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IN THE OFFICE OF PUBLIC ACCOUNTABILITY

In the Appeal of

Korando Corporation,

Appellant.

DOCKET NO. OPA-PA-15-009

**KORANDO CORPORATION'S
HEARING BRIEF**

I. INTRODUCTION

Korando Corporation (“Korando”) was wrongfully terminated on the Bile and Pigua Replacement Bridges Replacement Project (GU-NH-NBIS (007)) (the “Project”) and requests the Office of Public Auditor (“OPA”) find that, because the termination was wrongful, Korando is entitled to termination for convenience.

II. BRIEF BACKGROUND

A. The Contract.

On March 11, 2014, DPW issued its Intent to Award a contract to Korando Corporation (“Korando”) to replace the Bile and Pigua Bridges in Merizo (“Project”). There were two bidders: IMCO and Korando. Korando was the low bidder with a bid of \$3,665,599. The Project was 100% federally funded and paid from by Federal Highway Administration (THP funding).

Stanley Consultants was hired by DPW to provide construction management services for the Project pursuant to Task Order No. GU-NH-PCMS(002)-STANLEY-05 for an amount not to exceed \$761,390.13 (“Stanley Contract”). Under the terms of the Stanley Contract, Stanley was to act as the Construction Management Consultant (“CMC”). Jack Marlowe, one of the engineers employed by Stanley, filled the role of Chief Resident Project Representative.

The Notice of Intent to Award the replacement bridges contract was given to Korando on March 11, 2015. The last person to sign the Korando Construction contract was Governor Eddie Calvo, who signed on June 10, 2014.

On June 30, 2014, Korando submitted its application for a building permit for the Project. The Building permit was issued on October 30, 2014. However, because it is a bridge replacement project, the government agencies required various plans to be submitted, reviewed and approved e.g., EPP, HACCP, etc. The last of the plans/conditions was met when Korando

submitted the *Hazard Analysis and Critical Control Points* plan (HACCP) to Stanley on February 18, 2015 (Submittal 107.007-01), which Stanley reviewed and responded to on March 4, 2015 after submission. Stanley responded on March 4, 2015, and gave the HACCP a status of "Exceptions as Noted" ("EAN"), and notified Korando that it could proceed with the final step of meeting with the Dept. of Agriculture.

Korando met with the Dept. of Agriculture on March 5, 2015, the day after Stanley responded to the HACCP submittal. On March 19, 2015, Korando began clearing and grubbing work commenced at the Project site. Completion of all conditions would have been in or about February 18, 2015, and work would have commenced in February if Stanley had not delayed review for 44 days.

B. Original Phasing Plan Was Not Constructible.

The original Phasing Plan was not constructible because: (1) the existing bridges could not support the load of a crane and heavy equipment, and (2) the crane boom would have struck the high voltage wires during the pile work.

1. The Existing Bridges Could Not Support the Load.

The original 1930 bridges were approved for a maximum of 5 ton load capacity. The load capacity of the temporary steel bridges constructed over the 1930 bridges ("Existing Temporary Bridges") should have been provided to Korando in the bid documents. It was not provided. In addition, a 5 ton maximum load signage is required under Section 6.82 of the Manual of Bridge Evaluation produced by AASHTO (American Association of State Highway and Transportation Officials). There is no signage posted at the entry points of either bridge. Had this information been provided with the bid documents, a contractor like Korando would have considered this in its bid.

Korando proposed an Alternate Phasing Plan on October 7, 2014 to resolve several issues identified during their preconstruction site inspections. These issues were: (1) single mobilization for Korando's crane and pile driving; (2) restricted work areas around the bridges; (3) visual concerns regarding load capacity and safety of the existing temporary steel bridges. Stanley initially reviewed this plan in October 2014, and provided comments at the October 22, 2014 meeting. Korando resubmitted on October 27, 2014, and on November 4, 2011, Stanley gave it a status of "Exceptions As Noted" ("EAN,") without requiring resubmission. Four months later, on March 1, 2015, Stanley abruptly decided to re-review the 10/27 APP and change its status to require revision and resubmission. This created delays, as Korando was no longer able to proceed as planned.

On May 20, 2015, Korando submitted a *Structural Assessment Report* for Existing Bile & Pigua Steel Bridge. The report concluded that "the existing bridge superstructures are structurally inadequate" to support the necessary loads. Despite all evidence to the contrary, DPW continues to insist that the original Phasing Plan was not flawed. A June 8-9, 2015, email chain produced by DPW on November 9, 2015 to Korando confirms that as late as June 2015, the issue of the constructability of the original Phasing Plan had not been resolved. DPW's consultant, Lynden Kobayashi of Parsons Brinckerhoff¹ expressed his concern about the ability of the bridges to carry the load of the crane and DPW's failure to inform Korando of the 5 ton limitation on the bridge's load:

I can't find any evidence that we informed the contractor of the fact that the bridge cannot carry Guam legal loads during the bidding process and the bridge was never load posted. We feel that this could open us up to a claim as in the fact that this affected his means and methods of constructing the bridge and moving material and equipment (There is only one other detour which is a 57 km detour through Route 17 which is two lanes, very rural and has many deficient horizontal curves which may be difficult to impossible to transport

¹ Parsons Brinckerhoff is a distinct entity and unrelated to Parsons Transportation Group.

without encroaching into oncoming traffic) The other detour is through Route 4 which I would guess would be a 100 km detour). In addition to your review of the calculations can you also provide us some recommendations for our options in the likely event we see a claim. (i.e, static permit load allowances, bracing, Wide load transport with pilot cars along route 17, or paying additional to the contractor for additional costs that are attained to move equipment, etc.).

This June 8th email clearly established that DPW failed to inform Korando critical information that affected Korando's means and methods and its bid. *See Korando's Opposition to DPW's Motion for Summary Judgment* at pp. 5-6 filed 11/13/2015.

DPW's consultants were unsure of the ability of the existing temporary bridge to carry the necessary loads, noting with respect to the Structural Assessment Report provided by Korando that "it is unclear whether the [Structural Assessment Report] analysis is too conservative," and "it is difficult to draw any anecdotal conclusions if the crane would work or not." *Id.* at 6.

It should be noted that this email exchange began on June 8, 2015, long *after* DPW had decided to terminate Korando. Despite DPW's insistence that Korando failed to revise its calculations and that the original Phasing Plan was not flawed, the truth is Korando was fired before it had the opportunity to do so, and that the issue of the viability of the original Phasing Plan was still being discussed internally by DPW.

2. The Crane Boom Did Not Have Sufficient Clearance.

Under the original Phasing Plan, there was not sufficient clearance for the crane boom to move the piles during pile driving. The proposed positioning of the crane would result in the boom striking the high voltage power lines at both bridges and violating the OSHA requirements regarding 20 foot setback from existing high voltage power lines. To address the issue of insufficient clearance for the power lines, Korando planned to reroute the GPA power lines underground. It submitted preliminary plans to Stanley, which were initially reviewed and given

the status of "EAN" on April 28, 2015. The submittal was then re-reviewed and rejected by Stanley on June 13, 2015. On June 22, 2015, Korando submitted a change order for the electrical work, but Korando was fired before it received a response. *Id.* at 6-7.

C. Approval of Korando's Alternate Phasing Plan

Korando's Alternate Phasing Plan was submitted on 10/7/2014 and 10/27/14 to Stanley for review and comments. After the second review, Stanley gave it an "Exceptions as Noted" status, which was the green light for Korando to proceed. The Alternate Phasing Plan was the plan which Korando proceeded with, until 116 days later (from 11/4/14 – 3/1/2015), when Stanley restarted the submittal review process on March 1, 2015. The Alternate Phasing Plan was approved and Stanley "new" review on March 1, 2015, was the third review. In addition to the 116 day delay caused by Stanley, Korando should have an additional 30 days to review and respond to the March 1, 2015 comments from Stanley, and another 30 days thereafter to fulfill the conditions imposed by Stanley, for a total of 176 days (116 + 60 days). Stanley's 116 day delay in reviewing and responding to this Submittal was unreasonable when the entire submittal and commenting process (submission, review, comments, and responding) is 30 days. *See Special Contract Requirements, §104.03 (3)* ("The Contractor shall submit all drawings and schedules sufficiently in advance of construction requirements. Allow 30 days for checking, correcting, resubmitting and checking.")

D. Issuance of NTP

The Notice to Proceed ("NTP") was issued by DPW on December 29, 2014 with instructions to begin work on January 5, 2015. The delay from the notice of award to the issuance of the NTP was primarily due to DPW's delays in condemning land and right of ways

needed for the Project. In fact, it has now become apparent that DPW never obtained all of the required right of ways, and the NTP should not have been issued.

E. Deletion of Public Record and Termination of Contract.

Stanley deleted four Critical Submittals from the Submittal Logs which were previously approved by Stanley. The four (4) critical submittals that were improperly deleted by Stanley were:

- A. **Alternate Phasing Plan Submittal No. 562.001-02**
Original Status: 11/4/14 status "Exceptions as Noted"
Deleted from Submittal Log: 3/10/2015
- B. **GPA Approved Underground Electrical Plan (Preliminary) Submittal No. 636-005-01 (See Korando's Response at pp. 13-14)**
Original Status: 4/22/15 status "Exceptions as Noted"
Deleted from Submittal Log: 6/16/2015
- C. **Traffic Control Plan Submittal No. 156.001--1**
Prior Status: 1/13/2015 status "No Exceptions Taken"
Deleted from Submittal Log: 3/10/2015
- D. **As Built Survey Submittal No. 104-001-01**
Original Status: 11/14/14 status "Exceptions as Noted"
Deleted from Submittal Log: 3/10/2015

The OPA found that these were "Critical Submittals" in her Decision and Order dated December 3, 2015. The deletions were not updates to the Submittal Logs, because the Submittal Log is a living document which keeps a complete record of the submittals, the dates it was received and response was provided, the statuses given previously and any other changes to the submittals. Deletion of a submittal from the log is not an acceptable method of keeping the log.

DPW issued a Notice of Default on June 26, 2015. Shortly thereafter, on July 10, 2015, DPW terminated Korando's Contract.

Stanley completed the Contractor's Performance Analysis on July 31, 2015, twenty one

(21) days after Korando was terminated. Mr. Keeler confirmed that the Contractor's Performance Analysis had not been finalized at the time Korando was terminated.

III. ARGUMENT.

As discussed more fully below and briefed by Korando in its previous briefs, DPW's termination of Korando's Contract was pretextual and in bad faith.

A. DPW's Failed to Obtain Right of Way and Misrepresentations to the OPA.

One of the most important conditions to qualify for and to obtain federal funding for this Project was that DPW had to obtain all rights-of-way (real property) required for this Project. *See, DPW PS&E Checklist dated 11/25/2013* at A-6. DPW's Right-of-Way Manual specifically provides at 10.1.1.1 that "[t] Department must own and/or control all rights of way needed for construction on its projects. The Director [*sic*] Department of Public Works (DDPW) or designee must certify right of way is available for construction for all construction projects prior to advertisement for bids." *See Exhibit 1* (Excerpt of DPW Right of Way Manual §10.1.1). Carl Dominguez, the Director of DPW during the procurement of this Project, certified that DPW would obtain the required right-of-ways for the Project within sixty days from December 3, 2013. *See Exhibit 2* (Right of Way Certification with Exceptions) attached hereto. This never happened; to this day DPW does not have all required right of ways.

DPW alleges that Korando materially breached the Contract. This is not true. As discussed more fully below, it was DPW which put Korando in a position of default at the outset when it awarded the Project to Korando without first obtaining all real property required for this Project, then by providing plans which were not constructible, by unreasonably delaying decisions on Korando's submittals, by approving critical submittals and subsequently withdrawing those approvals months later and using the denials as a basis for termination, and by deleting documents from the public

record.

A fundamental flaw in DPW's argument, and a flaw that it has gone to extraordinary efforts to conceal from Korando and from the OPA, is that DPW was trying to force Korando to build on land that DPW did not have the right to build on *i.e.*, land that is owned by someone else, and has never been condemned or acquired by DPW. Specifically, one of the lots that had to be acquired before work could begin was Lot 150-R3-1-R/W with an area of 240 +/- square meters located at the corner of the Pigua Bay bridge (the "Right-of-Way"). See **Exhibit 3** (Severance Map) attached. The 240 s.m. Right-of-Way was critical to the Project because DPW's new bridge plans required Korando to construct new bridge abutments and piles directly on this lot. See **Exhibit 4** (Marked up bridge map) attached. DPW should not have issued the NTP without first obtaining ownership of this Right-of-Way. In doing so, DPW violated the procedures set forth in its own Right of Way Manual, it violated relevant federal regulations and it exposed Korando to litigation and claims for trespass and damages from the owner of the property. Furthermore, in issuing the NTP without obtaining this Right-of-Way, it exposed the Government of Guam to claims from the owner and Korando.

DPW did not, at any time, inform Korando that it had failed to obtain this critical Right-of-Way. To this date, the Right-of-Way has not been acquired by DPW. See **Exhibit 5** (12/7/15 Title Report for Lot No. 150-R3-1-R/W) attached. It is impossible to overstate how critical this misrepresentation is to DPW's case. At the bidding stage, if DPW had honestly informed bidders in the bid documents that it did not acquire the Right-of-Way to the land under Pigua Bay Bridge, bidders would have been alerted that they would not be able to construct the new Pigua Bay Bridge, and could only proceed with Pigua Bay Bridge. This could well have resulted in DPW being forced to delay the bid or restructure the project. After the award was made, it became apparent that the original plan by DPW was not constructible – the work could not be done as originally envisioned by DPW. Korando submitted a revised plan, which was constructible, but which required work to begin

on the side of Pigua Bay bridge which sits on top of Lot 150-R3-1-R. There was nothing radical about Korando's revised plan, except that Korando did not know that DPW had not acquired the right of way to use this lot. Instead of confronting this issue openly, DPW covered it up.

Counsel for DPW was fully aware that DPW did not acquired the Right-of-Way because he prepared a draft Petition for Special Administrator for the Estate of Ignacio B. Cruz in February of 2014. See **Exhibit 6** (2/14/2014 Ltr. to Senators Won Pat and Ada). In fact, when Korando raised the issue of delays caused by the need to acquire right-of-ways in *Korando's Response to the Agency Report* filed on 10/16/15, Mr. Keeler responded as follows:

Korando assumes that the three (3) month period from DPW's March 11, 2014 Notice of Intent to Award (NOIA) and issuance of the Notice to Proceed (NTP) was because the 'Government's need to complete the acquisition of land for the right of way...' is wrong.... As set forth in Section 10.1 (Right of Way Certification) of DPW's Right of Way Procedures Manual, mandated pursuant to 23 C.F.R. §710.201, DPW's Director or designee must certify right of way (ROW) is available for construction prior to advertisement for bids....[T]he three month period following the NTP was unrelated to acquisition of ROW and instead is the general timeframe needed to secure all required signatures"

See DPW Rebuttal to Korando's Response filed 10/26/2015 at 3.

This was at best a cleverly misleading statement. The sentence *before* the sentence quoted by DPW's counsel above states that "The Department must own and/or control all rights of way needed for construction of its projects." DPW did not own or control the right of way to Lot 150-R3-1-R. This was well known to DPW since it was DPW's counsel who prepared the Probate Petition attached to the February 14, 2014 letter to Senators Won Pat and Ada, and gave advice to DPW with respect to this Right-of-Way. DPW's counsel statement that "the three month period following the NTP was unrelated to acquisition of ROW" may be technically accurate since it appears that DPW did nothing to acquire the right of way during that three months in mid-2014, or at any time since then. Specifically, DPW did not have the needed right of way when it put the project out to bid, or when it awarded the contract, or in the period between the Notice of Intent to Award and the Notice

to Proceed, or at any time thereafter including today.

B. DPW Placed Korando In A Default Position From the Outset.

DPW was in knowing breach of its obligation to provide the Right-of-Way and should not have issued the NTP unless and until the right-of-way was acquired. The issuance of the notice was part of a pattern of behavior evidencing DPW's ultimate intention of shifting the responsibility for delays to Korando. As explained in one journal article:

At the outset of construction, the owner has an implied obligation to provide adequate and timely access to the construction site.⁷⁷ In addition to giving rise to a claim for damages, an owner's failure to provide timely site access may constitute a material breach of contract that excuses the contractor's continued performance.

Owners breach this covenant by issuing a notice to proceed, knowing that a right-of-way has not yet been acquired.

Steven B. Lesser and Daniel L. Wallach, *The Twelve Deadly Sins: An Owner's Guide To Avoiding Liability For Implied Obligations During The Construction Of A Project*, 28 *Construction Lawyer* 15, 18-19 (Winter 2008).

C. Stanley's Deletion Of The Critical Submittals Created A False Record To Support the Wrongful Termination of Korando.

One of Stanley's duties under the Stanley Contract was to maintain accurate and correct records, including the Submittal Logs, which were a part of the project contract documents. There were four (4) critical submittals ("Critical Submittals") approved by Stanley by being given a status of "Exceptions as Noted", meaning notation that Korando did not have to resubmit, unless expressly stated, that Stanley subsequently deleted from the Submittal Log.

1. The four (4) critical submittals that were improperly deleted by Stanley were:

- E. **Alternate Phasing Plan Submittal No. 562.001-02**
Original Status: 11/4/14 status "Exceptions as Noted"
Deleted from Submittal Log: 3/10/2015

- F. **GPA Approved Underground Electrical Plan (Preliminary) Submittal No. 636-005-01** (See *Korando's Response at pp. 13-14*)
Original Status: 4/22/15 status "Exceptions as Noted"
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- G. **Traffic Control Plan Submittal No. 156.001--1**
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- H. **As Built Survey Submittal No. 104-001-01**
Original Status: 11/14/14 status "Exceptions as Noted"
Deleted from Submittal Log: 3/10/2015

The deletions of the approved Critical Submittals were improper alterations of the Submittal Logs and project contract documents. In deleting the Critical Submittals from the Submittal Logs, Stanley improperly altered the project contract documents and breached its CM Contract. The deletion of the Critical Submittals created a false record that DPW used as the basis for terminating Korando and constitutes misconduct by Stanley. Korando did not know that Stanley was deleting any of the earlier approved Critical Submittals from the Submittal Logs until after it was terminated.

Korando was damaged by Stanley's misconduct when Stanley altered the contract documents to conceal the approvals in order to facilitate and support the improper termination of Korando's Contract.

D. DPW's Termination Was Pre-Textual and in Bad Faith.

A termination for default will not be upheld if it was in bad faith or pretextual. DPW's failure to obtain the Right-of-Way was a violation of Federal Highway Administrator's Standard Specifications §FP-03 107.07 which requires that "[t]he Government will obtain all right-of-way." This is even more emphatically stated in DPW's own *Manual for Right Of Ways* which provides in part that, "[t]he Department must own and/or control all rights of way needed for construction of its projects. The Director

[DPW]...must certify right of way is available for construction for all construction projects prior to advertisement for bids.” See **Exhibit 1**, Right of Way Manual §10.1.1.1.

DPW was requiring Korando to build the bridge on Property belonging to Mr. Ignacio Cruz’s heirs. This is not only illegal but raises a whole host of other issues. The deletions of the Critical Submittals, which are public records, were done to support the wrongful termination of Korando. For these reasons, and others discussed in Korando’s briefs, DPW’s termination was pretextual and in bad faith.

DPW will argue that the Director has broad discretion to terminate a contract for default. The cases clearly explain that termination for default on federal contracts is “a drastic sanction which should be imposed (or sustained) only for good grounds and on solid evidence”. *Lisbon Contractors, Inc. v. United States*, 828 F.2d 759, 765 (Fed.Cir.1987); see also, *Lanterman v. United States*, 75 Fed.Cl. 731, 733 (2007) (citing *Consol. Indus., Inc. v. United States*, 195 F.3d 1341, 1343 (Fed.Cir.1999)).

A termination for default must be exercised reasonably, and “the decision to terminate a government contract for default may be overturned if it is arbitrary, capricious, or an abuse of discretion.” *Keeter Trading Co., Inc. v. United States*, 79 Fed.Cl. 243, 252 (Fed.Cl. 2007). “Thus, even in cases where the contractor has technically defaulted on its contractual obligations, the court will not uphold a default termination where the agency has acted in bad faith in administering the contract.” *Ibid*.

The default provision of a government contract does not require termination after a finding of default, but instead, provides the agency with discretion to do so, **so long as that discretion is exercised reasonably**. *Abcon Assocs., Inc. v. United States*, 49 Fed.Cl. 678, 686 (2001) (citing *Darwin Constr. Co. v. United States*, 811 F.2d 593, 596 (Fed.Cir.1987)). Thus, the decision to terminate a government contract for default may be overturned if it is arbitrary, capricious, or an abuse of discretion. *Lanterman*, 75 Fed.Cl. at 733 (citing *Consolidated Industries*, 195 F.3d at 1343–44).

Four factors serve as guideposts in determining whether a contracting officer's decision was reasonable:

(1) evidence of subjective bad faith on the part of the government official, (2) whether there is a reasonable, contract-related basis for the official's decision, (3) the amount of discretion given to the official, and (4) whether the official violated an applicable statute or regulation.

McDonnell Douglas Corp. v. United States, 182 F.3d 1319, 1326 (Fed.Cir.1999) (paraphrasing *U.S. Fid. & Guar. Co. v. United States*, 230 Ct.Cl. 355, 676 F.2d 622, 630 (1982)).

Keeter Trading Co., Inc. v. United States, 79 Fed.Cl. 243, 252 (Fed.Cl. 2007).

In light of the fact that DPW put Korando in a position of default by not obtaining the Right-of-Way, and then proceeded to cover this up and terminate Korando, there is no justification for terminating Korando. DPW cannot use a pretext for termination for default when the real reason is unrelated to the contract performance. *Keeter*, 79 Fed.Cl. at 252 (“Initially, the government bears the burden to show that a default termination was justified because the contractor was in breach at the time of termination.... A nexus between the government's decision to terminate for default and the contractor's performance is required, and the government may not use default as a pretext for terminating a contract for reasons unrelated to contract performance.”). In *Contractors, John A. Johnson Contracting Corp. v. United States*, 132 Ct.Cl. 645, 132 F.Supp. 698 (1955), the plaintiff contractor failed to complete construction for Army hospital buildings in a timely fashion because of bad weather that had rendered certain construction roads unusable. The construction roads had previously been contracted out to a different contractor. See *id.* at 699–700. After numerous delays, the contracting officer determined that both the roads and buildings should be completed by a single contractor, and therefore decided to terminate the plaintiff's contract. Although the contracting officer intended to terminate the plaintiff's contract for convenience, he ultimately terminated the

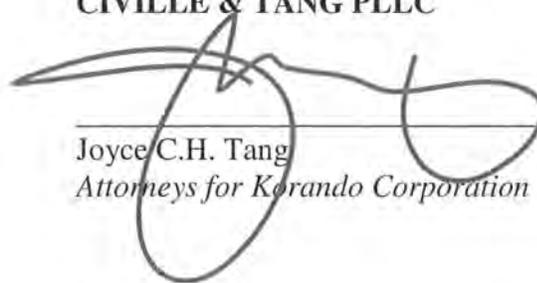
contract for default because government lawyers informed him that a non-default termination would create legal problems. *See id.* at 705. Because the Johnson court found that the contracting officer had already decided to terminate the plaintiff for convenience, it held that the change to a termination for default “did not represent [the contracting officer’s] judgment as to the merits of the case.” *Id.* Indeed, because the court found, as a factual matter, that the plaintiff could not be held at fault for the unforeseen conditions, *see id.* at 703–04, there could be no proper nexus between a termination for default and the plaintiff’s performance.

IV. CONCLUSION

DPW’s failure to obtain the Right-of-Way and the subsequent cover up by, among other things, deleting the approved Critical Submittals from the Submittal Logs, put Korando in a place of default at the outset. DPW’s actions were wrongful and Korando is entitled to a termination for convenience.

Respectfully submitted this 7th day of December, 2015.

CIVILLE & TANG PLLC



Joyce C.H. Tang
Attorneys for Korando Corporation

EXHIBIT 1

Section 10.1

RIGHT OF WAY CERTIFICATION

PURPOSE

The purpose of this section is to establish the process the Guam Department of Public Works, Office of Right of Way (Department) must follow for right of way project certifications.

AUTHORITY

23 CFR, 635.309(b)(c)(g)(h)&(p)

SCOPE

The principal users of this document are Department of Public Works Office of Right of Way employees and those persons contracted by the Department to perform parcel acquisition and management functions.

REFERENCES

Right of Way Manual Chapter 8.2, Right of Way Clearing
Right of Way Manual Chapter 8.7, Asbestos Management

FORMS

10.1-1 Right of Way Certification
10.1-2 Right of Way Certification with exception(s)

DEFINITIONS

Buildable Segment: A segment of a project on which right of way activities are sufficiently complete to allow construction to commence on that segment. Construction cannot interfere with the rights of property owners or tenants whose properties have not been acquired or who have not been relocated.

10.1.1 Certification for Construction

10.1.1.1 The Department must own and/or control all rights of way needed for construction of its projects. The Director Department of Public Works (DDPW) or designee must certify right of way is available for construction for all construction projects prior to advertisement for bids. *Form No. 10.1-1, Right of Way Certification*, shall be used to certify projects for construction when:

- (A) Title to all property and easements needed to construct the project, as designed, have vested in the Department as follows:
 - (1) The Department has obtained all private property and property rights needed for the project by conveyance, court order, or construction and maintenance easement;
 - (2) Property or property rights owned by the Government of Guam agencies have been transferred to the Department or alternatively the Department has obtained a permit, lease, license, or other form of consent to construct its project;

- (3) Property or property rights owned by Federal agencies have vested in the Government of Guam pursuant to a conveyance or transfer.
- (B) All persons and businesses who were required to move or move personal property, if any, have been relocated from the project right of way in accordance with ***Right of Way Manual, Section 7.1, Relocation Assistance Program and Section 7.2 General Relocation Requirements***;
- (C) All structures and/or improvements, if any, have been removed from the project right of way in accordance with ***Right of Way Manual, Section 8.2, Right of Way Clearing***, or alternatively will be removed as part of the construction contract. This includes structures and/or improvements encroaching on existing right of way incorporated into the project; and
- (D) Asbestos abatement of buildings and/or structures to be removed by the construction contractor, if any, has been completed in accordance with ***Right of Way Manual, Section 8.7, Asbestos Management***, or alternatively, will be included in the construction contract.

10.1.1.2 Prior to certification, the Department must conduct a diligent review to fulfill the requirements of ***Section 10.1.1.1*** have been met for right of way acquired for, and existing right of way incorporated into, the project being certified. Review shall include but is not limited to:

- (A) Review of right of way maps and construction plans to confirm necessary right of way is available for construction;
- (B) Field review of the project to confirm there are no remaining structures, encroachments or relocation issues;
- (C) Review of parcel and project files to confirm all necessary right, title and interests in the right of way have been obtained, relocation is complete, and asbestos abatement and demolition are complete or detailed in the construction contract; and
- (D) Review of any additional information available.

10.1.2 Certification Exceptions

10.1.2.1 The DDPW may approve exceptions to the requirements of ***Section 10.1.1.1*** on a case by case basis. When requesting an exception the Department of Public Works Right of Way Supervisor (DPWRS) shall provide the DDPW a detailed explanation of the circumstances requiring the exception on ***Form Number 10.1-2, Right of Way Certification with exception(s)***. The DDPW or designee shall coordinate with FHWA as necessary and shall provide the DPWRS a response within **ten business days** after receiving the request.

Note: Exceptions needed solely to meet certification or production schedules, where project letting is not in jeopardy, are not allowed.

10.1.2.2 In unusual circumstances and in order to preserve the project letting date, the DDPW may authorize exceptions that extend beyond the letting date. Exceptions involving Federally funded construction projects also require approval by FHWA. Exceptions extending beyond the project letting must be cleared or removed prior to commencement of construction on the affected portion of the project

10.1.2.3 The DDPW shall notify the FHWA Manager, Federal Aid Management Office, when a certification exception is requested.

10.1.3 Certifications

10.1.3.1 Projects require an initial certification stating the status of the project right of way as of the advertisement date. For projects to be constructed entirely within existing right of way and/or right of way acquired for the project prior to letting, the certification shall be a certification for construction that complies with the requirements of **Section 10.1.1.1**. For projects requiring acquisition of right of way after letting, the certification shall contain a statement that all additional rights of way to be acquired for the project shall be acquired in compliance with **Section 10.1.2** and applicable Guam and Federal law.

10.1.3.2 Construction projects may commence before the project is fully certified for construction. However, construction must be restricted to buildable segments of the project as determined by the Department, FHWA on Federally funded projects and in some cases the contractor. Prior to construction, buildable segments must meet the conditions for right of way certification in **Section 10.1.1.1**. For each identified buildable segment, construction may commence when the DDPW has provided the contractor's project manager a "Right of Way Clear Letter" stating that right of way activities are complete and right of way is available for construction.

10.1.4 Certification Delivery

The Department shall include the Right of Way Certification for Construction in the project plans, specifications and estimates (PS&E) package. The Department shall also provide the DDPW a copy of the certification at or before the project letting.

HISTORY

Original Issue Date: January 2011.

EXHIBIT 2



The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY S. TENORIO
Lieutenant Governor



ROW CERTIFICATION FOR CONSTRUCTION
(With Exceptions)

Project Name: Bile & Pigua Bridges Reconstruction & Widening
Project No.: GU-NH-NBIS(003)(004)
Location: Route 4, Merizo
Letting Date: December 3, 2013

The undersigned hereby certifies as Follows:

Title to all property and easements needed for the above construction project is vested in the Government of Guam. The Government of Guam has obtained sufficient authority to occupy, use, construct, and maintain the proposed improvements on property and easements owned by the Government of Guam except for Lots 151WEST-1, 150-3-1-1, 150-3-1-R1, 150-1-R1 and 150-3-4,(pending Right-to-Enter Agreement for construction easement), Lot 150-R3(pending condemnation) and lot 149-3 (pending acquisition). Further:

Acquisition

- Right of way was not required for this project.
- Right of way was acquired for this project in compliance with the applicable Guam and Federal law.

Relocation

- No persons or businesses were required to move or move personal property from the project right of way.
- All persons and businesses that were required to move or move personal property from the project right of way have been provided relocation assistance in conformance with applicable Guam and Federal law.

Demolition

- No structures or improvements, including encroachments, required removal from the project right of way.
- All structures and/or improvements, including encroachments, have been removed from the project right of way in compliance with applicable Guam and Federal law or will be included in the construction contract.

Asbestos Abatement

- No structures or improvements requiring asbestos abatement were located on the project right of way.
- Asbestos abatement of buildings and/or structures, including those to be removed by the construction contractor has been completed in compliance with Guam and Federal law, or will be included in the construction contract.

Exception(s) to the above statements and time frame(s) for the exceptions to be cleared or removed **(60) days** from December 2, 2013.

Certified by: _____
Title: **Carl V. Dominguez, Director**

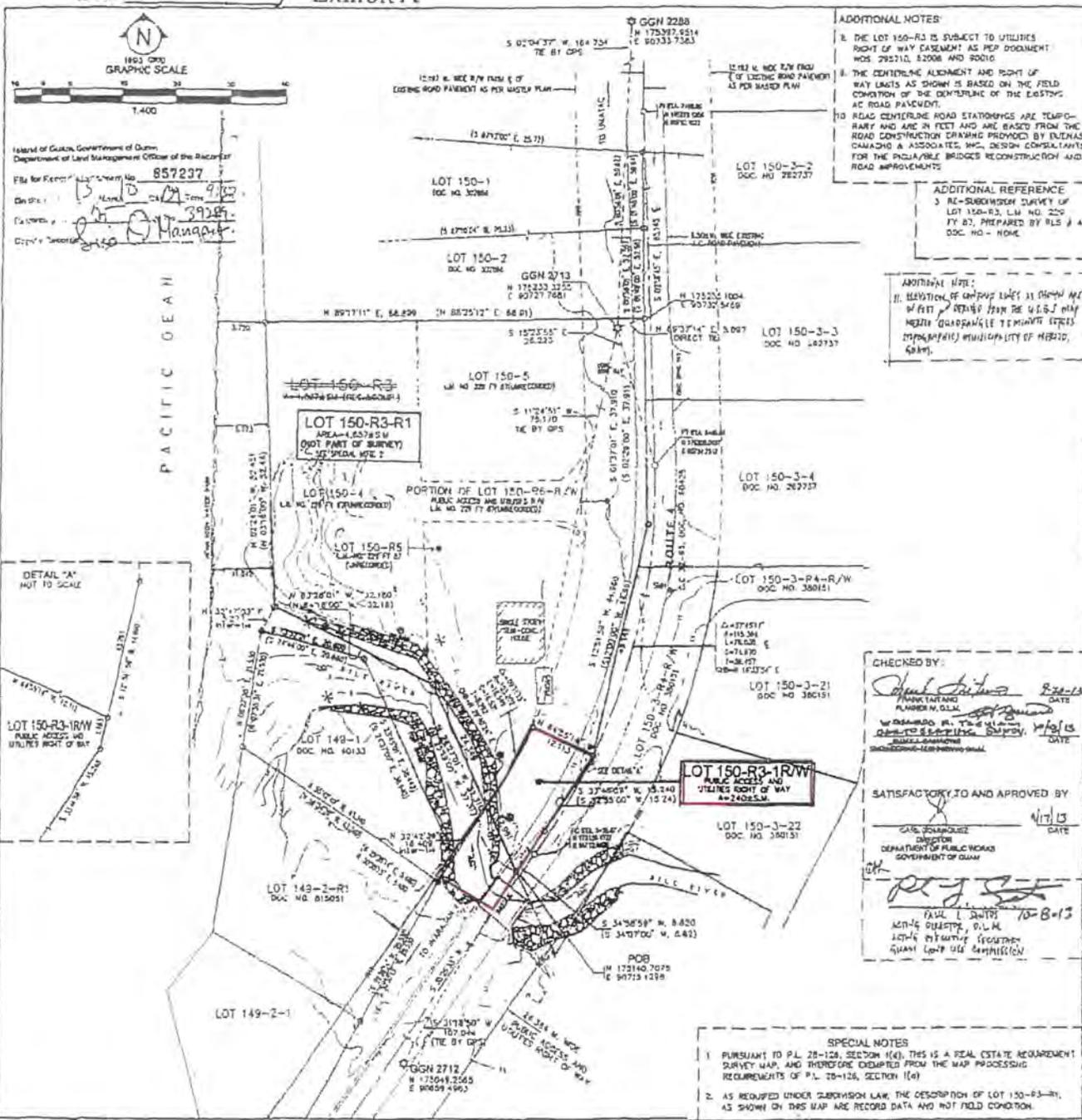


Date: 12/2/13

JBlaz/CPlec


EXHIBIT 3

EXHIBIT 4



Island of Guam, Government of Guam
 Department of Land Management Office of the Recorder
 File for Record No. **857237**
 Date: **13 Nov 2011**
 Prepared by: **OT HANAPET**

ADDITIONAL NOTES

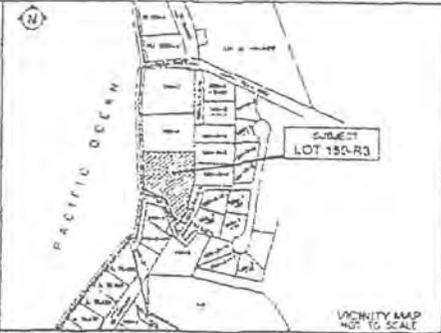
- THE LOT 150-R3 IS SUBJECT TO UTILITIES RIGHT OF WAY EASEMENT AS PER DOCUMENT NOS 295710, 22008 AND 90010.
- THE CENTERLINE ALIGNMENT AND RIGHT OF WAY LIMITS AS SHOWN IS BASED ON THE FIELD CONDITION OF THE CENTERLINE OF THE EXISTING AT ROAD PAVEMENT.
- ROAD CENTERLINE ROAD STATIONINGS ARE TEMPORARY AND ARE IN FEET AND ARE BASED FROM THE ROAD CONSTRUCTION DRAWING PROVIDED BY ELENAS, DAMAZO & ASSOCIATES, INC. DESIGN CONSULTANTS FOR THE INCLINABLE BRIDGES RECONSTRUCTION AND ROAD IMPROVEMENTS.

ADDITIONAL REFERENCE

- RE-SUBDIVISION SURVEY OF LOT 150-R3, L.M. NO. 229 FY 87, PREPARED BY PLS # 44, DOC. NO. - NONE.

ADDITIONAL NOTE:

- LOCATION OF CENTERLINE LIMITS IS SHOWN IN FEET MEASURED FROM THE U.S.S. MAP NEARBY QUADRANGLE (TERRITORY SERIES, HYPOGRAPHIC) MUNICIPALITY OF MERIZO, GUAM.



REFERENCES:

- DOCUMENT NO. 43155
- RETRACEMENT SURVEY MAP OF LOT 149-2-R1, PREPARED BY PLS 13, L.M. NO. 134 FY 2010, DOC. NO. 815021

NOTES:

- SURVEY WAS BASED ON FOUND PROPERTY CORNERS AS SHOWN ON THIS MAP.
- ALL DISTANCES ARE IN METERS.
- BEARINGS & DISTANCES IN PARENTHESES ARE RECORDED DATA. ALL OTHERS ARE 1983 GRID VALUES.
- SUBJECT LOT IS ZONED "A" AGRICULTURAL PER 1963 OFFICIAL ZONING MAP, 1307549.
- SUBJECT LOT IS OUTSIDE THE NORTHERN ADJUTER.
- AS-BUILTS ARE AS SHOWN AS OF APPROVAL OF THIS MAP.
- RIGHT OF WAY ROAD CENTERLINE STATIONING IS IN FEET.

SYMBOLS:

- CGN STATION
- COMPUTED CORNER SET
- ROAD & NOT SET
- FINO. NO. 4 REBAR WITH CAP MARKED PLS 73 DOC. NO. 215651
- FINO. NO. 4 REBAR WITH CAP MARKED PLS 72 DOC. NO. - NONE
- SEWER MANHOLE (DWN)
- STREAM FLOW

CERTIFICATE OF GUAM CHIEF SURVEYOR
 THIS MAP HAS BEEN EXAMINED FOR CONFORMANCE WITH TITLE 21, GUAM CODE ANNOTATED, CHAPTER 81, REGULATIONS THEREUNDER ON 11/13/11 BY
 PLS # 13
 GUAM CHIEF SURVEYOR

CERTIFICATE OF GUAM CHIEF PLANNER
 APPROVAL PURSUANT TO TITLE 21 GUAM CODE ANNOTATED, CHAPTER 81, SUBDIVISION LAW, 2011
 PLS # 13
 GUAM CHIEF PLANNER

CERTIFICATE OF SURVEYOR
 I, HESTOR C. IGNADO, HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION THAT IT IS BASED ON A FIELD SURVEY MADE ON JUNE 16, 2011 IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS, THAT I AM RESPONSIBLE FOR THE ACCURACY OF ALL DATA AND INFORMATION SHOWN HEREON. I FURTHER CERTIFY THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED ON THIS MAP.
 HESTOR C. IGNADO
 PROFESSIONAL LAND SURVEYOR NO. 83



CHECKED BY:
 [Signature]
 DATE: 8/28/13
 [Signature]
 DATE: 11/13/11

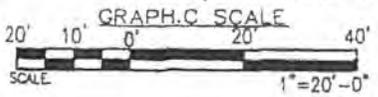
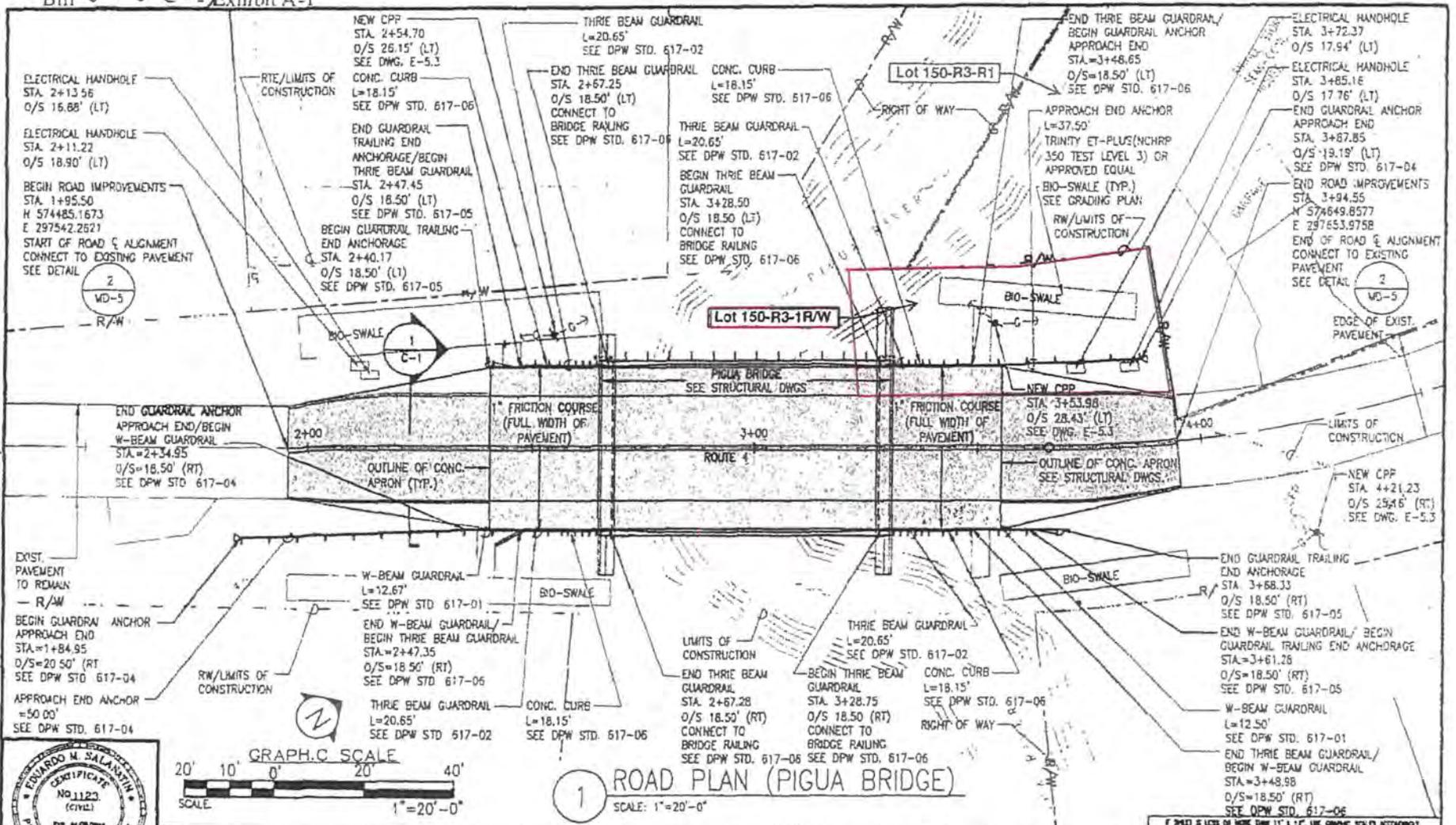
SATISFACTORY TO AND APPROVED BY:
 [Signature]
 DATE: 11/13/11
 CASE ENGINEER
 DEPARTMENT OF PUBLIC WORKS
 GOVERNMENT OF GUAM

PROFESSIONAL LAND SURVEYOR NO. 83
 HESTOR C. IGNADO
 [Signature]
 DATE: 7/20/13

REV.	BY	DESCRIPTION	DATE
REAL ESTATE REQUIREMENT SURVEY MAP OF LOT 150-R3 (SEVERANCE OF ROAD RIGHT OF WAY) MUNICIPALITY OF MERIZO			
SURVEY DATA		DATE	LOT DATA
FILE NO.	FILED	8/28/11	LOT NO. 150-R3
BOOK NO.	BOOK	00A/0008-0011 (1-1)	SEPT. OF USE NO. 1528
COMPUTED	YES	DEC. 2011	REGISTERED ON 11/26/11
DRAWN	YES	DEC. 2011	BY THE NAME OF
RESEARCHED	YES	OCT. 2011	IGNADO & ORTIZ
CHECKED	NO	DEC. 2011	
SATISFACTORY TO & APPROVED BY: [Signature]			
DUG NO. DCAM-5-11-28		SCALE: 1"=400'	L.M. CHECKED NO. 084 FY 2012

SPECIAL NOTES

- PURSUANT TO P.L. 28-126, SECTION 1(4), THIS IS A REAL ESTATE REQUIREMENT SURVEY MAP, AND THEREFORE EXEMPTED FROM THE MAP PROCESSING REQUIREMENTS OF P.L. 28-126, SECTION 1(4).
- AS REQUIRED UNDER SUBDIVISION LAW, THE DESCRIPTION OF LOT 150-R3-1, AS SHOWN ON THIS MAP ARE RECORDED DATA AND NOT FIELD CONDITION.



1 ROAD PLAN (PIGUA BRIDGE)
 SCALE: 1"=20'-0"

REVISION	DATE	BY	DESCRIPTION

DESIGNED BY	JMC
DRAWN BY	EMS/JAC
CHECKED BY	
DATE	11-25-13



BILE / PIGUA BRIDGE REPLACEMENT (CONSTRUCTION PHASE) OPTION 1 (BRIDGE)	
ROAD PLAN (PIGUA BRIDGE)	

GUAM DEPARTMENT OF PUBLIC WORKS					
VILLAGE	TERRITORY	PROJECT NO.	CONTRACT NO.	SHEET NO.	TOTAL SHEETS
MERIZO	GUAM	GUAM-HBIS(007)	C-8	17	133

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.

EXHIBIT 5



**Security
Title**

356 S. Marine Corps Drive
Tamuning, GU 96913
Tel: 671-647-8100 • Fax: 671-647-8170
www.securitytitle.net

OWNERSHIP & ENCUMBRANCE REPORT

Order Number: 15-1554-GU

DATE: December 07, 2015

Requested By:

Civille & Tang, PLLC

Attn:

Joyce Tang

Legal Description (s):

**Lot Number 150-R3-1-R/W,
Merizo, GU 96915**

OWNERSHIP AND ENCUMBRANCE REPORT

- I. This Report is Not:
 1. A guarantee or warranty of title.
 2. A legal opinion as to the status of the title.
 3. A title commitment to issue a title insurance policy.
 4. A title insurance policy.

- II. The Status or Validity of the Title to Subject Property may also be affected by the following matters:
 1. Rights or claims of parties in possession not shown by the public records.
 2. Easements, or claims of easements, not shown by the public records.
 3. Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey and inspection of premises.
 4. Taxes or special assessments which are not shown as existing liens by the public records.
 5. Any lien, or right to a lien, for services, labor or material hereto or hereafter furnished, imposed by law and not shown by the public records.

Therefore, no one should rely on this report as a basis for the Consummation of any real estate transaction until it is converted into an actual Title Insurance Commitment, at which time additional requirements and exceptions will necessarily be added.

- III. Liability of **Security Title, Inc.** under this report.
 1. **Security Title, Inc.** disclaims any and all liability or responsibility for defects in, or the marketability of the title to the Real Property which is the subject of this Ownership and Encumbrance Report.
 2. The total liability of **Security Title, Inc.** shall not exceed **\$100.00** paid for the Ownership and Encumbrance Report.

Security Title

Order Number: 15-1554-GU

Date: December 03, 2015

This report is subject to the terms, conditions and stipulations contained on the page.

OWNERSHIP & ENCUMBRANCE REPORT

SECURITY TITLE, INC. has made a thorough search at the Department of Land Management, Government of Guam, as disclosed by the public indexes, records, and electronic data, relating to the hereinafter described real property, viz:

Lot Number 150-R3-1-R/W, Merizo, Guam, Suburban, as said Lot is described in that Real Estate Requirement Survey Map of Lot 150-R3 (Severance of Road Right of Way), as shown Drawing Number DCAI-S-11-26, as L.M. Check Number 064 FY 2012, dated 08 October 2013 and recorded on 23 June 2014 under Instrument No. 866524 at Land Management.

For informational purposes only, the above referenced map indicates the property contains an area of 240± square meters.

Last Certificate of Title Number: 12128 - Ignacio B. Cruz (as to Basic Lot 150-R3, Estate Number 41).

The search of said records shows **Ignacio B. Cruz**, as shown on that Deed of Gift, executed by Joaquin G. Cruz and Maria B. Cruz, as grantors, dated 30 March 59 and recorded on 30 March 59 under Instrument No. 36022 at Land Management, as the last grantee.

The search of said records also shows the subject property being affected or encumbered by the following recorded instruments:

**Security
Title**

Order Number: 15-1554-GU

1. Real Property Taxes for the year 2014 are paid in full:

Land Tax

Under the Name of: Cruz, Ignacio B.

Account Number: 30000019700000

Year: Amount Owed:

2014 - \$0.22 - ***PAID IN FULL***

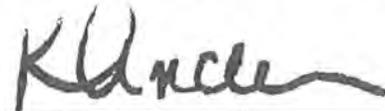
2. Grant of Easement, granted to the Government of Guam, dated 24 August 65 and recorded on 30 August 65 under Instrument No. 62008 at Land Management.
3. Grant of Easement, granted to the Government of Guam, dated 02 May 69 and recorded on 02 May 69 under Instrument No. 90010 at Land Management.
4. a) Rights of the upper and lower riparian owners in and to the free and unobstructed flow of water of the Pigua River extending through the subject land, without diminution or pollution.

b) Navigation servitudes and all other statutory and regulatory rights and powers of the United States of America, the Territory of Guam, and the public over the Pigua River and its shore lands extending to the ordinary high-water mark thereof and which may be exercised without obligation for compensation to the riparian owners thereof.

c) The consequence of any change in location of the Pigua River which forms the southeastern boundary of subject property.

***** END *****

SECURITY TITLE, INC.



Kim Anderson Young

EXHIBIT 6



The Honorable
Eddie Baza Calvo
Governor

The Honorable
Ray Tenorio
Lieutenant Governor



Carl V. Dominguez
Director
Jessie B. Palican
Deputy Director

March 21, 2014

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Dos Na Likeslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

32-14 1434
Office of the Speaker
Judith T. Won Pat, Ed.D.
Date 3.21.14
Time 9:02 am
Received: [Signature]

2014 MAR 21 14:08
[Signature]

Senator Thomas C. Ada
Chairman, Committee on Public Safety, Infrastructure and Maritime Transportation
I Mina'trentai Dos Na Likeslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Dear Madame Speaker and Senator Ada:

Pursuant to 21 GCA §15105(b), enclosed is a copy of draft legislation to authorize the condemnation of a small portion of Mr. Ignacio Bautista Cruz's (DOD: February 3, 2003) Lot No. 150-R3, Merizo, Guam. Mr. Cruz's lot is needed for the reconstruction and widening of Bile and Pigua bridges project (the "Project") in Merizo, Guam. The Department of Public Works (DPW), which successfully negotiated the purchase of all properties needed for the Project other than the Cruz lot, attempted in good faith to negotiate with Mr. Cruz's son, Mr. Rodney Cruz, who I understand occupies and was purportedly designated by his father to receive the parcel. Unfortunately, Mr. Rodney Cruz has refused all attempts to either meet or communicate with us. No specific action is requested at this time as the DPW is awaiting completion of a second appraisal. However, I want to submit the draft legislation in advance as it may later be necessary to request that the Legislature expedite its authorization.

The government needs to condemn an area of 240± square meters of Lot No. 150-R3, which is designated as Lot No. 150-R3-1R/W on the severance map that was recorded with the Department of Land Management on October 9, 2013, under Instrument No. 857237. A copy of the severance map is enclosed for your easy reference. The area of the parcel to be acquired is less than 5% of the main lot's 4,897± square meters. The department was originally looking to obtain a larger portion, however, owing to Mr. Rodney Cruz's lack of cooperation scaled back the taking to only those areas needed to meet safety and compliance requirements. In this respect the 240± square meters is needed for:

1434

- Removal of the existing highway improvements, including asphalt pavement and old guardrail
- New bridge elements including portions of the foundation, abutment, deck, bridge railing, and approach slab
- A portion of the asphalt-paved approach roadway, approximately 40 feet long by 6 to 14 feet wide (width flares at bridge)
- Approximately 60 linear feet of new steel guardrail (a safety requirement at the bridge approach area)
- A bio-swale providing natural water-quality treatment and directing stormwater runoff from the bridge approach area to the Pigua River (an environmental compliance requirement)
- A new concrete power pole replacing an existing pole which is in conflict with the new bridge

The DPW requires 2 appraisals to move forward with the condemnation. The first appraisal has been completed while the second one is expected to be completed shortly. I will supplement this letter to notify the Legislature as to the fair market value of the taking as soon as the second appraisal is completed. At that time, I'll also file copies of both appraisals with the Legislature.

Finally, as title to Lot No. 150-R3, Merizo, remains in the name of Ignacio Bautista Cruz, I have written to Mr. Rodney Cruz and his sister, Donna Mulliken, requesting that they open up a probate for their father's estate. If they fail to do so the government intends on petitioning the probate court for letters of special administration. This is needed so that a representative is appointed to represent the Estate in the condemnation proceedings. The probate court can then determine which of Mr. Ignacio Bautista Cruz's children is entitled to receive the condemnation proceeds.

In closing, I am forwarding a draft Bill authorizing the condemnation of Lot No. 150-R3-1R/W, Merizo, Guam, in hopes that it can be reviewed in advance so that the required authorization can be acted upon, as deemed appropriate, once the appraisals are submitted to the Legislature.

Sincerely,



CARL V. DOMINGUEZ

Attachment

EXHIBIT 7

CIVILLE & TANG, PLLC

www.civilletang.com

Sender's Direct E-Mail:
jtang@civilletang.com

December 7, 2015

VIA HAND-DELIVERY

Senator Thomas C. Ada
Chairman
**Committee on Transportation, Infrastructure,
Lands, Border Protection, Veterans' Affairs and Procurement**
I Mina'trente Tres Na Liheslaturan Guahan
173 Aspinall Avenue
Hagatna, Guam 96910

Re: ***Guam Department of Public Works Bile & Pigua Bridge
Reconstruction Project, Project No. GU-NYH-NBIS(007)***

Dear Senator Ada:

I write to inform you of a matter which merits an investigation by the *Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs and Procurement Committee*. I represent Korando Corporation in an administrative appeal of its termination as the contractor on the Bile & Pigua Bridge Reconstruction Project, Project No. GU-NYH-NBIS(007) ("Project"). In the course of my research on this matter, it has come to my attention that the Department of Public Works ("DPW") failed to obtain the Right-of-Way on a parcel of land critical to the Project. Despite the fact that it has never acquired or condemned the parcel, DPW issued a Notice to Proceed ("NTP") and instructed Korando to begin work. DPW's failure to obtain Right-of-Way violates the *Federal Highway Administration's Standard Specifications*, §FP-03 107.07, which states a bedrock principle of government infrastructure projects that, "The Government will obtain all right-of-way." This is even more emphatically stated in DPW's own *Manual for Right Of Ways* which provides in part that, "[t]he Department must own and/or control all rights of way needed for construction of its projects. The Director [DPW]...must certify right of way is available for construction for all construction projects prior to advertisement for bids." See **Attachment 1, DPW Right of Way Manual**, §10.1.1.1.

The lot in question is Lot 150-R3-1R/W, which was and is owned by Ignacio B. Cruz (deceased). On January 15, 2014, DPW Director Carl Dominguez signed a certification that the lot would be condemned within 60 days of December 3, 2013. See **Attachment 2 ROW Certification for Construction**. The 60 day deadline has long passed, but the lot was not condemned or acquired by DPW.

On March, 21, 2014, DPW submitted draft legislation to condemn an area of 240 square meters of Lot 150-R3, which it designated 150-R3-1R/W. See **Attachment 3 March 21, 2014 letter**.

Senator Thomas C. Ada
December 7, 2015
Page 2

On July 9, 2014, Governor Calvo signed into law Bill No. 355-32 (COR), a bill that you proposed, authorizing the Department of Public Works to acquire the lot. *See Attachment 4 Bill No. 355-32(COR)*. However, to this date the lot has not been condemned and remains the property of Ignacio B. Cruz. *See Attachment 5 Ownership and Encumbrance Report dated 12/7/15*.

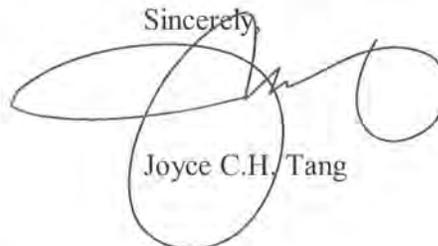
Despite the fact that it had failed to condemn or otherwise acquire the right of way to use the lot, on December 29, 2014 DPW issued Korando a Notice to Proceed on January 5, 2015. *See Attachment 6 December, 29, 2014 letter*. DPW did not inform Korando or any of the bidders regarding the Right-of-Way issue, and in fact has not been candid with the OPA about this fundamental failure. Korando began work on the Project but was delayed for reasons unrelated to the Right-of-Way. We believe that a significant factor in DPW's decision to terminate Korando was to cover up the fact that it had not acquired the Right-of-Way to the property. Ironically, had the Project not been delayed and ultimately terminated, Korando would have unknowingly built part of the bridge abutments and piles on private property.

DPW's actions are troubling in several respects. First, DPW should not be awarding contracts and issuing notices to proceed on projects where it has not first obtained necessary right of ways. Second, DPW should not mislead bidders into believing that it has acquired necessary right of ways when it has not. Third, DPW should not attempt to illegally construct a public bridge on private property. Fourth, our investigation into this matter strongly suggests that DPW has engaged in cover up of its failure to obtain the required right of way, and the cover up includes sanctioning the deletion of information from public records.

This is a serious matter and the concerns raised in this letter transcend the dispute now before the OPA. DPW's failure to abide by its own regulations, and its subsequent attempt at a cover up, are an assault on good government. I know that you are a staunch advocate of honesty at all levels of government, and I believe you will share my sense of outrage if you were fully briefed on the facts.

I ask that your Committee conduct an investigation of this issue. I will be more than happy to cooperate with you and the Committee's staff in reviewing and understanding the relevant documents. Please do not hesitate to contact me at 671-472-8868 for any assistance we can provide.

Sincerely,



Joyce C.H. Tang

Enclosures (Attachments 1-6)

cc: Attorney General Elizabeth Barrett-Anderson (ebanderson@guamag.org)
Tom Keeler, Esq. (tpkeeler@gmail.com)
Tom Sterling, Esq. (tsterling@kbsjlaw.com)
Lance Hanf, Esq. (lance.hanf@dot.gov)

ATTACHMENT 1

Section 10.1

RIGHT OF WAY CERTIFICATION

PURPOSE

The purpose of this section is to establish the process the Guam Department of Public Works, Office of Right of Way (Department) must follow for right of way project certifications.

AUTHORITY

23 CFR, 635.309(b)(c)(g)(h)&(p)

SCOPE

The principal users of this document are Department of Public Works Office of Right of Way employees and those persons contracted by the Department to perform parcel acquisition and management functions.

REFERENCES

Right of Way Manual Chapter 8.2, Right of Way Clearing
Right of Way Manual Chapter 8.7, Asbestos Management

FORMS

10.1-1 Right of Way Certification
10.1-2 Right of Way Certification with exception(s)

DEFINITIONS

Buildable Segment: A segment of a project on which right of way activities are sufficiently complete to allow construction to commence on that segment. Construction cannot interfere with the rights of property owners or tenants whose properties have not been acquired or who have not been relocated.

10.1.1 Certification for Construction

10.1.1.1 The Department must own and/or control all rights of way needed for construction of its projects. The Director Department of Public Works (DDPW) or designee must certify right of way is available for construction for all construction projects prior to advertisement for bids. *Form No. 10.1-1, Right of Way Certification*, shall be used to certify projects for construction when:

- (A) Title to all property and easements needed to construct the project, as designed, have vested in the Department as follows:
- (1) The Department has obtained all private property and property rights needed for the project by conveyance, court order, or construction and maintenance easement;
 - (2) Property or property rights owned by the Government of Guam agencies have been transferred to the Department or alternatively the Department has obtained a permit, lease, license, or other form of consent to construct its project;

- (3) Property or property rights owned by Federal agencies have vested in the Government of Guam pursuant to a conveyance or transfer.
- (B) All persons and businesses who were required to move or move personal property, if any, have been relocated from the project right of way in accordance with *Right of Way Manual, Section 7.1, Relocation Assistance Program and Section 7.2 General Relocation Requirements*;
- (C) All structures and/or improvements, if any, have been removed from the project right of way in accordance with *Right of Way Manual, Section 8.2, Right of Way Clearing*, or alternatively will be removed as part of the construction contract. This includes structures and/or improvements encroaching on existing right of way incorporated into the project; and
- (D) Asbestos abatement of buildings and/or structures to be removed by the construction contractor, if any, has been completed in accordance with *Right of Way Manual, Section 8.7, Asbestos Management*, or alternatively, will be included in the construction contract.

10.1.1.2 Prior to certification, the Department must conduct a diligent review to fulfill the requirements of *Section 10.1.1.1* have been met for right of way acquired for, and existing right of way incorporated into, the project being certified. Review shall include but is not limited to:

- (A) Review of right of way maps and construction plans to confirm necessary right of way is available for construction;
- (B) Field review of the project to confirm there are no remaining structures, encroachments or relocation issues;
- (C) Review of parcel and project files to confirm all necessary right, title and interests in the right of way have been obtained, relocation is complete, and asbestos abatement and demolition are complete or detailed in the construction contract; and
- (D) Review of any additional information available.

10.1.2 Certification Exceptions

10.1.2.1 The DDPW may approve exceptions to the requirements of *Section 10.1.1.1* on a case by case basis. When requesting an exception the Department of Public Works Right of Way Supervisor (DPWRS) shall provide the DDPW a detailed explanation of the circumstances requiring the exception on *Form Number 10.1-2, Right of Way Certification with exception(s)*. The DDPW or designee shall coordinate with FHWA as necessary and shall provide the DPWRS a response within **ten business days** after receiving the request.

Note: Exceptions needed solely to meet certification or production schedules, where project letting is not in jeopardy, are not allowed.

10.1.2.2 In unusual circumstances and in order to preserve the project letting date, the DDPW may authorize exceptions that extend beyond the letting date. Exceptions involving Federally funded construction projects also require approval by FHWA. Exceptions extending beyond the project letting must be cleared or removed prior to commencement of construction on the affected portion of the project

10.1.2.3 The DDPW shall notify the FHWA Manager, Federal Aid Management Office, when a certification exception is requested.

10.1.3 Certifications

10.1.3.1 Projects require an initial certification stating the status of the project right of way as of the advertisement date. For projects to be constructed entirely within existing right of way and/or right of way acquired for the project prior to letting, the certification shall be a certification for construction that complies with the requirements of **Section 10.1.1.1**. For projects requiring acquisition of right of way after letting, the certification shall contain a statement that all additional rights of way to be acquired for the project shall be acquired in compliance with **Section 10.1.2** and applicable Guam and Federal law.

10.1.3.2 Construction projects may commence before the project is fully certified for construction. However, construction must be restricted to buildable segments of the project as determined by the Department, FHWA on Federally funded projects and in some cases the contractor. Prior to construction, buildable segments must meet the conditions for right of way certification in **Section 10.1.1.1**. For each identified buildable segment, construction may commence when the DDPW has provided the contractor's project manager a "Right of Way Clear Letter" stating that right of way activities are complete and right of way is available for construction.

10.1.4 Certification Delivery

The Department shall include the Right of Way Certification for Construction in the project plans, specifications and estimates (PS&E) package. The Department shall also provide the DDPW a copy of the certification at or before the project letting.

HISTORY

Original Issue Date: January 2011.

ATTACHMENT 2



The Honorable
EDDIE BAZA CALVO
 Governor

The Honorable
RAY S. TENORIO
 Lieutenant Governor



public works
 DIPATAMENTON CHE'CHO' PUPLEKO
Carl V. Dominguez
 Director
Jessie B. Palican
 Deputy Director

**ROW CERTIFICATION FOR CONSTRUCTION
 (With Exceptions)**

Project Name: Bile & Pigua Bridges Reconstruction & Widening
Project No.: GU-NH-NBIS(003)(004)
Location: Route 4, Merizo
Letting Date: December 3, 2013

The undersigned hereby certifies as Follows:

Title to all property and easements needed for the above construction project is vested in the Government of Guam. The Government of Guam has obtained sufficient authority to occupy, use, construct, and maintain the proposed improvements on property and easements owned by the Government of Guam except for Lots 150-R3(pending condemnation) and lot 149-3 (pending acquisition). Further:

Acquisition

- Right of way was not required for this project.
- Right of way was acquired for this project in compliance with the applicable Guam and Federal law.

Relocation

- No persons or businesses were required to move or move personal property from the project right of way.
- All persons and businesses that were required to move or move personal property from the project right of way have been provided relocation assistance in conformance with applicable Guam and Federal law.

Demolition

- No structures or improvements, including encroachments, required removal from the project right of way.
- All structures and/or improvements, including encroachments, have been removed from the project right of way in compliance with applicable Guam and Federal law or will be included in the construction contract.

T. J. ...

Asbestos Abatement

- No structures or improvements requiring asbestos abatement were located on the project right of way.
- Asbestos abatement of buildings and/or structures, including those to be removed by the construction contractor has been completed in compliance with Guam and Federal law, or will be included in the construction contract.

Exception(s) to the above statements and time frame(s) for the exceptions to be cleared or removed **(60) days** from December 2, 2013.

Certified by: _____
Title: **Carl V. Dominguez, Director**



Date: 1/15/14

JBlaz/CPlee 


ATTACHMENT 3



The Honorable
Eddie Baza Calvo
Governor

The Honorable
Ray Tenorio
Lieutenant Governor



Carl V. Dominguez
Director
Jessie B. Palican
Deputy Director

March 21, 2014

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Dos Na Likeslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Senator Thomas C. Ada
Chairman, Committee on Public Safety, Infrastructure and Maritime Transportation
I Mina'trentai Dos Na Likeslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Dear Madame Speaker and Senator Ada:

Pursuant to 21 GCA §15105(b), enclosed is a copy of draft legislation to authorize the condemnation of a small portion of Mr. Ignacio Bautista Cruz's (DOD: February 3, 2003) Lot No. 150-R3, Merizo, Guam. Mr. Cruz's lot is needed for the reconstruction and widening of Bile and Pigua bridges project (the "Project") in Merizo, Guam. The Department of Public Works (DPW), which successfully negotiated the purchase of all properties needed for the Project other than the Cruz lot, attempted in good faith to negotiate with Mr. Cruz's son, Mr. Rodney Cruz, who I understand occupies and was purportedly designated by his father to receive the parcel. Unfortunately, Mr. Rodney Cruz has refused all attempts to either meet or communicate with us. No specific action is requested at this time as the DPW is awaiting completion of a second appraisal. However, I want to submit the draft legislation in advance as it may later be necessary to request that the Legislature expedite its authorization.

The government needs to condemn an area of 240± square meters of Lot No. 150-R3, which is designated as Lot No. 150-R3-1R/W on the severance map that was recorded with the Department of Land Management on October 9, 2013, under Instrument No. 857237. A copy of the severance map is enclosed for your easy reference. The area of the parcel to be acquired is less than 5% of the main lot's 4.897± square meters. The department was originally looking to obtain a larger portion, however, owing to Mr. Rodney Cruz's lack of cooperation scaled back the taking to only those areas needed to meet safety and compliance requirements. In this respect the 240± square meters is needed for:

1434

542 North Marine Corps Drive, Tamuning, Guahan 96913, Tel (671) 646-3131, Fax (671) 649-6178

32-14-1434
Office of the Speaker
Judith T. Won Pat, Ed.D.
Date 3-21-14
Time 9:02 am
Received by [Signature]

2014 MAR 21 PM 10:08

[Handwritten mark]

- Removal of the existing highway improvements, including asphalt pavement and old guardrail
- New bridge elements including portions of the foundation, abutment, deck, bridge railing, and approach slab
- A portion of the asphalt-paved approach roadway, approximately 40 feet long by 6 to 14 feet wide (width flares at bridge)
- Approximately 60 linear feet of new steel guardrail (a safety requirement at the bridge approach area)
- A bio-swale providing natural water-quality treatment and directing stormwater runoff from the bridge approach area to the Pigua River (an environmental compliance requirement)
- A new concrete power pole replacing an existing pole which is in conflict with the new bridge

The DPW requires 2 appraisals to move forward with the condemnation. The first appraisal has been completed while the second one is expected to be completed shortly. I will supplement this letter to notify the Legislature as to the fair market value of the taking as soon as the second appraisal is completed. At that time, I'll also file copies of both appraisals with the Legislature.

Finally, as title to Lot No. 150-R3, Merizo, remains in the name of Ignacio Bautista Cruz, I have written to Mr. Rodney Cruz and his sister, Donna Mulliken, requesting that they open up a probate for their father's estate. If they fail to do so the government intends on petitioning the probate court for letters of special administration. This is needed so that a representative is appointed to represent the Estate in the condemnation proceedings. The probate court can then determine which of Mr. Ignacio Bautista Cruz's children is entitled to receive the condemnation proceeds.

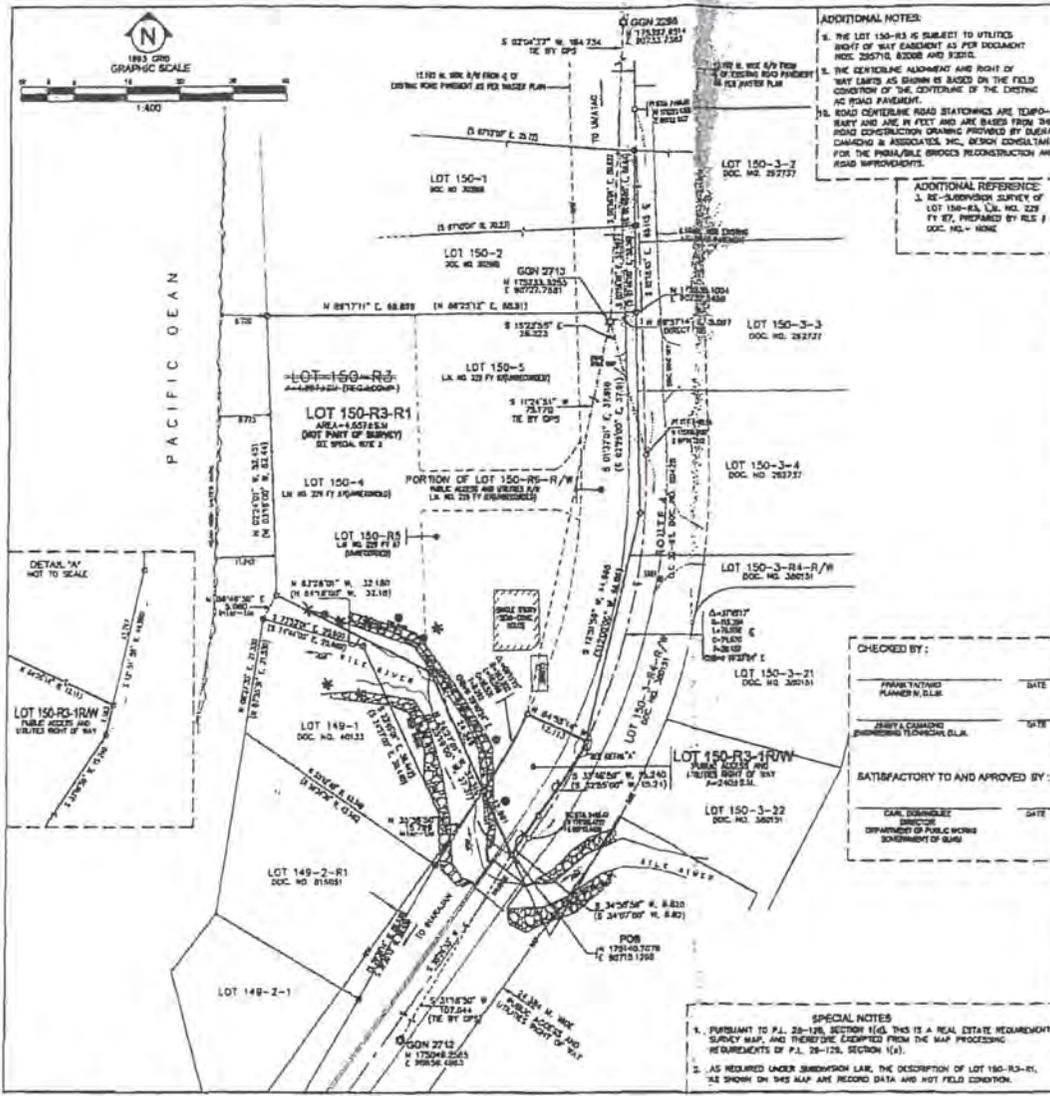
In closing, I am forwarding a draft Bill authorizing the condemnation of Lot No. 150-R3-1R/W, Merizo, Guam, in hopes that it can be reviewed in advance so that the required authorization can be acted upon, as deemed appropriate, once the appraisals are submitted to the Legislature.

Sincerely,



CARL V. DOMINGUEZ

Attachment

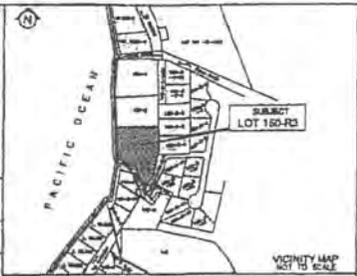


ADDITIONAL NOTES:

1. THE LOT 150-R3 IS SUBJECT TO UTILITIES RIGHT OF WAY EASEMENT AS PER DOCUMENT NO. 20575, 82008 AND 82015.
2. THE CENTERLINE ALIGNMENT AND RIGHT OF WAY LIMITS AS SHOWN IS BASED ON THE FIELD CONDITION OF THE CENTERLINE OF THE EXISTING AND ROAD PAVEMENT.
3. ROAD CENTERLINE ROAD STATIONINGS ARE TEMPORARY AND ARE IN FEET AND ARE BASED FROM THE ROAD CENTERLINE GRAPHIC PROVIDED BY EUGENIA CHAMBERS & ASSOCIATES, INC., DESIGN CONSULTANTS FOR THE PROBABLE BRIDGE RECONSTRUCTION AND ROAD IMPROVEMENTS.

ADDITIONAL REFERENCE:

1. RE-SUBDIVISION SURVEY OF LOT 150-R3, L.A. NO. 229 FY 87, PREPARED BY RULE # 44, DOC. NO. NONE



REFERENCES:

1. DOCUMENT NO. 43433
2. RECONSTRUCTION SURVEY MAP OF LOT 149-2-R1, PREPARED BY PLS 72, L.A. NO. 134 FY 2016, DOC. NO. 816051

NOTES:

1. SURVEY WAS BASED ON FOLIO PROPERTY CORNERS AS SHOWN ON THIS MAP.
2. ALL DISTANCES ARE IN METERS.
3. BEARINGS & DISTANCES IN PARENTHESIS ARE RECORD DATA. ALL OTHERS ARE THIS SURVEY'S DATA.
4. SUBJECT LOT IS ZONED "A", AGRICULTURAL PER 1967 OFFICIAL ZONING MAP, F207549.
5. SUBJECT LOT IS EXTENSIVE THE HORIZONTAL ADJACENT.
6. AS-BUILT ARE AS SHOWN AS OF APPROVAL OF THIS MAP.
7. RIGHT OF WAY ROAD CENTERLINE STATIONING IS IN FEET

SYMBOLS:

- ◎ CON STATION
- ⊙ CORNER CORNERING MET SET
- ⊙ PLANT
- ⊙ ROAD & NOT SET
- ⊙ PILE NO. 4 REBAR WITH CAP MARKED PLS 73, DOC. NO. 816051
- ⊙ PILE NO. 4 REBAR WITH CAP MARKED PLS 83
- ⊙ PILE NO. 4 REBAR WITH CAP MARKED PLS 73, DOC. NO. NONE

CERTIFICATE OF GUAM CHIEF SURVEYOR

THIS MAP HAS BEEN EXAMINED FOR CONFORMANCE WITH TITLE 21, GUAM CODE ANNOTATED CHAPTER 66, ARTICLE 3, UNIFORM TRIANGULATION SYSTEM AND REGULATING THEREUNDER ON _____ DAY OF _____ 2013.

PAUL L. SANCHEZ, PLS NO. 24
GUAM CHIEF SURVEYOR / CHIEF OF CADASTRIC

CERTIFICATE OF GUAM CHIEF PLANNER

APPROVAL PURSUANT TO TITLE 21 GUAM CODE ANNOTATED CHAPTER 67, SUBDIVISION LAW

EDMUND C. SANCHEZ
CHIEF PLANNER

CERTIFICATE OF SURVEYOR

I, HECTOR C. SANCHEZ, HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION THAT IT IS BASED ON A FIELD SURVEY MADE ON JUNE 18, 2013 IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS. THAT I AM RESPONSIBLE FOR THE ACCURACY OF ALL DATA AND INFORMATION SHOWN HEREON. I FURTHER CERTIFY THAT ALL THE INFORMATION ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED ON THIS MAP.

HECTOR C. SANCHEZ
PROFESSIONAL LAND SURVEYOR NO. 83



REV. BY DESCRIPTION DATE

REAL ESTATE RECONSTRUCTION SURVEY MAP OF LOT 150-R3 (REVISIONS OF ROAD RIGHT OF WAY)			
L.S. NO.		SECTION	
SURVEY DATA	DATE	LOT DATA	SEC. 2
FIELD NO. 02/0208-0207 150-1	8/24/11	LOT NO. 150-R3	
BOOK NO. 02/0208-0207 150-1	08/24/11	COORD. OF TITLE NO. 1508	
COMPILED	7/20	RECORDED ON	NOVEMBER 27, 2011
DRAWN	7/20	DATE	2011
RECORDED	7/20	DATE	2011
CHANGED	NO	DATE	2011
SATISFACTORY TO & APPROVED BY:			
DWC, 83, DCAM-5-11-26		SCALE	1:400
		L.A. NO.	204 FY 2013

SPECIAL NOTES

1. PURSUANT TO P.L. 28-108, SECTION 1143, THIS IS A REAL ESTATE RECONSTRUCTION SURVEY MAP, AND THEREFORE EXEMPTED FROM THE MAP PROCESSING REQUIREMENTS OF P.L. 28-129, SECTION 1(a).
2. AS REQUIRED UNDER SUBDIVISION LAW, THE DESCRIPTION OF LOT 150-R3-R1, AS SHOWN ON THIS MAP ARE RECORD DATA AND NOT FIELD CONDITION.



The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor



public works
 DEPARTAMENTO DE OBRAS PÚBLICAS

Carl V. Domínguez
Director

Jessie B. Palican
Deputy Director

February 12, 2014

Via Regular Mail

Mr. Rodney B. Cruz
 P.O. Box 4724
 Hagatna, Guam 96932

Subject: Lot 150-R3, Merizo, Guam; Estate of Ignacio B. Cruz

Dear Mr. Cruz,

This is in furtherance of the Department of Public Works (DPW) efforts to negotiate a purchase price for a small portion of Lot No. 150-R2, Merizo, Guam. Which is needed as part of the Department's island-wide road construction program. To date our correspondence and communications have been directed to Mr. Rodney B. Cruz, as it is our understanding that your father designated that he inherit this particular lot.

In this respect, by letter dated October 28, 2013 DPW wrote Mr. Rodney B. Cruz requesting that he or another family member open probate proceeding for your late father's estate. It was requested that this be done on or before November 15, 2013. Unfortunately, we never received a response from either him or his counsel.

As it is our understanding that your father left other real property that needs to be probated, we are requesting that one or more family members contact counsel to open a probate for your late father's estate. Also, as we only know your names and addresses but understand that there are two (2) additional siblings, we would appreciate your providing them a copy of this letter and enclosure.

Enclosed is a copy **DRAFT** petition for Letter of Special Administration that is currently being reviewed by the Attorney General's Office. We are not interested in filing the Petition however if the family does not open a probate or have legal counsel contact Mr. Keeler (see below) no later than **Friday, February 14, 2014**. DPW intends on proceeding with the filing the Petition with the Probate Court.

Please contact, or have your legal counsel contact Assistant Attorney General Thomas P. Keeler at 649-3152 if there sure are any questions regarding this matter.

CARL V. DOMINGUEZ

*In the Matter of the Estate of
Ignacio Barceñas Cruz*
Petition for Letters of Special Administration

No. 150-R3-1R/W, Merizo, Guam, a small portion of Lot No. 150-R3, Merizo, Guam, as needed to complete the Project.

6. In order to continue to pursue the Project, DPW requires a personal representative be appointed, so that the Government of Guam can file a formal Complaint to Acquire Property Through Eminent Domain.

7. 15 GCA §§ 1901 and 1903 govern the appointment of special administrators and provide in part:

15 GCA § 1901. Causes for Appointment of Special Administrators.

When there is delay in granting letters testamentary . . . or when no petition is filed praying for the grant of any such letters . . . and the circumstances of the estate require the immediate appointment of a personal representative, the Superior Court of Guam shall appoint a special administrator to take possession of the estate of the decedent and to exercise such other powers as may be necessary for the preservation of the estate.

SOURCE: Probate Code of Guam (1970), § 460

15 GCA § 1903. Notice; Appointment; Preference; Qualifications; Nonappealable Order.

The appointment of a special administrator may be made at any time, without notice or upon such notice to such of the persons interested in the estate as the Superior Court of Guam may deem reasonable. In making the appointment of a special administrator, preference must ordinarily be given to the person entitled to letters testamentary, letters of administration with the will annexed, or letters of administration. No person is competent to serve as a special administrator who has not the qualifications required of an executor as provided in Section 1701 of this Title. The order appointing a special administrator is not appealable.

8. Petitioner satisfies all the requirements to serve as special administrator pursuant to 15 GCA § 1701. Petitioner is over the age of majority, is a U.S. citizen, a resident of Guam, is physically present in Guam, has not been convicted of a felony, and is competent to act as special administrator.

*In the Matter of the Estate of
Ignacio Barcinas Cruz*
Petition for Letters of Special Administration

WHEREFORE, Petitioner prays for letters of special administration in the Estate of Ignacio Barcinas Cruz, and an order authorizing Petitioner to open a probate in order that the Government of Guam can proceed with filing a Complaint to Acquire Property Through Eminent Domain, and that security be waived

JESSIE PALICAN

Date February __, 2014

By

THOMAS P. KEELER
Assistant Attorney General
Attorneys for Petitioner
Jessie Palican

VERIFICATION

I, _____ declare under penalty of perjury that the foregoing is true and correct, except those matters alleged upon information and belief, which matters are true and correct to the best of my knowledge

Executed February __, 2014

JESSIE PALICAN

The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TFNORIO
Lt. Governor



Carl V. Dominguez
Director

Jessie B. Palican
Deputy Director

February 12, 2014

Via Regular Mail

Donna Mullikin
 P.O. Box 8142
 Merizo, Guam 96916

Subject: Lot 150-R3, Merizo, Guam; Estate of Ignacio B. Cruz

Dear Ms. Mullikin,

This is in furtherance of the Department of Public Works (DPW) efforts to negotiate a purchase price for a small portion of Lot No. 150-R2, Merizo, Guam. Which is needed as part of the Department's island-wide road construction program. To date our correspondence and communications have been directed to Mr. Rodney B. Cruz, as it is our understanding that your father designated that he inherit this particular lot.

In this respect, by letter dated October 28, 2013 DPW wrote Mr. Rodney B. Cruz requesting that he or another family member open probate proceeding for your late father's estate. It was requested that this be done on or before November 15, 2013. Unfortunately, we never received a response from either him or his counsel.

As it is our understanding that your father left other real property that needs to be probated, we are requesting that one or more family members contact counsel to open a probate for your late father's estate. Also, as we only know your names and addresses but understand that there are two (2) additional siblings, we would appreciate your providing them a copy of this letter and enclosure.

Enclosed is a copy **DRAFT** petition for Letter of Special Administration that is currently being reviewed by the Attorney General's Office. We are not interested in filing the Petition however if the family does not open a probate or have legal counsel contact Mr. Keeler (see below) no later than **Friday, February 14, 2014**. DPW intends on proceeding with the filing the Petition with the Probate Court.

Please contact, or have your legal counsel contact Assistant Attorney General Thomas P. Keeler at 649-3152 if there sure are any questions regarding this matter.


CARL V. DOMINGUEZ

*In the Matter of the Estate of
Ignacio Baremas Cruz*
Petition for Letters of Special Administration

No. 150-R3-1R/W, Merizo, Guam, a small portion of Lot No. 150-R3, Merizo, Guam, as needed to complete the Project.

6. In order to continue to pursue the Project, DPW requires a personal representative be appointed, so that the Government of Guam can file a formal Complaint to Acquire Property Through Eminent Domain.

7. 15 GCA §§ 1901 and 1903 govern the appointment of special administrators and provide in part

15 GCA § 1901. Causes for Appointment of Special Administrators.

When there is delay in granting letters testamentary . . . or when no petition is filed praying for the grant of any such letters . . . and the circumstances of the estate require the immediate appointment of a personal representative, the Superior Court of Guam shall appoint a special administrator to take possession of the estate of the decedent and to exercise such other powers as may be necessary for the preservation of the estate

SOURCE: Probate Code of Guam (1970), § 460

15 GCA § 1903. Notice; Appointment; Preference; Qualifications; Nonappealable Order.

The appointment of a special administrator may be made at any time, without notice or upon such notice to such of the persons interested in the estate as the Superior Court of Guam may deem reasonable. In making the appointment of a special administrator, preference must ordinarily be given to the person entitled to letters testamentary, letters of administration with the will annexed, or letters of administration. No person is competent to serve as a special administrator who has not the qualifications required of an executor as provided in Section 1701 of this Title. The order appointing a special administrator is not appealable

8. Petitioner satisfies all the requirements to serve as special administrator pursuant to 15 GCA § 1701. Petitioner is over the age of majority, is a U.S. citizen, a resident of Guam, is physically present in Guam, has not been convicted of a felony, and is competent to act as special administrator

*In the Matter of the Estate of
Ignacio Barcinas Cruz*
Petition for Letters of Special Administration

WHEREFORE, Petitioner prays for letters of special administration in the Estate of Ignacio Barcinas Cruz, and an order authorizing Petitioner to open a probate in order that the Government of Guam can proceed with filing a Complaint to Acquire Property Through Eminent Domain, and that security be waived.

JESSIE PALICAN

Date: February __, 2014

By:

THOMAS P. KEELER
Assistant Attorney General
Attorneys for Petitioner
Jessie Palican

VERIFICATION

I, _____, declare under penalty of perjury that the foregoing is true and correct, except those matters alleged upon information and belief, which matters are true and correct to the best of my knowledge.

Executed February __, 2014

JESSIE PALICAN

I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN

2014 () Regular Session

Bill No.

Introduced by: _____

AN ACT TO AUTHORIZE THE DEPARTMENT OF PUBLIC WORKS, GOVERNMENT OF GUAM, TO CONDEMN LOT NO. 150-R3-1R/W, MERIZO, GUAM, FOR THE BILE/PIGUA BRIDGE RECONSTRUCTION PROJECT.

1. **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2. **Section 1. History.** The Department of Public Works ("DPW"), Government of
3. Guam, has prepared plans for the reconstruction and widening of Bile and Pigua bridges
4. in Merizo, Guam, which is an integral part of the islandwide road improvement plan that
5. is being funded by Federal Highway Administration ("FHWA"). DPW has successfully
6. negotiated the purchase of required lots from all private landowners required of the
7. Bile/Pigua Bridge Reconstruction Project (the "Project") other than the purported
8. successor in interest of Lot No. 150-R3, title to which remains in the name of Ignacio
9. Bautista Cruz, who died on February 3, 2003.

10. **Section 2. Authorization of DPW to Condemn Lot No. 150-R3-1R/W.** The

11. power of eminent domain may be exercised by the Government of Guam upon the
12. authorization and appropriation of funds by the Congress of the United States for public
13. use within Guam. Pursuant to 21 G.C.A. § 15105 (b), the appropriation by the Congress
14. of the United States for a specific public use must also include a “corresponding
15. authorization by the Guam. Legislature via duly *enacted* legislation.” See 21 G.C.A. §
16. 15105 (b) (emphasis in original). Accordingly, DPW is hereby authorized to condemn
17. Lot No. 150-R3-1R/W, Merizo, Guam, containing an area of 12. 240± square meters,
18. as shown on Drawing No. DCAI-S-11-26, prepared by registered land surveyor Nestorio
19. C. Ignacio, PLS#65, of Duenas-Camacho & Associates, Inc., a copy of which was
20. recorded with the Department of Land Management, Government of Guam, on October
21. 9, 2013, under Instrument No. 857237; provided, however, that as a condition to this
22. approval Lot No. 150-R3-1R/W the property shall be used for the Project and, subject
23. further, to FHWA providing 100% of the condemnation funds needed to fund the
24. condemnation.

25. **Section 3. Interest Condemned.** The interest taken in the Lot No. 150-R3-
26. 1R/W, Merizo, Guam, is fee simple absolute.

27. **Section 4. Fair Market Value.** Upon information and belief, based on
28. appraisals of the property, the sum of money estimated to be just compensation for the

29. fee simple interest taken in Lot No. 150-R3-1R/W is _____ Thousand _____ Hundred
30. and 00/100 Dollars (\$_____ .00).

ATTACHMENT 4



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

JUL 15 2014

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

Dear Madame Speaker:

Transmitted herewith is Bill No. 355-32 (COR) "AN ACT TO AUTHORIZE THE DEPARTMENT OF PUBLIC WORKS, GOVERNMENT OF GUAM, TO ACQUIRE LOT NO. 150-R3-1R/W, MERIZO, GUAM FOR THE PIGUA BRIDGE RECONSTRUCTION PROJECT" which I signed into law on July 9, 2014 as Public Law 32-177.

Senseramente

EDDIE BAZA CALVO

2014 Jul 15 PM 2:59

32-14-1838

Office of the Speaker
Judith T. Won Pat, Ed.D.
Date: 7/15/14
Time: 2:17 PM
Received by: CARL SANTIAGO

1838

P.O. Box 2950 • Hagåtña, Guam 96932
Tel: (671) 472-8931 • Fax: (671) 477-4826 • governor.guam.gov • calendar.guam.gov

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

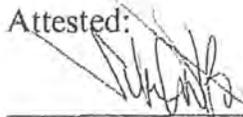
CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that Bill No. 355-32 (COR), "AN ACT TO AUTHORIZE THE DEPARTMENT OF PUBLIC WORKS, GOVERNMENT OF GUAM, TO ACQUIRE LOT NO. 150-R3-1R/W, *MERIZO*, GUAM FOR THE *PIGUA* BRIDGE RECONSTRUCTION PROJECT," was on the 1st day of July, 2014, duly and regularly passed.

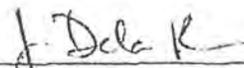


Judith T. Won Pat, Ed.D.
Speaker

Attested:


Tina Roşe Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 2nd day of July,
2014, at 9:10 o'clock A.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date:

JUL 09 2014

Public Law No. 32-177

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 355-32 (COR)

As amended by the Committee on Public Safety,
Infrastructure and Maritime Transportation;
and further amended on the Floor.

Introduced by:

T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
Vicente (ben) C. Pangelinan
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

**AN ACT TO AUTHORIZE THE DEPARTMENT OF
PUBLIC WORKS, GOVERNMENT OF GUAM, TO
ACQUIRE LOT NO. 150-R3-1R/W, *MERIZO*, GUAM
FOR THE *PIGUA* BRIDGE RECONSTRUCTION
PROJECT.**

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

2 Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds
3 that the Department of Public Works (DPW), on behalf of the government of
4 Guam, has prepared plans for the reconstruction and widening of the *Bile* and
5 *Pigua* bridges in *Merizo*. These bridges are an integral part of the island-wide road

1 improvement plan funded by the Federal Highway Administration (FHWA), and I
2 *Liheslatura* finds that the bridges need to be structually improved for the general
3 public to safely use.

4 *I Liheslatura* further finds that DPW has successfully negotiated the
5 purchase of required lots from all private landowners required for the *Bile/Pigua*
6 Bridge Reconstruction Project (the Project), with the exception of a portion of Lot
7 No. 150-R3. The portion needed for a public right-of-way has been designated as
8 Lot No. 150-R3-1R/W, and represents 240 square meters (or 4.9%) of Lot No.
9 150-R3, which has a total area of 4,897 square meters.

10 *I Liheslatura* therefore intends to authorize the exercise of the power of
11 eminent domain, pursuant to 21GCA, Chapter 15, § 15105(b) to wit, "*the power of*
12 *Eminent Domain may be exercised by the government of Guam upon the*
13 *authorization and appropriation of funds by the Congress of the United States for*
14 *public use within Guam ... appropriation by the Congress of the United States for*
15 *a specific public use must also include a corresponding authorization by the Guam*
16 *Legislature via duly enacted legislation*".

17 **Section 2. Authorization to Condemn Lot No. 150-R3-1R/W.**

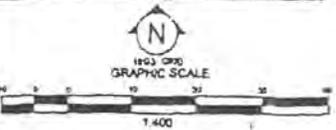
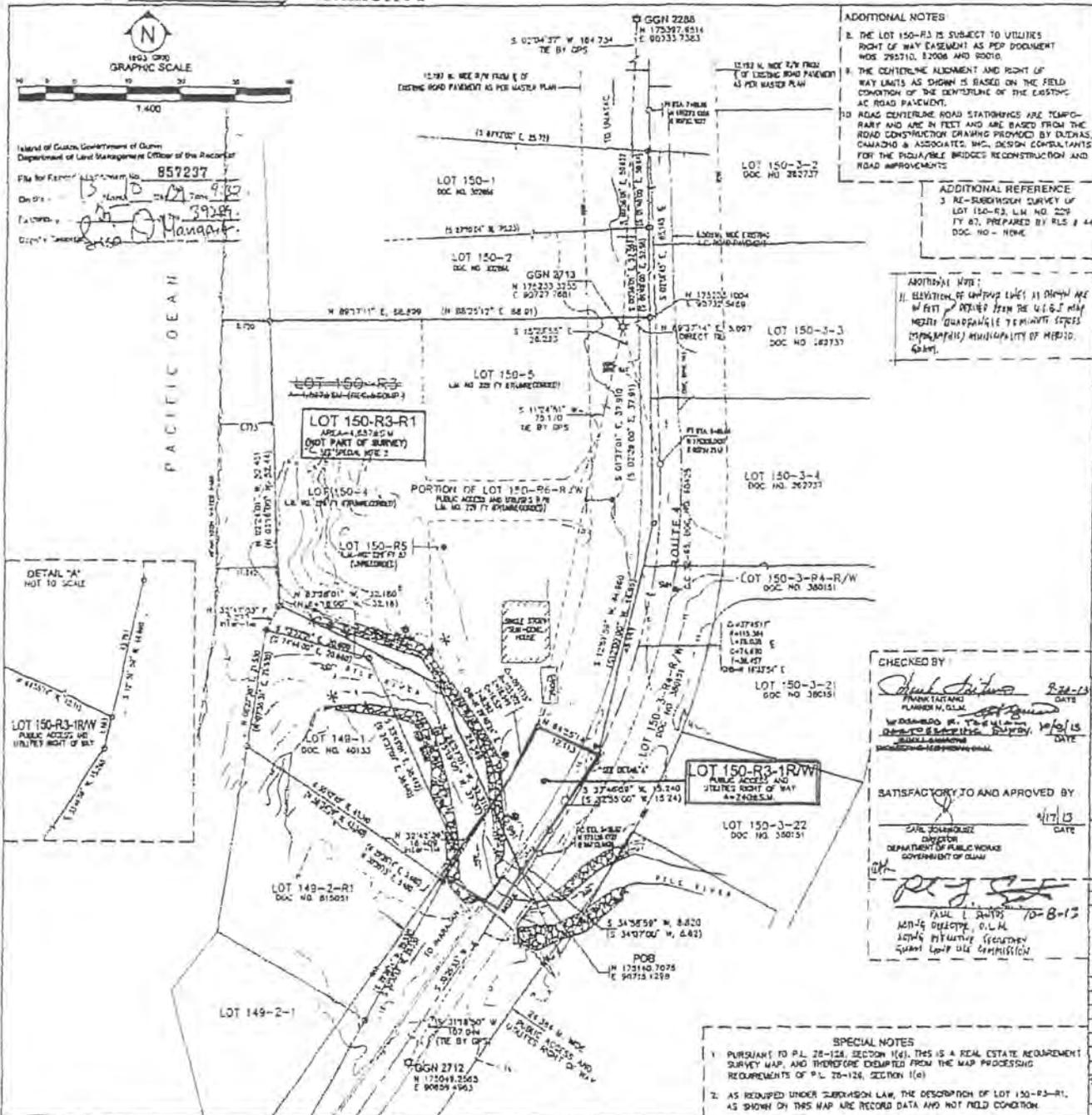
18 DPW is hereby authorized to condemn Lot No. 150-R3-1R/W, *Merizo*,
19 Guam, containing an area of 240 square meters, as shown on Drawing No. DCA1-
20 S-11-26 (Exhibit A), a copy of which was recorded with the Department of Land
21 Management, Government of Guam, on June 23, 2014, under instrument No.
22 866524, and as shown in further detail in the document labeled *Guam Department*
23 *of Public Works Road Plan (Pigua Bridge)* (Exhibit A-1), both appended hereto;
24 provided, *however*, that as a condition to this approval, Lot No. 150-R3-1R/W (the
25 property) *shall* be used for the Project and, subject further to FHWA providing
26 100% of the condemnation funds needed to fund the condemnation.

27 **Section 3. Estimated Compensation.**

1 Based on appraisals of the property, the sum of money estimated to be just
2 compensation for the fee simple interest taken in Lot No. 150-R3-1R/W is Twenty
3 Three Thousand Six Hundred Dollars (\$23,600).

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

9 **Section 5. Effective Date.** This Act *shall* become effective upon its
10 enactment.



Island of Guam Government of Guam
Department of Land Management Office of the Recorder
File for Easement No. **857237**
Date: 13 Nov 2011
Author: *[Signature]*
City: *[Signature]*

ADDITIONAL NOTES

- THE LOT 150-R3 IS SUBJECT TO UTILITIES RIGHT OF WAY EASEMENT AS PER DOCUMENT NOS. 295710, 82006 AND 80010.
- THE CENTERLINE ALIGNMENT AND POINT OF WAY LIMITS AS SHOWN IS BASED ON THE FIELD CONDITION OF THE CENTERLINE OF THE EXISTING AC ROAD PAVEMENT.
- ROAD CENTERLINE ROAD STATIONINGS ARE TEMPORARY AND ARE IN FEET AND ARE BASED FROM THE ROAD CONSTRUCTION DRAWING PROVIDED BY DUCHAS, CHALLING & ASSOCIATES, INC., DESIGN CONSULTANTS FOR THE PROPOSED BRIDGE RECONSTRUCTION AND ROAD IMPROVEMENTS.

ADDITIONAL REFERENCE

- RE-SUBDIVISION SURVEY OF LOT 150-R3, L.M. NO. 2007 FY 07, PREPARED BY PLS # 44, DOC. NO. - NONE

ADDITIONAL NOTE:

- ELEVATION OF UTILITY LINES IS SHOWN AND IS NOT TO BE DEPENDENT FROM THE U.S.G. MAP NEARBY QUADRANGLE TERMINATE STOPS (TOPOGRAPHIC) MUNICIPALITY OF MARIAS, G.M.



REFERENCES:

- DOCUMENT NO. 43433
- RETRACEMENT SURVEY MAP OF LOT 149-2-R1 PREPARED BY PLS # 52, L.M. NO. 134 FY 2013, DOC. NO. 815011

NOTES:

- SURVEY WAS BASED ON FOUND PROPERTY CORNERS AS SHOWN ON THIS MAP
- ALL DISTANCES ARE IN METERS
- BEARINGS & DISTANCES IN PARENTHESES ARE RECEIVED DATA. ALL OTHERS ARE 1983 GRID VALUE
- SUBJECT LOT IS ZONED "A" AGRICULTURAL PER 1987 OFFICIAL ZONING MAP, 1987549
- SUBJECT LOT IS OUTSIDE THE NORTHERN ADJOUR.
- AS-BUILTS ARE AS SHOWN AS OF APPROVAL OF THIS MAP
- RIGHT OF WAY ROAD CENTERLINE STATIONING IS IN FEET

SYMBOLS

O CON. STATION @ SEWER MANHOLE (20" dia) --- STREAM FLOW
 O COMPOUND CORNER NOT SET * @ PLAN
 O ROAD E NOT SET
 @ FWD. NO. 4 REBAR WITH CAP MARKED PLS 73 COL. AT 15651
 O DET. NO. 4 REBAR WITH CAP MARKED PLS 45
 @ FWD. NO. 4 REBAR WITH CAP MARKED PLS 73 DOC. NO. - NONE

CERTIFICATE OF GUAM CHIEF SURVEYOR
 THIS MAP HAS BEEN EXAMINED FOR CONFORMANCE WITH TITLE 21, GUAM CODE ANNOTATED CHAPTER 06, ARTICLES 1, UNIFORM TERMINOLOGY SYSTEM AND REGULATIONS THEREUNDER ON 09/04/13, 2013

[Signature]
 GUAM CHIEF SURVEYOR OFFICE OF SURVEYING

CERTIFICATE OF GUAM CHIEF PLANNER
 APPROVAL PURSUANT TO TITLE 21, GUAM CODE ANNOTATED, CHAPTER 02 SUBSECTION LAW, 1/1/13

[Signature]
 GUAM CHIEF PLANNER

CERTIFICATE OF SURVEYOR

I, NESTORIO C. IONADO, HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION THAT IT IS BASED ON A FIELD SURVEY MADE ON JUNE 18, 2011 IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS. THAT I AM RESPONSIBLE FOR THE ACCURACY OF ALL DATA AND INFORMATION SHOWN HEREON. I FURTHER CERTIFY THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED ON THIS MAP.

[Signature]
 NESTORIO C. IONADO
 PROFESSIONAL LAND SURVEYOR NO. 83



CHECKED BY:

[Signature] 8/24/13
 PLANNING AND ZONING DIVISION
 DEPARTMENT OF PUBLIC WORKS
 GOVERNMENT OF GUAM

SATISFACTORY TO AND APPROVED BY:

[Signature] 9/17/13
 SAUL JOHNSON
 CHIEF OF BUREAU
 DEPARTMENT OF PUBLIC WORKS
 GOVERNMENT OF GUAM

APPROVED BY:

[Signature] 10-8-13
 PAUL I. RADES
 ACTING DIRECTOR, P.L.M.
 LEGAL COUNSEL (SURVEYING)
 GOVERNMENT OF GUAM

SPECIAL NOTES

- PURSUANT TO P.L. 28-128, SECTION 1(a), THIS IS A REAL ESTATE REQUIREMENT SURVEY MAP, AND THEREFORE EXEMPTED FROM THE MAP PROCESSING REQUIREMENTS OF P.L. 28-128, SECTION 1(a)
- AS REQUIRED UNDER SUBSECTION LAW, THE DESCRIPTION OF LOT 150-R3-R1, AS SHOWN ON THIS MAP ARE RECORD DATA AND NOT FIELD CONDITION.

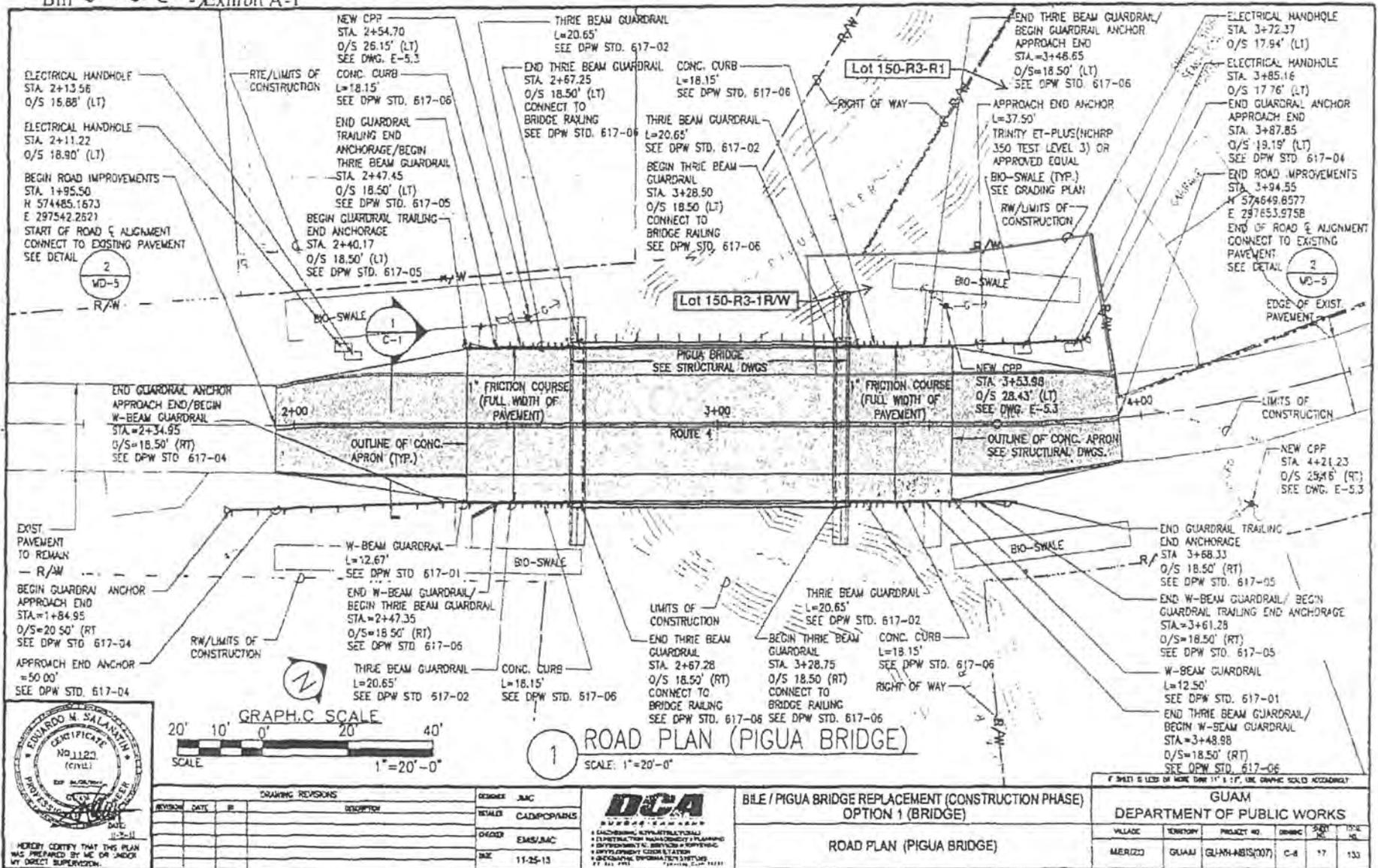
REV.	BY	DESCRIPTION	DATE
1	31	MUNICIPALITY OF MARIAS	10/7/13

REAL ESTATE REQUIREMENT SURVEY MAP OF LOT 150-R3 (SEVERANCE OF ROAD RIGHT OF WAY)

SURVEY DATA	DATE	LOT DATA
FIELD NO. 150-010	8/18/11	LOT NO. 150-R3
BOOK NO. 104 (SUB-SECTION 11-1)	CERT. OF TITLE NO. 12-28	
COMPUTED	102	REGISTERED ON NOVEMBER 21, 1941
SEARCHED	152	DEC. 2011
RESEARCHED	150	OCT. 2011
CHECKED	NO	DEC. 2011

SATISFACTORY TO & APPROVED BY: *[Signature]*

SCALE: 1:400 | L.M. CHECKED HQ. 04 FY 2013



ATTACHMENT 5

**Security
Title**

356 S. Marine Corps Drive
Tamuning, GU 96913
Tel: 671-647-8100 • Fax: 671-647-8170
www.securitytitle.net

**OWNERSHIP & ENCUMBRANCE
REPORT**

Order Number: 15-1554-GU

DATE: December 07, 2015

Requested By:

Civille & Tang, PLLC

Attn:

Joyce Tang

Legal Description (s):

**Lot Number 150-R3-1-R/W,
Merizo, GU 96915**

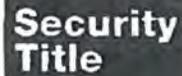
OWNERSHIP AND ENCUMBRANCE REPORT

- I. This Report is Not:
 1. A guarantee or warranty of title.
 2. A legal opinion as to the status of the title.
 3. A title commitment to issue a title insurance policy.
 4. A title insurance policy.

- II. The Status or Validity of the Title to Subject Property may also be affected by the following matters:
 1. Rights or claims of parties in possession not shown by the public records.
 2. Easements, or claims of easements, not shown by the public records.
 3. Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey and inspection of premises.
 4. Taxes or special assessments which are not shown as existing liens by the public records.
 5. Any lien, or right to a lien, for services, labor or material hereto or hereafter furnished, imposed by law and not shown by the public records.

Therefore, no one should rely on this report as a basis for the Consummation of any real estate transaction until it is converted into an actual Title Insurance Commitment, at which time additional requirements and exceptions will necessarily be added.

- III. Liability of Security Title, Inc. under this report.
 1. Security Title, Inc. disclaims any and all liability or responsibility for defects in, or the marketability of the title to the Real Property which is the subject of this Ownership and Encumbrance Report.
 2. The total liability of Security Title, Inc. shall not exceed \$100.00 paid for the Ownership and Encumbrance Report.

The logo for Security Title, featuring the words "Security" and "Title" stacked vertically in a white, sans-serif font on a dark rectangular background.

Order Number: 15-1554-GU

Date: December 03, 2015

This report is subject to the terms, conditions and stipulations contained on the page.

OWNERSHIP & ENCUMBRANCE REPORT

SECURITY TITLE, INC. has made a thorough search at the Department of Land Management, Government of Guam, as disclosed by the public indexes, records, and electronic data, relating to the hereinafter described real property, viz:

Lot Number 150-R3-1-R/W, Merizo, Guam, Suburban, as said Lot is described in that Real Estate Requirement Survey Map of Lot 150-R3 (Severance of Road Right of Way), as shown Drawing Number DCAI-S-11-26, as L.M. Check Number 064 FY 2012, dated 08 October 2013 and recorded on 23 June 2014 under Instrument No. 866524 at Land Management.

For informational purposes only, the above referenced map indicates the property contains an area of 240± square meters.

Last Certificate of Title Number: 12128 - Ignacio B. Cruz (as to Basic Lot 150-R3, Estate Number 41).

The search of said records shows **Ignacio B. Cruz**, as shown on that Deed of Gift, executed by Joaquin G. Cruz and Maria B. Cruz, as grantors, dated 30 March 59 and recorded on 30 March 59 under Instrument No. 36022 at Land Management, as the last grantee.

The search of said records also shows the subject property being affected or encumbered by the following recorded instruments:

**Security
Title**

Order Number: 15-1554-GU

1. Real Property Taxes for the year 2014 are paid in full:

Land Tax

Under the Name of: Cruz, Ignacio B.

Account Number: 30000019700000

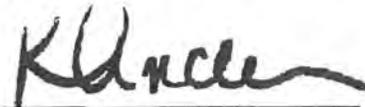
Year: Amount Owed:

2014 - \$0.22 - ***PAID IN FULL***

2. Grant of Easement, granted to the Government of Guam, dated 24 August 65 and recorded on 30 August 65 under Instrument No. 62008 at Land Management.
3. Grant of Easement, granted to the Government of Guam, dated 02 May 69 and recorded on 02 May 69 under Instrument No. 90010 at Land Management.
4. a) Rights of the upper and lower riparian owners in and to the free and unobstructed flow of water of the Pigua River extending through the subject land, without diminution or pollution.
- b) Navigation servitudes and all other statutory and regulatory rights and powers of the United States of America, the Territory of Guam, and the public over the Pigua River and its shore lands extending to the ordinary high-water mark thereof and which may be exercised without obligation for compensation to the riparian owners thereof.
- c) The consequence of any change in location of the Pigua River which forms the southeastern boundary of subject property.

***** END *****

SECURITY TITLE, INC.



Kim Anderson Young

ATTACHMENT 6

FILE COPY



The Honorable
Eddie Baza Calvo
Governor

The Honorable
Ray Tenorio
Lieutenant Governor



public works
DIPARTAMENTON CHE'CHO PUPLEKO

Carl V. Dominguez
Director

Jessie B. Palican
Deputy Director

December 29, 2014

Mr. Byong Ho Kim
President
Korando Corporation
380H Harmon Industrial Park
Tamuning, Guam 96913

Re: Bile / Pigua Bridges Replacement
Project No. GU-NH-NBIS(007)
NOTICE TO PROCEED

Dear Mr. Kim,

You are hereby notified to commence work on the above referenced project on **Monday, January 5, 2015** which shall be day number one (1) of the working days stipulated in the Contract. All work, including final cleanup shall be completed within 450 calendar days. Failure to complete the entire project within the **500** calendar days stipulated in the contract will result in Liquidated Damages being assessed in the amount of **\$2,200.00** per calendar day.

All changes, deviations from, or clarifications to the plans and specifications will be valid only if directed, in writing, by the Department of Public Works Contracting Officer. All inspections, acceptance testing and other requirements shall be coordinated with the Department of Public Works.

Please include the above Project Name and Project Number on all project correspondence.

Should you have any questions or need additional information, please contact Mr. Jack Marlow, Chief Resident Project Representative with Stanley Consultants at 646-3466, Mr. Crispin Bensen, Project Engineer, DPW or Mr. Mike Lanning, Guam Program Manager with Parsons Transportation Group at 648-1060.

Acknowledge receipt of this notice on the space provided below and return a copy to the Department of Public Works, Division of Highways to the attention of Mr. Isidro Duarosan, Engineer Supervisor.

Sincerely,



CARL V. DOMINGUEZ



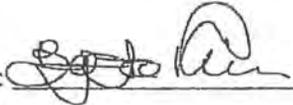
IDualosar/PSJgel /JBla2

Cc: Jack Marlow, Stanley
Crispin Bensen, DPW
Mike Lanning, PTC
Richelle Takara, FIWA

RECEIPT OF THE ABOVE NOTICE TO PROCEED IS HEREBY ACKNOWLEDGED

THIS 2nd DAY OF JANUARY 2014. 5

By: BYONG HO KIM - PRESIDENT
(Print Name & Title)

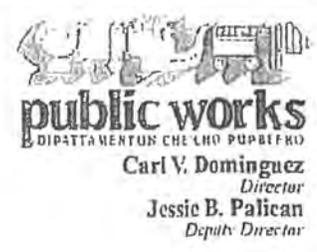
Signature: 

W

COPY

The Honorable
Eddie Baza Calvo
Governor

The Honorable
Ray Tenorio
Lieutenant Governor



December 29, 2014

Mr. Byong Ho Kim
President
Korando Corporation
380H Harmon Industrial Park
Tamuning, Guam 96913

Re: **Bile / Pigua Bridges Replacement
Project No. GU-NH-NBIS(007)
NOTICE TO PROCEED**

* please sign & return to DPW-Highways *

ACKNOWLEDGMENT RECEIPT:	
NAME:	JONI PALMA
DEPT./COMPANY:	KORANDO SCAP
DATE:	1.2.2015 12:28 PM
SIGNATURE:	<i>[Signature]</i>

Thank you! ☺

Dear Mr. Kim,

You are hereby notified to commence work on the above referenced project on **Monday, January 5, 2015** which shall be day number one (1) of the working days stipulated in the Contract. All work, including final cleanup shall be completed within **450** calendar days. Failure to complete the entire project within the **500** calendar days stipulated in the contract will result in Liquidated Damages being assessed in the amount of **\$2,200.00** per calendar day.

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Sincerely,



CARL V. DOMINGUEZ



IDualovan/PSIngel/JBlaz

cc: Jack Marlow, Stanley
Crispin Benson, DPW
Mike Lanning, PTG
Richelle Takana, FHWA

RECEIPT OF THE ABOVE NOTICE TO PROCEED IS HEREBY ACKNOWLEDGED

THIS _____ DAY OF _____ 2014.

By: _____ Signature: _____
(Print Name & Title)

nr