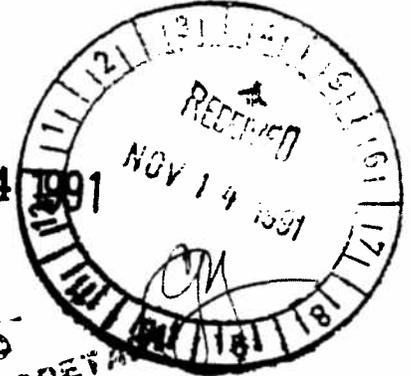




Territory of Guam
Territorio Guam

OFFICE OF THE GOVERNOR
LEFINAN I MAGALAHI
AGANA, GUAM 96910 U.S.A.

NOV 14 1991



The Honorable Joe T. San Agustin
Speaker, Twenty-First Guam Legislature
155 Hessler Street
Agana, Guam 96910

SENT TO
LEGISLATIVE SECRETARY

Dear Mr. Speaker:

Transmitted herewith is Bill No. 270, which I have signed into law this
date as Public Law 21-62.

Joe T. San Agustin

Sincerely,

Joseph F. Ada
JOSEPH F. ADA
Governor

Attachment

210516



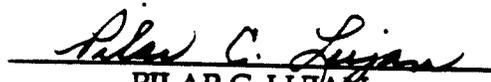
TWENTY-FIRST GUAM LEGISLATURE
1991 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

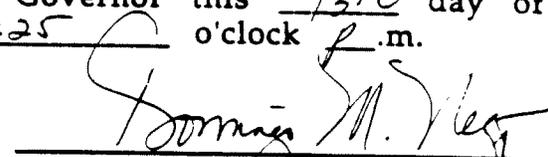
This is to certify that Substitute Bill No. 270 (COR), "AN ACT TO APPROPRIATE FUNDS FROM THE TOURIST ATTRACTION FUND TO PROVIDE FACILITIES FOR COMMUNITY SAILING ACTIVITIES AND TO APPROVE A LEASE FOR THE MARIANAS YACHT CLUB, TO APPROPRIATE FUNDS FOR THE NISSAN GUAM CHALLENGER TENNIS TOURNAMENT, FOR THE MARY CLAIRE HOME PROGRAM FOR A SURVEY ON TOURISM ATTITUDES, FOR A POLICE SUBSTATION IN INARAJAN, FOR THE SANTA RITA BASKETBALL COURT, FOR THE SANTA ROSA BASKETBALL COURT, FOR THE 1992 WESTERN LEGISLATIVE CONFERENCE, FOR THE CROSS COUNTRY CHAMPIONSHIP, FOR RADON TESTING, FOR LEGAL COUNSEL FOR THE GUAM ENVIRONMENTAL PROTECTION AGENCY, FOR CLEANING PARK SITES, AND MAKING AMENDMENTS TO THE GUAM VISITORS BUREAU BUDGET," was on the 8th day of November, 1991, duly and regularly passed.


JOE T. SAN AGUSTIN
Speaker

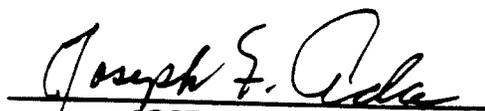
Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 13th day of November, 1991, at 5:25 o'clock p.m.


Assistant Staff Officer
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam

Date: November 14, 1991

Public Law No: 21-62

TWENTY-FIRST GUAM LEGISLATURE
1991 (FIRST) Regular Session

Bill No. 270 (COR)
As substituted by the Committee
on Tourism & Transportation

Introduced by:

J. P. Aguon
M. D. A. Manibusan
C. T. C. Gutierrez
F. R. Santos
E. P. Arriola
J. G. Bamba
A. C. Blaz
M. Z. Bordallo
D. F. Brooks
H. D. Dierking
E. R. Dueñas
E. M. Espaldon
P. C. Lujan
G. Mailloux
D. Parkinson
M. J. Reidy
M. C. Ruth
J. T. San Agustin
D. L. G. Shimizu
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO APPROPRIATE FUNDS FROM THE TOURIST
ATTRACTION FUND TO PROVIDE FACILITIES FOR
COMMUNITY SAILING ACTIVITIES AND TO APPROVE A
LEASE FOR THE MARIANAS YACHT CLUB, TO
APPROPRIATE FUNDS FOR THE NISSAN GUAM
CHALLENGER TENNIS TOURNAMENT, FOR THE MARY
CLAIRE HOME PROGRAM, FOR A SURVEY ON TOURISM
ATTITUDES, FOR A POLICE SUBSTATION IN INARAJAN,

FOR THE SANTA RITA BASKETBALL COURT, FOR THE SANTA ROSA BASKETBALL COURT, FOR THE 1992 WESTERN LEGISLATIVE CONFERENCE, FOR THE CROSS COUNTRY CHAMPIONSHIP, FOR RADON TESTING, FOR LEGAL COUNSEL FOR THE GUAM ENVIRONMENTAL PROTECTION AGENCY, FOR CLEANING PARK SITES, AND MAKING AMENDMENTS TO THE GUAM VISITORS BUREAU BUDGET.

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

3 Section 1. Legislative findings and intent. The Legislature finds that
4 the Marianas Yacht Club and the Bailan Tasi Board Sailing Club
5 (collectively, the "Club") represent Guam in the International Yacht
6 Racing Union through the Guam National Olympic Committee and have
7 the responsibility for training the young men and women of Guam for
8 sailing competition in future Olympic and South Pacific Games. The
9 Legislature further finds that the Club conducts sailing classes open to all
10 of the youth of Guam to encourage competitive sailing activity and
11 participation in future Olympic and South Pacific Games and, in
12 cooperation with the Guam Visitors Bureau, has hosted successful
13 international yachting events, including the annual Japan-Guam Yacht
14 Race, the 1989 Auckland-Fukuoka Yamaha Cup Yacht Race and the annual
15 Japan-Guam Goodwill Series. The Legislature also recognizes the
16 importance of Guam's entry and participation as yachtsmen and board
17 sailors in future Olympic and South Pacific Games, especially since they
18 probably offer Guam's best chances for Olympic medals, and encourage
19 the spirit of good sportsmanship and international goodwill among
20 Guam's young men and women. The Legislature further finds that there

1 exists a serious need for a community facility designed to support and host
2 worthwhile international yachting events. It is therefore the intent of the
3 Legislature that funds be provided for the construction of appropriate
4 facilities for yachting and board sailing activities for the people of Guam.

5 **Section 2. Appropriation.** Two Hundred Thousand Dollars
6 (\$200,000) are hereby appropriated from the Tourist Attraction Fund to the
7 Port Authority of Guam to provide support facilities for yachting and
8 board sailing activities within Guam. The Port Authority of Guam shall
9 administer the funds separate and apart from other Port funds.

10 **Section 3. (a) Lease.** That certain unexecuted lease agreement (the
11 "Lease") between the Port Authority of Guam (the "Lessor") and Marianas
12 Yacht Club (the "Lessee"), a copy of which is attached hereto and
13 incorporated herein, for the premises hereinafter described is hereby
14 approved, subject to the conditions set in paragraph (b) of this section. The
15 property covered by the Lease (the "Premises") is described as follows:

16 A portion of Parcel Number 1, L. M. Dwg. E4-82T693, Apra Harbor,
17 as shown in the drawing attached to the attached Lease incorporated
18 herein, which portion contains an area not to exceed 4,000 square meters.
19 The Lessee shall cause to be surveyed, mapped and registered that portion
20 of Parcel No. 1 described herein to be leased. The survey, mapping and
21 registration herein required shall be performed by a duly licensed and
22 registered surveyor approved by the Department of Land Management.
23 Title and all documentation to the parcel described herein shall be in the
24 name of the Port Authority of Guam.

25 **(b) Conditions.** The approval of the Lease is subject to the following

1 conditions, which conditions shall prevail over any provisions of the Lease
2 to the contrary.

3 (a) The lease between Lessor and Lessee dated December 29,
4 1988 and recorded at the Department of Land Management under
5 Instrument No. 412810 is declared null and void and of no force and
6 effect.

7 (b) The Lessee shall remain a not-for-profit organization
8 during the entire term of the Lease, and it shall comply with all laws
9 governing not-for-profit organizations and shall on a yearly basis,
10 submit to the Board of Directors of the Port Authority of Guam an
11 audited annual report in the format normally required of not-for-
12 profit organizations by the Department of Revenue and Taxation.

13 (c) Public access to the facility and the beach shall not be
14 restricted nor denied during the term of the Lease. The Lessee may
15 develop rules and regulations for the use of the premises by the
16 public, subject to the approval of the Board of Directors of the Port
17 Authority of Guam. The facilities, its slips or moorings, shall not be
18 utilized for permanent or extended residence beyond a period of
19 thirty (30) days without the prior written consent of the General
20 Manager of the Port Authority of Guam and the Department of
21 Public Health and Social Services. All fees for rental of slips or
22 moorings shall be approved by the Port Authority of Guam but in no
23 case shall such fees be greater than fees for the same facilities, slips
24 or moorings operated or controlled by the Port Authority of Guam.

25 (d) The Lessee shall conduct a minimum of three (3) Red

1 Cross certified sailing classes annually. The sailing classes will
2 emphasize the training of Guam's youth between the ages twelve
3 (12) to twenty-three (23) years.

4 (e) The Lessee shall provide support for international yacht
5 racing events. Such events are **subject** to the condition that the event
6 shall be adequately sponsored by the yachting organizations of the
7 initiating countries.

8 (f) The Premises shall be available for sailing instructions, to
9 include the training of Olympic, South Pacific Games and other
10 sailing competitors, and the storage of related boats and gear. The
11 Lessee shall also provide training and logistical support.

12 (g) The Port Authority of Guam shall designate a
13 representative to act as an **ex officio** member of the Board of
14 Directors of the Lessee.

15 (h) The Lessee shall, not less than ninety (90) days following
16 the end of each calendar year, submit a written report to the Port
17 Authority of Guam stating compliance with subsections (a) to (g) of
18 this paragraph.

19 (i) The term of the Lease shall be for thirty (30) years
20 commencing on November 8, 1991 and expiring on November 7,
21 2021.

22 (j) The annual rental fee shall be One Hundred Dollars
23 (\$100) per year, payable annually in advance during each year of the
24 term of the lease.

25 (k) The Lessee shall comply with all applicable laws, rules
26 and regulations and shall be subject to any covenants or restrictions

1 on land usage which may be recorded at the Department of Land
2 Management or contained in federal law at the time of the execution
3 of the Lease.

4 (l) The Lessee shall not sell, assign, sublease, hypothecate,
5 encumber, mortgage or otherwise transfer its interest in the
6 Premises.

7 (m) At the end of the term of the Lease or upon the earlier
8 termination of the Lease, the Lessee will at its expense peaceably
9 deliver up to the Lessor possession of the Premises, together with all
10 improvements constructed thereon, free of any encumbrances or
11 obligations and in good state of repair and in good usable condition,
12 ordinary wear and tear excepted; **provided**, however, that the
13 Lessee may remove all furniture, fixtures and equipment from the
14 Premises.

15 (n) The recitals set out in the preamble of the Lease are
16 hereby added as binding provisions and conditions of the Lease with
17 full force and effect of law.

18 **Section 4. Administrative Provisions.** The Port Authority of Guam
19 shall in accordance with the Administrative Adjudication Law develop
20 rules and regulations governing the Lease and the other facilities
21 authorized by this Act and shall also develop criteria to insure the
22 Legislative findings and intent set out in Section 1 of this Act are carried
23 out.

24 **Section 5. (a) Legislative findings and intent.** The Legislature has
25 determined that there is a need for the Guam Visitors Bureau to find ways

P.L. No. 21-62

(j) The annual rental fee shall be One Hundred Dollars (\$100) per year, payable annually in advance during each year of the term of the lease.

(k) The Lessee shall comply with all applicable laws, rules and regulations and shall be subject to any covenants or restrictions on land usage which may be recorded at the Department of Land Management or contained in federal law at the time of the execution of the Lease.

(l) The Lessee shall not sell, assign, sublease, hypothecate, encumber, mortgage or otherwise transfer its interest in the Premises.

(m) At the end of the term of the Lease or upon the earlier termination of the Lease, the Lessee will at its expense peaceably deliver up to the Lessor possession of the Premises, together with all improvements constructed thereon, free of any encumbrances or obligations and in good state of repair and in good usable condition, ordinary wear and tear excepted; provided, however, that the Lessee may remove all furniture, fixtures and equipment from the Premises.

(n) The recitals set out in the preamble of the Lease are hereby added as binding provisions and conditions of the Lease with full force and effect of law.

Section 4. Administrative Provisions. The Port Authority of Guam shall in accordance with the Administrative Adjudication Law develop rules and regulations governing the Lease and the other facilities authorized by this Act and shall also develop criteria to insure the Legislative findings and intent set out in Section 1 of this Act are carried out.

Section 5. (a) Legislative findings and intent. The Legislature has determined that there is a need for the Guam Visitors Bureau to find ways to promote Guam internationally so as to maximize visitor mix and expedite diversification of the visitor industry market. The Legislature finds that tennis as well as golf can be promoted to make Guam more attractive as a tourism destination with more to do than shopping and sunbathing; thus marketing Guam to new areas and new segments of the visitor industry. The Legislature further finds that the Nissan Association of Tennis Professionals Challenger Tennis Tournament, first held on Guam in December 1990, brought to the island players from seventeen countries, including the Americas, Australia, Japan, Korea, the Philippines, Africa and Europe, broadening Guam's international exposure and affording local players an opportunity to earn points necessary for participation in professional international tournaments. The Legislature also recognizes that tennis is a family sport ideally suited for the island's weather and lifestyle. The need to promote the sport locally was amply demonstrated in the 1991 South Pacific Games. While the Guam tennis team, women's division, made history by earning several gold medals, the men's division team was not as fortunate. It is therefore the intent of the Legislature not only to promote Guam internationally by supporting

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sports events such as the second annual Guam Challenger Tennis Tournament but also to afford local players an opportunity to enhance their playing skills.

(b) Appropriation. One Hundred Thousand Dollars (\$100,000) are hereby appropriated from the Tourist Attraction Fund to the Guam Visitors Bureau to co@sponsor and help defray the cost of the Second Annual Nissan Guam Challenger Tennis Tournament scheduled for December of 1991, to be expended in the following manner:

Off-island media representatives,	\$38,000,
Public relations,	5,000,
Pre-event advertising,	11,300,
Fiesta reception,	5,000,
Media (entertainment, tours, transportation),	15,000,
Name trainer/player,	25,000,
Contingency,	700,
TOTAL:	\$100,000.

Section 6. Appropriation for Mary Claire Home Program. Three Hundred Thousand Dollars (\$300,000) are appropriated from the General Fund to Guma Mami, Incorporated, for the operation of the Mary Claire Home Program for Fiscal Year 1992. Guma Mami, Incorporated shall make a written financial and program report of its expenditures of the funds appropriated in this section to the Governor and to the Legislature by December 31, 1992.

Section 7. (a) Legislative findings and intent. With the assistance of the Guam Visitors Bureau, the Department of Commerce conducted a household survey ten years ago dealing with the attitude of the island's residents toward the visitor industry and island development. The principal purpose of the Guam Visitors Bureau's Research Department, as specified in Public Law 20-205, is to gather quantitative data by region to assist in the islandwide master plan by conducting a Survey on Tourism Attitudes of Residents ("STAR"), which survey will ultimately be used to promote Guam's visitor industry, promote local interest and participation at all levels of the visitor industry, assist in the development, implementation and promotion of programs to further education, training, employment assistance and entrepreneurial development, and promote development of adequate tourist and resident facilities and attractions. It is therefore the intent of the Legislature to provide funding to the Guam Visitors Bureau to conduct STAR and carry out its mission as mandated by law.

(b) Appropriation. Forty Thousand Dollars (\$40,000) are hereby appropriated from the Tourist Attraction Fund to the Guam Visitors Bureau to conduct a Survey on Tourism Attitudes of Residents.

1 at all levels of the visitor industry, assist in the development,
2 implementation and promotion of programs to further education,
3 training, employment assistance and entrepreneurial development, and
4 promote development of adequate tourist and resident facilities and
5 attractions. It is therefore the intent of the Legislature to provide funding
6 to the Guam Visitors Bureau to conduct STAR and carry out its mission as
7 mandated by law.

8 (b) **Appropriation.** Forty Thousand Dollars (\$40,000) are hereby
9 appropriated from the Tourist Attraction Fund to the Guam Visitors
10 Bureau to conduct a Survey on Tourism Attitudes of Residents.

11 **Section 8. Appropriation for Inarajan substation.** Twenty Thousand
12 Dollars (\$20,000) are hereby appropriated from the General Fund to the
13 Guam Police Department to immediately establish a temporary police
14 substation in the Inarajan Mayor's Office, such appropriation to be
15 expended for office renovation and the procurement of necessary
16 equipment.

17 **Section 9. Santa Rita basketball court.** Thirty-Seven Thousand
18 Eight Hundred Eight Dollars (\$37,808) are hereby appropriated from the
19 General Fund to the Department of Public Works to supplement the
20 appropriation made in Public Law No. 20-19 for the resurfacing and repair
21 of the playing surface, backboards, bleachers and lighting system of the
22 Santa Rita Basketball Court.

23 **Section 10. Santa Rosa basketball court.** Ninety-Two Thousand Six
24 Hundred Sixty-Nine Dollars (\$92,669) are hereby appropriated from the
25 General Fund to the Department of Public Works to supplement the

1 appropriation made in Public Law No. 20-90 for the construction of the
2 basketball court with bleachers and lighting system in the vicinity of the
3 Santa Rosa subdivision and Harry S. Truman Elementary School.

4 **Section 11. GVB budget.** Section 2 of Public Law 21-42, the Fiscal
5 Year 1992 Budget of the Guam Visitors Bureau is amended as follows: The
6 entry entitled "290 Miscellaneous", of Part F, lines 9-16 of page 21, is
7 repealed and reenacted to read:

8 "290. Miscellaneous

9	Grants-in-aid Program	50,000	50,000
10	Cultural Promotion & Development	150,000	150,000
11	Guam Micronesia Island Fair	100,000	100,000
12	Christmas on Guam	25,000	25,000
13	Guam Music Festival	75,000	75,000
14	TOTAL MISCELLANEOUS	\$400,000	\$400,000" ;

15 and the "Miscellaneous" category of Part F, line 26 of page 1, is repealed
16 and reenacted to read:

17 **"TOTAL PART F** **\$400,000*** **\$400,000*"**;

18 and the Grand Total, line 25 of page 23, is repealed and reenacted to read:

19 **"GRAND TOTAL** **\$8,511,596*** **\$8,511,596*"**

20 **Section 12. WLC Appropriation.** Two Hundred Fifty Thousand
21 Dollars (\$250,000) are appropriated from the Tourist Attraction Fund to
22 the Legislature for expenses related to hosting the 1992 Western
23 Legislative Conference annual meeting.

24 **Section 13. (a) Legislative finding and intent on cross country**
25 **championship.** The Legislature finds that the participation of the athletes

1 from Guam's schools in the 1991 Amateur Athletic Union National Youth
2 Cross Country Championship in Birmingham, Alabama, will enhance the
3 quality of education and promote the competitive spirit of the participants
4 in such an event. The Legislature therefore finds that public funds should
5 be provided for this event.

6 (b) **Appropriation.** Forty-Six Thousand Two Hundred Forty-One
7 Dollars (\$46,241) are appropriated from the General Fund to the
8 Department of Education to send up to thirty-one (31) athletes and five (5)
9 chaperones to the 1991 Amateur Athletic Union/Carrier Youth Cross
10 Country National Championship, in Birmingham, Alabama, to be held on
11 December 7, 1991.

12 **Section 14. (a) Radon testing.** Section 2 of Public Law 21-27 is
13 repealed and reenacted to read as follows:

14 "Section 2. Section 2 of Public Law 20-184 is repealed and
15 reenacted to read:

16 Section 2. Six Hundred Thousand Dollars (\$600,000) are
17 hereby appropriated from the General Fund for funding the Radon
18 Testing and Mitigation Task Force. This twenty percent (20%)
19 increase is in response to the increased testing now authorized."

20 (b) **Testing kits.** Section 3 of Public Law 21-27 is hereby repealed
21 and reenacted to read as follows:

22 "Section 3. New Sections 4 and 5 are added to Public Law 20-
23 184 to read as follows:

24 "Section 4. During the initial screening showed the results
25 indicate a radon level (pci/L) of 20 to 20 or more the Task Force shall

1 immediately notify the Legislature.

2 Section 5. Radon testing kits, after approval by the Task
3 Force, shall be available to the public at their cost." "

4 **Section 15. GEPA attorney.** (a) **Legislative finding.** The Legislature
5 finds that the volume and complexities of environmental problems have
6 reached such proportions that the Administrator of the Guam
7 Environmental Protection Agency ("GEPA") requires a full-time in-house
8 lawyer to properly carry out the mandate of GEPA.

9 (b) **Appropriation.** Seventy-Five Thousand Dollars (\$75,000) are
10 appropriated from the General Fund to GEPA to hire in-house legal
11 counsel.

12 **Section 16. Park site cleaning.** Forty-Three Thousand Dollars
13 (\$43,000) are appropriated from the General Fund to the Department of
14 Parks and Recreation to clean and grade the park sites identified in Section
15 1 of Public Law 19-50.

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

EXHIBIT A

(Space Above This Line for Registrar's Use)

LEASE AGREEMENT

Preamble

WHEREAS, the GOVERNOR OF GUAM, the TWENTY-FIRST GUAM LEGISLATURE and the PORT AUTHORITY OF GUAM recognize the need for a central facility located at Apra Harbor, Guam, to be used for recreational boating, the conduct of sailing instruction open to the People of Guam with special emphasis on sailing instruction for Guam's youth, to provide a training facility for Guam's National Olympic Sailing Program, to provide a facility for the hosting of local and international yacht racing events and to promote community interest and participation in the sport of sailing, thereby enhancing the quality of life on Guam and

WHEREAS, the MARIANAS YACHT CLUB, a not-for-profit corporation, chartered by the United States Yacht Racing Union and a member of the International Yacht Racing Union and of Guam's National

Olympic Committee, has demonstrated its ability to promote community interest and participation in the sport of sailing, conduct programs of Red Cross certified sailing instruction open to the People of Guam with special emphasis on sailing instruction for Guam's youth, support and manage major international yacht racing events, and that it is capable of providing support for Guam's National Olympic Sailing Program and hosting competitive sailing events in future South Pacific Games.

THIS LEASE AGREEMENT is made and entered into this _____ day of _____, 1991, by and between the PORT AUTHORITY OF GUAM ("Lessor"), and the MARIANAS YACHT CLUB, a not-for-profit corporation ("Lessee").

Lessor owns or administers certain real property as is described in paragraph 1, *infra*, (the "Premises") and Lessor having leased the Premises to Lessee pursuant to a Lease Agreement entered into on the 29th day of December, 1988, and Lessor and Lessee now being desirous of entering into this Lease Agreement for the purpose of providing for periodic oversight by Lessor to insure that the terms, conditions and special requirements of this Lease Agreement are observed by Lessee, to permit enhanced public access to the Premises and to prohibit assignment of this Lease or the encumbrance of the Premises by leasehold mortgage or other security instrument.

NOW THEREFORE, in consideration of the Premises and the terms, covenants, conditions and special requirements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee enter into this lease and agree as follows:

1. Premises. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the following described parcel(s) of land, situated in the Municipality of Piti, Territory of Guam:

A portion of Parcel number 1, L.M. Dwg. E4-82T693, Apra Harbor, as shown in the drawing attached hereto marked as Exhibit A and incorporated by reference herein, which portion contains an area of approximately 4000 square meters.

TOGETHER WITH all and singular, the tenements, rights, easements, privileges, improvements and appurtenances to the same belonging or appertaining or held and enjoyed in connection therewith; and together also with all such right, easements and privileges as Lessor may be entitled to grant in and to the shore area and surrounding waters adjacent to the Premises; and together also with the rights of ingress and egress as more fully described herein.

2. Term. The term of this Lease Agreement shall commence on the date of execution of this Lease Agreement and shall expire thirty (30) years thereafter, subject to the provisions of paragraph 14, *infra*, setting forth Lessor's rights on default.

3. Rent During Term. The rent payable from Lessee to Lessor shall be the sum of One Hundred Dollars (\$100.00) per year, payable annually in advance during each year of the term of this Lease Agreement. This rental amount has been in good faith determined by the parties to be the fair rental value of the Premises, taking into consideration the provisions of this Lease Agreement, including without limitation that the Lessee is a not-for-profit

organization, that use of the Premises is generally limited as is more fully provided in paragraph 5, *infra*, to boating and recreation and that the Premises are located in an area which has been reserved for open space and recreational uses. Provided, however, should an appropriate agency of the United States having jurisdiction over the subject matter make a final and binding determination, pursuant to the provisions of Section 818(b)(2) of Public Law 96-418, that the fair rental value of the Premises exceeds the foregoing rental amount, then the rent payable hereunder shall be adjusted to such amount as shall have been determined by said agency, pursuant to the provisions of Section 818 of Public Law 96-418, to be the fair rental value of the Premises as of the date of this Lease Agreement. The parties recognize that Lessee is a not-for-profit organization with limited financial resources, and therefore in the event a mandatory rent adjustment is required to be made by reason of Section 818 of Public Law 96-418 and in the event Lessee in good faith determines it is unable to pay the adjusted rent, then the Lessee shall have the right, at Lessee's option, to be exercised within one (1) year from the date of a final and binding determination by the federal government that a rent adjustment is required, to either cancel this Lease Agreement without penalty or to reduce the area of the Premises by releasing from the Lease Agreement and returning to Lessor such portion of the Premises as Lessee may designate, subject to the approval of Lessor as to size and shape of the released portion (which approval Lessor shall not unreasonably withhold). In the event any mandatory rental adjustment is required by reason of federal law, such rent adjustment shall not exceed in any event, the amount determined by the appropriate federal agency to be the fair rental

value of the Premises as of the date of the execution of this Lease Agreement.

4. Quiet Enjoyment. Lessor shall put and keep Lessee in actual possession of the Premises at the beginning and throughout the term of this Lease Agreement. Lessor covenants that Lessee, upon paying the rent required hereunder, shall lawfully, peacefully and quietly have, hold, use, occupy and enjoy the Premises without any suit, hindrance, eviction, ejection, molestation, interruption or disturbance whatsoever of or by Lessors or by any persons claiming by, from, under or against Lessor; subject to the terms of any deed of conveyance from the United States of America pursuant to which Lessor or its predecessor in interest may have acquired the property of which the Premises form a part. Pertinent provisions of the terms of the conveyance from the United States of America are set forth in Exhibit B hereto, which provisions are incorporated by reference herein, and this Lease Agreement is made subject to such provisions.

5. Use.

(a) General. The Premises shall be used for the purpose of construction and operation of a yacht club to provide a central facility for recreational boating and related social activities, to promote community interest and participation in the sport of sailing, the conduct of Red-Cross certified sailing instruction open to the People of Guam with special emphasis on sailing instruction for Guam's youth, to provide a training facility for Guam's National Olympic Sailing Program and to provide a facility for the hosting of local and international yacht racing events, and the conduct of any and all activities related or incidental thereto.

(b) Required Improvements. Lessee shall, prior to the

expiration of the first five (5) years of the term of this Lease Agreement, make at the sole cost and expense of Lessee, leasehold improvements in, to and about the Premises and any easement and/or access and adjoining areas used by Lessee, which improvements shall in total have a value of not less than One Hundred Thousand Dollars (\$100,000.00). As used herein, value shall mean fair market value or replacement cost or actual cost, whichever is greater. In the event Lessee shall fail or neglect to make such improvements prior to the expiration of the five (5) year period provided for herein then Lessor may, at Lessor's option and upon not less than sixty (60) day's prior written notice to Lessee, cancel this Lease Agreement.

6. Alterations, Construction and Replacements. Lessee's right to construct, make alterations or improvements shall be subject to prior review and approval of the Board of Directors of the Port Authority of Guam, which approval shall not be unreasonably withheld and Lessee shall be required to obtain such other approvals, permits and licenses from governmental entities as may be incidental and necessary thereto.

7. Title to Buildings and Improvements to Remain in Lessee and the Government of Guam During the Term; Reversion to Lessor on Expiration of Term. During the term of this Lease Agreement, title to any and all buildings or improvements situated or erected on the Premises and the building equipment, fixtures and other items installed thereon and any alterations or additions thereto shall remain in Lessee and in the Government of Guam as their respective interests may appear and in accordance with their respective contributions to the construction of buildings and other improvements upon the Premises. Upon expiration of this Lease Agreement, all improvements

remaining on the Premises shall become the property of the Lessor.

8. Assignment. Lessee shall not have the right to assign this Lease Agreement. This prohibition against assignment shall not prevent Lessee from allowing other sailing, boating or recreational groups to share in the use of the Premises nor shall it prevent Lessee from contracting with third parties to provide necessary goods and services for the benefit of the Lessee or the public.

9. Real Property Taxes. Lessee shall pay any and all taxes and assessments against the Premises and all improvements thereon throughout the term of this Lease Agreement. For the first year of the initial term of this Lease Agreement all taxes and assessments against the Premises shall be prorated between Lessor and Lessee as of the date hereof.

10. Payment of Utilities. Lessee shall pay and be responsible for the installation of and all charges for water, power and other utilities installed and supplied to and on the Premises.

11. Maintenance. Lessee shall, at its own cost and expense, maintain all the improvements on the Premises in good repair and condition throughout the term of this Lease Agreement, reasonable wear and tear excepted.

12. Duty of Lessee to Indemnify, Hold Harmless and Defend; Insurance.

(a) Duty of Lessee to Indemnify, Hold Harmless and Defend. Lessee shall indemnify, hold harmless and defend Lessor and the Government of Guam from any claim for personal injury or property damage that may arise out of the use of Premises during the term of this Lease Agreement.

Lessee shall accept tender of defense on behalf of Lessee or the Government of Guam in the event of any claim for personal injury or property damage arising out of the use of the Premises during the term of this Lease Agreement and Lessor shall cooperate with Lessee in the defense of any such claim.

(b) Fire Insurance. Throughout the term of this Lease Agreement, so long as such coverage is reasonably and commercially available, Lessee shall keep and maintain a policy of fire insurance covering any insurable buildings and improvements placed upon the Premises in an amount equal to the fair market value of such buildings and improvements. Any policy of fire insurance so kept and maintained shall name Lessee and the Government of Guam as named insureds and loss payees in accordance with their respective interests in the insured buildings and improvements.

(c) Liability Insurance. Throughout the term of this Lease Agreement, so long as such coverage is reasonably and commercially available, Lessee shall keep and maintain a policy of liability insurance indemnifying Lessor, Lessee and the Government of Guam as named insureds against any claim for personal injury or property damage for which Lessor, Lessee or the Government of Guam may be found by a court of competent jurisdiction to be legally obligated to pay. Such liability insurance shall provide minimum limits of liability insuring against injury to any person or property in the sum not less than Three Hundred Thousand Dollars (\$300,000.00) for bodily injury to one person, One Million Dollars (\$1,000,000.00) for bodily injury to more than one person in any one accident and Two Hundred Thousand Dollars (\$200,000.00) for property damage in one accident. Lessee shall also, as part of the annual report required by

paragraph 20(g) Port Authority Oversight of this Lease Agreement submit to Lessor a statement of the liability insurance kept and maintained by Lessee in accordance with the requirements of this subparagraph. Lessor may, not more frequently than every three (3) calendar years, commencing with the Calendar Year 1995, review the liability insurance kept and maintained by Lessee and may thereafter require a reasonable increase in the limits of liability provided by such liability insurance policy. Any increase in liability limits thus required shall be consistent with commercially acceptable practices prevalent within the Territory of Guam at the time of review and shall further be subject to the reasonable commercial availability of liability insurance providing increased limits of liability.

13. Condemnation. In the event the entire Premises is taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, this Lease Agreement and all of the right, title and interest hereunder shall terminate and cease on the date title as to the Premises so taken or transferred vests in the condemning authority.

In the event of the taking or transfer of only a portion of the Premises leaving the remainder in such location, or in such form, shape, or reduced size as to be not effectively and practicably usable in the sole opinion of Lessee, at Lessee's sole option, this Lease Agreement and all right, title and interest thereunder shall cease on the date title of the Premises or the portion thereof so taken or transferred vests in the condemning authority.

In the event of such taking or transfer of only a portion of the Premises

leaving the remainder in such location and in such form, shape or size as to be effectively and practicably usable in the sole opinion of Lessee, this Lease Agreement shall terminate and end as to the portion of the Premises so taken or transferred as of the date title to such portion vests in the condemning authority, but shall continue in full force and effect as to the portion of the Premises not so taken or transferred. In such event the rent payable hereunder shall be reduced in proportion to the area of the Premises taken.

It is understood and agreed by and between the parties that a compensation and damages awarded for the taking of all buildings and other improvements whatsoever on the Premises or any portion thereof shall belong to and be the property of Lessee and the Government of Guam as their respective interests shall appear and in accordance with their respective contributions to the erection of buildings and improvements on the Premises as taken; provided, however, Lessor shall be entitled to receive an award and compensation from the condemning authority (not Lessee) for the value of its remainder interest in the Premises. Furthermore, Lessee shall be entitled to the award for and on account of any cost or loss Lessee may sustain in the removal of Lessee's fixtures, equipment and furnishings from the Premises, or as a result of any alterations, modifications or repairs which may be reasonably required by Lessee in order to place the remaining portion of the Premises not so condemned in a suitable condition for the continuance of Lessee's tenancy, or on account of any diminution in value of its leasehold estate hereunder. All interested parties may independently file separate claims in the condemnation proceedings for the purpose of having the value of their respective claims determined.

14. Lessor's Rights on Default. This Lease is upon the continuing condition that (a) if Lessee shall fail to pay the rent as stipulated in this Lease Agreement or any part thereof when the same becomes due and shall fail to do so within thirty (30) days after written notice of default from Lessor; (b) if Lessee fails to, in any other respect faithfully observe and perform any other term, condition or covenant contained in this Lease Agreement, on its part to be observed or performed, and fails to cure said default within thirty (30) days after written notice thereof, or shall fail to commence to cure a default whose cure would require more than thirty days; (c) if Lessee fails to faithfully observe and perform the special requirement set forth in paragraph 20(b) of this Lease Agreement on its part to be observed and performed, and fails to cure said default within thirty (30) days after written notice thereof, or if Lessee fails to faithfully observe and perform the special requirements set forth in paragraph 20(a), (c), (d), (e), (f) and (g) of this Lease Agreement on its part to be observed or performed, and fails to cure said default within sixty (60) days after written notice thereof, or fails to commence to cure any such default the cure of which would require more than sixty (60) days; (d) if Lessee shall become bankrupt or makes an assignment for the benefit of its creditors, or file any debtor proceedings of any kind or character whatsoever under any provision of the Federal Bankruptcy Act seeking any readjustment, arrangement, postponement, composition or reduction of its debts, liabilities or obligations; or (e) if Lessee shall abandon the Premises; then in any such event, Lessor may upon thirty (30) days written notice to Lessee, subject to the provisions herein contained, enter into and upon the Premises or any part thereof in the name of the whole and at Lessor's option:

(i) Cancel this Lease Agreement by giving written notice to Lessee and thereupon take possession of the Premises and all improvements thereon, and thereby become wholly vested with all right, title and interest of Lessee therein and may expel and remove Lessee from the Premises, without being guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby, all without prejudice to any other remedy or right of action which Lessor may have for arrears for rent or for any other preceding breach of this Lease Agreement on the part of Lessee, or

(ii) Relet the Premises, for the remainder of the term thereof at the best rent it can obtain for the account of the Lessee who shall make good any deficiency.

15. Partial Invalidity. If any term, condition or provision of this Lease Agreement 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.

16. Attorney's Fees. Should either party commence any legal action or proceeding against the other based upon this Lease Agreement, or any provision hereof, including, without limitation, this provision, the prevailing party shall be entitled to an award of attorneys' fees.

17. Compliance with Law. Lessee shall, during the term of this Lease Agreement, as to the use, occupancy and improvement of the Premises comply with all material laws and regulations applicable to the Premises.

18. Access by Lessee. The rights granted by Lessor to Lessee hereunder include free rights of ingress and egress to and from the Premises. Lessee's initial access between the Premises and the public highway shall be by

use of a presently existing unimproved roadway through the parcel property of which the Premises form a part, as this existing roadway shown on Exhibit A hereto. Lessee, at Lessee's sole cost and expense, shall have the right, subject to prior review and approval by the Board of Directors of the Port Authority of Guam, which approval shall not be unreasonably withheld, to from time to time clear, grade, fill and otherwise improve the existing unimproved roadway and to have any necessary public utilities located thereon. Lessor shall, in good faith, have the reasonable right at the Lessor's convenience from time to time to relocate this existing roadway or otherwise change the location of the access to the Premises in connection with any development by Lessor of the parcel of property of which the Premises form a part so long as Lessee's rights of ingress and egress are not impaired.

19. Approvals.

(a) Federal Government. The parties shall cooperate and promptly after execution of the Lease Agreement submit this Lease Agreement for any and all approvals which may be required from the U.S. Federal Government and its agencies and instrumentalities, including without limitation any approvals which may be required by reason of Section 818 of Public Law 96-418, as amended.

(b) Legislative Approval. This Lease Agreement has received legislative approval. The term of this Lease Agreement (notwithstanding any other provisions herein contained) shall commence on the date of legislative approval, November 8, 1991, and the expiration date of this Lease Agreement shall be a date thirty (30) years from such date.

(c) Rights of Entry. In the event the actual commencement date

of the term of this Lease Agreement is, because of legislative approval provided in paragraph 19 (b) *supra*, or for any other reason, extended beyond the express date set forth in paragraph 2 *supra*, then Lessee shall have the right prior to the commencement date, at Lessee's sole risk and Lessee's sole expense, to freely go and enter upon the Premises and easements and adjacent areas for the purposes of making soil tests, surveys, examination, clearing, grading, filling and such other purposes as Lessee may elect. Lessee may, during any such period prior to the commencement date of this Lease Agreement, place and maintain temporary structures on the Premises and may store boats and equipment on the Premises, but all at the sole risk of Lessee.

20. Special Requirements.

(a) Lessee to Remain a Not-For-Profit Organization. During the term of this Lease Agreement, Lessee shall retain its legal structure as a not-for-profit corporation whose membership shall be open on a non-discriminatory basis to all members of the public, provided that membership may be subject to payment by members of non-discriminatory fees, assessments and dues and subject to observation by all members of such non-discriminatory rules and regulations as Lessee may adopt for the convenience and safety of its members and the public and for other bona fide purposes as are set forth in paragraph 5 (b), *infra*.

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(b) Public Access. During the term of this Lease Agreement Lessee shall permit public access to the Premises. Lessee may, as the party responsible for the maintenance and protection of the Premises, regulate and condition such access upon compliance with rules and regulations as Lessee may from time to time establish relating to safety, protection of persons and property, sanitary conditions, prior reservations or notice, pollution control, environmental protection and compliance with Lessee's obligations under this Lease Agreement. Such rules and regulations shall be subject to the approval of the Board of Directors of the Port Authority of Guam as is set forth in subparagraph (e), *infra*.

(c) Sailing Instruction. Lessee shall, during the term of this Lease Agreement, maintain a program of Red-Cross certified sailing instruction open to the People of Guam with special emphasis on sailing instruction for Guam's youth, on the payment of reasonable fees as may be from time to time be established by the Lessee. Programs of sailing instructions shall include a minimum of three (3) courses of instruction annually open to adult and junior sailors between the ages of twelve (12) to twenty-three (23) years.

(d) International Yacht Racing Events. Lessee shall, during the term of this Lease Agreement, provide support for international yacht racing events that are scheduled to call at Apra Harbor, Guam. Lessee's obligations shall include hosting of the annual Japan-Guam Goodwill Laser Regatta, the annual Japan-Guam Yacht Race and the quadrennial Auckland-Fukuoka Yacht Race. The Lessee's obligation to provide support facilities for these

events shall be subject to the condition that the events be adequately sponsored by yachting organizations of the initiating countries (New Zealand and Japan). Lessee shall not be required to comply with this condition in the event of force majeure, including war or other occurrences beyond the control of Lessee.

(e) Olympic Sailing Program. Lessee shall, during the term of this Lease Agreement, make the Premises available for the training of Olympic sailors and for the storage of Olympic class boats and gear that may hereinafter be acquired. Lessee shall also provide training and logistical support through its Program and Recruitment for Olympic Athletes in Sailing (PROAS) to the extent practicable, subject to available funding.

(f) South Pacific Games. In the event that Guam is designated host country for the South Pacific Games during the term of this Lease Agreement, Lessee agrees to provide support for the competitive sailing events held in connection with the South Pacific Games to the extent practicable, subject to available funding.

(g) Port Authority Oversight. The Board of Directors of the Port Authority of Guam shall exercise oversight of the activities of Lessee to insure that the terms, conditions and special requirements of this Lease Agreement are observed and performed by the Lessee. The Board of Directors of the Port Authority of Guam, may, in its sole discretion, designate a representative to act as an *ex officio* member of the Board of Directors of the Marianas Yacht Club for the purpose of coordinating Lessee's activities including international yacht racing events, with the administration of the Port Authority. The Lessee shall, not less than ninety (90) days following the

end of each calendar year of the leasehold term commencing with the end of Calendar Year 1992, submit a written report to the Board of Directors of the Port Authority of Guam outlining its compliance with the special requirements of this Lease Agreement. The oversight authority provided by this paragraph shall include the responsibility for reviewing and approving the rules and regulations adopted by the Lessee in accordance with paragraph 20 (b), *supra*. In the event that the Board of Directors of the Port Authority of Guam determines that Lessee has defaulted in the observance or performance of the special requirements contained in this Lease Agreement, Lessor's remedies shall be as set forth in paragraph 14, if this Lease Agreement relating to Lessor's rights on default.

21. Interpretation. The language and all parts of this Lease Agreement shall be in all cases construed simply, according to its fair meaning, and not strictly for or against Lessor. Captions in paragraph headings contained herein are for convenience and reference only, and shall not be deemed to limit or in any manner restrict the content of the paragraphs to which they relate.

22. Binding Effect. This Lease Agreement and the terms, covenants and conditions herein shall extend to and be binding upon the respective heirs, legal representative, successors and assigns of the parties hereto, and to any other person or persons claiming to hold or to exercise any interest by, under or through any of the parties hereto.

23. Notice. All notices to be given with respect to this Lease Agreement shall be in writing. Each notice shall be sent by registration or certified mail, postage prepaid and return receipt requested, to the party to be

notified at such address as either party may from time to time designate in writing. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of summons or other legal process.

24. Entire Agreement. This Lease Agreement contains the entire agreement of the parties in respect to Lessee's tenancy, use and occupancy of the Premises, and no other agreement, statement, pertaining to the same shall be valid or of any force or effect. This Lease Agreement shall not be subject to modification except in writing, signed by the parties hereto.

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Lessee, its successors and assigns, hereby acknowledge and confirm that water and power are not immediately available on or within one hundred feet of said property. Lessee understands that it will have to pay for water and power hookup at its sole expense.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement on the day and year first above written.

LESSOR:
PORT AUTHORITY OF GUAM

LESSEE:
THE MARIANAS YACHT CLUB

By: _____
PHILIP J. FLORES
Chairman of the Board

By: _____
Its Duly Authorized
Representative

and

By: _____
DAVID B. TYDINGCO
General Manager

By: _____
Its Duly Authorized
Representative

APPROVED AS TO FORM:
BROOKS, BROOKS & PEREZ, P.C

By: _____
JAMES S. BROOKS
Attorneys for the Port
Authority of Guam

TERRITORY OF GUAM)
)
CITY OF AGANA)

On this _____ day of _____, 1991, before me a Notary Public in and for the Territory of Guam, personally appeared PHILIP J. FLORES Chairman of the Board of the PORT AUTHORITY OF GUAM, known to me to be the person who executed the foregoing Lease Agreement, and acknowledged to me that he executed the same on his behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the date last above written.

Notary Public

TERRITORY OF GUAM)
)
CITY OF AGANA)

On this _____ day of _____, 1991, before me a Notary Public in and for the Territory of Guam, personally appeared DAVID B. TYDINGCO General Manager of the PORT AUTHORITY OF GUAM, known to me to be the person who executed the foregoing Lease Agreement, and acknowledged to me that he executed the same on his behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the date last above written.

Notary Public

TERRITORY OF GUAM)
)
CITY OF AGANA)

On this _____ day of _____, 1991, before me a Notary Public in and for the Territory of Guam, personally appeared JAMES S. BROOKS c Brooks, Brooks & Perez, P.C., attorneys for the PORT AUTHORITY OF GUAM, known to me to be the person who executed the foregoing Lease Agreement, and acknowledged to me that he executed the same on his behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the date last above written.

Notary Public

TERRITORY OF GUAM)
)
CITY OF AGANA)

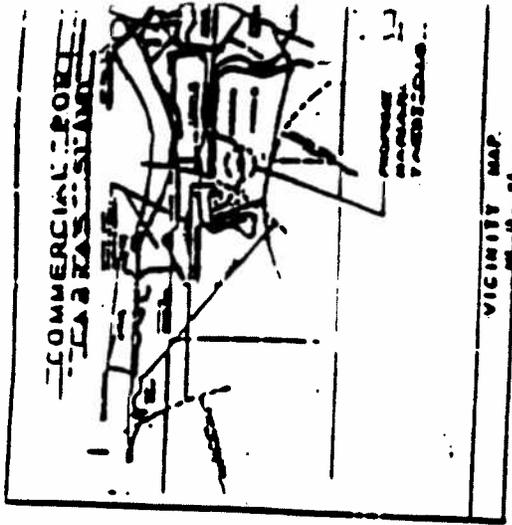
On this _____ day of _____, 1991, before me a Notary Public in and for the Territory of Guam, personally appeared _____ and _____, the duly authorized representatives of the MARIANAS YACHT CLUB known to me to be the person who executed the foregoing Lease Agreement, and acknowledged to me that he executed the same on his behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the date last above written.

Notary Public

BASIC LOT PARCEL NO 1
 AREA - 1,740.000 SQ. METERS (400,000 SQ. FT.)
 PERMITS AREA - 1,000.000 SQ. METERS (225,000 SQ. FT.)

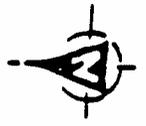
BASIC PARCEL NO 2 (EMERGENCY LAND)
 AREA - 1,000.000 SQ. METERS (225,000 SQ. FT.)



PART OF PARCEL NO 1
 AREA - 1,000.000 SQ. METERS (225,000 SQ. FT.)
 PERMITS AREA - 1,000.000 SQ. METERS (225,000 SQ. FT.)

PROPOSED LOT FOR
MARIANAS YACHT CLUB
 AREA - 1,000.000 SQ. METERS (225,000 SQ. FT.)

PART OF PARCEL NO 1
 AREA - 1,000.000 SQ. METERS (225,000 SQ. FT.)
 PERMITS AREA - 1,000.000 SQ. METERS (225,000 SQ. FT.)



MARIANAS
 YACHT CLUB

AGED LAND
 AREA - 1,000.000 SQ. METERS (225,000 SQ. FT.)



SENATOR JOHN PEREZ AGUON

VICE SPEAKER

CHAIRMAN, COMMITTEE ON TOURISM & TRANSPORTATION
21ST GUAM LEGISLATURE

155 Hessler Place, Agana, Guam, U.S.A. • 96910 • (671)472-3435/472-3497 • Telefax: (671)477-8358

November 4, 1991

Honorable Joe T. San Agustin, Speaker
21st Guam Legislature
155 Hessler St.
Agana, Guam 96910

Dear Mr. Speaker,

The Committee on Tourism & Transportation, to which Bill No. 270 was referred, wishes to report its findings and recommendations.

Bill No. 270 As Amended By The Committee On Tourism & Transportation:
"AN ACT TO APPROPRIATE FUNDS FROM THE TOURIST ATTRACTION FUND TO THE PORT AUTHORITY OF GUAM TO PROVIDE FACILITIES FOR COMMUNITY SAILING ACTIVITIES AND FOR JUNIOR YACHTSMEN AND BOARD SAILORS TO PREPARE THEM FOR THE OLYMPIC AND SOUTH PACIFIC GAMES AND TO APPROVE A LEASE FOR THE MARIANAS YACHT CLUB."

The Committee voting record on Bill No. 270 as amended by the Committee on Tourism and Transportation is as follows:

TO PASS	<u>15</u>
NOT TO PASS	<u>0</u>
TO REPORT OUT ONLY	<u>0</u>
INACTIVE FILE	<u>0</u>
OFF - ISLAND	<u>0</u>

The recommendations of the Committee is to pass. A copy of the voting sheet, report and all pertinent documents are attached for your information.

Sincerely,


JOHN PEREZ AGUON

Attachments

VOTING SHEET • COMMITTEE ON TOURISM & TRANSPORTATION

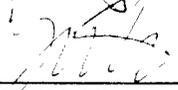
Bill No. 270 as Substituted by the Committee on Tourism & Transportation: AN ACT TO APPROPRIATE FUNDS FROM THE TOURIST ATTRACTION FUND TO THE PORT AUTHORITY OF GUAM TO PROVIDE FACILITIES FOR COMMUNITY SAILING ACTIVITIES AND FOR JUNIOR YACHTSMEN AND BOARD SAILORS TO PREPARE THEM FOR THE OLYMPIC AND SOUTH PACIFIC GAMES AND TO APPROVE A LEASE FOR THE MARIANAS YACHT CLUB.

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



 JOHN P. AGUON, Chairman

✓



 CARL T. C. GUTIERREZ, Vice Chairman

✓



 JOE T. SAN AGUSTIN, Speaker

✓



 J. GEORGE BAMBA

✓



 DORIS F. BROOKS

✓



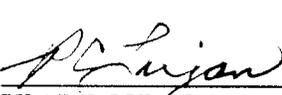
 HERMINIA D. DIERKING

✓



 ERNESTO M. ESPALDON

✓



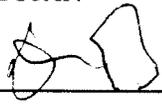
 PILAR C. LUJAN

This bill (270) Consolidated Bill 225 = suggest that I be 2nd sponsor if author permits as 10/31/91 co-sponsors allow

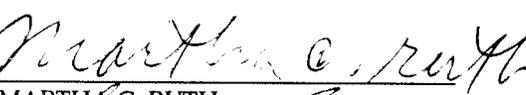


 MARILYN D. A. MANIBUSAN

✓

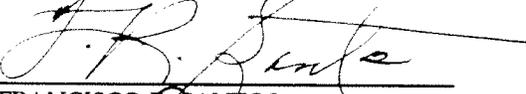


 DON PARKINSON



 MARTHA C. RUTH

11/1/91



 FRANCISCO R. SANTOS

✓



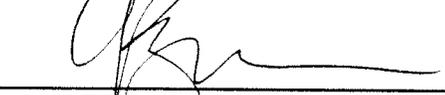
 DAVID L. SHIMIZU

✓



 THOMAS V. TANAKA

✓



 ANTONIO R. UNPINGCO

✓

TWENTY-FIRST GUAM LEGISLATURE
1991 (FIRST) Regular Session

Bill No. 270
As Substituted by the Committee
on Tourism & Transportation

Introduced by:

J. P. AGUON
C. T. C. GUTIERREZ
F. R. SANTOS

AN ACT TO APPROPRIATE FUNDS FROM THE TOURIST
ATTRACTION FUND TO THE PORT AUTHORITY OF
GUAM TO PROVIDE FACILITIES FOR COMMUNITY
SAILING ACTIVITIES AND FOR JUNIOR YACHTSMEN
AND BOARD SAILORS TO PREPARE THEM FOR THE
OLYMPIC AND SOUTH PACIFIC GAMES AND TO
APPROVE A LEASE FOR THE MARIANAS YACHT CLUB.

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

3 **Section 1. Legislative findings and intent.** The Legislature finds that
4 the Marianas Yacht Club and the **Bailan Tasi** Board Sailing Club
5 (collectively, the "Club") represent Guam in the International Yacht
6 Racing Union through the Guam National Olympic Committee and have
7 the responsibility for training the young men and women of Guam for
8 sailing competition in future Olympic and South Pacific Games. The
9 Legislature further finds that the Club conducts sailing classes open to all
10 of the youth of Guam to encourage competitive sailing activity and
11 participation in future Olympic and South Pacific Games and, in
12 cooperation with the Guam Visitors Bureau, has hosted successful
13 international yachting events, including the annual Japan-Guam Yacht
14 Race, the 1989 Auckland-Fukuoka Yamaha Cup Yacht Race and the annual

1 Japan-Guam Goodwill Series. The Legislature also recognizes the
2 importance of Guam's entry and participation as yachtsmen and board
3 sailors in future Olympic and South Pacific Games, especially since they
4 probably offer Guam's best chances for Olympic medals, and encourage
5 the spirit of good sportsmanship and international goodwill among
6 Guam's young men and women. The Legislature further finds that there
7 exists a serious need for a community facility designed to support and host
8 worthwhile international yachting events.

9 It is therefore the intent of the Legislature that funds be provided for
10 the construction of appropriate facilities for yachting and board sailing
11 activities for the people of Guam.

12 **Section 2. Appropriation.** Two Hundred Thousand Dollars (\$200,000)
13 are hereby appropriated from the Tourist Attraction Fund to the Port
14 Authority of Guam to provide support facilities for yachting and board
15 sailing activities within Guam. The Port Authority of Guam shall
16 administer the funds separate and apart from other Port funds.

17 **Section 3. Lease.** That certain lease agreement (the "Lease") between
18 the Port Authority of Guam (the "Lessor") and Marianas Yacht Club (the
19 "Lessee"), executed December 29, 1988 and recorded at the Department of
20 Land Management on Feb. 14, 1989, as amended and attached hereto
21 marked as Exhibit B and incorporated by reference hereon for a parcel of
22 land is hereby approved, subject to the conditions set in Section 4 of this
23 Act. The property covered by the Lease is described as follows (the
24 "Premises"):

25
26 (a) A portion of Parcel number 1, L. M. Dwg. E4-82T693, Apra
27 Harbor, as shown in the drawing attached hereto marked as Exhibit
28 A and incorporated by reference herein, which portion contains an

1 area of not to exceed 4,000 square meters. The Marianas Yacht Club
2 shall cause to be surveyed, mapped and registered that portion of
3 Parcel No. 1 described herein and to be leased. The survey, mapping
4 and registration herein required shall be performed by duly licensed
5 and registered surveyor approved by the Department of Land
6 Management. Title and all documentation to the parcel described
7 herein shall be in the name of the Port Authority of Guam,
8 Government of Guam.

9 **Section 4. Conditions.** The approval of the Lease is subject to the
10 following conditions, which conditions shall prevail over any provisions of
11 the lease to the contrary.

12 (a) The Marianas Yacht Club shall remain a not for profit
13 organization during the life of the lease. The Marianas Yacht Club
14 shall comply with all laws governing not for profit organizations
15 and shall on a yearly basis, submit to the Board of Directors of the
16 Port Authority of Guam an audited annual report in the format
17 normally required of not for profit organizations by the Department
18 of Revenue and Taxation.

19 (b) Public access to the facility and the beach shall not be
20 restricted nor unreasonably denied during the life of the lease.
21 Marianas Yacht Club may develop rules and regulations for public
22 access subject to the approval of the Board of Directors of the Port
23 Authority of Guam, which approval shall not be unreasonably
24 denied. The facilities, its slips or moorings, shall not be utilized for
25 permanent or extended residence beyond a period of thirty (30) days
26 without the prior written consent of the General Manager of the
27 Port Authority of Guam and the Department of Public Health and
28 Social Services. All fees for rental of slips or moorings shall be
29 approved by the Port Authority of Guam but, in no case, shall such

1 fees be greater than fees for the same facilities, slips or moorings
2 operated or controlled by the Port Authority of Guam.

3 (c) The Marianas Yacht Club shall conduct a minimum of three
4 Red Cross certified sailing classes annually. The sailing classes will
5 emphasize the training of Guam's youth between the ages twelve to
6 twenty-three years and the fees charged shall be reasonable.

7 (d) Marianas Yacht Club shall provide support for
8 international yacht racing events. Such events is subject to the
9 condition that the event shall be adequately sponsored by the
10 yachting organizations of the initiating countries.

11 (e) The Premises shall be available for sailing instructions, to
12 include the training of Olympic, South Pacific Games and other
13 sailing competitors, and the storage of related boats and gear.
14 Marianas Yacht Club shall also provide training and logistical
15 support.

16 (f) The Port Authority of Guam shall designate a representative
17 to act as an ex officio member of the Board of Directors of the
18 Marianas Yacht Club.

19 (g) Marianas Yacht Club shall, not less than ninety days
20 following the end of each calendar year, submit a written report to
21 the Port Authority of Guam stating compliance with subsections (a)
22 to (g).

23 (h) The term of the lease shall be for thirty years commencing
24 on January 1, 1989 and expiring on December 31, 2018.

25 (i) The annual rental fee shall be One Hundred Dollars per
26 year, payable annually in advance during each year of the term of the
27 lease.

1 (j) The Lessee shall comply with all applicable laws, rules and
2 regulations and shall be subject to any covenants or restrictions on
3 land usage which may be recorded at the Department of Land
4 Management or contained in federal law at the time of the execution
5 of the lease.

6 (k) Except as otherwise provided herein, the Lessee shall not
7 sell, assign, sublease, hypothecate, encumber, mortgage or otherwise
8 transfer its interest in the facility without the prior written consent of
9 the Governor and of the Legislature. The Marianas Yacht Club shall
10 not execute any instrument of debt or encumbrance resulting in a lien
11 on the facilities or property which debt, encumbrance or lien shall
12 exceed the life of the lease.

13 (l) At the end of the term of this Lease or upon the earlier
14 termination of this Lease, the Lessee will at its expense peaceably
15 deliver up to the Lessor possession of the Premises hereby leased,
16 together with all improvements constructed thereon, free of any
17 encumbrances or obligations and in good state of repair and in good
18 usable condition, ordinary wear and tear excepted. Provided,
19 however, Lessee may remove all furniture, fixtures and equipment
20 from the property.

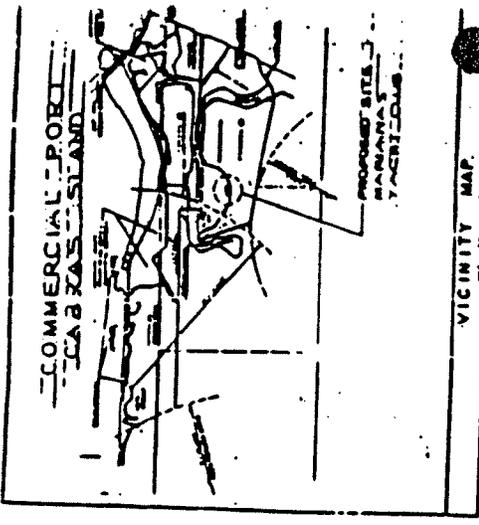
21 **Section 5. Administrative Provisions.** The Port Authority of Guam
22 shall develop Rules and Regulations in accordance with the Administrative
23 Adjudication Act and shall also develop criteria to insure the Legislative
24 findings and intent specified in Section 1 of this act are carried out.

25 **Section 6. Severability.** If any provisions of this Act or the application
26 thereof to any person or circumstance are held invalid, such invalidity shall
27 not affect the other provisions or applications of this Act which can be

- 1 given effect without the invalid provisions or application and to this end
- 2 the provisions of this Act are severable.

EXHIBIT A

BASIC LOT PARCEL NO 1
 AREA - 1,460.216 SQ. FT. (IRC.)
 REMAINING AREA - 7,537.281 SQ. FT.
BASIC PARCEL NO 3 (SUBMERGED LAND)
 AREA - 6,241.053 SQ. FT. (IRC.)
 AREA - 6,241.053 SQ. FT. (IRC.)



PART OF PARCEL NO 1
 REF. TO PAR. NO. 82-847693
 REMAINING AREA OF PARCEL NO. 1
 AREA - 1,460.216 SQ. FT.

PROPOSED LOT FOR
MARIANAS YACHT CLUB
PARCEL NO 1
 AREA - 43,096 SQ. FT.
 AREA - 43,096 SQ. FT.

PART OF PARCEL NO 1
 REF. TO PAR. NO. 82-847693
 REMAINING AREA OF PARCEL NO. 1
 AREA - 1,460.216 SQ. FT.

NO 3 (SUBMERGED LAND)
 REF. TO PAR. NO. 82-847693
 REMAINING AREA OF PARCEL NO. 3
 AREA - 6,241.053 SQ. FT.



MARIANAS
YACHT CLUB
 SCALE 1" = 20 FT.

EXHIBIT B

AMENDED LEASE AGREEMENT

(Space Above This Line for Registrar's Use)

AMENDED LEASE AGREEMENT

Preamble

WHEREAS, the GOVERNOR OF GUAM, the TWENTY-FIRST GUAM LEGISLATURE and the PORT AUTHORITY OF GUAM recognize the need for a central facility located at Apra Harbor, Guam, to be used for recreational boating, the conduct of sailing instruction open to the People of Guam with special emphasis on sailing instruction for Guam's youth, to provide a training facility for Guam's National Olympic Sailing Program, to provide a facility for the hosting of local and international yacht racing events and to promote community interest and participation in the sport of sailing, thereby enhancing the quality of life on Guam and

WHEREAS, the MARIANAS YACHT CLUB, a not-for-profit corporation, chartered by the United States Yacht Racing Union and a member of the International Yacht Racing Union and of Guam's

National Olympic Committee, has demonstrated its ability to promote community interest and participation in the sport of sailing, conduct programs of Red-Cross certified sailing instruction open to the People of Guam with special emphasis on sailing instruction for Guam's youth, support and manage major international yacht racing events, and that it is capable of providing support for Guam's National Olympic Sailing Program and hosting competitive sailing events in future South Pacific Games,

THIS AMENDED LEASE AGREEMENT is made and entered into this _____ day of _____, 1991, by and between the PORT AUTHORITY OF GUAM ("Lessor"), and the MARIANAS YACHT CLUB, a not-for-profit corporation ("Lessee").

Lessor owns or administers certain real property as is described in paragraph 1, *infra*, (the "Premises") and Lessor having leased the Premises to Lessee pursuant to a Lease Agreement entered into on the 29th day of December, 1988, and Lessor and Lessee now being desirous of entering into this Amended Lease Agreement for the purpose of providing for periodic oversight by Lessor to insure that the terms, conditions and special requirements of this Amended Lease Agreement are observed by Lessee, to permit enhanced public access to the Premises and to prohibit assignment of this Amended Lease or the encumbrance of the Premises by leasehold mortgage or other security instrument.

NOW THEREFORE, in consideration of the premises and the terms, covenants, conditions and special requirements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee enter into this amended lease and agree as follows:

1. Premises. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the following described parcel(s) of land, situated in the Municipality of Piti, Territory of Guam:

A portion of Parcel number 1, L.M. Dwg. E4-82T693, Apra Harbor, as shown in the drawing attached hereto marked as Exhibit A and incorporated by reference herein, which portion contains an area of approximately 4000 square meters.

TOGETHER WITH all and singular, the tenements, rights, easements, privileges, improvements and appurtenances to the same belonging or appertaining or held and enjoyed in connection therewith; and together also with all such rights, easements and privileges as Lessor may be entitled to grant in and to the shore area and surrounding waters adjacent to the Premises; and together also with the rights of ingress and egress as more fully described herein.

2. Term. The term of this Amended Lease Agreement shall be for a period of thirty (30) years commencing on January 1, 1989, and expiring on December 31, 2018, subject to the provisions of paragraph 14, *infra*, setting forth Lessor's rights on default.

3. Rent During Term. The rent payable from Lessee to Lessor shall be the sum of One Hundred Dollars (\$100.00) per year, payable annually in advance during each year of the term of this Amended Lease Agreement. This rental amount has been in good faith determined by the parties to be the fair rental value of the Premises, taking into consideration the provisions of this Amended Lease Agreement, including without limitation that the Lessee is a not-for-profit organization, that use of the Premises is generally limited as is more fully provided in paragraph 5, *infra*, to boating and recreation and that the Premises are located in an area which has been reserved for open space and recreational uses. Provided, however, should an appropriate agency of the United States having jurisdiction over the subject matter make a final and binding determination, pursuant to the provisions of Section 818(b)(2) of Public Law 96-418, that the fair rental value of the Premises exceeds the foregoing rental amount, then the rent payable hereunder shall be adjusted to such amount as shall have been determined by said agency, pursuant to the provisions of Section 818 of Public Law 96-418, to be the fair rental value of the Premises as of the date of this Amended Lease Agreement. Any such adjustment shall be made retroactive to the commencement date of the original Lease executed on December 29, 1988, the parties recognize that Lessee is a not-for-profit organization with limited financial resources, and therefore in the event a mandatory rent adjustment is required to be made by reason of Section 818 of

Public Law 96-418 and in the event Lessee in good faith determines it is unable to pay the adjusted rent, then the Lessee shall have the right, at Lessee's option, to be exercised within one (1) year from the date of a final and binding determination by the federal government that a rent adjustment is required, to either cancel this Amended Lease Agreement without penalty or to reduce the area of the Premises by releasing from the Amended Lease Agreement and returning to Lessor such portion of the Premises as Lessee may designate, subject to the approval of Lessor as to size and shape of the released portion (which approval Lessor shall not unreasonably withhold). In the event any mandatory rental adjustment is required by reason of federal law, such rent adjustment shall not exceed in any event, the amount determined by the appropriate federal agency to be the fair rental value of the Premises as of the date of the execution of this Amended Lease Agreement.

4. Quiet Enjoyment. Lessor shall put and keep Lessee in actual possession of the Premises at the beginning and throughout the term of this Amended Lease Agreement. Lessor covenants that Lessee, upon paying the rent required hereunder, shall lawfully, peacefully and quietly have, hold, use, occupy and enjoy the Premises without any suit, hindrance, eviction, ejection, molestation, interruption or disturbance whatsoever of or by Lessors or by any persons claiming by, from, under or against Lessor; subject to the terms of any deed of conveyance from the