such alterations, repairs, replacements or painting shall not operate to be construed to release Tenant from liability hereunder. Any mention in this lease of any particular remedy shall not preclude Landlord from any other remedy in law or in equity. Tenant hereby waives any and all rights of redemption granted by or under this lease. In the event of the termination of this lease pursuant to this §10.01, Landlord shall forthwith, notwithstanding any other provisions of this lease to the contrary, be entitled to recover from Tenant as liquidated damages an amount equal to the difference between the rent reserved in this lease for the unexpired portion of the term leased and the then fair and reasonable rental value of the Leased Land for the same period.

Other Remedies

§10.02. Any termination of this lease as herein provided shall not relieve Tenant from the payment of any sum or sums that shall then be due and payable to Landlord thereunder or any claim for damages then or theretofore accruing against Tenant hereunder, and any such termination shall not prevent Landlord from enforcing the payment of any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from Tenant for any

molestation by Tenant "For Rent" and similar signs on windows or elsewhere in or on the Leased Land; (iii) during the last ninety (90) days of the term or any part thereof, if during or prior to that time Tenant vacates the Leased Land, or at any time after Tenant abandons the Leased Land, to enter and decorate, remodel, repair, alter or otherwise prepare the Leased Land for reoccupancy; and (iv) to take any and all reasonable measures, including inspections, repairs, alterations, additions and improvements to the Leased Land as may be reasonably necessary or desirable for the safety, protection or preservation of the Leased Land or Landlord's interest. Landlord may enter upon the Leased Land and may exercise any or all of the foregoing rights hereby reserved without being deemed guilty of any eviction or disturbance of Tenant's use or possession and without being liable in any manner to Tenant.

Landlord's Right to Cure Default

§12.08. In the event Tenant shall fail to pay and discharge or caused to be paid and discharged, when due and payable any tax, assessment, or other charge upon or in connection with the Leased Land, or any lien or claim for labor or material employed or used in or any claim for damages arising out of the construction, repair, restoration, replacement, maintenance, and use of the Leased Land and the improvements, or any judgment on any contested lien or claim,

or any insurance premium or expense in connection with the Leased Land and improvements, or any other claim, charge, or demand which Tenant has agreed to pay or caused to be paid under the covenants and conditions of this lease, and if Tenant, after ten (10) days written notice from Landlord to do so, shall fail to pay and discharge the same, then Landlord may, at its option, pay any such tax, assessment, insurance expense, lien, claim, charge, or demand, or settle or discharge any action therefor, or judgment thereon, and all costs, expenses, and other sums incurred or paid by Landlord in connection with any of the foregoing shall be paid by Tenant to Landlord upon demand, together with interest thereon at the rate of one and one-half percent (1 1/2%) per month from the date incurred or paid, and any default in such repayment shall constitute a breach of the covenants and conditions of this lease.

ARTICLE 13

GAA ASSURANCES TO FAA AND JOINT USE AGREEMENT

Compliance

§13.01. Tenant agrees to observe and obey all applicable rules and regulations promulgated by the Federal Aviation Administration ("FAA") or Landlord governing conduct on and operations at the Guam International Air Terminal and all related facilities owned and operated by Landlord including the GAA Industrial Park (collectively referred to as "GIAT").

Landlord has received federal assistance through several executed Grant Agreements for GIAT development and certain land acquisition transactions. This lease and Tenant's use of the Leased Land and GIAT shall be subject to any and all applicable terms of those certain Sponsor's Assurances that Landlord (as Sponsor therein) has made to FAA as they relate to the application, acceptance and use of federal funds for GIAT development. The Assurances applicable to this lease shall include, but not be limited to, the following specific terms and conditions:

13.01.01. Non-discrimination. (a) Tenant for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the Leased Land that in the event facilities are constructed, maintained, or otherwise operated on the Leased Land for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended; (b) Tenant for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the Leased Land

that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the Leased Land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Tenant shall use the Leased Land in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

13.01.02. Books, Records, Accounts. Upon written request of FAA, Tenant shall provide all information reports required by FAA rules, regulations or directives issued pursuant thereto, and shall permit the examination of its books, records, and its facilities, as may be determined by FAA to be pertinent to ascertain compliance with such rules, regulations, orders and directives.

13.01.03. Service, Prices. Tenant shall furnish services and products on a fair, equal, and not unjustly discriminatory basis to all customers and users. Tenant shall charge fair, reasonable and not unjustly discriminatory prices for each unit of service and product.

13.01.04. Compatibility with GIAT Operations and Use. Compatibility with GIAT operations and use is a vital concern for any development on or near GIAT. Safety of nearby aircraft flight and ground operations must be and shall be given primary concern at all times. Thus, the development and use of the GAA Industrial Park, including this lease, are subject to and shall not be inconsistent with GIAT operations and use.

§13.02. Joint Use Agreement. The parties hereto are aware that Landlord has right to use the landing area of GIAT under a Joint Use Agreement entered into by the Government of Guam with the United States of America dated July 19, 1974. The rights and obligations under such Joint Use Agreement have been transferred to and assumed by Landlord. It is expressly agreed that this lease is subject and subordinate to the said Joint Use Agreement and all its terms and conditions.

#### ARTICLE 14.

##### GENERAL PROVISIONS

##### Covenant to Execute Additional Instruments

§14.01. Landlord and Tenant agree to execute and deliver any instruments in writing necessary to carry out the agreement, term, condition, or assurance in this lease whenever the occasion shall arise and request for such instruments shall be made by the other party.

No Waiver of Breach

§14.02. No failure by either Landlord or Tenant to insist upon the strict performance by the other of any covenant, agreement, term, or condition of this lease or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this lease, but each and every covenant, condition, agreement, and term of this lease shall continue in full force and effect with respect to any other then existing or subsequent breach.

Time of Essence

§14.03. Time is of the essence of this lease, and of each provision.

Successors In Interest

§14.04. Each and all of the covenants, conditions, and restrictions in this lease shall inure to the benefit of and shall be binding upon the successors in interest of Landlord, and subject to the restrictions of ARTICLES 6 and 9, supra, the authorized encumbrancers, assignees, transferees, subtenants, licensees, and other successors in interest of Tenant.

Entire Agreement

§14.05. This lease contains the entire agreement of the parties with respect to the matters covered by this lease,



and no other agreement, statement, or promise made by any party, or to any employee, officer, or agent of any party, which is not contained in this lease shall be binding or valid.

Waiver of Subrogation

§14.06. All insurance policies carried by Tenant covering the Leased Land and the buildings and other improvements thereon, including but not limited to contents, fire, casualty, and other insurance, shall expressly waive any right of the insurer against Landlord. Tenant agrees that its insurance policies will include such waiver clause or endorsement.

Partial Invalidity

§14.07. If any terms, condition, or provision of this lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

Relationship of Parties

§14.08. Nothing contained in this lease shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, and neither the provisions contained in this lease nor any acts of the parties shall be deemed to

create any relationship between Landlord or Tenant, other than the relationship of landlord and tenant.

Interpretation and Definitions

§14.09. The language in all parts of this lease shall in all cases be simply construed according to its fair meaning and not strictly for or against Landlord or Tenant. Unless otherwise provided in this lease, or unless the context otherwise requires, the following definitions and rules of construction shall apply to this lease:

14.09.01. Number and Gender. In this lease the neuter gender includes the feminine and masculine, the singular number includes the plural, and vice versa.

14.09.02. Mandatory and Permissive. "Shall", "will", and "agrees" are mandatory, "may" is permissive.

14.09.03. Captions. Captions of articles, sections, and subsections of the lease and of its table of contents are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this lease.

14.09.04. Term Includes Extensions. All references to the "term" of this lease or the "lease term" shall include any extensions of such term.

14.09.05. Other Definitions. Additionally, the following words and phrases shall have the following meanings:

14.09.05.01. Authorized Representatives:

Any officer, agent, employee, or independent contractor retained or employed by either party, acting within authority given him by that party.

14.09.05.02. Damage: Injury, deterioration, or loss to a person or property caused by another person's acts or omissions. Damage includes death.

14.09.05.03. Good Condition: The good physical condition of any improvements on the Leased Land and each portion of such improvements, including, without limitation, signs, windows, appurtenances, and Tenant's personal property as defined here. "In good condition" means first-class, neat, clean and broom-clean, and is equivalent to similar phrases referring to physical adequacy in appearance and for use.

14.09.05.04. Hold Harmless: To defend and indemnify from all liability, losses, penalties, damages as defined here, costs, expenses (including, without limitation, attorneys' fees), causes of action, claims, or judgments arising out of or related to any damage, as defined here, to any person or property.

14.09.05.05. Law: Any judicial decision, statute, constitution, ordinance, resolution, regulation, rule, administrative order, or other requirement of any municipality, territorial, Federal, or other government agency or authority

having jurisdiction over the parties or the Leased Land, or both, in effect either at the time of execution of the lease or at any time during the term, including, without limitation, any rule or regulation of Landlord.

14.09.05.06. Lien: A charge imposed on the Leased Land by someone other than Landlord, by which the Leased Land is made security for the performance of an act. Most of the liens referred to in this lease are mechanics' liens.

14.09.05.07. Maintain: Includes repair, replace, repaint, and clean.

14.09.05.08. Person: One or more human beings, or legal entities or other artificial persons, including, without limitation, partnerships, corporations, trusts, estates, associations, and any combination of human beings and legal entities.

14.09.05.09. Repair: The reconstruction, rebuilding and rehabilitation that are necessary to return destroyed portions of any improvements on the Leased Land and other property to substantially the same physical condition as they were in immediately before the destruction.

Attorneys' Fees

§14.10. In the event that either party hereto shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the

alleged failure of the other to perform or keep any term, covenant, or condition of this lease by it to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover, in addition to its court costs, reasonable attorneys' fee to be fixed by the court, and such recovery shall include court costs and attorneys' fees on appeal, if any. The court will determine who is the "prevailing party", whether or not the suit proceeds to final judgment; provided, however, that if an action is voluntarily dismissed, or dismissed pursuant to a settlement of the case, neither party will be entitled to recover its attorneys' fees.

Interest

§14.11. Any sum accruing to Tenant or Landlord under the provisions of this lease which shall not be paid when due shall bear interest at the rate of one and one-half percent (1 1/2%) per month from the date the rent was due with respect to rent and from the date written notice specifying such nonpayment is given to the defaulting party, with respect to sums due other than rent.

Modification

§14.12. This lease is not subject to modification except in writing signed by both parties.

Delivery of Rent and Notices - Method and Time

§14.13. All rents or other sums, notices, demands, or requests from one party to another may be personally

delivered or sent by mail, registered, return receipt requested, postage prepaid, to the addresses stated in this §14.13, and shall be deemed to have been given at the time of personal delivery or at the time of mailing.

14.13.01. Payment of Rent. All rents and other sums payable by Tenant to Landlord shall be by check payable to Landlord, delivered in person to the Landlord, or mailed to Landlord at P. O. Box 8770, Tamuning, Guam 96911.

14.13.02. Notices to Landlord. All notices, demands, or requests from Tenant to Landlord shall be given to Landlord by personal delivery or by mailing the same to P. O. Box 8770, Tamuning, Guam 96911.

14.13.03. Notices to Tenant. All notices, demands, or requests from Landlord to Tenant shall be given to Tenant at 267 South Marine Drive; UIU Building, Tamuning, Guam 96911.

14.13.04. Change of Address. Each party shall have the right, from time to time, to designate a different address by notice given in conformity with this §14.13.

#### ARTICLE 15.

#### CONDEMNATION

##### Consequences of Condemnation

§15.01. In the event during the term of this lease the Leased Land or any part thereof shall be taken or condemned by any authority having the power of eminent domain, then and

in every such case the estate and interest of Tenant in any part of the Leased Land so taken or condemned shall at once cease and terminate; and the rental to be paid under this lease shall be reduced for and during the unexpired balance of the term hereof, effective as of the date when Tenant shall by reason of such taking or condemnation lose the right to possession of such part of the Leased Land, in an amount which shall be that proportion of the rental which is equivalent to the reduction in the area of the Leased Land as a result of the taking or condemnation, and Landlord shall refund to Tenant any unearned portion of the rental thereof paid in advance prior to the effective date of such taking or condemnation.

15.01.01. Compensation and Damages. In every such case of taking or condemnation of the Leased Land or any part thereof, all compensation and damages payable for or as a result of such taking or condemnation shall be payable to and be the sole property of Landlord, and Tenant shall have no interest in or claim to such compensation or any part thereof whatsoever; and all compensation and damages payable for or on account of any buildings and other improvements on the Leased Land and any plans and other preparations therefor shall be payable to Landlord and Tenant as their respective interest shall appear, and said respective interest in such compensation and damages payable for or on account of any such buildings or other improvements shall be fixed and determined, as of the

date when Tenant shall by reason of such taking or condemnation lose the right to possession of such buildings or other improvements so taken or condemned, as follows:

15.01.01.01. Landlord's Interest. The interest of Landlord therein shall be a proportionate amount of such compensation and damages in the ratio which the expired portion of the term of this lease bears to the full term of this lease; and

15.01.01.02. Tenant's Interest. Tenant's interest therein shall be the balance of such compensation and damages after first deducting therefrom the amount of the interest of Landlord therein as hereinbefore defined.

15.01.02. Termination of Lease. In the event only part of the Leased Land shall be so taken or condemned, and either the balance of the Leased Land is unsuitable for the purpose for which leased to Tenant, or all of the buildings on the Leased Land shall be so taken or condemned, or only a part of the buildings shall be so taken or condemned, thereby rendering the remaining portion of the buildings unsuitable for Tenant's purposes under this lease, and Tenant shall remove all remains of said buildings and any other improvements from the balance of the Leased Land and restore the Leased Land to good and orderly condition under its option as herein provided, then and in every such case Tenant shall have the right at its option, by giving prior written notice thereof to Landlord



within sixty (60) days after such event, to terminate this lease. Upon such termination Tenant shall be relieved of all further obligations under this lease, and Landlord shall refund to Tenant any unearned portion of the rental therefor paid in advance prior to the effective date of such termination.

ARTICLE 16.

EXECUTION, RECORDING, AND INCORPORATION BY REFERENCE

Recording

§16.01. Tenant shall not record this lease without the written consent of Landlord; provided, however, upon the request of Tenant, the Landlord shall join in the execution of a memorandum of "short form" of this lease for the purpose of recordation. The memorandum or short form shall describe the parties, the Leased Land, the term of this lease, shall incorporate this lease by reference, and shall be in the form set out in Exhibit D attached hereto and incorporated herein.

Counterparts

§16.02. This lease, consisting of fifty (50) pages, plus exhibits, may be executed in several counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement, which shall be binding upon all parties hereto notwithstanding that all of the parties are not signatories.

Exhibits

§16.03. All Exhibits attached hereto are made a part of this lease by reference.

Execution

§16.04. This lease has been executed by the parties as of \_\_\_\_\_, 19\_\_.

GUAM AIRPORT AUTHORITY  
Landlord

\_\_\_\_\_  
Its

ESSO EASTERN, INC.-GUAM  
BRANCH  
Tenant

\_\_\_\_\_  
Its

TERRITORY OF GUAM  
Municipality of Agana

On this \_\_\_\_\_ day of \_\_\_\_\_, 1989, before me, a notary public in and for the Territory of Guam, personally appeared \_\_\_\_\_, the duly authorized representative of GUAM AIRPORT AUTHORITY, known to me to be the person who executed the foregoing GAA Industrial Park Ground Lease, and acknowledged to me that he executed the same on behalf of said corporation.

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

)SEAL( \_\_\_\_\_

TERRITORY OF GUAM

Municipality of Agana

On this \_\_\_\_\_ day of \_\_\_\_\_, 1989, before me, a notary public in and for the Territory of Guam, personally appeared \_\_\_\_\_, the duly authorized representative of ESSO EASTERN, INC.-GUAM BRANCH, known to me to be the person who executed the foregoing GAA Industrial Park Ground Lease, and acknowledged to me that he executed the same on behalf of said corporation.

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

)SEAL(

\_\_\_\_\_

10-25-88  
04-10-89 (rev.)



# GUAM AIRPORT AUTHORITY

(ATURIDAT PUETTON BATKON AIREN GUAHAN)

P.O. BOX 8770 Tamuning, Guam 96911/Telephone: 646-0300, 646-0301, 646-0302  
Telex: 6456 GUMARPT GM  
FAX: (671) 646-8823

F A C S I M I L E   T R A N S M I T T A L

TO: Kathy Maraman - Governor's Legal Counsel

DATE: July 31, 1989      TIME: 4:35 p.m.      NO. OF PAGES TRANSMITTED: 7

DESCRIPTION: GIAT Industrial Park: Lot 17

FROM: DUANE M. I. SIGUENZA

If you do not receive all pages, please call back as soon as possible. Ask for: FINA



# GUAM AIRPORT AUTHORITY

(ATURIDAT PUETTON BATKON AIREN GUAHAN)

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 Telex: 6456 GUMARPT GM  
 FAX: (674) 646-8823

MEMORANDUM

July 31, 1989

**TO:** Kathy Maraman  
 Governor's Legal Counsel

**FROM:** Executive Manager

**SUBJECT:** GIAT Industrial Park: Lot 17

Pursuant to our conversation this morning, the following is provided as background considerations in the GAA Board of Directors approval of Esso Eastern Guam, Inc.'s (Exxon) proposal for the referenced ground lease.

GAA had announced on three separate occasions a formal Request for Proposals (RFP) for the establishment of "airport-related" businesses in its industrial park. Exxon had responded in March 1988 to the second announcement. Their proposal was approved based on the following considerations:

- a. At the time of approval (February 9, 1989), Exxon was the only offeror to develop a service station. There was no competing interest.
- b. The proposed use of the lot was found to be compatible with airport facilities. The Federal Aviation Administration (FAA) recognizes services stations as being common to most airports.
- c. Lot 17 falls within the U.S. Navy's recognized Accident Potential Zone II (APZ-2) which restricts the types of development within such areas. A service station is one of a few acceptable/compatible uses in an APZ-2. In the absence of any other compatible land-use plan, the Authority has supported in its assurances to FAA the Navy Air Installation Compatible Use Zone (AICUZ) guidelines.
- d. The Exxon proposal included other related activities found to be in the interest of the Authority, its tenants and the

Memo to Kathy Maraman  
 July 31, 1989  
 page 2

general public frequenting the airport. It proposed the operation of a car wash facility and separate lubrication facility. Both were approved based on the potential to serve the airport's car rental concessionaires. [The request for industrial park space by car rental and bus operations combined far exceed available land.]

In the time since approval of Exxon's proposal, only one other oil company had responded to the solicitation for industrial park space (March 1989). This second interest was dependent on GAA's ability to accommodate fleet operators (tour bus/rental cars). Since a decision on the latter group has yet been reached, the proposal for a "fleet" service station is also pending.

We might also note that no exclusive rights have been or can be granted for specific type facilities or operations. In this case, the Authority would continue to entertain any other service station proposal in determining the best allocation of very limited property to numerous aviation/airport needs and interests.



JESS Q. TORRES

Attachment: Exxon's proposed uses for Lot 17



**ESSO EASTERN INC.**



287 SO. MARINE DRIVE • UIU BLDG. • 3RD FLOOR • TAMUNING, GUAM 96911  
TEL: 649-5620-23 • TELEX: 721-8172 • FAX: 649-5615

March 10, 1989

MAR 1989  
Received  
Guam Airport  
Authority  
*[Signature]*

Mr. Duane M. I. Sequenza  
Guam Airport Authority  
P.O. Box 8770  
Tamuning, Guam 96911

Re: GAA Industrial Park  
Commitment Letter

Dear Mr. Sequenza:

Thank you for your letter of February 10, 1989 advising of the GAA Board of Directors approval of Esso Eastern Inc.'s proposal to lease Lot No. 17 of the GAA Industrial Park. We are anxious to move forward in finalizing all items necessary to facilitate development of the property.

Enclosed is our deposit check in the amount of \$18,434.40 along with our itemized schedule and explanation of all intended uses for the property.

If you need clarification or additional explanation of the enclosed, please let me know.

Sincerely,

*[Signature of Jack J. Miller]*

Jack J. Miller

JJM:jp

Enclosures

cc: Mr. Leo Slotnik  
Mr. Jess Torres

Esso Eastern Inc.  
Itemized Schedule of Intended Uses  
Lot No. 17  
GAA Industrial Park

- Use No. 1 -
  - 0 Exxon Service Station
  
- Use No. 2 -
  - 0 Exxon Car Wash
  
- Use No. 3 -
  - 0 Vehicle Parking Area



Esso Eastern Inc.  
Explanation of Airport Related Uses  
Lot No. 17  
GAA Industrial Park

Use No. 1

Service Station with Lubes/Convenience Items

Esso Eastern, Inc.'s proposal to develop a service station offering fuel related services, fuel, lubricants and convenience food items will serve the following primary groups of customers.

- A. Airport Industrial Park Tenants and their employees and customers;
- B. Existing tenants of the Guam International Airport, including airlines, freight companies, and rental car agencies, along with their employees and customers;
- C. Other general Airport users including travellers, and tour and tourist related companies, as well as rental car agencies and their employees and customers;
- D. General public who travel through the GIA via Route 10A and adjacent to the Industrial Park along Route 16.

Development of a service station within the Industrial Park, but at the eastern perimeter would provide fueling convenience which presently does not exist in this immediate area. Additionally, inclusion of a service station offering gasoline and diesel products within the Industrial Park would alleviate the need of the various Park tenants to construct and operate personal-use petroleum storage and dispensing facilities, thereby reducing their investment and facility development costs and significantly alleviating various safety and environmental concerns associated with petroleum product handling.

Items such as lubricants, other automotive related products, beverages, snacks, impulse grocery items, etc. for off-site consumption would be offered as an added convenience to the various customers utilizing the service station.

Use No. 2Car Wash

Esso Eastern Inc.'s proposal to develop a carwash is predicated on the fact that no such facility exists within a number of miles of the airport, yet hundreds of vehicles owned by rental car agencies require frequent clean-up before delivery to airport patrons. Construction of such a facility, (particularly when combined with a service station,) would offer additional convenience to these agencies and eliminate their need to continue washing vehicles in areas adjacent to the GIA terminal. Construction of a car wash would also provide an additional convenience to Industrial Park tenants and their customers and employees; GIA tenants and their customers and employees; general airport users; and the general public utilizing Routes 10A and/or Route 16.

Construction of the above car wash would begin in 1990 pending further evaluation of the appropriate type of unit to install to best satisfy the needs of the potential users.

Use No. 3Parking

A portion of the property is proposed for parking spaces to serve the various companies whose need for airport related parking does not justify their leasing an entire lot in the Industrial Park. It is not the intention of Esso Eastern Inc. to compete with the GAA/GIA for parking revenue. However, there are various companies serving the tourist industry which could effectively utilize a location in the Airport vicinity to park vehicles when not in use. The parking area would be developed after further study of the actual demand for such facilities.

EXHIBIT "A"

Property Description

Block No. 2, Tract No. 1427, Guam International Air Terminal Industrial Park, Municipalities of Barrigada and Dededo, Guam, containing an area of approximately 5,709 square meters or 61,448 square feet, as shown on Drawing No. DS1-S-88-25 dated March 30, 1989, prepared by registered land surveyor Nestorio C. Ignacio, RLS No. 65.

EXHIBIT "B"

§1. Rental Schedule. For the first five (5) year period commencing \_\_\_\_\_, 19\_\_ the rental rate shall be 60¢ per square foot per year for the total area of the Leased Land. At the end of each fifth (5th) year of the term of this lease, the rental rate for the ensuing five (5) years shall be increased by ten percent (10%) of the prior effective rental rate. Rental shall be paid monthly as specified in Section 3.01.02 of the lease.

§2. Rental Projections. Upon commencement of the term of this lease Landlord shall provide Tenant with 30 year rental projections on an annual and monthly basis.

§3. Rental During Option Periods.

The rental during the extended periods, if extended pursuant to Section 2.02 of the lease, shall be as agreed upon in writing by the parties or as determined pursuant to Section 3.01.01 of the lease.

EXHIBIT "C"

§1. Authorized Uses and Activities:

- a. Sale of Convenience Items.\*
- b. Car Wash Facilities.
- c. Automotive and Bus Parking and Servicing.

§2. Authorized and Required Uses and Activities:

- a. Motor Vehicle Service Station and Lube.

\* Subject to prior review and written approval by Landlord, the Guam Airport Authority.

EXHIBIT "D"

Facilities to be Constructed  
Plus Privately Owned Property  
GAA Industrial Park

Esso Eastern, Inc. plans initially to construct a service station offering petroleum products, lubricants, and convenience items on the above and privately-owned adjoining property. In subsequent phases, preliminary plans are to construct a drive-through carwash and possibly a lubrication facility, should demand justify.

Initial construction will consist of a service station building of approximately 1200 square feet. At the front of the building will be a canopy of some 4,000 square feet covering four petroleum multi-product dispensers (MPD's) offering premium unleaded gasoline, regular unleaded gasoline and automotive diesel oil.

Located beneath grade level will be three underground tanks for storage of the products and associated piping. All facilities will be constructed and installed in full compliance with EPA, territorial and federal laws and regulations.

Under the canopy, a concrete pad (drive) will be installed. Other areas around the facility will be asphalted, except for various planting areas.

An emergency operator also will be installed on the property to ensure continued operations during periods of power outages.



# GUAM AIRPORT AUTHORITY

(ATURIDAT PUETTON BATKON AIREN QUAHAN)

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FAX: (671) 646-8823

## TESTIMONY ON BILL NO. 961 AND 974

### "AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY TO LEASE THREE PARCELS IN THE GAA AIRPORT INDUSTRIAL PARK"

Senator John Aguon, and members of the Committee on Tourism and Transportation, 20th Guam Legislature.

The Guam Airport Authority is appearing today to testify in favor of Bill 961 and No. 974 which will authorize the Guam Airport Authority to lease three parcels in the GAA Airport Industrial Park.

The passage of Bill No. 961 and 974 will culminate a lengthy process in the approval of initial tenants for the Airport Industrial Park. The Park was developed specifically to accommodate tenants such as the ones proposed who will support and enhance the services provided by the Airport. This has been the Authority's objective since Resolution 298 of the 13th Guam Legislature adopted the 1970 GIAT Masterplan on June 21, 1976. This led to the transfer of government property within the proposed airport

TESTIMONY ON BILL 961 & 974  
October 25, 1989

perimeter from the Department of Land Management to GAA for "airport related development". With the acquisition of government property, GAA initiated the 1977 GIAT Masterplan study to define the use of the additional property. As a result, the new terminal building with additional aircraft aprons was built and a airport access road was completed several years later. Having satisfied the most pressing airport needs with these improvements, the concept of the Industrial Park was pursued to accommodate activities demonstrated to be airport related. The objective of the plan was to enhance the overall services provided by the Airport and its users.

The tenants proposed for the Industrial Park in Bills No. 961 and 974 have been thoroughly reviewed by an in-house review committee consisting of the Chairman and Vice Chairman of the Board of Directors, Executive Manager, and the other key staff members of the Authority. This preliminary approval by the Authority, subject to legislative and executive concurrence, was given only after their proposed operation was reviewed in detail and determined to be in compliance with all of GAA's binding agreements covering the management of the Authority and its facilities. These agreements include the GAA 1979 Bond Indenture, Airline Signatory Agreements, Federal Aviation Administration (FAA) Grant Agreements, among others. The criteria established for the selection of the tenants



was approved by policy which is attached to our testimony for your ready reference. As you can see, all three fall in the priority one category.

In view of the limited amount of airport property available, the Authority has attempted to accommodate those activities that are directly airport/aviation related without competing against private interests for the development other facilities that are tourism related.

We are quite aware that that the Airport Industrial Park is situated on property -- airport property -- desirable by many for countless uses, uses not necessarily associated with airport/aviation development. We understand these interests. However, the fact remains that there is a definite requirement to accommodate airport related expansion and support -- and very limited amounts of airport property with which to accomplish this.


The Authority has received over forty-three (43) inquiries to lease parcels in the Industrial Park. All proposals have been or are in the process of being reviewed by the Authority for future submittal to the Legislative and Executive Branch for consideration. No proposals have been rejected by the Authority. Approximately, nine (9) parcels totalling 653,888 square feet or 60,293 square meters are available for assignment. The three (3) companies have been recommended for approval since they best meet the criteria

TESTIMONY ON BILL 961 & 974  
October 25, 1989

established by GAA.

The Guam Airport Authority appreciates the opportunity to testify before this committee. It is our hope that the legislative review process of Bill 961 and 974 be expedited so that the tenants proposed, if approved, may begin their construction of their facilities as soon as possible.

We appreciate your continued assistance in developing the future of the Guam Airport Authority.



JESS Q. TORRES  
Executive Manager

LIST OF ATTACHMENTS

- 1) Proposed Lease for:  
Dairy Farm  
Exxon  
Mid Pacific Far East
- 2) Airport Industrial Park - Information Packet
- 3) Request for Proposal
- 4) Real Estate Appraisal

## STATEMENT OF POLICY FOR GIAT INDUSTRIAL PARK

This is a Statement of Policy by the Board of Directors of the Guam Airport Authority (GAA) in regards to Lease, Rental, Building Standards and other matters for GIAT Industrial Park. It is intended to provide broad guidelines for GAA Staff and prospective tenants of GIAT Industrial Park.

1. LAND RENTAL PRIORITIES. In selection and approval of tenants for GIAT Industrial Park land leases, priority shall be as follows:

FIRST, Aviation and Airport Related Tenants. This is broadly defined as those types of users commonly found at most International Airports. They include, but are not limited to the following types of uses:

- Aircraft Maintenance and Servicing
- Air Cargo Facilities
- Airport Mail Facilities
- Auto Rental Car Facilities
- Aircraft Parts - Manufacturing, Servicing, Repairing
- Aviation Schools - Flying, Maintenance, Service
- Duty Free Facilities
- Fixed Base Operators
- In-Flight Food Kitchens and Facilities
- Ground Equipment Maintenance
- Hotels at Airport (catering primarily to business travelers)
- Tour Operators and Travel Agents
- Concession Related Facilities
- Etc.

SECOND, Warehousing and Light Industry, users having a direct or indirect relationship with support and supply to airport tenants.

THIRD, Limited Commercial users not in direct competition with available sites in the immediate vicinity. Their location could be at the Route 16 end of GIAT.

2. TENANT QUALIFICATIONS. Tenants who will occupy long term land leases at GIAT Industrial Park must be carefully screened prior to approval. Qualifications include:

(1) All prospective tenants must submit evidence of their financial ability and experience to undertake a lease of land and perform the necessary site improvements and development.

(2) Credit worthiness of a prospective tenant is a requirement and prior to the execution of any land lease, GAA reserves the right to conduct a credit investigation.

(3) Preference will be given to prospective tenants who will create jobs and provide training for Guam employees. Professional, technical and trade training will receive a more favorable consideration by GAA (higher paying jobs as compared to minimum wage).

3. LEASE TERM:

(1) Land lease terms and extension options will be established by negotiation with the objective being to allow the Tenant/Developer adequate time in which to amortize his investment in buildings and improvements on the leased lot.

(2) The Base term will normally not exceed thirty (30) years with a maximum of two ten (10) year extension options.

(3) In all cases, at the end of the lease term, all improvements shall become the property of GAA unless the lease provisions provide otherwise.

4. LAND RENTAL RATES. Based on a detailed Land Lease Feasibility Study of Market value rates for GIAT Industrial Park, tentative rates have been established. These may be changed somewhat when better cost data is known after construction has started.

(1) The initial rental rate for site leases is tentatively estimated between \$0.50 to \$0.60 per square foot per annum (PSFPA). The final rental rate will be set prior to lease negotiations.

(2) Land rental rates will be subject to redetermination at a fixed amount of 10% every 5 years on the immediate prior lease amount.

5. STANDARD LEASE. The Standard Lease for GIAT Industrial Park will be prepared by GAA Legal Counsel. This will serve as the basis for initial negotiations with prospective tenants. The provisions in the Lease will be coordinated with the GAA Industrial Park Committee described in the next paragraph.

6. INDUSTRIAL PARK COMMITTEE. The GAA Board of Directors has established an Industrial Park Committee with members as follows: Board Chairman, Board Vice Chairman, Executive Manager, and Industrial Park Consultant. Prospective tenants will be interviewed by Committee members, and selected tenants will be recommended to the Board for final approval. The Committee will monitor the Marketing program to insure best results. The Committee will study all proposed Financing methods and recommend to the Board a sound Financing proposal. Other programs and matters will be discussed as the need arises.

## 7. DEVELOPMENT AND BUILDING STANDARDS.

(1) Development and Building Standards have been drafted as a separate document, as part of the Infrastructure Design Contract with Albert H. Tsutsui, A.I.A., Inc. A copy will be provided to prospective tenants for use and guidance. All improvements shall be constructed in accordance with the highest applicable Standards and Building Codes in effect at the time of construction.

(2) All site plans, specifications and drawings must be first approved by GAA prior to submittal to the Guam Public Works Department for Building Permit. GAA's approval will not be unreasonably withheld or delayed.

(3) All fees, charges, and other related costs for the development of Tenant's improvements shall be for the account of the Tenant and GAA shall have no responsibility or liability therefore.

(4) Tenant shall not allow any lien (mechanics, supplier or other) to remain on the leasehold without satisfying and removing the same in a reasonable time to prevent suits.

(5) In all cases, leases shall be net in that the Tenant shall be totally responsible for all cost associated with the land and improvements thereof inclusive of maintenance, repair, replacement, upkeep, operations, insurance, taxes, and other related costs.

## 8. MANAGEMENT

(1) The overall management of the Industrial Park shall be under the jurisdiction of the GAA Executive Manager.

(2) Initially, leasing will remain under GAA Administration, with rent collection under Accounting, as at present, both supervised by the Executive Manager. Simple records should be kept to evaluate the Industrial Park as a possible separate Revenue and Cost Center if the management work load warrants it in the future.

PRESENTATION TO THE GUAM LEGISLATURE

-----  
COMMITTEE ON TOURISM & TRANSPORTATION  
SENATOR JOHN P. AGUON - CHAIRMAN

COMMITTEE ON HOUSING & COMMUNITY DEVELOPMENT  
SENATOR GORDON MAILLOUX - CHAIRMAN

COMMITTEE ON FEDERAL, FOREIGN & LEGAL AFFAIRS  
SENATOR FRANK SANTOS - CHAIRMAN

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEES. MY NAME IS STEVEN B. CRUZ, THE GENERAL MANAGER OF DAIRY FARM GUAM LTD. I APPEAR BEFORE YOU TODAY TO SEEK YOUR APPROVAL TO ENTER INTO A GROUND LEASE AGREEMENT FOR LAND LOCATED AT THE GUAM AIRPORT AUTHORITY INDUSTRIAL PARK.

DAIRY FARM GUAM LTD. IS A SUBSIDIARY OF THE DAIRY FARM COMPANY LIMITED, WITH COMPANY HEADQUARTERS LOCATED IN HONGKONG.

WE OPERATE FLIGHT KITCHENS IN HONGKONG, SAIPAN AND GUAM, WITH MANAGEMENT AGREEMENTS IN FLIGHT KITCHENS IN THAILAND, BEIJING AND SHANGHAI. WE ALSO OPERATE COMPANY CANTEENS, RESTAURANTS, INDUSTRIAL CATERING AND OUTSIDE CATERING SERVICES IN HONGKONG, CHINA AND GUAM.

DAIRY FARM CATERING COMPANY IS A SUBSIDIARY OF THE DELAWARE NORTH GROUP OF COMPANIES, WITH CORPORATE HEADQUARTERS IN BUFFALO, NEW YORK. WE OPERATE A MYRIAD OF CATERING OPERATIONS IN THE U.S., AUSTRALIA AND EUROPE INCLUDING SPORTS STADIUM CONCESSIONS, AIRPORT TERMINAL CONCESSIONS, INFLIGHT CATERING AND CONVENTION CENTERS. OUTSIDE THE CATERING INDUSTRY, DELAWARE NORTH ALSO HAS MAJOR OPERATIONS IN TYPOGRAPHY, CAR PARK CONCESSIONS, PARA-MUTUAL OPERATIONS AS WELL AS HORSE AND DOG TRACKS.

IN THE FAR EAST AND THE PACIFIC RIM ALONE, DAIRY FARM AND ASSOCIATED COMPANIES PROVIDE OVER 5 MILLION MEALS A YEAR TO DINERS AND AIR TRAVELLERS. DAIRY FARM IS COMMITTED TO THE REGION AND SERVICE TO ITS DINING NEEDS.

ON GUAM, AS THE TOURIST INDUSTRY GROWS, DAIRY FARM HAS BEEN PROVIDING QUALITY INFLIGHT SERVICE TO THE AIRLINES TRANSITTING THE GUAM INTERNATIONAL AIRPORT SINCE 1969. IN ADDITION TO INFLIGHT SERVICE, WE OPERATE THE FOOD AND BEVERAGE CONCESSIONS AT THE INTERNATIONAL AIRPORT. WE STARTED ON GUAM WITH LESS THAN 100 LOCAL EMPLOYEES, WE HAVE NOW GROWN TO OVER 350 AND ANTICIPATE THAT WITHIN THE NEXT FIVE YEARS TO GROW TO MORE THAN 500 LOCALLY EMPLOYED STAFF.

OUR CONTRIBUTION TO THE LOCAL ECONOMY IS IN THE FORM OF OFFERING EMPLOYMENT TO THE LOCAL PEOPLE, PURCHASING OF LOCAL PRODUCTS AND THE USE OF LOCAL SERVICES, WHEREVER POSSIBLE AS WELL AS PARTICIPATION IN LOCAL ASSOCIATIONS PROMOTING OUR ISLANDS TOURISM INDUSTRY WHICH IS REFLECTANT OF OUR COMPANY PHILOSOPHY. IN THE UPCOMING YEARS, GUAM WILL SEE A TREMENDOUS GROWTH IN THE NUMBER OF TOURIST COMING TO OUR ISLAND. DAIRY FARM HAS THE COMMITMENT AND THE EXPERTISE TO SEE THAT THE QUALITY OF FOOD AND SERVICE TO OUR VISITORS IS MET WITH THE HIGHEST DEGREE OF INTEGRITY.

IN OUR CONTINUING COMMITMENT TO THE ISLAND OF GUAM, WE INTEND TO BUILD A NEW FACILITY TO MEET THE NEEDS OF OUR VISITORS FOR THE NEXT 20 YEARS. AT THE PRESENT TIME WE ARE PRODUCING APPROXIMATELY 4,000 MEALS A DAY FOR THE AIR TRAVELLERS DEPARTING GUAM. GIVEN THE ANTICIPATED GROWTH, THIS NEW MODERN FACILITY, WITH CLOSER PROXIMITY TO THE AIRPORT WILL GIVE US THE MEANS TO FULFILL THIS COMMITMENT.

OUR INTENTION IS TO USE THIS FACILITY TO PROVIDE INFLIGHT CATERING SERVICES AND ALL AUXILLIARY SERVICES REQUIRED OR RELATED TO THE AIRPORT OR AIRLINES AS WELL AS TO OFFER THE PEOPLE OF OUR ISLAND OUTSIDE CATERING OF THE SAME QUALITY AND STANDARDS AS IS PROVIDED TO OUR OFF ISLAND VISITORS. THIS IS CLEARLY DEFINED IN EXHIBIT "C" OF THE PROPOSED LAND LEASE AGREEMENT.



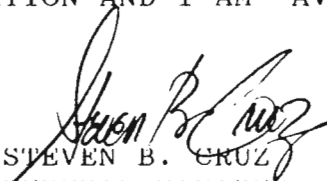
WE PLAN ON BUILDING A 70,000 SQUARE FOOT, 2 STORY FACILITY WITH ROOM FOR FUTURE EXPANSION, AS OUR ISLAND GROWS.

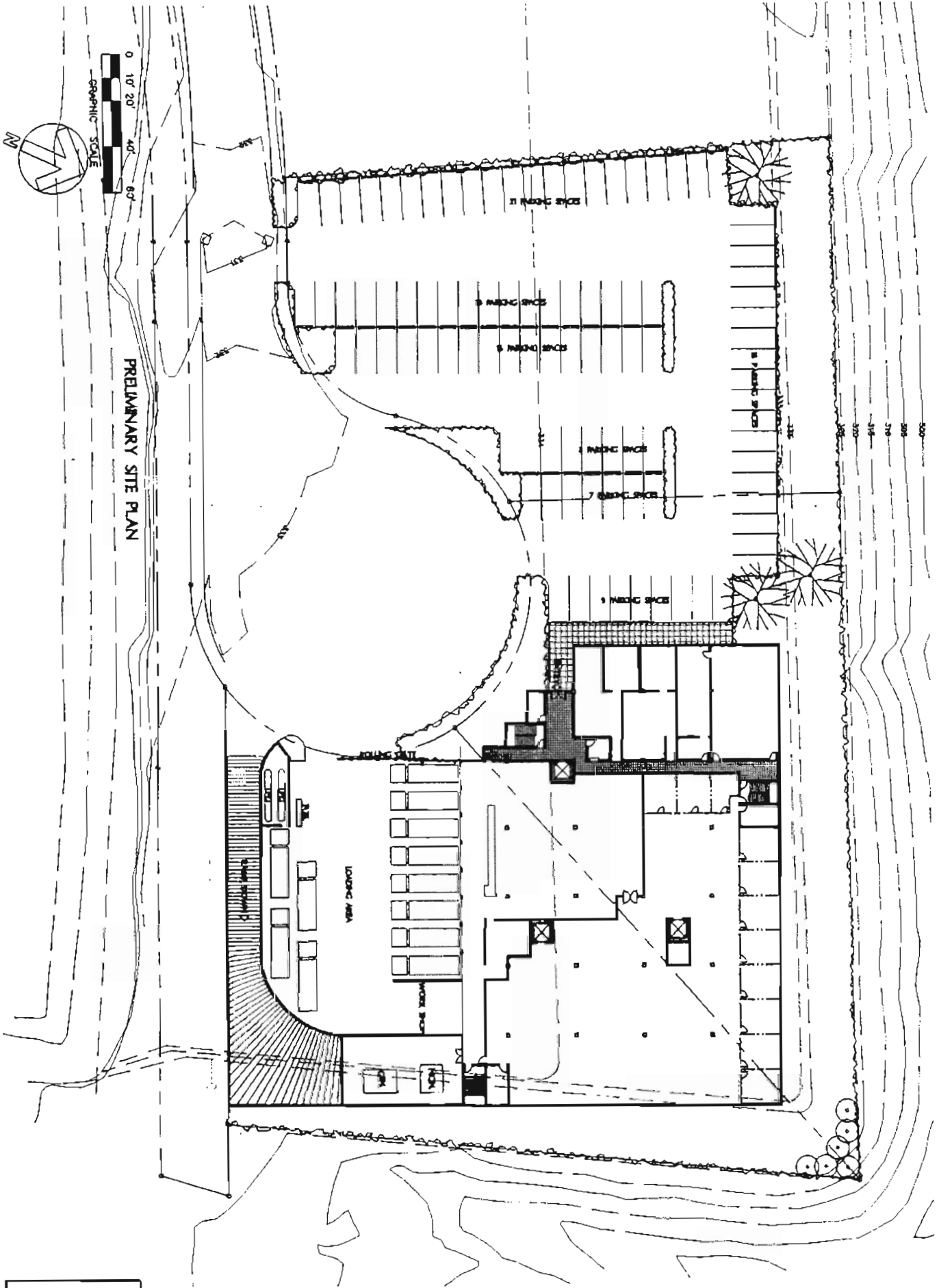
THIS MODERN FACILITY WILL HOUSE A FULLY EQUIPPED KITCHEN, DRY AND REFRIGERATED STORAGE, DISHWASHING, OFFICES, EMPLOYEE CANTEEN, LOCKERS, SHOWERS AND LAUNDRY ROOMS. THE BUILDING WILL BE MADE OF REINFORCED CONCRETE AND STEEL. WE WILL ALSO BE INCLUDING PARKING FOR OUR EMPLOYEES, LOADING AND RECEIVING DOCKS, STORM DRAINAGE, FENCING AND LANDSCAPING AS WELL AS ON-SITE GENERATOR FOR FULL STANDBY ELECTRICAL POWER, ON-SITE WATER STORAGE FOR EMERGENCY USE, LP GAS TANKS, UNDERGROUND VEHICLE FUEL TANKS, STEAM BOILER AND A GARBAGE STERILIZER OR INCENERATOR AS REQUIRED BY THE U.S.D.A.. THE COST ESTIMATE AT THIS TIME IS \$ 7.2 MILLION DOLLARS.

WE HAVE AWARDED A CONTRACT TO A REPUTABLE LOCAL ARCHITECTURAL FIRM WHO IS IN THE PROCESS OF DESIGNING THIS FACILITY WITH INPUT FROM HIGHLY QUALIFIED INDIVIDUALS WHO HAD BEEN INVOLVED IN DESIGNING INFLIGHT CATERING FACILITIES THROUGHOUT THE WORLD. THE SCHEMATIC DESIGNS WILL BE COMPLETED SHORTLY AND WILL BE SUBMITTED FOR REVIEW AND APPROVAL TO THE GUAM AIRPORT AUTHORITY.

THAT CONCLUDES OUR PRESENTATION AND I AM AVAILABLE TO ANSWER QUESTIONS YOU MAY HAVE AT THIS TIME.

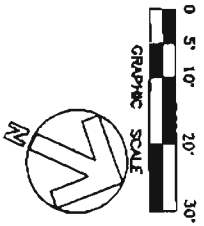
PRESENTATION GIVEN BY:

  
STEVEN B. CRUZ  
GENERAL MANAGER  
GUAM AND SAIPAN

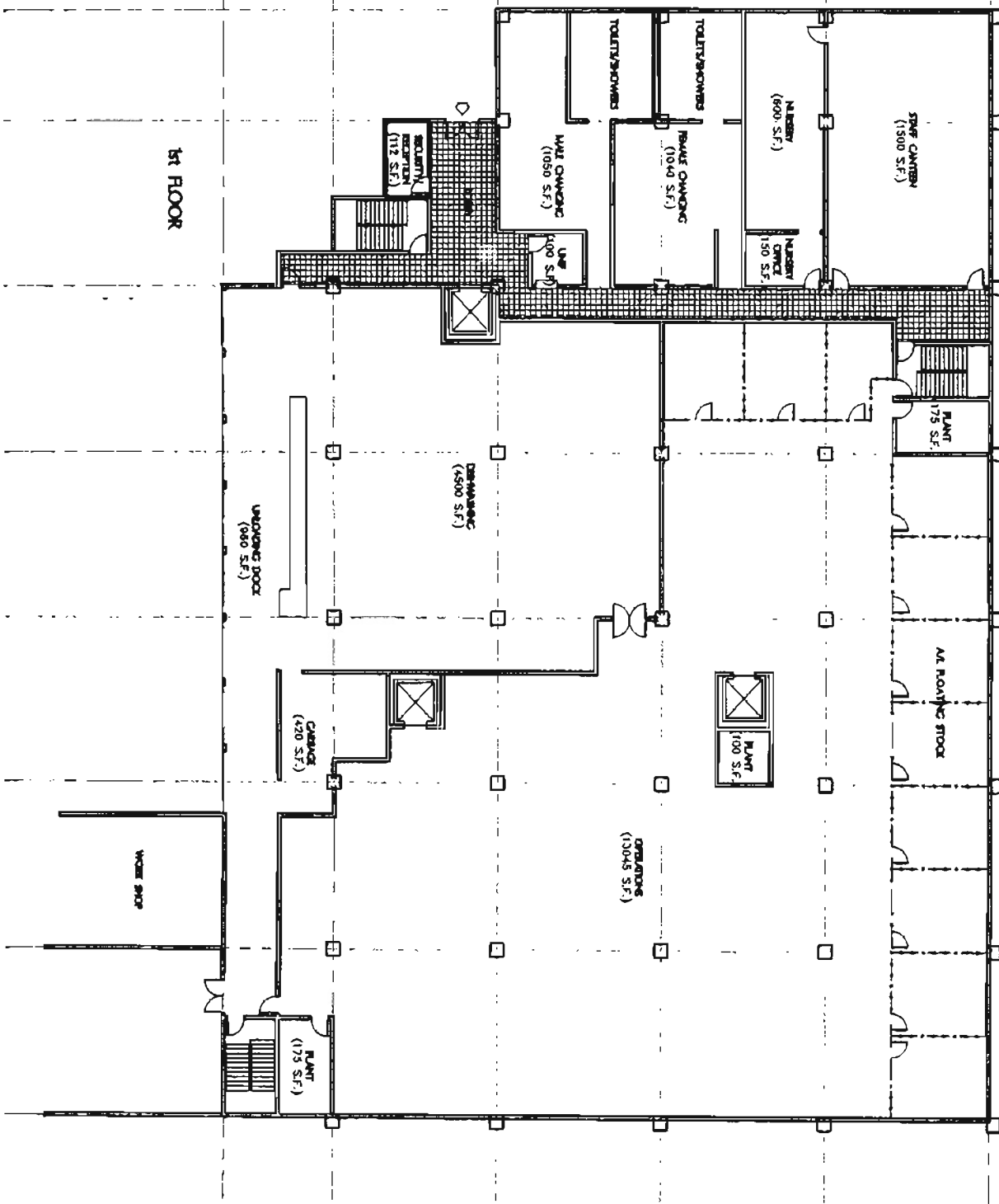


GUAM FLIGHT KITCHEN  
 The Dairy Farm (Guam), Inc. 10/24/89

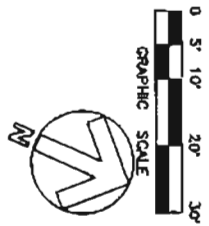




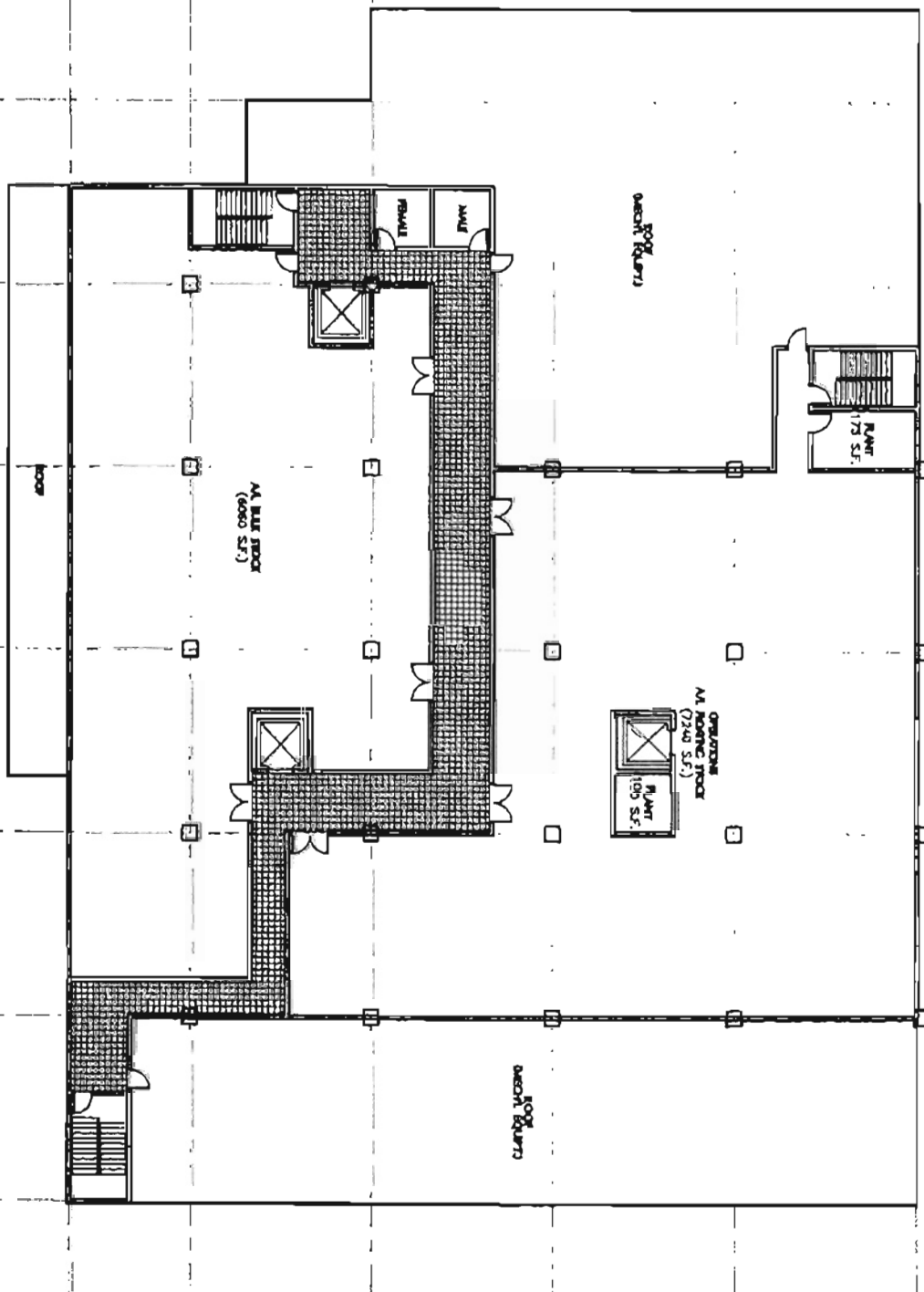
1st FLOOR







3rd FLOOR (FUTURE)



GUAM FLIGHT KITCHEN  
 The Dairy Farm (Guam), Inc. 10/24/89



PHONE: 646-1770  
646-5447  
FAX: 671-646-9848

**MID-PAC FAR EAST, INC.** 150 E. HARMON INDUSTRIAL PARK ROAD / TAMUNING, GUAM 96911

A Wholly Owned Subsidiary of Mid-Pacific Industries, Inc

EQUIPMENT · PARTS · SERVICE · SALES · GENSETS

Gentlemen:

My name is James A. Emery, Sr., General Manager of Mid Pac Far East, Inc., a Guam Corporation and I am representing Mr. James S. Moir, Sr., President of Mid Pac Far East, Inc., at this hearing.

Mr. Moir, the Founder and President of Mid Pac Far East, Inc., is a resident, property owner, registered voter, and tax payer in the territory of Guam. He is unavoidably detained in California and unable to be at this hearing due to the effects of the recent earthquake in San Francisco. Mid Pac Far East, Inc., is supported by Mid Pacific Industries, Inc., in Foster City, California. All of the stock orders, special orders, air shipments and container shipments for Guam are consolidated, loaded and shipped from the Foster City facility.

Mid Pac Far East, Inc., a Guam Corporation, has been in business since 1970 and was the first business to be located in the Harmon area. We have continued to serve the needs of a wide spectrum of business on the island, much of which is airport related. Currently we employ twelve people.

We are working closely with all segments of government regarding our proposed lease of Lot # 1 in the Guam Airport Authority Industrial Park. We are receiving a great deal of support and encouragement from many people. We, therefore, moved ahead and paid for the engineering studies, the architectural plans and the cost estimates for our project. The amount we have spent to date including the \$ 10,000.00 deposit is in excess of \$ 30,000.00.

The award of this lease to Mid Pac Far East, Inc., is crucial to the future of our company in Guam.

At this time, we would like to publicly thank all of the segments of the government of Guam, that have brought this project from a dream to a reality. As we move into the 21st century Mid Pac Far East, Inc., looks forward to joining the other selected companies in relocating to the Guam Airport Authority Industrial Park.

Thank you

JAT "

Allen

F. W. C. .

S. P.



December 2, 1988

MEMORANDUM

To: Chairman, GAA Board of Directors  
From: Airport Industrial Park Consultant  
Subj: Land Lease Feasibility Study Update

1. PURPOSE. To update the Land Lease Feasibility Study of 1/88 to provide GAA proposed final rental rates, costs, area, and projected revenues for the Airport Industrial Park.
2. Construction Costs. Realistic cost data is now available, since low bid construction and negotiated construction management contracts have been awarded and construction started in November. These are the no-contingency costs for Phase 1 (Basic Work), which provides 15 lease lots from Route 16 to the USAF Fuel Pipeline:

Design	\$ 402,624	Paid In Full
Construction Contract	2,580,000	
Construction Mgt. Contract	<u>209,000</u>	
Total	3,191,624	

Note: The Board previously authorized Design costs, and recently authorized \$3 million for construction costs. This leaves about \$212,000 for contingency costs if needed.

3. Lease Area. The Design contractor has provided a Subdivision Map for GIAT, including updated areas and boundaries for the lease lots, as shown on Exhibit 1 hereto. The areas are summarized in Exhibit 2, including old lot numbers, new lot numbers, and SF of area. For Phase 1 (Basic Work), total area estimate is 931,285 SF, NOT INCLUDING THE FUEL FARM AND ADJACENT LOT, which are being held in reserve for future Fuel Farm expansion and possible water tank. If the Go-Ahead is later given for construction of Phase 2 (2 additional lease



lots) as designed, lease area for combined Phase 1 and Phase 2 is estimated at 1,256,601 SF.

4. Rental Rate Update. The rental rate of 50¢ per square foot per annum (PSFPA) proposed in the 1987 Feasibility Study was derived at by a Fair Market Value estimate by a Professional Appraiser (Gaspard & Co.) and by cross check with a Real Estate Agent estimate. This estimate has now been updated using 1988 land sales comparables provided by Gaspard and cross checked with Real Estate Agent comparables. Land value has increased by at least 10% this past year, with GAA lease land now estimated at \$65 per square meter or higher. By Capitalization, this converts into a current proposed rental rate of 60¢ PSFPA.

5. Revenue Projections, Phase 1. With the above construction costs, lease areas, and proposed rental rate, Revenue Projection Tables can be calculated. This is the Table for Phase 1, providing 14 lease lots PLUS Fuel Farm reserve area:

PHASE 1: COST \$3,191,624; Area 931,285 SF; Rental Rate 60¢ PSFPA.

<u>Years</u>	<u>Rent/Yr</u>	<u>5 Yr. Rent</u>	<u>Total Rent</u>
0-5	570,363 (1)	2,851,815	2,851,815
6-10	627,399 (2)	3,136,995	5,988,810
11-15	690,130	3,450,695	9,439,505

Notes: (1) Fuel Farm revenue of \$11,592 has been added to the 0-5 Year period. LAT pays GAA Ground Rent by contract for 76,320 SF plus pipe-line easement.

(2) Rent escalates 10% every 5 years.

(3) Cost recovery estimate is 5.5 years.

6. Additional Revenue. The Basic Ground Lease drafted by GAA Legal Counsel provides for payment by tenants of Common Area Expense upon

30 days prior notice from GAA. Common area expenses may include costs and expenses for security, landscaping, street lights, road repair, and utilities related to the Industrial Park. Also, Tenants shall deposit and maintain with GAA a Security Deposit equal to a certain number of months' rent (not yet determined). These additional sources of potential revenue have not been included in the above Table. Also, the lot adjacent to the Fuel Farm should be studied as an additional source of lease income if expansion reserve permits.

7. Conclusion. If and when fully realized, the above revenue projections forecast a rosy long term financial future for GAA Industrial Park. Cost recovery is projected in a relatively short time. After cost recovery, the income stream should be almost net to GAA, since expenses should be minimal, in particular if tenant Common Area payments are implemented. Calculations for Phase 2, 2 additional lease lots, are not included above. However, if later constructed as now designed, initial calculations indicate cost recovery for Combined Phase 1/Phase 2 would be in about 7.2 years.

Shall we summarize by saying GAA is about to discover a future Gold Mine in the Airport Industrial Park? Why not!

  
John E. Mishan

CC: Board Members (Smooth at next Board Meeting 12/15/88)

Executive Manager

Airport Consultant R. M. Stone

Exhibits

EXHIBIT 2

LEASE LOTS, GAA INDUSTRIAL PARK

Old Lot Number	New lot Number	Area SF
3 Phase 1, 3-17	Block 4, Lot 1,2	430,841
4	Block 3, Lot 1,2	0 (Not included)
5	Block 1, Lot 9	55,701
6	Block 1, Lot 8	41572
7	Block 1, Lot 7	35,213
8	Block 1, Lot 6	32,172
9	Block 1, Lot 5	31413
10	Block 1, Lot 4	33,369
11	Block 1, Lot 2	47326
12	Block 1, Lot 3	34,383
13	Block 1, Lot 11	27,483
14	Block 1, Lot 10	39,991
15	Block 1, Lot 12	24,790
16	Block 1, Lot 1	35,583
17	Block 2	<u>61,448</u>
Total Phase 1 (Basic Work)		931,285
1, Phase 2	Block 4, Lot 5	188,929
2, "	Block 4, Lot 4	<u>136,387</u>
Total Phase 1 & 2		1,256,601



**MID-PAC FAR EAST, INC.**

A Member of the Subsidiary of Mid-Pacific Industries, Inc.

EQUIPMENT · PARTS · SERVICE · SALES · GENSETS

150 E. HARMON INDUSTRIAL PARK ROAD / TAMUNING GUAM 96911

PHONES

646-7770 649-2412

646-5447 649-2413

FAX 671-646-9848

February 14, 1990  
JSMP-065

CHAIRMAN, COMMITTEE ON TOURISM &  
TRANSPORTATION & COMMUNICATIONS

REC'D BY: Janet

DATE: 2-16-90 TIME: 3:00

Mr. John Perez Aguon  
Senator  
20th Guam Legislature  
Chairman, Committee on  
Tourism & Transportation  
324 Soledad Avenue  
Suite 202, Quan's Building  
Agana, Guam 96910

Dear Senator Aguon:

Thank you for your letter of 2/2/90 inviting me to your Public Hearing on 2/12/90 in reference to Bill 1140.

As you know, I attended and at the beginning, only identified myself and that I supported Mr. Jess Torres and the Guam Airport Authority in their request for rezoning the new Airport Industrial Park from agricultural to either M1 or M2 whichever was felt more suitable and appropriate.

During the hearing, some comments were made that I would like to have replied to however, did not as I realized this was not the appropriate meeting to do so. At the end of the hearing, I requested to be heard at the appropriate time and you replied that I would have such an opportunity and then you requested that I write you a letter with my comments for you and the others to review.

Please accept this letter as my reponse to your request.

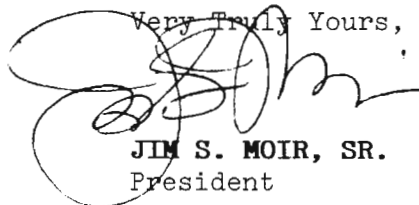
1. When we first spoke to the Airport and submitted our formal application and financial data etc. in 1988, the lease was expected to be .50¢ per sq. ft.
2. In January of 1989 when we were asked, we placed a deposit of over \$10,000.00 and were given the lease to read which said .60¢ per sq. ft.
3. March 1988, as required, we delivered to GAA, two complete sets of full construction drawings for our new facility that we paid the Architect over \$22,000.00 to prepare. These were needed for the building permit etc.
4. We have had on our payroll, an experienced contractor for over a year now, just to supervise our job since people with these qualifications on Guam are very difficult to find. So far, this has cost us a lot of money and as you know, we have not started the job. We were afraid that if we stopped paying him, when we needed him we could not get him. We never expected a delay of over a year.

5. We had expected to start sight work May or June 1989 and have our new facility completed before Christmas 1989 and move in between Christmas and New Years 1989.
6. We had a financing commitment with the Bank of Guam that expired November 1989 which means we must go through that again.
7. Cash wise, we have put out over \$43,000.00 that has been tied up for over a year on this project.
8. All our suppliers have refused to honor their bids of last year and are demanding 20% more to do the same job. This is a severe financial hardship for our company. Obviously had we expected, a delay of over a year, we would not have expended the \$43,000.00 as we did.
9. The lot we have been allocated is about 35,000 sq. ft. yet the maximum building we are allowed to place on it is only 11,000 sq. ft. As you know, most people that develop land by putting a new building on it usually cover about 80% or more of it with a building. We, however, because of the very restrictive GAA lease, are able to build on less than 33% of the land . yet we have to pay lease rent on all of it.
10. Due to the GAA and FAA Regulations, the maximum height is 30 feet. We can at a maximum, put up a two story building with a 20 foot eve height and the Apex of the roof at the highest point is just at 30 feet which is the absolute limit.
11. We are very much airport related as submitted over a year ago. We distribute various products such as Cummins and General Motors Diesel Engine as well as John Deere. You will find that every machine used by the various airlines either to cool the airplane or to push them away from the terminal use one of these brands and they require support around the clock. Also, the GAA has two Onan generators for emergency which we support and requires technical support, spare parts and around the clock service. These facts make us as airport related as anyone if not more so.
12. As to looking nice, this is an image we want very badly. We agree Harmon looks bad. The landlords including ours, have not spent a dime on the building in the last 19 years. All they do is keep raising the rent. We have designed our new facility to look very nice, be very attractive, and to more than comply with the strict demands of the GAA. Please appreciate the major companys we represent also are demanding very presentable facilities. I would be most

pleased to show you and your associates our detailed construction drawings so that all can see that what we have planned would in fact be one of the most attractive commercial facilities. We employ twelve local people, all of which have for over a year, looked forward to a new place to work in and to be proud of.

Thank you for the opportunity of submitting this letter. I would be most pleased to meet with you and your associates and answer any questions that are asked.

Very Truly Yours,



**JIM S. MOIR, SR.**  
President

JSM:dqs

cc: J. Torres - GAA  
M. Richards  
J. Moir, Jr.  
J. Emery, Sr.  
Files

Introduced

SEP 27 '89

TWENTIETH GUAM LEGISLATURE  
1989 (FIRST) Regular Session

Bill No. 974 (LS)

Introduced by:

Committee on Rules *Whiting*  
At the request of the  
Governor

AN ACT AUTHORIZING THE GUAM AIRPORT AUTHORITY  
TO LEASE THREE PARCELS IN THE GAA INDUSTRIAL  
PARK.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. With the written approval of the Governor the  
Guam Airport Authority is authorized to lease the following  
parcels in the GAA Industrial Park:

(a) Lot No. 1, Block No. 1, Tract No. 1427, Guam  
International Air Terminal Industrial Park,  
Municipalities of Barrigada and Dededo, Guam,  
containing an area of approximately 3,306 square  
meters or 35,583 square feet, as shown on Drawing No.  
DSI-S-88-25 dated March 30, 1989, prepared by  
registered land surveyor Nestorio C. Ignacio,  
RLS No. 65 to MID PACIFIC FAR EAST, INC., a Guam  
corporation.

(b) Lot Nos. 4, 5 and 6, Block No. 1, Tract No. 1427,  
Guam International Air Terminal Industrial Park,  
Municipalities of Barrigada and Dededo, Guam,  
containing an area of approximately 9,007 square  
meters or 96,954 square feet, as shown on Drawing No.

DSI-S-88-25 dated March 30, 1989, prepared by registered land surveyor Nestorio C. Iganctio, RLS No. 65 to DAIRY FARM (GUAM) LTD., a Guam corporation.

(c) Block No. 2, Tract No. 1427, Guam International Air Terminal Industrial Park, Municipalities of Barrigada and Dededo, Guam, containing an area of approximately 5,709 square meters or 61,448 square feet, as shown on Drawing No.

DSI-S-88-25 dated March 30, 1989, prepared by registered land surveyor Nestorio C. Iganctio, RLS No. 65 to ESSO EASTERN, INC.-GUAM BRANCH.