



Territory of Guam
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7-03-90

OFFICE OF THE GOVERNOR
UFISINAN I MAGA'LAHI
AGANA, GUAM 96910 U.S.A.

JUN 20 1990

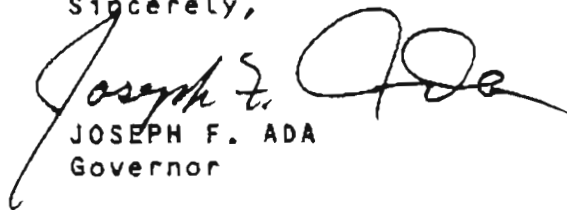
The Honorable Joe T. San Agustin
Speaker
20th Guam Legislature
155 Hernan Cortez St.
Agana, GU 96910

Dear Mr. Speaker:

Transmitted herewith is Substitute Bill No. 1036, which I
have signed into law as Public Law 20-187.

Thank you and Si Yu'os Ma'ase.

Sincerely,


JOSEPH F. ADA
Governor



Commonwealth Now!

TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 1036 (LS), "AN ACT APPROVING A LEASE OF THE AGANA MARINA BETWEEN THE PORT AUTHORITY OF GUAM AND INTERNATIONAL DESIGN CONSORTIUM, INC.," was on the 23rd day of May, 1990, duly and regularly passed.



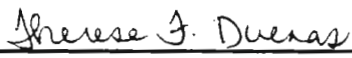
JOE T. SAN AGUSTIN
Speaker

Attested:



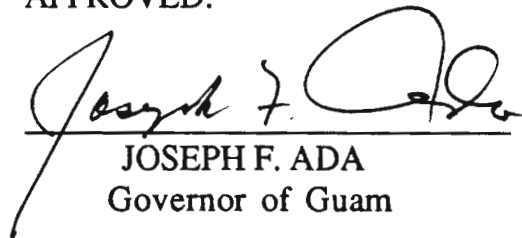
HERMINIA D. DIERKING
Senator and Acting Legislative Secretary

This Act was received by the Governor this 30th day of May,
1990, at 11:30 o'clock A.m.



Assistant Staff Officer
Governor's Office

APPROVED:



JOSEPH F. ADA
Governor of Guam

Date: JUN 11 1990

Public Law No. 20-187

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 1036 (LS)
As substituted by the Committees
on Housing & Community
Development and Tourism &
Transportation and as further
substituted by the Committee
on Rules

Introduced by:

T. S. Nelson
H. D. Dierking
F. R. Santos
P. C. Lujan
E. D. Reyes
J. T. San Agustin
M. D. A. Manibusan
M. C. Ruth
M. Z. Bordallo
A. R. Unpingco
T. V. C. Tanaka
J. G. Bamba
E. R. Duenas
J. P. Aguon

AN ACT APPROVING A LEASE OF THE AGANA MARINA
BETWEEN THE PORT AUTHORITY OF GUAM AND
INTERNATIONAL DESIGN CONSORTIUM, INC.

1 LEGISLATIVE FINDINGS. The Legislature finds that there is a need for
2 the development and improvement of the public recreational area commonly
3 known as the Agana Boat Basin and the Agana Marina. The existing facility is
4 in poor condition, is inadequate for the needs of the people, and is costly to
5 administer and maintain. The Legislature additionally finds that the
6 improvement and maintenance of the Marina without charging fees greater
7 than what most residents could afford are virtually impossible without
8 private sector participation. The Legislature additionally finds that leasing of

1 the area to a private developer in return for a well-constructed and
2 maintained marina facility open for access and use by the public would
3 benefit all of the people of Guam and the developer at the same time. The
4 Legislature therefore recommends that a private firm develop and maintain
5 the marina for use by the people of Guam, and that the developer be allowed
6 to develop the marina area in order to recoup its substantial investment.

7 LEGISLATIVE INTENT. The Legislature intends that the Agana Marina
8 as described in the Lease be accessible to the public at all times and be
9 developed with strong local participation in both ownership and management.
10 It is the intent of the Legislature that the Agana Marina property be
11 developed into hotel and hotel-related activities only. It is further the intent
12 of the Legislature that any attempted conversion of hotel rooms into
13 condominiums for resale will be considered a violation of the terms of the
14 Lease. The land and facilities at the marina belong to the people of Guam and
15 the Legislature believes that local people should be directly involved in
16 decision-making concerning the marina project. The approval of the marina
17 project is dependent upon the assurances of the developers that local people
18 are and will continue to be involved in the ownership and decision-making
19 within the development corporation. It is the intent of the Legislature that
20 such local involvement continue throughout the lifetime of the project leases;
21 now, therefore,

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

23 Section 1. That certain lease agreement (the "Lease") between the Port
24 Authority of Guam (the "Lessor") and International Design Consortium, Inc., a
25 Guam corporation (the "Lessee"), executed April 1, 1990, and transmitted to
26 the Legislature on April 25, 1990, for a parcel of land known as the Agana
27 Boat Basin is hereby approved, subject to the conditions set out in Section 2 of
28 this Act. Such approval is given pursuant to §60112 of Title 12, Guam Code
29 Annotated. The property covered by the Lease is described as follows (the
30 "Premises"):

31 (a) Those portions of the Agana Boat Basin comprising a total of
32 approximately 36.75 acres, consisting of the Agana Marina South
33 containing an area of 8.32 acres and the Agana Marina North containing
34 an area of 28.43 acres, as more specifically shown on the map attached

1 as Exhibit "A" to the Lease and incorporated herein by reference, said
2 map being a retracement survey map recorded with the Department of
3 Land Management on April 6, 1990 under Instrument Number 432258;
4 and

5 (b) All existing landfill created by the Lessor prior to the
6 effective date of the Lease, together with all lands created during the
7 term of the Lease by the Lessee by dredging or other means within the
8 Agana Boat Basin.

9 Section 2. The approval of the Lease is subject to the following
10 conditions, which conditions shall prevail over any provisions of the Lease to
11 the contrary:

12 (a) Notwithstanding the provisions of §60114 of Title 21, Guam
13 Code Annotated, the Lessee may sublease portions of the Premises with
14 the approval of the Governor, and of the Board of Directors of the Lessor
15 in accordance with subparagraph (a) of §10105 of Title 12, Guam Code
16 Annotated; provided, however, that any sublease of more than ten
17 percent (10%) of the Premises shall require the prior approval of the
18 Legislature.

19 (b) Except as otherwise provided herein, the Lessee shall not
20 sell, assign, sublease, hypothecate, encumber, mortgage or otherwise
21 transfer its interest in the Premises without the prior written consent of
22 the Governor and of the Legislature; provided, that the Legislature shall
23 have thirty (30) days to disapprove any bona fide mortgage filed with
24 it, failing which the mortgage shall be deemed approved. In the case of
25 assignments, the Lessor shall determine the financial stability of the
26 proposed assignee and whether such assignee has been convicted of a
27 felony or of a crime involving moral turpitude.

28 (c) The Governor and the Lessor shall annually certify to the
29 Legislature that the Lease and the Lessee are in compliance with all
30 applicable federal and territorial laws, rules and regulations relating to
31 the use of the Premises.

32 (d) The Lessee shall within thirty (30) days of the effective date
33 of this Act submit to the Lessor, to the Governor, and to the Legislature
34 a duly executed agreement among the Lessee's shareholders stating

1 their identity, their addresses, and the numbers and types of shares
2 that each shareholder has subscribed and paid for. The Lessee has
3 advised the Governor, the Lessor, and the Legislature, that on approval
4 of the Lease the sole shareholders of the Lessee shall be the following
5 individuals with the following shareholdings: Tasuku Chino, 68.6% of
6 the issued shares, Clifford Guzman, 15.4% of such shares, Seibun Cornell
7 Tanetani, 10% of such shares, Yasuhiro Kishimoto, 3% of such shares, and
8 Henry Simpson, Jr., 3% of such shares. Any change in either the
9 identities of the shareholders or the percentages of shareholdings shall
10 be deemed an assignment requiring the prior written consent of the
11 Legislature.

12 (e) During the term of the Lease, the Lessee may issue rules and
13 regulations for the use of the Premises as may be consistent with the
14 operation of public marinas of a similar size and nature; provided, that
15 such rules and regulations do not at any time adversely affect the
16 public's or the government of Guam's access or use of the Premises; and,
17 provided, further that such rules and regulations include a provision
18 giving the current holders of boat slip permits in the Agana Boat Basin
19 first priority and preference in obtaining the new slips to be
20 constructed by the Lessee under the Lease. The Lessee shall solicit
21 comments from the public and from existing users of the Premises
22 before issuance, implementation or amendment of any rules or
23 regulations, including those establishing rates for use of the Marina, and
24 shall hold a public hearing, giving notice to the public and personally
25 serving such notice on existing users of the Premises of its intention to
26 adopt or amend rules or regulations, including rates, thirty (30) days
27 prior to the date of the public hearing. Any such rules and regulations,
28 including but not limited to rates, shall be submitted to the Lessor for
29 review and approval or disapproval. Such review by the Lessor shall be
30 conducted in accordance with the Administrative Adjudication Law, and
31 if the rules are approved by the Lessor, they shall be submitted to the
32 Legislature in accord with the Administrative Adjudication Law. In
33 setting such rates, no depreciation or amortization of assets shall be

1 utilized in the rate base except for the replacement cost of new boat
2 slips to be replaced after fifteen (15) years.

3 (f) The Lessee shall improve and maintain, at its expense, that
4 portion of the Paseo de Susana including and to the west of the western
5 perimeter road up to the northernmost point of the Paseo, such
6 improvements and maintenance to be coordinated with the Department
7 of Parks and Recreation.

8 (g) The term of the Lease shall be for the maximum number of
9 years allowed by law.

10 (h) The Attorney General is directed to incorporate the
11 conditions of this Act in a final version of the Lease in such a manner as
12 to facilitate enforcement thereof. The Lessee shall have thirty (30) days
13 following the Governor's execution of the final version of the Lease to
14 execute the same, failing which the Lease shall be deemed void and of
15 no further force or effect.

16 (i) The rental section of the Lease shall reflect the following
17 conditions:

18 (1) Annual rental shall be based on ten (10%) of the fair
19 market value as appraised pursuant to Subitem (3) of this
20 subsection, or four percent (4%) of the Gross Operating Revenue,
21 as defined in section 3.5, 3.5.1, 3.5.2, and 3.5.3 of the Lease,
22 including the Gross Operating Revenues of tenants,
23 concessionaires, and successors in interest, whichever is higher,
24 but in no case shall the annual rental be less than One Million
25 Dollars (\$1,000,000) per year.

26 (2) Each twenty (20) years a reappraisal based on fair
27 market value of the land at highest and best use shall be made
28 pursuant to Subitem (3) of this subsection. The new annual rental
29 amount shall be ten percent (10%) of this reappraised fair market
30 value, but in no case shall the rental be less than One Million
31 Dollars (\$1,000,000) per annum.

32 (3) "Fair Market Value" shall be first determined and then
33 recomputed every twenty (20) years thereafter based on highest
34 and best use during the term of the Lease by three (3) qualified

1 appraisers, of whom one (1) shall be chosen by the Lessor, one (1)
2 by the Lessee and the third by the first two (2), the decision of a
3 majority of the appraisers to be controlling. Notwithstanding any
4 law to the contrary, or other provision of law, the Agana Marina is
5 hereby rezoned to "H" (hotel) zone, with usage as a Marina also
6 permitted.

7 (j) If within three (3) years of the effective date of this Act, the
8 U.S. Army Corps of Engineers does not grant the necessary permit to
9 dredge the submerged lands within the Premises as required under the
10 Lease, the Lease shall terminate and be of no further force and effect.

11 (k) The Agana Marina shall be accessible at no cost to the public
12 and to all fishermen at all times.

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

17 (m) Local businesses or entrepreneurs, owned at least fifty-one
18 percent (51%) by United States citizens or resident aliens, shall be given
19 priority in establishing businesses in the various facilities to be
20 developed by International Design Consortium, Inc. at the Agana
21 Marina.

22 Section 3. If any provisions of this Act or the application thereof to
23 any person or circumstance are held invalid, such invalidity shall not affect
24 the other provisions or applications of this Act which can be given effect
25 without the invalid provisions or application and to this end the provisions of
26 this Act are severable.

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

ROLL CALL SHEET

Bill No. 1036

Date: 5/21

Resolution No. _____

QUESTION: Roll call on SB 1036 to accept or

sub
T.M.T.
Kila.com

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

(10)

(8)

(3)



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

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

April 13, 1989

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

Dear Mr. Speaker,

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

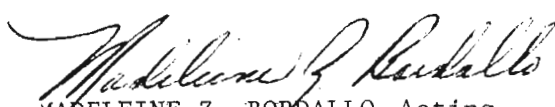
BILL 1036 - AN ACT AUTHORIZING THE PORT AUTHORITY OF GUAM TO ENTER LEASE WITH INTERNATIONAL DESIGN CONSORTIUM, INC.

The voting records on Bill 1036 as substituted by the Committees on Tourism & Transportation and Housing & Community Development are as follows:

	TOURISM & TRANSPORTATION	HOUSING & COMMUNITY DEVELOPMENT
TO PASS	<u>6</u>	<u>2</u>
NOT TO PASS	<u>1</u>	<u>1</u>
TO REPORT OUT ONLY	<u>4</u>	<u>6</u>
TO PLACE IN INACTIVE FILE	_____	_____
NOT VOTING	_____	_____

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

Sincerely,


 MADELEINE Z. BORDALLO, Acting
 Attachments


 JOHN PEREZ AGUON

VOTING SHEET • COMMITTEE ON TOURISM & TRANSPORTATION

BILL NO. 1036 as substituted by the Committees on Housing & Community Development and Tourism & Transportation: AN ACT AUTHORIZING THE PORT AUTHORITY OF GUAM TO ENTER LEASE WITH INTERNATIONAL DESIGN CONSORTIUM, INC.

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

John P. Agun

JOHN P. AGUON, Chairman

✓

OFF - ISLAND

CARL T. C. GUTIERREZ, Vice Chairman

Joe San Agustin

JOE T. SAN AGUSTIN, Speaker

✓

J. George Bamba

J. GEORGE BAMBA

✓

OFF-ISLAND

DORIS F. BROOKS

Herminia D. Dierking

HERMINIA D. DIERKING

✓

OFF-ISLAND

PILAR C. LUJAN

OFF-ISLAND

GORDON MAILLOUX

Marilyn Manibusan

MARILYN D. A. MANIBUSAN

✓ 4/17/90

✓

DON PARKINSON

Franklin J. Quitugua

FRANKLIN J. QUITUGUA

✓

Edward D. Reyes

EDWARD D. REYES

✓

Martha C. Ruth

MARTHA C. RUTH

✓ 4/19/90

Thomas V. C. Tanaka

ANTONIO R. UNPINGCO

THOMAS V. C. TANAKA

✓

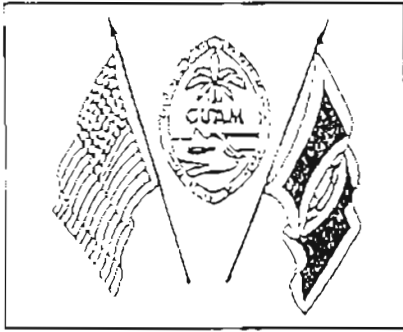
✓

COMMITTEE ON HOUSING & COMMUNITY DEVELOPMENT

VOTING SHEET

BILL NO. 1036 as substituted by the Committees on Housing & Community Development and Tourism & Transportation: AN ACT AUTHORIZING THE PORT AUTHORITY OF GUAM TO ENTER LEASE WITH INTERNATIONAL DESIGN CONSORTIUM, INC.

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



20th Guam Legislature
**COMMITTEE ON
TOURISM and
TRANSPORTATION**

COMMITTEE REPORT

**BILL 1036: AN ACT AUTHORIZING THE PORT
AUTHORITY OF GUAM TO ENTER LEASE WITH
INTERNATIONAL DESIGN CONSORTIUM, INC.**

PUBLIC HEARINGS:

November 10, 1989; November 17, 1989

MARK-UP MEETINGS:

February 20, 1990; February 26, 1990; April 5, 1990

SENATOR JOHN PEREZ AGUON, Chairman

SENATOR CARL T.C. GUTIERREZ, Vice Chairman

Members:

SPEAKER JOE T. SAN AGUSTIN

SENATOR J. GEORGE BAMBA	SENATOR DON PARKINSON
SENATOR DORIS F. BROOKS	SENATOR FRANKLIN J.A. QUITUGUA
SENATOR HERMINIA D. DIERKING	SENATOR EDWARD D. REYES
SENATOR PILAR C. LUJAN	SENATOR MARTHA C. RUTH
SENATOR GORDON MAILLOUX	SENATOR THOMAS V.C. TANAKA
SENATOR MARILYN D.A. MANIBUSAN	SENATOR ANTONIO R. UNPINGCO

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 1036 (LS)

As substituted by the Committees on Housing &
Community Development and Tourism & Transportation

Introduced by:

Committee on Rules

At the request of the Governor

AN ACT AUTHORIZING THE PORT AUTHORITY OF
GUAM TO ENTER LEASE WITH INTERNATIONAL
DESIGN CONSORTIUM, INC.

1 LEGISLATIVE FINDINGS: The Legislature finds that there is a need for
2 the development and improvement of the public recreational area
3 commonly known as the Agana Marina. The existing facility is in poor
4 condition, is inadequate for the needs of the people and is costly to
5 administer and maintain. The Legislature additionally finds that the
6 improvement and maintenance of the Marina without charging fees greater
7 than that most citizens could afford is virtually impossible without private
8 sector participation. The Legislature additionally finds that leasing of the
9 area to a private developer in return for a well-constructed and maintained
10 marina facility open for access and use by the public would benefit all of the
11 people of Guam and the developer at the same time. The Legislature
12 therefore recommends that a private firm develop and maintain the marina
13 for use by the people of Guam, and that the firm be allowed to develop the
14 marina area in order to recoup their expenses .

15 LEGISLATIVE INTENT: The Legislature intends that the Agana Marina
16 be developed with strong local participation in both ownership and
17 management. The land and facilities at the marina belong to the people of
18 Guam and the Legislature believes that local people should be directly
19 involved in decision making concerning the marina project. The approval of
20 the marina project is heavily dependent upon the assurances of the
21 developers that local people are and will continue to be involved in the

1 ownership and decision making within the development corporation. It is
2 the intent of the Legislature that local involvement continue throughout the
3 lifetime of the project lease.

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

5 Section 1. With the written approval of the Governor, the Port
6 Authority of Guam is authorized to lease the following property:

7 a. Those portions of the Agana Boat Basin comprising a total of
8 approximately 36.75 acres, consisting of the Agana Marina South containing
9 an area of 8.32 acres and the Agana Marina North containing an area of
10 28.43 acres, as more specifically shown on the Map attached as Exhibit "A"
11 to the Lease Agreement and incorporated herein by reference, said map
12 being a retracement survey map duly recorded with the Guam Department
13 of Land Management on April 6, 1990 under Instrument Number 432258.

14 b. All existing landfill created by Lessor prior to the effective date of
15 this Lease together with all lands created hereafter during the term of the
16 Lease by Lessee or its designees by dredging or any other means within the
17 Agana Boat Basin; and

18 c. All rents, issues and profits of the Agana Boat Basin as set forth in
19 Exhibit "A".

20 Section 2. Notwithstanding any provision of law to the contrary,
21 commercial subleases of a portion of the premises except for the main lease
22 of the entire leased premises between Lessor and Lessee shall be subject to
23 the approval of the Board of Directors of the Port Authority of Guam in
24 accordance with §10105 (a) of 12 GCA and the Governor.

25 Section 3. The Governor and the Port Authority of Guam shall certify
26 to the Legislature that this Lease Agreement is in compliance with all
27 applicable federal and local laws, rules and regulations relating to the use of
28 the premises as set forth in the Agreement.

1 Section 4. The approval of this lease is expressly conditioned upon the
2 Lessee submitting a valid and duly executed shareholders agreement
3 reflecting the identity of shareholders, their addresses and the number of
4 shares subscribed and paid into. The shareholders of the corporation shall
5 reflect that which were represented by the duly authorized representative
6 of the Lessee as follows: Tasuku Chino - 68.6%, Clifford Guzman - 15.4%, S.
7 Cornell Tanetani - 10%, Yasuhiro Kishimoto - 3%, and Henry Simpson - 3%.
8 The Lessee shall have thirty (30) days to submit an executed shareholders
9 agreement incorporating the conditions set forth. Failure to submit the
10 revised shareholders agreement shall warrant no approval of the
11 Legislature of the lease.

12 Section 5. The Attorney General is directed to incorporate the
13 conditions as expressed herein in the final commercial lease agreement
14 between the Port Authority of Guam and the Lessee in such a manner as to
15 facilitate enforcement thereof. The Lessee shall have thirty (30) days
16 following the executed final Lease Agreement by the Port Authority of
17 Guam to execute the final lease agreement incorporating the conditions set
18 forth. Failure to execute the final lease agreement shall warrant no approval
19 of the Legislature of the lease.

AGANA MARINA
BILL NOS. 1020 & 1036

VOLUME 1

1. COMMITTEE REPORT
2. REFERRAL LETTER FOR BILL NO. 1020
3. REFERRAL LETTER FOR BILL NO. 1036
4. TRANSMITTAL LETTER FROM GOVERNOR JOSEPH ADA
5. SIGN IN SHEETS

TESTIMONIES

6. DAVID TYDINGCO
7. JOHN BLANCHARD
8. TERRENCE BROOKS
9. CLIFFORD GUZMAN
10. PRIVATE CITIZENS
 - Frances Baumann
 - Rosamunde Claire Bell
 - Edith Rosario Blankenfeld
 - Edward Hord
 - Albert Juan
 - Glenn Leon Guerrero
 - Vincent Quinata
 - Jack Rice
 - Dave J. Santos

Laura Torres Souder, Ph.D.
Felix Ungacta
Antonio Waki & Carl Wegner

11. ORGANIZATIONS

BAILAN TASI BOARDSAILORS CLUB
GUAM CHAMBER OF COMMERCE
GUAM FISHERMENS COOP
GUAM VISITORS BUREAU

12. GOUGUAM AGENCIES

BUREAU OF PLANNING
COMMISSIONER'S COUNCIL
DEPT. OF AGRICULTURE
DEPT. OF COMMERCE
DEPT. OF LAND MANAGEMENT
DEPT. OF PARKS AND RECREATION
PORT AUTHORITY OF GUAM EMPLOYEES PETITION

INTRODUCTION

The Committee on Tourism & Transportation and the Committee on Housing & Community Development held a public hearing on Friday, November 10, 1990 in the Legislative Session Hall on Bills No. 1020 and 1036.

BILL NO. 1020 - "AN ACT TO APPROVE THE LEASE OF THE AGANA BOAT BASIN TO UPGRADE AND IMPROVE THE FACILITY." (Introduced by Sens. T. S. Nelson, H. Dierking, F. R. Santos, P. C. Lujan, E. D. Reyes, J. T. San Agustin, M. Manibusan, M. Ruth, M. Bordallo, A. Unpingco, T. Tanaka, G. Bamba, and, E. Duenas)

BILL NO. 1036 - "AN ACT AUTHORIZING THE PORT AUTHORITY OF GUAM TO ENTER LEASE WITH INTERNATIONAL DESIGN CONSORTIUM, INC." (Introduced by Sen. H Dierking, At the request of the Governor)

Present at the hearing were Senators John Perez Aguon, Madeleine Bordallo, Pilar Lujan, Franklin Quitugua, Martha Ruth, Vice-Speaker Nelson and Frank Santos.

The following testified during the public hearing:
David Tydingco, Port Authority of Guam, General Manager
Philip Flores, Port Authority of Guam, Chairman of the Board
James & Terrence Brooks, Port Authority of Guam, Legal Counsels
John Blanchard, Touche Ross, PAG Financial Consultant
Clifford Guzman, IDC, President
Former Speaker Florencio Ramirez
Jack Rice
Rita Torres Franquez
Bert Unpingco
Jerry Oberheim, Fisher Inc.
Frank Quinata
Edith Rosario Blankenfield
Rosemunde Claire Bell
Yolanda Crisostomo
Carmen Artero Kasperbaur
Ralph Borja

Jim Cruz
Ed Poppe
Linda Yeomans
Mayor Peter Ungacta
Eddie J. Cruz



AGANA MARINA

BILL 1020 & 1036

Sen. Aguon began the hearing by inviting testimony from the audience. He explained that the public hearing would be in two parts. The public would first present their testimony ahead of the Port Authority of Guam (PAG) and International Design Consortium (IDC).

Speaker Florencio Ramirez gave his oral testimony supporting the development by IDC. He stated that he has known the family of Mr. Guzman and is supportive of the fact that the developers are locals.

Jack Rice provided written testimony (Vol 1) to the Committees. He expressed objection to the building of a hotel on the reef but supports the development of the Marina because of the need for more boat slips.

Rita Torres Franquez, a resident of Agana, supports the project because it will change Agana, contribute to economic development and provide employment.

Bert Unpingco, former Tourist Director, supports the project because it is a catalyst for development, it will also enhance the physical appearance of Agana, and the improvements in the marina will attract a different market of visitors who he believes will be "high spenders".

Jerry Oberheim, a representative of Fisher Inc., is a user of the Agana Marina. He supports the project but would like to make sure that a task force is formed for the formulation of the rules and regulations on the use of the Marina, that the locals have priority over foreign boat owners for slips, and, that he has "difficulty" with the dry dock facilities as presented by IDC.

Frank Quinata, a charter captain, supports the project because it will improve the existing poor conditions. However, he would like to make sure that local interests are protected and that a facility to fix boats be included in the future.

Edith Rosario Blankenfield, resident of Agana, supports the bills since the marina is currently an eye-sore and the development will improve it. She provided written testimony (Vol 1).

Rosamunde Claire Bell read her testimonies (Vol. 1) and is against the bills because she thinks that GovGuam land should not be leased to the private sector and believes that the Port Authority of Guam should develop it with their earnings. She pointed out that the number of boat slips should be increased, that the Fishermens Coop should have a clubhouse for the members, a seafood restaurant, a local Chamorro restaurant and souvenir shops. In addition, she stated that Guam is now overbuilt with hotels and that there is no master plan of the island.

Yolanda Crisostomo supports the bills because the development will become a major tourist attraction and will be good for tourism. She believes that the Legislature will protect the interest of the boaters.

Carmen Artero Kasperbaur feels that the development will give Agana the face lift that it needs and is happy to hear that the developers are locals. She wants a law that will protect the local people especially the fishermen and boat charterers that have just started their operations.

Ralph Borja, President of the Fishermens Coop, read his written testimony (refer Vol. 1). Personally, he would like the operation of charter boats to be limited to locals only. His organization supports the development because GovGuam has failed to provide them with a first class facility. However, he stated concerns that need to be addressed by the Legislature and are as follows.

- 1. They want to make sure that local users are not displaced.
- 2. There should be no fees or restrictions on simple use like the launching and retrieving of boats, car and trailer parking, and, use of days slips for the loading and unloading of boats.
- 3. The shorelines should remain accessible and open to the public with adequate parking.
- 4. Surfers must have reasonable access to the boat basin entrance.
- 5. Provisions should be included which protect local boaters from unreasonably high slip fees.

Jim Cruz, charter boat owner, opposes the development because this will usher in a rush of hotels along the seashores. He also fears that with the improvement of the marina, foreign owned charter boats will operate and put the locals out of business.

Ed Poppe is a boater and a Board Member of the Fishermens Coop. He supports the project but expressed concern regarding the entry of foreign owned boats, the possibility of prohibitive fees so that locals cannot afford to continue operation and that locals will be asked to moor in the South. He added that he wants protection for the local boaters and fishermen.

Linda Yeomans, an operator of a surf and windsurf shop, has no position on the bills. She expressed her dislike with the supposed practice that only the Japanese are allowed to open surf and windsurf shops on hotel premises. She asked if the surfers will continue to have free access to the Marina with the development. She also wanted to know if they would have to pay an entrance fee in the future.

Mayor Felix Ungacta of Agana read his written testimony (Vol. 1) supporting the development since the quality of life, in terms of socio-economic and aesthetics, will improve.

At this point Sen. Aguon asked the public for additional comments.

Rosemunde Claire Bell added that the development could ruin the Public Market and the baseball stadium and will add to the traffic congestion during rush hours. She closed her statement by saying, "Let's leave Agana as Agana."

Eddie Cruz, a member of the Agana Marina negotiating team representing the boaters, supports the project. He explained that the Legislature must make sure that the local boaters are protected so they are not displaced by foreigners and the slip fees must remain affordable especially for the small fishermen. Mr. Cruz stated that he missed a few meetings of the negotiating team and the lease agreement that was presented to the Legislature was different from what he was originally shown.

Sen. Quitugua asked Mr. Cruz clarification on the contracts. Mr. Cruz stated that he originally wanted to include language in the lease

agreement which would limit activities related to the Visitor Industry, like charter boats, only to the existing operators. He also wanted a mechanism which would limit the expansion of the existing operators. The example he cited was a company that currently has one (1) boat that would buy 29 others. Furthermore, he felt that present operators should not be allowed to sell their companies to the Japanese.

Sen. Aguon then called the representatives of PAG and IDC.

Mr. Flores, Chairman of the Board of PAG, explained that there were several revisions in the contract. The final changes addresses the concerns of the current users of the marina especially those in commercial activities like fishing and charter boats. He explained that all the rules and regulations and fees in the marina are subject to the Administrative Adjudication Act. In essence, the Legislature will have final approval of this matter.

Mr. Tydingco read his written testimony (Vol 1, Tab. 6) where he traced the history of the property and the project. He added that over \$3 million was needed to upgrade the Port's facility and they had no resources to improve the Agana Marina. Annually, PAG was spending \$46,000 to maintain the facility. There are over 100 persons on the waiting list for the boat slips in Agana and Agat, and, PAG has only 42 slips. He emphasized that the current users are protected in the contract because all the rules and regulations for the use of the Marina is to the Administrative Adjudication Law which is incorporated in Section 8.2 of the lease agreement. He emphasized that the rates are specified in the rules and regulations. Terrence Brooks added that a public hearing is mandatory to implement any changes in the rules and regulations.

Sen. Quitugua stated that the lease agreement does not state the word "rates". Mr. Flores replied that they will incorporate this.

Mr. Tydingco explained that issues relating to the preference for existing boaters and limiting the number of charter operators would be handled in the public hearing process which is necessary in making changes to the rules and regulations. The rules and regulations would need the approval of the PAG and the Legislature.

Clifford Guzman read his written testimony (Vol 1., Tab 9) and made an oral presentation of the development. He explained that some of the

amenities are facilities for life safety and rescue, GPD and the fire department, a new Fishermens Coop, retail shops, restaurants and a nautical museum. He stated that the hotel will be geared towards corporate travelers and not package tour travellers. The other structure will be for boaters who do not want to stay in the corporate hotel. Although the code requires only 668 parking spaces, IDC will build 1,030 spaces. He added that this development will revitalize Agana.

John Blanchard, the financial consultant from Touche Ross, presented his written testimony (Vol 1, Tab 7). He explained that the cost of the Marina is about \$12 million and the debt service of this investment will be approximately \$1.38 million for 30 years. PAG will receive a minimum rent of \$150,000 p.a. and this will be paid quarterly in advance. The minimum rent will increase by 10% every 5 years. IDC also has a cap on the amount they will pay through the maximum rent of \$400,000 for the first 5 years and \$440,000 for the 6th to the 10th year. After that period, the cap is no longer applicable. In addition, PAG will receive a percentage rent of 1% for the first 20 years, 1.125% for the next 20 years, 1.25% for the 3rd 20 years and 1.3875% for the last 10 years. Blanchard explained that assuming the rent starts in 1993, PAG will receive \$150,000 for 1993. This will increase to \$352,700 in 1998 and \$441,800 by 2003. By the year 2008, percentage rent will be \$559,000 and by the year 2013, it will be \$765,150. He added that PAG will receive a 1% fee based on the net proceeds of any sale of assets throughout the term of the lease.

Sen. Ruth asked why the slip fees were not included as part of the gross operating revenues. Blanchard explained that slip fees were excluded because PAG and the Administrative Adjudication Act would set the rates. Tydingco added that the fees generated from the marina will be reinvested in the facility and will be used to subsidize the operations of the marina to avoid exorbitant slip fees.

Terrence Brooks, legal counsel of PAG, read his written testimony (Vol. 1, Tab 8).

Sen. Lujan asked if they were aware of the provisions under PL86-664 which states that use of the land is limited to recreational purposes. Guzman stated that they have the Solicitor General's Memo of June 6, 1989 (Vol. 4, Tab 5) which allows the uses as planned for by IDC. She questioned the issue of local participation in IDC. He explained that he

had 51%, Carlos Barretto had 3%, Charles Mc Clure and Mark Peterson had 46%. Sen. Lujan wanted to know who the financier was. Guzman explained that it was Mr. Tatsuko Chino and he is currently involved with the Alupang Beach Club condominium. She expressed concern that locals are only used as fronts by foreigners and cited the experience of Hatsuo Golf Course. Guzman added that in their investor's agreement, it specifically states that they (locals) will be responsible for the development "...including the operation to the management level." She asked if Guzman had already tied up the reservations for the slips. He stated that he has received requests but that the public must decide this issue. Sen. Lujan inquired if there was a limitation on the number of slips that a corporation could have. Tydingco responded negatively and stated that they only have 42 slips. In obtaining the approval of the succeeding rules and regulations of the Agana Marina from the Legislature, she cautioned both PAG and IDC not to use the automatic 45 days that the Legislature has to act on the rules and regulations. Flores assured her that PAG will make sure that the rules and regulations are acceptable to the Legislature ahead of time.

Sen. Aguon asked what was IDC's guarantee that Mr. Chino would finance the project. Guzman explained that Mr. Chino's resources would be used as guarantee against the loans and that Chino would be capitalizing the project. Sen. Aguon requested IDC to submit the documents. (Vol 3, Tab 2) Sen. Aguon questioned what would happen if Chino backed out of his commitment. Guzman stated that he cannot do this without the consent of all investors. Sen. Aguon inquired if Touche Ross conducted a credit investigation on IDC. Blanchard responded affirmatively and said that financial stability was part of the evaluation. Sen. Aguon asked if without the financial backing of Mr. Chino, would Blanchard have recommended IDC. Blanchard said that "without adequate financial backing to substantiate an ability to finance, we would not have recommended them."

Sen. Ruth asked about the number of shares that Guzman had in IDC. He stated that IDC was a Guam corporation and he held all the shares personally. He explained that he had differences with the original secretary, Ignacio Santos, and replaced him with Carlos Barretto. She then questioned Blanchard why the escalation was based on 10% every 5 years rather than on fair market value. Blanchard stated that this evolved from negotiations. Tydingco added that during the first 10 years, the infrastructure and the superstructures will be constructed so they

accepted the maximum rent. After 10 years, the hotel would be fully operational so the cap will no longer be in effect. Blanchard added that the maximum rent was accepted so that the project would be bankable. If IDC were to negotiate every 5 years based on fair market values or the consumer price index, the project would not be financed. Sen Ruth asked what the minimum rent of \$150,000 was based on. Blanchard stated that the figure was negotiated to allow the project to become viable.

Sen. Aguon asked if the financing would be from off - island. Guzman stated that the long term financing would come from the Long Term Bank of Japan. Funds for the construction phase would be tied to a local bank. Sen. Quitugua pointed out that the QC's for hotels was under review. Sen. Aguon inquired if they would continue the project if the QC's for hotels were removed. Guzman said that they will apply for a Q.C. but if they cannot avail of it, they would still continue. Sen. Aguon asked who would be managing the hotel. Guzman responded that IDC would manage it and they are entertaining the Western Hotel operations group. Sen. Aguon inquired if they were selling condominiums. Guzman answered that they are "...looking at the possibility of taking one of the suite wings and looking at alternatives as offering those up as a condominiumized hotel rooms ...but it will be operated by the hotel operator." Blanchard added that should these rooms be sold, PAG would get a percentage of the sale. Tydingco explained that the term of these units would be limited to the term of the lease.

At this point, Sen. Aguon opened the discussion on the lease agreement. Sen. Aguon asked for the size of the property. Tydingco answered that it was 36.8 acres including the submerged lands. Sen. Aguon inquired as to the reclamation plans of IDC. Guzman stated that they will be adding 22 acres.

Sen. Ruth asked PAG if they owned the land or administered it. Tydingco stated that they only administered it. Sen. Ruth suggested that make the change in line 29 of page 1 in the Recitals to "Lessor administers a parcel..."

Sen. Ruth and Lujan inquired if the rental payment would increase proportional to the size of the reclaimed land. Guzman responded negatively because the increase in land size will contribute towards the gross operating revenues where PAG will collect a percentage rent. Sen.

Lujan wanted to know who would pay for the infrastructure. Guzman said IDC would as long as it was within the property line.

Since the project is a joint-venture, Sen. Lujan asked who would be liable. Guzman said IDC. Jim Brooks added that the project would be fully bonded with a performance and a payment bond. Sen. Lujan expressed concern with an incident relating to construction defects and the difficulty of chasing an off-island developer. Flores explained that the performance bond will provide for a 1 year warranty. He added that the contractor "...will probably be Black Construction..." He also pointed out that because this project will be privately financed, the bank will have an interest to protect.

In Sec. 1.2.2. Inspection for Discovery of Defects, Sen. Ruth asked why this was included in the lease agreement. Guzman stated that because the property was reclaimed with WW II rubble, there could be unexploded bombs, hazardous waste or barrels of some poisonous substance buried in it. Sen. Ruth inquired if this was a loophole in the lease. Flores replied negatively. Tydingco added that should they find something undesirable, it would be PAG and GovGuam's responsibility.

In Sec. 2 TERM, Sen. Aguon inquired that should the Legislature decide to limit the term to 50 years, would IDC still consider the lease. Guzman explained that they would like to have 75 years.

In Sec. 3 RENT, Tydingco explained that they are now loosing \$46,000 p.a. With the lease agreement, IDC will take over the management and operations of the marina and the cost of this turn-over to PAG would only be the salary of their marina manager. Guzman explained that during the construction, the marina will still operate. Sen. Aguon then asked how the percentage rent evolved. Blanchard stated that since the marina was going to be built first and because they will be operating it from the start of the lease, he gave credit to the debt service of about \$12 million for 30 years. He used comparable stateside leases in the negotiations. Sen. Ruth inquired about the minimum and maximum rent. Blanchard stated that PAG wanted a minimum rent and this is in effect only for the first 2 years. The maximum rent "...has very little effect too because we don't really reach that in terms of percentages until you are out there after 9 or 10 years." Tydingco added that they looked at the minimum and maximum rents in terms of construction time. It would take 2 years to obtain the Army Corps of

Engineer's approval, then 3 years to dredge and finally another 3 years to build the superstructures. Sen. Aguon requested IDC to clean up the language on the rent portion.

In Sec. 3.5. Gross Operating Revenues, Sen. Lujan asked for an example of inter-company revenues and Sen. Aguon asked for a definition. Sen. Lujan expressed concern that locals should be given access to the leasing of commercial spaces. Sen. Ruth wanted language included to the effect but Jim Brooks pointed out that the rules and regulations would be the more appropriate place for such language. Sen. Lujan inquired if locals could buy shares in IDC. Guzman did not answer. Sen. Aguon asked PAG about the exclusion of telephone revenues, fuel dock sales and boat slip revenues from the computation of the gross operating revenues. Tydingco explained that in terms of the fuel dock sales, the Fishermens Coop has an "...exclusive right to be the fuel dock concessionaire..." Blanchard added that the telephone revenues were excluded based on a similar stateside lease. Sen. Aguon requested them to look into this because local hotels make revenue out of telephone calls. Sens. Aguon and Ruth cautioned them about the difficulties during the Sessions over the issue of having paid parking slots. Sen. Aguon requested for a written explanation of the rent formula and asked for an explanation of the 1% payment to PAG for the sale of assets. Tydingco stated that this was a negotiated amount and this assures PAG that they will continue to benefit from any sales of assets. Furthermore, this formula was based on other stateside port contracts. Sen. Aguon asked for a written explanation. Sen. Aguon requested IDC to strike out the word "condominium" and Sen. Lujan suggested that should they decide to use it, then they should define it.

On Sec. 4 TAKES AND ASSESSMENTS, Sen. Ruth asked if IDC had plans of applying for a Q.C. Guzman answered affirmatively.

Sen. Aguon inquired as to who would review IDC's master plan. Tydingco answered that the company PAG has hired for the Port master plan will look at the plans submitted by IDC.

Sens. Ruth and Aguon suggested that "...and any other lawful purposes related to said uses..." on line 8, page 14 should be defined or that an organization / structure should approve this.

Sen. Ruth inquired as to who would approve the changes to IDC's master plan. Tydingco said that any change would have to be reviewed and approved by PAG. She also asked about the construction time table. Tydingco explained that Sec. 7.2.5 specifically states that should IDC fail to meet the construction time table, this is considered to be a breach of contract. He added that the time table will be included in the master plan that IDC will submit to PAG.

Sen. Lujan specifically stated that she does not want to see undesirable subleases like porno shops and massage parlours. Sen. Ruth raised concern over the current users of the property. Tydingco stated that in the section on Existing Occupants, current users can stay but IDC will have to eventually destroy the existing structures. However, the user can transfer to the new buildings. Guzman added that all GovGuam users will be free rent. Tydingco explained that the boaters would be repositioned but they will not be asked to move until the area they are going to be assigned to is completed.

Sen. Aguon asked what the legal basis was for IDC to take over the management of the marina after obtaining the approval of the Legislature. Tydingco explained that once the Legislature approves the contract, it is already binding and sufficient for IDC to operate.

Sen. Ruth requested that the words " rates " and "disapproval" be incorporated in Sec. 8.2. Completion of Marina.

Sen. Aguon asked why the coverage for the improvement insurance in Sec. 9.1 was "...for at least 90% of the insurable value..." rather than 100%. Tydingco stated that this was based on the recommendations of PAG's insurance consultant. He added that the standard is 10% for the value of the land and 90% for the improvements. Sen. Aguon then inquired what the coverage was for bodily injury on Sec. 9.3. Tydingco replied that their risk manager was studying the matter and would submit his recommendation by next week.

Sen. Ruth asked if PAG worked with PUAG on the impact assessment fee. Tydingco stated that the lease agreement was written in a manner that included this cost. Guzman added that TPC has included this in the conditional approval. Sen. Aguon requested PAG to submit all the impact statements of all the utility companies.

Sen. Aguon inquired if PAG, EPA and the Coast Guard will continue to monitor for waste after IDC starts managing the Marina. Tydingco answered affirmatively. He explained that should anything go wrong, IDC will be responsible for the correction. He added that Sec. 10 guarantees IDC's compliance.

Sen. Aguon asked if IDC was planning to mortgage the property. Guzman stated that they will not mortgage the property, only the buildings and the improvements. Sen. Ruth inquired as to what was the arrangement with the hotel operator. Guzman explained that usually, the hotel companies operate under a management contract.

Sen. Lujan was concerned that IDC was allowed to assign the lease without PAG consent whenever lessee had substantial interest in the entity. She asked IDC if they intend to sell shares locally. Guzman replied that this issue had not been discussed with the other stockholders.

The public hearing was adjourned.

The Committee on Tourism & Transportation and the Committee on Housing & Community Developed resumed the discussions on Friday, November 17, 1990 at 9 a.m. in the Legislative Session Hall.

Present were Sens. John Perez Aguon, Gordon Mailloux and Martha Ruth.

In attendance were David Tydingco, James Brooks, John Blanchard and Clifford Guzman.

Tydingco opened by stating that they have submitted the following documents as requested.

1. Letter of Intent between IDC and the financier
2. Exhibit A - Map
3. Summary of Clarifications and the lease agreement with the recommended changes

Sen. Aguon stated that in looking at the Agana Marina, it was also important to look at the Paseo because of the baseball stadium, the Public Market and the Fishermens Coop. In reference to the Letter of Intent, Tydingco stated that they will have this document registered with Land Management when they have secured the Legislature's approval. In reference to the impact statements of the utility companies, IDC has coordinated with them regarding their needs. Guzman stated that they have incorporated language in the lease regarding IDC's payment of the impact fees. In addition, Sen. Aguon asked Tydingco to get a security clearance for the financiers.

Tydingco proceeded to explain the requested changes that were incorporated in the lease agreement. Blanchard reviewed the proposals of IDC and Matsuzato Sogyo.

Sen. Aguon discussed the discrepancies between the 2 appraisals. The property was valued at \$10.6 million in the 1986 report and \$4.9 million in the 1989 report. Sen. Aguon then requested PAG to get a third appraiser to review both appraisal reports.

Lea Santos asked Blanchard to explain the \$12 million investment in the marina. Blanchard stated that this was for the cost of developing the marina and public support facilities such as the Harbor Master building,

Fishermens Coop, GPD, GFD, comfort rooms, the park areas, the south side of the Paseo de Susanna Park, infrastructure, landscaping, dredging and the docks. Guzman added that it also includes the reclamation. She wanted to know how much was the equity in the entire project. Guzman said that they will go on a 30% equity - 70% debt ration. She also asked if the source of the financing was from Japan. If so, the interest rate is almost half of the US and the debt service computation on the \$12 million would be lower. Guzman said that they computed it on the worst case scenario.

Bill Phillips inquired if IDC intends to avail of a QC. Guzman stated yes. Phillips pointed out that the computation for the QC benefits should have been made because with the certificate, IDC's rate of return and profits would be higher.

Sen. Mailloux asked if the 25 year extension was a predetermined option or an open option. Guzman stated that it would be predetermined.

Tydingco stated that they have excluded parking revenues in the computation of gross operating revenues as suggested by the Senators. In terms of the telephone revenues, he explained that what was to be excluded were the fees paid to local and off-island carriers. Tydingco and Guzman explained that the exclusion of inter-company revenues was to avoid double taxation. To clarify the rent formula, an example has been incorporated in the revised lease agreement.

Jim Brooks pointed out that if IDC does not get a QC, IDC would also make additional payments through the taxes.

Sen. Mailloux asked for a clarification on the gross operating revenues. He inquired if this was based on the rent or the gross sales of a store (e.g. jewelry store). Guzman said that it would depend on the leases and the items sold in the space since the agreement is specific on items such as food and beverages.

Tydingco explained that in terms of the condominiumized units, each time the space is sold, PAG will receive 1%. Language was included for the payment of impact fees by IDC. Sen. Aguon requested that reference to the law must be added. In terms of the issue relating to "...other lawful uses...", PAG's written consent must be obtained. This approval will guarantee against undesirable uses like porno shops and

massage parlors. Tydingco also read the changes in relation to the interim period whereby IDC will manage the marina at their expense. Tydingco provided the Committees with a copy of the rules and regulations wherein the rates are specified. Language relating to "rates" was also incorporated in the lease. In the insurance portion, the risk manager recommended that the coverage be \$1 million for liability insurance both for bodily injury and property damage and this will be re-evaluated upon completion of the construction and in the future. Regarding the assignment of lease without the consent of PAG, the clarification was that as long as IDC owns 25% interest in the entity or corporation, they need not secure PAG's consent.

Sen. Ruth expressed dissatisfaction with the definition of "substantial" interest as 25%. She commented that this "...was the farthest from being locally controlled on whoever you assign it to..." She felt that substantial interest was about 50-51%, not 25%. In addition, she also had difficulty with the fact that IDC was capitalized at over \$3,000 and was going to embark on a project that was over \$100 million.

Sen. Aguon asked that a clearer definition of abandonment be included.

Sens. Ruth and Aguon expressed concern that language be included that states that IDC is exerting effort to secure the approval of the Army Corps of Engineers. They are concerned that IDC could take their time and PAG will not receive rent and their hands are tied by the lease agreement.

Sen. Aguon asked for a definition of "furnitures and fixtures and equipment". He was concerned with the phrase "inability to secure labor" in Sec. 18. and asked that this be clarified.

Sen. Ruth requested for clarification on the various agencies that need to grant approvals. It was pointed out that should the Army Corps of Engineers disapprove the project, then the whole development would be a dead issue. Guzman assured her that they would try to address all the concerns because one agency could cause the termination of the project.

Sen. Aguon asked what IDC's plans for the Fishermens Coop was. Guzman stated that they will build them a facility 3 times the current

size so that they can operate more effectively and increase their marketability. The Fishermens Coop will not be part of IDC's operations. In addition, Sen. Aguon wanted to incorporate language to the fact that IDC and the Fishermens Coop have already reached an agreement.

Sen. Ruth had concerns on Sec. 23 RIGHT OF FIRST REFUSAL, because she feels that GovGuam should never sell the property. Guzman argued that IDC would like to be protected so that should the laws change 20 years from now and the government considers selling the property, IDC would be given the right to match any offer. Conversely, Sen. Aguon stated that the Legislature would also like to know who IDC would be selling the project too.

Sen. Ruth was concerned with the provision that allows IDC to abandon seeking the Legislature's consent should they feel that a reasonable time frame has lapsed. Sen. Aguon assured IDC and PAG that he is conscious of his responsibility and that he will not sit on the lease. He suggested that they strike out this provision.

Sen. Ruth questioned PAG about the issues of Eddie Cruz in relation to the lease. Tydingco pointed out that Cruz's concerns relate to Sec. 8.2 Completion of the Marina. Tydingco explained that Cruz had surgery and was off-island for 4 weeks. During that time, changes were made in the lease so he did not see the one that was sent to the Legislature.

Sen. Ruth asked if the impact fees have been determined. Tydingco replied that the formula is still under study. She then inquired with Brooks if arbitration was a standard practice. Brooks stated that this was not "uncommon" because many feel that it was faster than litigation.

Sen. Aguon inquired if there would be facilities for boat repairs in Agana Marina. Tydingco replied that there would be but the extent of the facility was still under discussion even among the boaters. This decision would be incorporated in the Rules and Regulations of the marina. Tydingco added that PAG is looking into the possibility of having a major repair facility in the Industrial Park at the Port because of the handling of toxic chemicals like resin. Sen. Aguon emphasized the need for a repair facility because of the increase in the number of boats on the island and the proposed expansion in Agana and Agat.

Sen. Ruth asked about the changes in the schematic drawings. Guzman explained that the changes were based on the suggestions made by the boaters.

Lea Santos asked about IDC's plans to sell condominiums. Guzman answered that this is a business decision that had to be made. They are thinking of selling individual hotel rooms to investors. The investors will not be allowed to permanently reside in the rooms. The rooms will be operated by the hotel. They are looking at this avenue as a possible method of reducing their debt. He also added that should the investor choose to stay in the room for 6 months, they would still have to pay the daily room rate. Tydingco explained that this use would not be in conflict with the S
G's opinion since the property will remain accessible to the public.

Sen. Aguon was concerned with major typhoons like Pamela. Tydingco and Guzman explained the engineering works that was planned for. They will also be adding 100 feet of land mass across so that the wave action will be broken.

Sen. Ruth asked the marketability of the area considering the location of the sewer treatment plant. Guzman answered that they are working with PUAG and DPW to try and find another filtration system for the pump station so that the odor dissipates or is kept at a minimal level. Sen. Aguon inquired as to the amount that was needed to relocate the sewer treatment plant. Guzman answered \$35 million.

Sen. Aguon asked when the expansion program of Marine Drive was going to be completed. Guzman stated that it was scheduled for completion in 1992-93. He added that IDC's traffic consultants were working with DPW and they are ready to revise their entrances and exits so that the traffic flow in Marine Drive would not worsen as a result of the development.

MARK - UP

AGANA MARINA

Three (3) mark-up meetings for the Agana Marina were held.

The first was on Tuesday, February 20, 1990. Present were Senators John Perez Aguon, Doris Brooks, Pilar Lujan, Edward Reyes, Martha Ruth and Tony Unpingco, and, Andrew Gayle (Legal Counsel of the Twentieth Guam Legislature). The following attended to represent other senators, namely, Darryl Taggerty for Sen. Bordallo, Frank Palomo for Sen. Mailloux and Francis Guzman for Sen. Manibusan. Also present were Margot Murphy of the Pacific Daily News and Lea Santos, staff of Sen. Aguon.

The second mark-up meeting was held on Monday, February 26, 1990. Present were Senators John Perez Aguon, Doris Brooks, Carl Gutierrez, Pilar Lujan, Franklin Quitugua and Martha Ruth. IDC was represented by Clifford Guzman, Carlos Baretto, Tony Sanchez, Toni Cross and Don Williams (Legal Counsel). PAG was represented by David Tydingco, John Blanchard and Terrence Brooks (Legal Counsel). Steve Unpingco (Legal Counsel of the Committee on Tourism and Transportation) and James Hagerstrom (Legal Counsel of the Minority Party) also attended. Bill Phillips and Lea Santos, staff of Sen. Aguon, were also present.

The third mark-up meeting was held on Thursday, April 5, 1990. Present were Senators John Perez Aguon, Doris Brooks, George Bamba, Carl T. C. Gutierrez, Edward D. Reyes, Martha Ruth, and Tommy Tanaka. Representing Sen. Gordon Mailloux was Frank Palomo. IDC was represented by Clifford Guzman, Tony Sanchez, S. Cornell Tanetani and Philip Isaac (Legal Counsel). PAG was represented by David Tydingco, John Blanchard and Terrence Brooks (Legal Counsel). Also present were Steve Unpingco (Legal Counsel of the Committee on Tourism and Transportation) and Lea Santos (staff of Sen. Aguon).

FUNDAMENTAL ISSUES

There were two fundamental issues that needed to be resolved in the mark-up meetings. The first was the 75 year term of the original lease agreement which was not in compliance with PL 15-6 Sec. 3 and the other was the actual applicants of the lease and the ownership of IDC after Legislative approval was granted for the lease.

A. PL 15-6, SEC. 3

During the Feb. 20, 1990 mark-up meeting, Senators Aguon, Brooks, Lujan, Reyes and Ruth all agreed that the term of the lease must be limited to 50 years in compliance with PL 15 - 6 Sec. 3. The revised lease incorporated the 50 year term and the following changes were made.

1.) Sec. 2.2. Extension of Term - The 25 year extension was deleted in the revised lease agreement. IDC has the right to extend the term of the lease if PL 15-6 Sec. 3 is amended for a longer time period in the future. Should the amendment occur, the lessor must apply to PAG for the amended term and secure the Legislature's consent.

2.) Sec. 3.2. Percentage Rent - Revision was made on the percentage rent to reflect a 50 year lease.

3.) Sec. 2.3. Right of First Refusal - This provision was added in the revised lease and grants the Lessor the right of first refusal should PAG decide to re-lease the property at the expiration of the term.

B. ACTUAL APPLICANTS OF THE LEASE AND OWNERSHIP OF IDC

The other issue relates to the actual applicants of the lease and ownership of IDC after Legislative approval of the lease is obtained. The following is a comparative presentation of IDC's current and proposed distribution of shares.

<i>PRESENT</i>		<i>AFTER LEGISLATIVE APPROVAL OF LEASE</i>	
Clifford Guzman	51 %	** Tasuku Chino	68.6 %
* Charles Mc Lean	32 %	Clifford Guzman	15.4 %
* Mark Peterson	14 %	S. Cornell Tanetani	10 %
Carlos Baretto	3 %	** Yasuhiro Kishimoto	3 %
		Henry Simpson	3 %

*U. S. MAINLAND

**JAPAN

The following is a narrative discussion of the evolution of IDC's documentation in relation to its proposed ownership.

1.) FEB. 10, 1989 MEMORANDUM OF UNDERSTANDING BETWEEN INTERNATIONAL DESIGN CONSORTIUM INC. AND TASUKU CHINO

The document stated that a limited partnership was going to be formed for the development and management of the Agana Marina. The agreement was conditional upon 1.) IDC's selection as the developer of the Agana Marina, 2.) that the limited partnership was established, 3.) that IDC was successful in negotiating a lease with PAG and that the lease

was approved by the limited partnership, 4.) that the lease was executed and legal, and 5.) that the limited partnership would sign the lease. The ownership of the limited partnership was going to be as follows:

Local Investors:	Clifford Guzman et al	25%
Offshore Investors:	Tasuku Chino et al	75%

2. NOV. 14, 1989 INVESTORS AGREEMENT BETWEEN CLIFFORD GUZMAN, TASUKU CHINO, S. CORNELL TANETANI, YASUHIRO KISHIMOTO AND HENRY M. SIMPSON, JR.

The document stated that the new Board of Directors of IDC would be Guzman, Chino, Tanetani, Kishimoto and Simpson. The officers for the Agana Marina Project will be: Clifford Guzman - Chairman, President and CEO, S. Cornell Tanetani - EVP, Henry Simpson - Secretary, and, Yasuhiro Kishimoto - Treasurer. Also, it was stated that the development and management of the Project would not be under the limited partnership as stated in the Memorandum of Understanding.

During the Feb. 26, 1990 mark-up meeting, Guzman stated that after Legislative approval had been granted, the ownership of IDC will change. Senators Aguon, Brooks, Gutierrez, Lujan, Quitugua and Ruth unanimously requested Clifford Guzman to provide the Committees with a Shareholders Agreement that reflected the actual ownership of IDC after Legislative approval of the lease so that the actual applicants for the lease will be reflected in the document. Guzman agreed to provide the Committee with a new Shareholders Agreement reflecting the change in shareholders.

During the April 6, 1990 mark-up meeting, Guzman explained that IDC will remain a corporation, rather than a limited partnership as stated in the Feb. 10, 1989 Memorandum of Understanding. The revised shareholders agreement was not submitted to the Committees by IDC.

MAJOR CHANGES IN THE LEASE

Major changes were made from the original lease that was sent by the Governor for introduction and the revised lease that resulted from the public hearings and the mark-up meetings. The following are the itemized discussions on the major changes.

Sec. 1.1. Description of Premises

The Committees were concerned that the language describing the Agana Marina was so broad that dredging by the developers may extend beyond the property designated as the Agana Marina Boat Basin. In the revised lease, the broad language was deleted and language was added that

incorporated by reference the map as Exhibit A so that the lease is confined to the premises specifically on the map.

Sec. 2.1. Initial Term

The Committees were concerned that in the original lease, the start of the lease was open - ended and that the property could be "limbo" for an indefinite time period. PAG informed the Committees that the average length for securing the final permit from the Army Corps of Engineers was from 6 months to 2 years. Consequently, language was added which makes the lease void if the Army Corps of Engineers' permit is not secured by IDC within 3 years after Legislative approval.

Sec. 3.5.3. All parking revenues.

In the original lease, parking revenues were going to be computed in the gross operating revenues. This provision was deleted in the revised lease because the property is owned by GovGuam and public access must be maintained at all times.

Sec. 3.5.3. Service and Rentals

Concern was raised that in the future, the Lessee, or its affiliate, could engage in the charter boat business and they could use their position to the detriment of other charter boat operators. In the revised lease, language was added that should IDC, or its affiliate, engage in the charter boat business, their revenues will be included in the computation of the gross operating revenues that will be applied in the rent formula.

Sec. 3.6.1. Initial Annual Payment

An example of the initial annual payment has been added in the revised lease.

Sec. 3.6.2. Final Annual Payment

An example of the final annual payment was added in the revised lease.

Sec. 3.8. Sale of Assets

To avoid confusion, the term "condominiums" in the original lease was changed to "condominiumized spaces" in the revised lease. IDC is exploring the possibility of selling commercial spaces as a possible financing alternative.

Sec. 4. TAXES AND ASSESSMENTS

In the revised lease, "Impact fees" was added in compliance with PL 19-47.

Sec. 6. USE

There were 2 changes in the revised lease. "Condominium" was deleted from the list of uses. In addition, PAG must approve in writing all the uses of the property.

Sec. 7.2.5. No Liability to Lessor

This is a new section in the revised lease. It shields liability on the Government for any possible architectural or structural defect which may occur after PAG approves the Master Plan.

Sec. 7.2.6. Completion of Construction

The Committees were concerned that the original lease had no deadline for completion or that there could be lengthy delays or that the development of the Agana Marina could be abandoned. A provision was added in the revised lease which obligates IDC to complete construction no later than 5 years after securing the final approval of the Army Corps of Engineers.

Sec. 7.2.7. Non-Material Variances

IDC was originally allowed to vary from the terms of the approved Master Plan to accommodate the subleases. In the revised lease, the PAG General Manager must be notified of the variations.

Another provision was added in the revised lease which defines a change in the time tables as a material variance. It is necessary to put in writing that change in timetables should not be a non-material variance since IDC may vary from the terms of the Master Plan provided the variance is non-material.

Sec. 7.5. Existing Occupants

There was concern raised that during the development phase of the project, the level of service in the Marina would deteriorate and access to the Marina would change. Language was incorporated in the revised lease which mandates IDC to maintain the same level of service and access that existed at the time of the execution of the lease.

Sec. 8.1. Interim Period

In the revised lease, a provision was added. IDC will pay for the maintenance and repair the Marina, and, the insurance policy. They will also assume all liability. PAG will assist them in maintaining the insurance policy.

Sec. 8.2. Completion of the Marina

Language was added in the revised lease which states that the new rules and regulations on the completed Marina should not affect the public or

GouGuam's access and use by the Public. Another provision was added that within 120 days of the Legislature's approval, PAG and IDC will begin the development of the new rules and regulations. In this manner, there will be adequate time to solicit input from the boaters and the public, and, obtain PAG Board and the Legislature's approval.

Sec. 9.3. Liability Insurance

In the revised lease, coverage for bodily injury and property damage is \$1 million each. A provision was added which mandates the adjustment of the insurance coverage periodically. If PAG and IDC cannot agree on the adjustment, then this will be settled by arbitration.

Sec. 15.1. Assignment

There were 4 changes in the revised lease. The first requires that any assignment of the lease must also be approved in writing by the Governor. The second change was a new provision which considers the transfer or sale of at least 51% of the voting stock of IDC to be a transfer of the lease. The third change was another provision that requires PAG to conduct a security check on any assignee. This addresses the concern over any investors involvement with crime organizations or other undesirable groups. Under this provision, any person who has committed a serious crime or a crime involving moral turpitude should not be allowed to become an assignee of the lease. The last change relates to the provision which allows IDC to assign the lease, without PAG consent, to another entity where they have "substantial" interest. The revised lease is specific in defining this to "at least 25%" interest.

Sec. 15.2. Subleases

Originally, IDC was allowed to sublease portions of the premises without PAG consent. The Committees modified this so that IDC must obtain the consent of PAG and the Governor for any sublease and that the subleases must be subject to the terms of the lease. Furthermore, sublease of the entire demised premises by the Lessee shall occur only with Legislative approval.

Sec. 16. MORTGAGE OF THE PREMISES

Language was added in the revised lease which specified that the proceeds of any loan must be used for the improvement and development of the Agana Marina only. This prevents the use of the premises as collateral for other loans of the Lessee. The other change also limits the shareholders to pledging their interest in IDC stocks to banks only if the proceeds will be used for the improvement and development of the Marina.

Sec. 19. FORCE MAJURE

In the original lease, "inability to secure labor" was included in this section. This was modified in the revised lease so that IDC must obtain certification from the Dept. of Labor regarding the unavailability of labor.

Sec. 22.2. Consents

Originally, if a written consent is not received by IDC within 30 days of the request, they can assume that the consent has been granted. This was changed to the next 2 regularly scheduled and held Board meetings to accommodate situations where Board meetings are not held because of the absence of a quorum.

Sec. 22.12. Amendment

An additional provision was added in the revised lease which requires the Governor's written approval for amendments to the lease.

Sec. 23. LESSOR'S RIGHT OF FIRST REFUSAL

The first change in the revised lease relates to references to Lessor in the original lease and this was changed to Lessee in the revised lease so that PAG has the right of first refusal. In effect, if IDC has an offer from a third party for the purchase of the lease, PAG has the right of first refusal. The other change was a deletion from the original lease which made the sale of the lease "... subject to and subordinate to the terms and conditions of this Lease."

RECOMMENDATIONS

The Committee on Tourism & Transportation and the Committee on Housing & Community Development jointly recommends the passage of Bill No. 1036 as substituted by the Committee on Tourism & Transportation and the Committee on Housing and Community Development, "AN ACT AUTHORIZING THE PORT AUTHORITY OF GUAM TO ENTER LEASE WITH INTERNATIONAL DESIGN CONSORTIUM, INC."

The bill authorizes the Port Authority of Guam to lease the Agana Marina Boat Basin (36.75 acres) to International Design Consortium, Inc. for 50 years. As a compromise to IDC's desire for a 75 year term, IDC has the right to extend the 50 year term should the Legislature amend §3 PL 15-6 for a longer time in the future. However, IDC must apply for the extended term not only with PAG, but also the Legislature. In addition, IDC has the right of first refusal should PAG decide to re-lease the property at the end of the term.

Two deadlines were incorporated to address the absence of schedules and to assure the completion of the project. If the Army Corps of Engineers' permit is not secured within 3 years after Legislative approval, the lease will become null and void. This was necessary so that both PAG and IDC will put forth their best efforts in securing the final permit so that construction can commence. IDC must also complete construction of the development within 5 years after securing the final approval from the Army Corps of Engineers.

From the onset, PAG's intention for leasing the property was to stop their annual subsidy of about \$50,000 on the Marina's operations. They also recognize that improvements are badly needed but PAG is not in the financial position to finance the improvements. Consequently, they envisioned that a commercial development is necessary to subsidize the operation of the Marina. At the request of PAG, after the Legislature approves the Lease, IDC will manage and operate the Marina at their expense and will assume all liability. Within 120 days of the Legislature's approval, they will also commence the development of the rules and regulations for the new Marina. In this manner, there will be enough time to solicit the input of the boaters and the general public so that all their fears and concerns will be properly addressed.

The PAG Board and the Governor must approve the assignment of the lease and all subleases on the property in accordance with §10105 of 12 GCA. A transfer or sale of at least 51% of the voting stock of IDC is

considered to be a transfer of the lease. A security check must be conducted by PAG on any of the assignees of the lease.

Any loans or pledges of shares to a financing institution is permitted as long as the proceeds of the loan will be used only for the development and improvement of the Agana Marina. This condition was added to make sure that the Agana Marina project will not be used as collaterals for other projects.

Amendments to the lease agreement must be approved by the PAG Board and the Governor in writing.

Since IDC did not submit the revised and duly executed Shareholders Agreement that reflected the ownership of IDC after Legislative approval is secured, IDC must submit the completed document prior to the execution of the final lease agreement.

PAG and the Governor shall submit certification to the Legislature that the lease agreement is in compliance with all applicable federal and local laws, rules and regulations relating to the use of the premises as stated in the lease agreement.

The Attorney General will incorporate all the conditions in the final lease document and IDC has 30 days to execute the final lease agreement.



SENATOR
HERMINIA D. DIERKING
TWENTIETH GUAM LEGISLATURE



COMMITTEES:

October 17, 1989

CHAIRPERSON
Rules

MEMORANDUM

DE-CHAIRPERSON
Ways & Means
Energy, Utilities &
Consumer Protection
General Governmental
Operations

TO: Chairperson, Committee on Tourism &
Transportation
Committee on Housing & Community
Development

FROM: Chairperson, Committee on Rules

SUBJECT: Referral - Bill No. 1020.

The above Bill is referred to your Committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting.

It is recommended that a joint hearing be coordinated with the Committees involved.

Herminia D. Dierking
HERMINIA D. DIERKING

Enclosures

CHAIRMAN, COMMITTEE ON TOURISM,
TRANSPORTATION & COMMUNICATIONS

REC'D BY: Janet

DATE: 10/17/89 TIME: _____

Economic Development

Gen'l. Foreign &
Legal Affairs

Health, Welfare &
Ecology

Judiciary & Criminal
Justice

Education

Tourism & Transportation

Youth, Senior Citizens,
Cultural Affairs &
Human Resources

Introduced

OCT 16 '89

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 1020 (LS)

Introduced by:

① T.S. Welch
 ② [unclear]
 ③ F.R. Santos - A
 ④ [unclear]
 ⑤ E.D. Reyes
 ⑥ M. D. Manibusan
 ⑦ W. J. Randall
 ⑧ [unclear]
 A.L. Unpingo
 [unclear]

AN ACT TO APPROVE THE LEASE OF
THE AGANA BOAT BASIN TO UPGRADE
AND IMPROVE THE FACILITY.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM

Section 1. That certain lease agreement between the Port Authority of Guam and International Design Consortium, Inc., a Guam Corporation, signed October 13, 1989, and transmitted to the Legislature October 13, 1989, for a parcel of land known as the Agana Boat Basin:

Reference:

- 1) DWG. No. E1-58T415
Map of Paseo de Susana, historical development, dated 11-18-58
- 2) E4-58T421 real estate requirements,
Agana Boat Basin extension, dated 1-5-59

Certification:

Survey was performed pursuant to P.L. 14-149.
 Demetro R. Pablo
 Acting Director of Land Management
 1-19-79
 Demetro R. Pablo
 Territorial Surveyor
 1-19-79

is hereby approved. This approval is made pursuant to §13008 of the Government Code (P.L. 18-32:14) and no further legislative approval is required unless the terms of the lease agreement are modified or amended after the effective date of this Section.



SENATOR

REC'D BY:

HERMINIA D. DIERKING

TITLE:

TWENTIETH GUAM LEGISLATURE

10/27/89

COMMITTEES:

October 26, 1989

CHAIRPERSON
Rules

MEMORANDUM

VICE-CHAIRPERSON
Ways & Means
Energy, Utilities &
Consumer Protection
General Governmental
Operations

TO: Chairperson, Committee on Housing & Community Development
Committee on Tourism & Transportation

FROM: Chairperson, Committee on Rules

SUBJECT: Referral - Bill No. 1036.

MEMBER:

The above Bill is referred to your Committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting.

Economic Development

It is recommended that a joint hearing be coordinated with the Committees involved.

Federal, Foreign & Legal Affairs

HERMINIA D. DIERKING

Health, Welfare & Ecology

Enclosure

Judiciary & Criminal Justice

Education

Tourism & Transportation

Youth, Senior Citizens, Cultural Affairs & Human Resources

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 1034

89 OCT 25 P11 3: 22

Introduced by:

Committee on Rules *H. D. ...*
At the request of the Governor

AN ACT AUTHORIZING THE PORT AUTHORITY OF GUAM TO ENTER
LEASE WITH INTERNATIONAL DESIGN CONSORTIUM, INC.

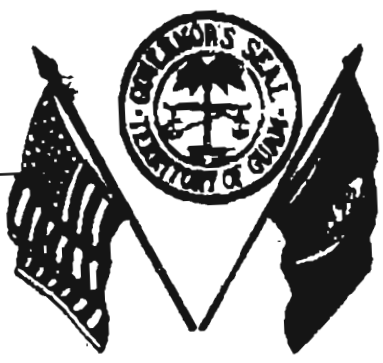
BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. With the written approval of the Governor the Port Authority of Guam
is authorized to lease the following property:

(a) Those portions of the Agana Boat Basin comprising a total of approximately
36.8 acres, as more fully shown on the map attached to the Lease as Exhibit "A";

(b) All existing landfill created by Lessor prior to the effective date of this Lease
together with all lands created hereafter during the term of the Lease by Lessee or its
designees by dredging or any other means within the Agana Boat Basin or other areas
approved in accordance with this Lease; and

(c) All rents, issues and profits of the Agana Boat Basin, submerged lands, and
any landfill, together with all buildings, improvements, rights, easements, privileges
and appurtenances thereto.



Territory of Guam
Territorio de Guam

OFFICE OF THE GOVERNOR
UPHENAN I MAGALANI
AGANA, GUAM 96910 U.S.A.

OCT 20 1989

CHAIRMAN, COMMITTEE ON TO
TRANSPORTATION & COMMUNIC

The Honorable Joe T. San Agustin
Speaker
Twentieth Guam Legislature
Agana, Guam 96910

REC'D BY: Janet

FILE DATE: 10-20-89 TIME:

Dear Mr. Speaker:

I am pleased to transmit for your consideration a bill approving the lease between the Port Authority of Guam and International Design Consortium, a Guam corporation, for the development and management of the Agana Boat Basin.

The Agana Boat Basin has long been the site of recreational and sport fishing but its development has never reached its full potential. The project envisioned in this proposal will provide Guam with an expanded, first class marina. For years many of our local fishermen and boaters have been unable to moor their boats at the Agana Marina because of size limitations. After completion of this project there will be available to our local people many more docks and facilities.

The development of this facility is a part of this administration's goal of revitalizing Agana. Not only will there be a beautiful hotel and new Marina, but the improved Paseo recreational facility and a new Farmer's Market will result in the renaissance of Agana.

These projects will open to our local businesses the opportunity to participate in the tourist industry in the center of our beautiful island.

I ask for your expeditious consideration of this measure so that the project will soon be underway.

Cordially,
Joseph F. Ada
JOSEPH F. ADA
Governor





PORT AUTHORITY OF GUAM
ATURIDAT I PUETTON GUAHAN
GOVERNMENT OF GUAM
1026 Cabras Highway
Suite 201
P.O. Box 96925

Telephone: (671) 477-5931
(671) 477-5932
Telex: (671) 6689 PATT
Facsimile: (671) 477-26

OCT 13 1989

Received

The Honorable Joe T. San Agustin
Speaker
Twentieth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

Hafa Adai Mr. Speaker:

Transmitted herewith is a resolution and contractual document endorsed by the Port Authority of Guam for the management and development of the Agana Marina. The contract was approved at a special meeting of the Board of Directors held on Thursday, October 12, 1989.

We would appreciate your assistance in assuring its introduction for discussion by the Legislature at its next session. Should you require additional information, please do not hesitate to contact me directly.

Si Yu'os Ma'ase,

David B. Tydingco
DAVID B. TYDINGCO
General Manager

Enclosures

200550

cc: Governor Joseph F. Ada
Lt. Governor Frank F. Blas
Chairman, Board of Directors
Members, Board of Directors



TWENTIETH GUAM LEGISLATURE
COMMITTEE ON TOURISM & TRANSPORTATION

DATE THURSDAY, NOVEMBER 8, 1989

BILL/RESOLUTION NO: BILL 1036 **JOINT WITH COMMITTEE ON HOUSING

TITLE: AN ACT AUTHORIZING THE PORT AUTHORITY OF GUAM TO ENTER LEASE WITH
INTERNATIONAL DESIGN CONSORTIUM, INC.,

NAME:	POSITION:	DEPARTMENT:	TESTIMONY: Written/Oral	IN FAVOR	AGAINST
DAVID TYDINGCO	GENERAL MANAGER	PAG	✓/✓	✓	
Philip Flores	CHAIRMAN OF THE BOARD	PAG		✓	
S. H. Kim	Assistant General Manager	Hand Development		✓	
Richard Kuyper	President/CEO	IDC	✓/✓	✓	
Jack W. Rice	Private Citizen		✓/✓	✓	
JOHN BLANCHARD	MANAGER	TOUCHE ROSS	✓ ✓	✓	
Germynde C. Bell	International		✓ ✓		✓
John S.		✓ ✓	✓	
Jerry S. Oberheim	Charter Apt. ...	P&H Hotel		✓	
...	Guam ...				
...	...	East Hotel ...		✓	

PORT AUTHORITY OF GUAM
PUBLIC PRIVATE JOINT VENTURE
AGANA MARINA
OUTLINE PRESENTED BY
DAVID B. TYDINGCO, GENERAL MANAGER

- I. HISTORICAL REVIEW
- II. MASTERPLAN
- III. FINANCIAL IMPLICATIONS
- IV. LEGAL ISSUES

HISTORICAL REVIEW

JULY 14, 1960

AGANA BOAT BASIN/PASEO DE SUSANNA TRANSFERRED TO GOVGUAM FROM FEDERAL GOVERNMENT VIA U.S. PUBLIC LAW 86-664

*Must be used for civic, park, recreational purposes and as a boat basin.

*If these uses cease to exist, the property would revert to the federal government.

OCTOBER 2, 1984

JURISDICTION OF AGANA BOAT BASIN TRANSFERRED TO PORT AUTHORITY VIA P.L. 17-71, INCLUDING ALL SMALL BOAT HARBORS.

*PAG has resources and expertise to develop marinas.

MAY 9, 1987

BOARD OF DIRECTORS DIRECT MANAGEMENT TO EXPLORE PUBLIC/PRIVATE JOINT VENTURE FOR THE DEVELOPMENT OF THE AGANA MARINA.

*Loss of \$46,000 annually at marina.

*No funds available to improve existing facility.

*\$53,000,000 needed to improve port facilities/equipment directly related to cargo movement.

*Need existed to address demands of boating public and firms supporting boating industry. Over 100 persons on waiting list for boat slips.

JULY 15, 1987

PRESENTATION OF STRATEGIC PLAN FOR MARINA.
REQUEST FOR TECHNICAL ASSISTANCE APPROVED.

OCTOBER/FEBRUARY
1987

TWO PROPOSALS RECEIVED, TOUCHE ROSS SELECTED
SELECTED TO PROVIDE TECHNICAL ASSISTANCE TO
PORT ON PRIVATIZATION EFFORT.

- *Assist in development & issuance of RFP
- *Assist in Evaluating Proposals
- *Assist in Selection of Developer
- *Assist in Negotiations of terms and conditions of lease agreement.

JULY/NOVEMBER
1988

TARGET MARKETS IDENTIFIED - ADDS FOR
MARINA MNGMT & DEVELOPMENT PROPOSAL
INITIATED. RFP COMPLETED. TARGET MARKETS -
JAPAN/HONG KONG/AUSTRALIA/U.S./GUAM

DECEMBER 9, 1989

TWO PROPOSALS RECEIVED OUT OF 12 BID PACKETS
PICKED UP @ \$200.00 A PIECE.

- *Matsuzato Sogyo Company, Ltd.
- *International Design Consortium

JANUARY 4, 1989

BOARD MEETING AT WHICH TIME TWO FIRMS
PRESENTED THEIR PROPOSALS PUBLICLY. SENATOR
JOHN AGUON AND SENATOR GORDON MALLIOUX
ATTENDED AT INVITATION OF BOARD OF DIRECTORS.

JANUARY 26, 1989

FIRST PUBLIC HEARING ON MARINA HELD AT
FISHERMAN'S COOP. BOTH FIRMS MADE PUBLIC
PRESENTATIONS ON THEIR PROPOSALS. PUBLIC
COMMENTS SOLICITED. COPY OF PROPOSALS WERE
SENT TO DOI, ARMY CORP FOR REVIEW AND
COMMENT.

JANUARY-MARCH
1989

EVALUATION OF PROPOSALS CONDUCTED BY TOUCHE
ROSS BASED ON

- *Qualifications of Developers
- *Environmental Effects
- *Effects on Inhabitants of Guam
- *Financial Impacts

APRIL 5, 1989

INTERNATIONAL DESIGN CONSORTIUM SELECTED AS COMPANY PAG WILL NEGOTIATE WITH. NEGOTIATIONS TEAM DEVELOPED AS FOLLOWS:

- | | |
|-------------------------|----------------------|
| 1. Port Authority | 2. Touche Ross |
| 3. Agana Commissioner | 4. Dept. of Commerce |
| 5. Bureau of Planning | 6. Legislature |
| 7. Dept. of Agriculture | 8. Parks & Rec |
| 9. Fisherman's Coop | 10. General Public |

APRIL-SEPT
1989

NEGOTIATIONS TAKE PLACE. IDC CONDUCTS 54 MEETINGS WITH VARIOUS INTEREST GROUPS TO SOLICIT COMMENTS AND INPUT.

JUNE 6, 1989

OPINION RECEIVED FROM SOLICITOR GENERAL, DEPT. OF INTERIOR, ADVISING LEGISLATURE THAT PROPOSALS SUBMITTED FOR AGANA MARINA NOT INCOMPATIBLE WITH P.L. 86-664. REVERTER CLAUSE WOULD NOT APPLY IF FACILITIES DEVELOPED AS IT WOULD BE IN THE PUBLIC INTEREST TO ALLOW DEVELOPMENT TO OCCUR.

JULY 1989

SDRC PUBLIC HEARING AND TPC PUBLIC HEARING OCCURS. APPLICATION FOR ZONE CHANGE FROM AGRICULTURAL TO PLANNED UNIT DEVELOPMENT IS APPROVED.

OCTOBER 12, 1989

SPECIAL BOARD HEARING CONDUCTED AT FISHERMAN'S COOP FOR FINAL COMMENTS ON CONTRACT. PUBLIC SENTIMENT POSITIVE. BOARD APPROVES CONTRACT AS PRESENTED.

EXHIBIT I

July 11

GUAM—LAND GRANTS

P.L. 86-664

ties who were represented at the hearing. Such petition shall set forth the order complained of and the alleged errors in respect thereto. Unless the person aggrieved shall petition for review of such order within such ten-day period, or any extension thereof, the order of the referee shall become final. Upon application of any party in interest, the execution or enforcement of the order complained of may be suspended by the court upon such terms as will protect the rights of all parties in interest."

Approved July 11, 1960.

VETERANS' DISABILITY COMPENSATION

For Legislative History of Act, see p. 3197

PUBLIC LAW 86-663; 74 STAT. 575

(H. R. 2111)

An Act to provide additional disability compensation for certain seriously disabled veterans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

Title 38, United States Code, is amended by adding to section 314 the following new subsection:

"(s) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 per centum or more, or, (2) by reason of his service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be \$265. For the purpose of this subsection, the requirement of 'permanently housebound' will be considered to have been met when the veteran is substantially confined to his house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout his lifetime."

Sec. 2. This Act shall be effective on and after the first day of the second calendar month following the date of its enactment.

Approved July 14, 1960.

GUAM—LAND GRANTS

PUBLIC LAW 86-651; 74 STAT. 529

(H. R. 12221)

An Act to grant to the Government of Guam certain filled lands, submerged lands, and tidelands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

There is hereby granted to the Government of Guam, without reimbursement, all of the right, title, and interest of the United States in and to all of those lands, including filled lands, submerged lands,

4. U.S.C. 1114.

EXHIBIT "B"
PAGE 1 OF 7 PAGES

lands, together with all buildings and improvements there located in Guam, and constituting a portion of the tract known as the *fincas* de Susana, more particularly described as follows:

Beginning at a point, the coordinates of which are east 50,305.512 meters, north 50,489,425 meters, Land and Claims Commission 1915 triangulation system, said point of beginning being also on the mean lower low water line—

thence due south a distance of 30.73 meters;
 thence north 51 degrees 35 minutes west a distance of 17.45 meters;
 thence north 81 degrees 44 minutes west a distance of 11.29 meters;
 thence north 51 degrees 44 minutes west a distance of 11.29 meters;
 thence north 75 degrees 15 minutes west a distance of 18.91 meters;
 thence north 79 degrees 56 minutes west a distance of 11.67 meters;
 thence north 73 degrees 29 minutes west a distance of 29.91 meters;
 thence north 72 degrees 57 minutes west a distance of 16.85 meters;
 thence north 60 degrees 57 minutes west a distance of 13.09 meters;
 thence north 72 degrees 55 minutes west a distance of 22.27 meters;
 thence north 60 degrees 03 minutes west a distance of 11.14 meters;
 thence north 44 degrees 55 minutes west a distance of 10.93 meters;
 thence north 80 degrees 07 minutes west a distance of 6.29 meters;
 thence north 75 degrees 50 minutes west a distance of 12.03 meters;
 thence north 72 degrees 29 minutes west a distance of 17.11 meters;
 thence south 56 degrees 48 minutes west a distance of 13.25 meters;
 thence south 73 degrees 55 minutes west a distance of 17.53 meters;
 thence south 73 degrees 07 minutes west a distance of 11.19 meters;
 thence south 64 degrees 44 minutes west a distance of 13.05 meters;
 thence south 74 degrees 52 minutes west a distance of 19.69 meters;
 thence south 70 degrees 16 minutes west a distance of 16.05 meters;
 thence south 55 degrees 12 minutes west a distance of 14.15 meters;

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EXHIBIT "B"

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thence south 53 degrees 43 minutes west a distance of 12.71 meters;

thence south 67 degrees 55 minutes west a distance of 12.02 meters;

thence south 69 degrees 45 minutes west a distance of 6.57 meters;

thence south 76 degrees 32 minutes west a distance of 6.44 meters;

thence south 69 degrees 49 minutes west a distance of 4.55 meters;

thence south 15 degrees 39 minutes west a distance of 11.61 meters;

thence south 03 degrees 13 minutes west a distance of 11.92 meters;

thence south 83 degrees 30 minutes west a distance of 21.95 meters;

thence south 32 degrees 24 minutes east a distance of 3.21 meters;

thence south 23 degrees 07 minutes east a distance of 2.82 meters;

thence south 02 degrees 26 minutes east a distance of 3.05 meters;

thence south 17 degrees 10 minutes west a distance of 4.83 meters;

thence north 89 degrees 19 minutes west a distance of 11.69 meters;

thence south 54 degrees 34 minutes west a distance of 30.74 meters;

thence south 64 degrees 40 minutes west a distance of 6.57 meters;

thence south 66 degrees 07 minutes west a distance of 12.92 meters to a point on the northerly right-of-way line of Marine Drive;

thence westerly along said line north 85 degrees 04 minutes west a distance of 10.97 meters;

thence leaving said right-of-way line, north 14 degrees 09 minutes west a distance of 5.17 meters to a point on the seaward side of the Agaña Boat Basin wall, said point being also on the mean lower low water line;

thence northeasterly and southeasterly along said mean lower low water line to the point of beginning;

containing an area of 195,560 square meters or 26.03 acres, more or less.

Sec. 2. The property conveyed by the section 1 of this Act shall be subject to the condition that the property shall be used solely for civic, park, and recreational purposes, and if it shall ever cease to be used for such purposes, or if the Government of Guam should ever sell or otherwise dispose of such land or any part thereof, title thereto shall revert to the United States, which shall have the right of immediate entry thereon.

Sec. 3. There is hereby granted to the Government of Guam all of the right, title, and interest of the United States in and to all of those lands, including filled lands, submerged lands, and islands, together with all structures and improvements thereon, located in Guam, and known as the Agaña Boat Basin, more particularly described as follows:

Beginning at a point, the coordinates of which are east 49°27'02" meters, north 50°37'01" meters, Land and Claims Commission 1915 triangulation system, said point being common to the boundary of Baseo de Susana and described as a point on the seaward side of the Agaña Boat Basin wall, said point also being on the mean lower low water line—

thence along said wall, being also along said mean lower low water line, south 88 degrees 53 minutes west a distance of 4.09 meters;
thence north 01 degrees 13 minutes west a distance of 18.03 meters;
thence south 89 degrees 22 minutes west a distance of 17.08 meters;
thence leaving said wall and mean lower low water line south 12 degrees 17 minutes west a distance of 18.15 meters;
thence south 00 degrees 21 minutes east a distance of 1.30 meters to a point on the northerly right-of-way line of Marine Drive;

thence westerly along said right-of-way line north 83 degrees 01 minutes west a distance of 207.11 meters;
thence leaving said northerly right-of-way line north 01 degrees 56 minutes east a distance of 126.98 meters;
thence south 88 degrees 01 minutes east a distance of 209.76 meters, more or less, to a point on the boundary of Baseo de Susana and being on the mean lower low water line;
thence southerly and westerly along said mean lower low water line and Agaña Boat Basin wall to the point of beginning; containing an area of 88,633.82 square meters, or 8.23 acres, more or less.

Sec. 4. The property conveyed by section 2 of this Act shall be subject to the condition that the property shall be used solely for civic, park, and recreational purposes, and as a boat basin, and if it shall ever cease to be used for such purposes, or if the Government of Guam should ever sell or otherwise dispose of such land or any part thereof, title thereto shall revert to the United States, which shall have the right of immediate entry thereon.

Approved July 11, 1960.

1960 JUL 11 PM 11:47
"B"

Date Became Law: October 2, 1984
Governor's Action: Approved
Riders: Yes

E.P. Arrola

T.S. Nelson

AN ACT TO TRANSFER AUTHORITY
FOR GUAM'S PUBLIC HARBORS, SMALL
BOAT MARINAS AND FACILITIES FROM
THE DEPARTMENT OF PARKS AND
RECREATION TO THE PORT AUTHOR-
ITY OF GUAM.

- Section 1 ... Amends GC §14000(c) (12 GCA §10101(c)), definition of "Port Facilities".
- Section 2 ... Amends GC §10101(d) (12 GCA §10101(d)), definition of "Port".
- Section 3 ... Amends GC §14001 (12 GCA §10102), to include recreational boating in the scope of Port Authority of Guam's responsibilities.
- Section 4 ... Amends GC §14003(f), (12 GCA §10104(f)) to include small and recreational boat facilities within Commercial Port Board's jurisdiction; exceptions.
- Section 5 ... Adds GC §14004(h), (12 GCA §10105(h)), regarding continuity of Dept. of Parks and Recreation rules and regulations for small and recreational boating facilities.
- Section 6 ... Transition from Dept. of Parks and Recreation to the Port Authority of Guam: Personnel Functions, Assets.
- Section 7 ... Repeals P.L. 10-160, which gave the Dept. of Commerce jurisdiction of Agana Boat Basin. [Repeals GC §§47300-47303. These Sections were enacted by P.L. 10-160 as §§47250-47253 and renumbered by the Editor, 1974 Government Code Supplement.]
- Section 8 ... Effective Date of Act.
- Section 9 ... Adds 1 GCA §101 declaring GCA official publication of laws; GCA title page; variances and errata.
- Section 10 ... Use of GCA citation only as reference in passage of laws.

WHEREAS, Guam presently has a shortage of small craft facilities which discourages the development of marine resources, small boat fishing and recreational boating; and

WHEREAS, the ratio of registered boats per thousand people on the island is increasing and is predicted to more than double by the year 2000; and

WHEREAS, it is the intent of the Legislature to supply more small craft facilities, thereby encouraging local people to develop fishing resources, charter boat activities for tourists and to enhance recreational activities for residents of Guam; and

WHEREAS, the Port Authority of Guam has expertise in the area of managing harbors, ship docking, and implementing harbor safety; and

WHEREAS, the port Authority of Guam is also financially able to take on additional responsibilities in the development of marine resources; and

WHEREAS, it is the intent of the Legislature to have the Port Authority of Guam apply its successful management techniques, as evidenced by its operation of the Commercial Port, to the long neglected areas of development, construction and operation of small craft facilities to serve the aforementioned needs of small, commercial and recreational boaters on Guam; now, therefore

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

Section 1. Subsection (c) of §14000 of the Government Code (12 GCA §10101(c)) is amended to read:

"(c) 'Port facilities' means channels, waterways, basins, seawalls, docks, piers, land areas, utilities, warehouses, cargo handling machinery and equipment, tugboats, barges, fire boats and other works, properties, structures or other facilities necessary for the development or operation of the Port of Guam and recreational boating facilities of Guam."

Section 2. Subsection (d) of §14000 of the Government Code (12 GCA §10101(d)) is amended to read:

"(d) 'Port' means the Civil Port, small boat marinas, and all related facilities of the territory of Guam located on Cabras Island, Apra Harbor, Agana Boat Basin, and all other Government of Guam small boat marinas."

Section 3. Section 14001 of the Government Code (12 GCA §10102) is amended to read:

"(a) There is hereby established the Port Authority of Guam as a public corporation and autonomous instrumentality of the government of Guam, which shall provide for the needs of ocean commerce, shipping, recreational and commercial boating, and navigation of the territory of Guam. The Authority shall have perpetual succession unless sooner terminated by law and shall adopt a seal and sue or be sued in its own Corporate name."

Section 4. Subsection (f) of §14003 of the Government Code (12 GCA §10104(f)) is amended to read:

"(f) In accordance with law, control, manage and have jurisdiction over all government of Guam lands within the boundaries of Cabras Island and Drydock Island and seaward therefrom to the limits of the Glass Breakwater and all areas designated as small boat basins or recreational boating facilities, including submerged lands except for the following:

1. those facilities under the control and jurisdiction of departments or agencies of the United States Government; and
2. all seashore properties and facilities which fall under the Territorial Parks System and boat launching ramps under the jurisdiction of the Department of Parks and Recreation."

Section 5. A new Subsection (h) is added to §14004 of the Government Code (12 GCA §10105(h)) to read:

"(h) Rules and regulations previously promulgated under the authority of the Department of Parks and Recreation concerning small boat basins and recreational boating facilities are to remain in effect unless or until the Board promulgates additional or different rules and regulations pursuant to Subsection (g) of this Section. All references and rules and regulations pertaining to persons in or duties of the Department of Parks and Recreation in regard to small boat basins and recreational boating facilities shall be considered as pertaining to the General Manager or his designee and the duties of the Port Authority of Guam until or unless the Board amends or promulgates additional or different rules and regulations pursuant to Subsection (g) of this Section."

Section 6. Transition to the Port Authority of Guam.

(a) Upon the transfer of functions from the Department of Parks and Recreation to the Port Authority of Guam, all personnel affected shall be given the opportunity to transfer to the Port Authority of Guam by accepting appointment there. Personnel shall be transferred in the same pay range and step they hold in the Department of Parks and Recreation.

(b) Upon the transfer of functions from the Department of Parks and Recreation to the Port Authority of Guam all assets of the Agana Marina shall be transferred to the Port Authority of Guam.

Section 7. Public Law 10-160 is repealed.

Section 8. This Act shall become effective thirty (30) days after enactment into law.

Section 9. Title 1 Guam Code Annotated §101 is amended by adding a new Subsection (c) to read:

"(c) Titles of the Guam Code Annotated published by the Compiler of Laws shall be the official publication of the codified laws of the territory of Guam. On the title page of each title, the Compiler of Laws shall indicate the last date on

July 13 1969 10:23 AM

EXHIBIT III



United States Department of the Interior

PORT
AUTHORITY OFFICE OF THE SOLICITOR
ADMIN.
WASHINGTON, D.C. 20240

OTA.G.L. 0028

JUL 6 1969

ASST SECY

JUN 8 1968

MEMORANDUM

TO: Timothy Glidden, Counselor to the Secretary

FROM: Acting Associate Solicitor, Division of General Law

SUBJECT: Guam Legislature's request for Solicitor's opinion.

Senators Frank Santos and George Bambe have requested an opinion on the following two questions:

1. Whether the PucL Authority of Guam may be considered a utility and regulated by the Public Utility Commission, and
2. Whether proposed development of the Agaña Mariana conflict with use stipulations in the deed transferring Federal title of the area to Guam.

1. The Guam Legislature created the Port Authority of Guam as a public corporation and autonomous instrumentality of the government of Guam. Sections 10101-10237, Guam Code Annotated (GCA). The PucL Authority (Authority) serves the needs of ocean commerce, shipping, recreational and commercial boating and navigation of the territory of Guam. 12 GCA § 10102. The "Port" is defined as the civil port, small boat marinas, and all related facilities of the territory of Guam located on Cabras Island, Apra Harbor, Agaña Boat Basin (Agaña Marina) and all other government of Guam small boat marinas. 12 GCA § 10101(d). The Authority is directed by a Board consisting of five directors appointed by the Governor with the advice and consent of the Legislature. 12 GCA § 10103(a). One of the duties of the Board is to fix and collect all rates, decharge, rentals, tolls, pilotage, wharfage and charges for the use and occupation of the public facilities or appliances of the Port, and for services rendered by the Authority. 12 GCA § 10104(j).

The Guam Legislature also established the Public Utilities Commission (PUC) within the Executive Branch of the government of Guam. 12 GCA § 12000-12025. "Public Utility" is defined by law as meaning the Guam Power Authority, the Guam Telephone Authority or the Public Utility Agency of Guam. 12 GCA § 12000(a). The PUC has regulatory oversight supervision of public utility rates. The PUC investigates and examines the rates and charges charged by any utility and approves, disapproves, increases, or reduces rates for each utility. The rates or charges established or modified by the PUC must be sufficient to enable the utility to meet its financial obligations, operating expenses, debt service and capital improvement needs. 12 GCA § 12004.

Ames

The definition of a "Public Utility" varies greatly from jurisdiction to jurisdiction. It appears from a review of the cases interpreting public utility laws, the consensus definition of a public utility is:

To constitute a true "public utility" the devotion to public use must be of such character that the public generally, or that part of it which has been served and which has accepted the service, has the legal right to demand that the service shall be conducted, so long as it is continued, with reasonable efficiency under reasonable charges.

Richardson v. Railroad Commission of California, 191 Cal. 716, 218 P. 418, 420.

A public wharf built on submerged land has been held to be a public utility. City of Oakland v. El Dorado Terminal Co., 106 P.2d 3000, 1002, 41 C.A. 2d 320. The Port Authority could be considered a public utility. Guam could make the Port Authority a public utility by defining it as such in 12 GCA § 12000(a).

It seems to us that the question asked ought to have been whether the Guam Legislature had the legislative power to create the Port Authority and authorize it to fix and collect fees for the use of its facilities. The answer to this question seems to be yes. Senator Bamba also asks if the Port Authority were to be placed under the PUC's jurisdiction, would Interior's permission be needed in light of the Federal restrictions on legislative interference in PUC's rate-setting authority. See fn. 1. In our opinion the answer is no.

Congress has provided that:

The legislative power of Guam shall extend to all subjects of legislation of local application not inconsistent with the provisions of this chapter and the laws of the United States, applicable to Guam. 48 U.S.C. § 1423a.

2/ This section also provides that the Secretary of the Interior is authorized to guarantee for purchase by the Federal Financing Bank, the refinancing of bonds of the Guam Power Authority (GPA), not to exceed \$36 million. The Board of Directors of the GPA must establish rates sufficient to satisfy all financial obligations and future capital investment needs of the GPA and the Government of Guam may not modify the requirements of the refinancing agreement without agreement of the Secretary. The Secretary has guaranteed the refinancing of the GPA bonds and they have been purchased by the Federal Financing Bank.

The Supreme Court has held that the phrase "local application" in its most liberal interpretation can be no broader than "all rights subjects of legislation" and such phrase implies limitation to subjects having relevant ties within the territory to laws growing out of the needs of the Islands and governing relations within them Grandville v. Smith v. Grandville - Smith, 75 S.Ct. 553, 557-558. In our opinion the law creating the Port Authority and authorizing it to fix rates, deekage, rentals, tolls, pilotage, wharfage and charges for the use of its facilities is a rightful subject of legislation and relevant to the needs of Guam and is, therefore, a legitimate exercise of the power granted the Guam Legislature. Since the Legislature has the power to establish the Port Authority with rate-making authority, it may also transfer the regulation of the authority to the PUC. Senator Bamba states that such a transfer will not interfere with GPA's rate-making authority. Therefore, the Secretary's permission is not required.

2. Section 28 of the Guam Organic Act, approved August 1, 1950, (48 U.S.C. 1421f), mandated three actions pertaining to the disposition of certain real and personal property belonging to the United States and located in Guam. These actions were: a. - all property, real or personal, used by the naval government in Guam in the administration of the civil affairs of the inhabitants, be transferred to the government of Guam; b. - all other property not reserved by the President be placed under the control of the government of Guam to be administered for the benefit of the people of Guam; and c. - all remaining property owned by the United States not disposed of by a. and b. be transferred to the administrative supervision of the head of a department designated by the President. Subsequently, pursuant to a., the Department of the Navy, by an instrument dated October 23, 1950, transferred to the government of Guam lands used by the navy government in the administration of the civil affairs of Guam. Pursuant to b., the President reserved certain lands by Executive Order 10178, dated October 31, 1950, 15 F.R. 7313. A portion of the reserved lands was placed under the control of the Secretary of the Navy, and the remainder was placed under the control and supervision of the Secretary of the Interior. The land controlled by the Secretary of the Interior was transferred to the government of Guam on February 26, 1952. The Guam Organic Act and the transfers of land pursuant to section 28 made no explicit reference to the tidelands or submerged lands.

In 1957, the Governor of Guam requested assistance from the Director, Office of Territories, in determining ownership of abutting upland owners in Guam and in determining ownership of tidelands and submerged lands off the coast of Guam. The question of ownership of tidelands and submerged lands was referred to the Solicitor for consideration. The Solicitor in a decision dated January 31, 1958, (65 I.D. 193), held that the transfers of land under section 28 did not, and could not, transfer title to, or administration of, submerged lands or tidelands below ordinary high-water mark adjacent to Guam and that title to such lands remained vested in the United States. The Solicitor further held that abutting upland owners could not occupy and perfect title as

against the claim of the United States to lands resulting from the filling of tidelands or submerged lands adjacent to Guam by the upland owner, a predecessor, or the United States, in the absence of specific authorization by Congress. Id. at 190.

Roger Ernest, an Assistant Secretary of the Interior, on March 4, 1960, submitted legislation to Congress granting to the Government of Guam all of the right, title, and interest of the United States in and to all those lands, including filled lands, submerged lands, and tidelands containing 26.33 acres constituting a portion of the area known as the Paseo de Susana and 8.23 acres known as the Agana Boat Basin. Congress enacted this legislation and it became P.L. 86-664. The law provides that the Agana Boat Basin be used solely for civic, park, and recreational purposes, and as a boat basin, and if it ceases to be used for such purposes, the title thereto shall revert to the United States. As stated earlier, the Port Authority administers the Boat Basin.

The General Manager of the Authority, in a memorandum dated January 9, 1989 to the Chairman of the Board of Directors, discussed the privatization of the Agana Boat Basin. He stated that the primary mission of the Authority is to move cargo and all revenues generated as a result of cargo movement are dedicated to rehabilitating plant and replacing equipment within the commercial port. No funds are available to develop the Agana Boat Basin. He further states that the present facilities at the boat basin are inadequate to support the growing recreational boating industry and that failure to improve the facilities is detrimental to local fishermen, charter-boat operators, as well as those private firms that support the boating industry. Due to the lack of funds, he recommended that the boat basin be privatized. With privatization in mind, proposals were solicited for the private management and development of the boat basin. Two firms submitted proposals containing complete development plans, including the construction of hotels, to enhance the boat basin. The General Manager cites local Guam laws that restrict the use of the boat basin for non-commercial recreational boating purposes. He also cites the reversionary clause of P.L. 86-664 for the proposition that leasing the boat basin to a private firm would cause the property to revert to the United States. He voice no opinion on the local laws. That is a matter to be dealt with by the government of Guam. We discuss the reversionary clause below.

Before we discuss the reversionary clause we think it is important to point out that the title to the upland transferred to the government of Guam prior to the transfer under P.L. 86-664 is a fee simple title and not subject to the reversionary clause. If any of the proposed facilities are constructed on upland transferred to Guam pursuant to section 28 of the Guam Organic Act, such construction would not trigger the reversionary clause. The title to any filled land created in the boat basin area with dredged material vests in the government of Guam and is subject to the reversionary clause.

We note that in Guam's Draft Commonwealth Act (February 1988), Guam requests in Article 10, § 1001(f) that "All lands heretofore transferred to the Government of Guam by the United States are released from any and all provisions limiting the use of such land, and are conveyed in fee simple." The best way to resolve the issue is for Congress to repeal the reversionary clauses. In the absence of congressional action, the triggering of the reversionary clause depends on whether the proposed construction of the facilities and use of land is compatible with the operation of the area for recreational purposes and as a boat basin.

We have previously reviewed plans for the further development of the boat basin. In our memorandum opinion dated January 31, 1979, we found that Congress eliminated the prohibition against leasing to give greater flexibility in the administration of the boat basin if the government of Guam decided to lease in order to implement its development plans. Thus, the mere leasing of the property would not cause the property to revert to the United States. We also determined that commercial activity was permissible if such activity was open to the general public without discrimination and enhanced the use of the area as a boat basin. Finally, we held that the reversionary clause of Pub. L. 86-664, a special law, was not in irreconcilable conflict with the Territorial Submerged Lands Act, as amended (48 U.S.C. § 1705), a general law, and said reversionary clause remained in effect. We have reviewed our January 31, 1979, opinion and affirm its conclusions.

The Port Authority has accepted for review proposals from two companies to develop the boat basin. Each proposal is similar in nature and involves the following:

- dredging to increase berthing slips from the present 42 slips to 300 - 350 slips
- fill land for building facilities
- launching ramps
- utility hook-ups for sewer, water, and electricity
- restaurants
- specialty and gift shops
- terminal for tour boats
- Yacht Club
- marina sales shop

- chandlery
- fish market
- fuel and loading deck
- boat repair facility
- Comfort stations with showers
- picnic areas
- parking areas
- harbormaster building to house government safety, fire and rescue, customs and immigration, and coast guard personnel, executive offices, restrooms, clinic, and communication center.

All of the above facilities will be open to the general public. We are of the opinion that the above facilities and commercial activities are an adjunct to and compatible with the operation of a boat basin-marina and would not cause title to the boat basin to revert to the United States.

Each of the companies proposes to build a hotel at the boat basin. One company would build a 350 room hotel and the other a 440 room hotel. The total estimated cost of the project with the 350 room hotel is \$85 million. The 440 room hotel project is estimated to cost \$62 million. Both companies state that the development of the boat basin is not financially feasible without the income generated by the hotel. The Agana Boat Basin is located in Agana and the hotel would be the only one in the downtown area. The hotel would be open to the general public and would be used by hundreds of persons as well as by boat basin customers. The question arises as to whether the hotel located at the boat basin would cause the boat basin to revert to the United States. In our view it would not.

The boat basin was transferred to the government of Guam 29 years ago. Since that time, there has been an increase in the number of persons owning yachts and sailing in the western Pacific. Guam is a major port for yachts. People on the yachts do look for a place to dock their boats and hotels in which to stay. Tourists are interested in deep sea fishing, diving, and boat tours around the island. They need a place to stay. Other persons could enjoy staying in hotels where they can view the boats in the boat basin. Thus, it may be argued that a hotel is necessary for recreational purposes and operation of a modern, first class marina.

The United States has long recognized that public accommodations are necessary to heighten the enjoyment of visitors to our national parks and recreation areas. Concessioners build and operate hotels, restaurants, and gift shops in our national parks. For example, concessioners provide boat rentals, boat tours, restaurants, gift

shops, motels, trailer villages with utility hook-ups, laundry and shower facilities, and service stations with fuel for both boats and cars at the Wahweap and Bullfrog marinas in the Glen Canyon National Recreation Area (Lake Powell). The National Park Service provides launch ramps, fish-cleaning stations, picnic shelters and restrooms. Congress has approved as a matter of policy, the operation of public accommodations, facilities, and services by concessioners for the use of visitors in areas administered by the National Park Service, 16 U.S.C. § 20, 20a. It would be inconsistent and unfair for the United States to permit and encourage the operation of such facilities in our National Parks and Recreation Areas and at the same time cause the title to the boat basin to revert to the United States because of similar activities.

Based on the above, it is our opinion that the proposed development of the marina is consistent with its use as a recreation area and boat basin and would not cause title to the property to revert to the United States.

Timothy S. Elliott
Timothy S. Elliott

Port Authority of Guam

Testimony of

John H. Blanchard

November 9, 1989

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My name is John H. Blanchard. I represent Touche Ross & Co. I am an Associate Professor of Business with the College of Business and Public Administration for the University of Guam. My home address is 35 Dasco Court Yigo, Guam 96929.

What is the purpose of your testimony.

I will testify to the scope of work provided by Touche Ross & Co. as consultants to the Port Authority on this project and to the financial terms and conditions of the lease agreement.

Scope of Work

Background

In February of 1988, the Port Authority contracted with Touche Ross & Co. for general assistance in the privatization of the Agana Boat Basin. The scope of work defined in that contract included the following services:

- o Assistance in the development and issuance of the Request for Proposals
- o Assistance in evaluating the proposals
- o Assistance in selection of a developer for negotiation of lease agreement
- o Assistance in negotiating the terms and conditions of the lease agreement

In September of 1988, a Request for Proposals to transfer control of the Agana Boat Basin was issued by the Port Authority. A pre-bid conference was held on October 14, 1988. On December 9, 1988, two proposals were submitted to the Port Authority. Touche Ross prepared an evaluation on these proposals to identify the most qualified firm to negotiate with the Port Authority. The evaluation included a review against the following criteria:

- o Qualification of Developer
 - Management experience with the design and management of projects of similar size and complexity
 - References' satisfaction with services provided to them by developer
 - Financial stability of developer
- o Environmental Effects
 - Physical Environmental Impact
 - Degree to which the project is compatible with the surrounding coastal area's aesthetic and environmental quality
- o Effects on Inhabitants of Guam
 - Degree to which the project enhances the enjoyment of current and succeeding generations
- o Financial Impacts
 - Degree to which the project provides economic advantages for Guam
 - Evidence of long term financial viability and assurances that economic gains to the developer are reinvested into the Agana Boat Basin

Touche Ross recommended International Design Consortium as the most qualified developer for the Port Authority to negotiate a lease agreement.

Negotiation Approach

The negotiation process considered the following issues:

- o Establishment of a fair rate of return
- o Consideration for the existing condition of property
- o Restrictions on development
 - Public use facility
 - Recreational activities
 - Small boat marina
- o Applicability of Administrative Adjudication Act
- o Social and economic concerns

The following resources were available for consideration:

- o Two current real estate appraisals
- o Two development proposals
- o Compatible lease agreement from stateside municipal marina

The negotiation process attempted to match the "desires" of the Port against the economic considerations of the developers. Consideration was given for the substantial up front cost of developing the marina, the debt service cost of financing the marina development, and the annual maintenance and administrative cost of managing the facility. Within this context the financial terms and conditions evolved into a set of conditions considered to be mutually acceptable.

Results of Negotiation Process:

The financial conditions require IDC to develop a marina and support facilities in accordance with a master plan to be approved by the Port Authority. The estimated cost of the marina, related facilities and Government of Guam public services facilities is estimated by IDC to be \$12 million. The debt services on the \$12 million capital investment is \$1.38 million per year for 30 years. In addition, IDC will be responsible for assuming all maintenance and operational costs of the marina. Revenues collected from slip fees may be used to offset the maintenance and operational expenses. These expenses are estimated by IDC to be as follows:

Year	Amount
1993	\$150,000
1998	\$182,500
2003	\$222,000
2008	\$664,120

In addition, IDC will pay to the Port Authority a percentage rent. The amount of this rent is calculated as a percentage of Gross Operating Revenues. The percentage changes per the following schedule:

First twenty years	1%
Second twenty years	1.125%
Third twenty years	1.250%
Last ten years	1.375%

Gross Operating Revenue includes all major revenue sources to the

hotel. These revenues consists primarily of hotel, motel, meeting and convention revenues in addition to all food and beverage revenues. Excluded from Gross Operating Revenues are revenues derived from marina operations and the sale of assets.

Maximum Rent: The percentage rent is restricted to a maximum limitation or ceiling of \$400,000 per year for the first five years of the lease and is increased to \$440,000 for the sixth through the tenth year of the lease. The maximum limitation is lifted after the tenth year.

Minimum Rent: IDC will pay to the Port Authority a minimum rent of \$150,000 each year. This rent will be paid in quarterly installments in advance. The minimum amount will be increased every 5 years by 10 percent.

Initiation of Rent: Rent accrues upon completion of the marina or 24 months from the receipt of the final permit approval for the project by the Army Corps of Engineers, whichever occurs first. For financial modeling, the rent is assumed to begin in FY 1993.

Estimated Lease Payments: Using forecasted gross operating revenues supplied by IDC, lease payments to the Port Authority are estimated to be:

1993	\$150,000
1998	\$352,700
2003	\$441,800

2008	\$559,000
2013	\$765,150

Sale of Assets: The Port Authority shall collect a one percent fee based on the net proceeds of any sale of fixed assets or improvements. This fee shall be imposed for each subsequent sale of any fixed asset.

Total Cost Estimate: Total cost of the debt service on the marina and support facilities, plus the net operating and maintenance costs and the lease fees to the Port Authority are estimated as follows:

<u>Year</u>	<u>Total Cost</u>
1993	\$1,484,500
1998	\$1,430,200
2003	\$1,558,800
2008	\$2,118,200

The appraisal performed by local real estate appraisers in 1989 and 1986 valued the Agana Boat Basin at \$4.9 million and \$10.9 million respectively. Using the larger value of \$10.9 million, the 1993 forecasted total cost of the marina and related facilities of \$1,484,500 represents a 13.9% return on the appraised value.

Oct-89

FILE:BOATREV2.WK1

Agana Boat Basin
Lease Payment Analysis
As of October 12, 1989

	1993	1994	1995	1996	1997	1998	1999
Gross Operating Revenues	828,000	2,152,800	25,215,984	29,416,701	32,258,129	35,270,667	37,765,557

Lease Payment as a Percentage of Gross Revenues

	1 X	1 X	1 X	1 X	1 X	1 X	1 X
Percentage:							
Percentage Rent:	8,280	21,528	252,151	294,167	322,581	352,707	377,657
Limitation:							
Maximum Rent:	400,000	400,000	400,000	400,000	400,000	440,000	440,000
Net Percentage Rent	8,280	21,526	252,151	294,167	322,581	352,707	377,657
Minimum Rent:	150,000	150,000	150,000	150,000	150,000	165,000	165,000
Payments to Port	150,000	150,000	252,151	294,167	322,581	352,707	377,657

Calculation of total cost of Marine facility to IDC

IDC Marina Costs:
Cost Assumptions:
Development Cost Estimate: \$12 million
Debt Service: 30 years @ 11%

Lease Pmts:	150,000	150,000	252,151	294,167	322,581	352,707	377,657
Debt Service:	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600
Oper. Expenses	150,000	156,000	162,240	168,730	175,479	182,498	189,798
Subtotal:	1,677,600	1,683,600	1,791,991	1,840,497	1,875,660	1,912,805	1,945,055
Less: Revenues	193,051	482,628	482,628	482,628	482,628	482,628	482,628
Net cost:	1,484,549	1,200,972	1,309,363	1,357,869	1,393,032	1,430,177	1,462,427
As a % of Rev.	179.29	55.79	5.19	4.62	4.32	4.05	3.87

22-Oct-89

2000 2001 2002 2003 2004 2004 2005 2006
 39,275,253 40,947,334 42,491,228 44,180,477 45,947,696 47,785,604 49,677,028 51,684,909

1 X	1 X	1 X	1 X	1 X	1 X	1 X	1 X
392,763	408,473	424,812	441,805	459,477	477,856	496,970	516,849
440,000	440,000	440,000	440,000	440,000	440,000	440,000	440,000
392,763	408,473	424,812	441,805	459,477	477,856	496,970	516,849
165,000	165,000	165,000	181,500	181,500	181,500	181,500	181,500
392,763	408,473	424,812	441,805	459,477	477,856	496,970	516,849

392,763	408,473	424,812	441,805	459,477	477,856	496,970	516,849
1,377,600	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600
197,390	205,285	213,497	222,037	230,918	240,155	250,400	260,016
1,967,753	1,991,358	2,015,909	2,041,442	2,067,995	2,095,611	2,124,970	2,156,465
482,628	482,628	482,628	482,628	482,628	482,628	482,628	482,628
1,485,125	1,508,730	1,533,281	1,558,814	1,585,367	1,612,983	1,642,342	1,675,837
3.70	3.69	3.61	3.53	3.45	3.38	3.34	3.32

25-Oct-89

2007 2008 2009 2010 2011 2012 2013 Revenues

53,523,305 55,912,338 58,138,424 60,464,053 62,682,525 65,397,898 68,013,814

1 X 1 X 1 X 1 X 1 X 1 X 1 X
 527,523 559,024 581,385 604,640 628,826 735,726 765,155

 537,523 559,024 581,385 604,640 628,826 735,726 765,155
 199,650 199,650 199,650 199,650 199,650 219,615 219,615

 537,523 559,024 581,385 604,640 628,826 735,726 765,155

9,930,548 Payment to Port

100 Marina Costs:

537,523 559,024 581,385 604,640 628,826 735,726 765,155 9,930,548
 1,377,600 1,377,600 1,377,600 1,377,600 1,377,600 1,377,600 1,377,600 30,307,200
 338,577 554,120 690,684 718,312 747,044 776,926 808,003 8,742,109

2,553,700 2,490,744 2,649,669 2,766,552 2,753,470 2,890,252 2,950,758 48,979,857

Less: Marina Revenues

482,628 482,628 482,628 482,628 482,628 482,628 482,628 10,328,239

Net cost:

2,071,072 2,118,116 2,167,041 2,217,924 2,270,842 2,407,624 2,468,130 38,651,618

3.85 3.77 3.73 3.67 3.61 3.68 3.63

FILE:ROATREV2.wk1

Agana Boat Basin
Lease Payment Analysis
As of October 12, 1989

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	
Gross Operating Revenues	828,000	2,152,800	25,215,084	29,416,701	32,258,129	35,270,667	37,765,657	39,276,283	40,847,334	42,481,228	44,180,477	45,947,696	47,785,604	49,697,028
Percentage changes from prior year			1071.27	16.66	9.66	9.34	7.07	4.00	4.00	4.00	4.00	4.00	4.00	4.00
Lease Payment as a Percentage of Gross Revenues														
Percentage:	1 %	1 %	1 %	1 %	1 %	1 %	1 %	1 %	1 %	1 %	1 %	1 %	1 %	1 %
Percentage Rent:	8,280	21,528	252,151	294,167	322,581	352,707	377,657	392,763	408,473	424,812	441,805	459,477	477,856	496,970
Limitation:														
Maximum Rent:	400,000	400,000	400,000	400,000	400,000	440,000	440,000	440,000	440,000	440,000				
	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====
Net Percentage Rent	8,280	21,528	252,151	294,167	322,581	352,707	377,657	392,763	408,473	424,812	441,805	459,477	477,856	496,970
Minimum Rent:	150,000	150,000	150,000	150,000	150,000	165,000	165,000	165,000	165,000	165,000	181,500	181,500	181,500	181,500
	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====
Payments to Port	150,000	150,000	252,151	294,167	322,581	352,707	377,657	392,763	408,473	424,812	441,805	459,477	477,856	496,970
Cumulative Amount of Payments	150,000	300,000	552,151	846,318	1,168,899	1,521,606	1,899,262	2,292,025	2,700,499	3,125,311	3,567,116	4,026,593	4,504,449	5,001,419

2006	2007	2008	2009	2010	2011	2012	2013	
51,684,909	53,752,305	55,902,398	58,138,494	60,464,033	62,882,595	65,397,898	68,013,814	
4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	
1 X	1 X	1 X	1 X	1 X	1 X	1.125 X	1.125 X	
516,849	537,523	559,024	581,385	604,640	628,826	735,726	765,155	
=====	=====	=====	=====	=====	=====	=====	=====	
516,849	537,523	559,024	581,385	604,640	628,826	735,726	765,155	
181,500	199,650	199,650	199,650	199,650	199,650	219,615	219,615	
=====	=====	=====	=====	=====	=====	=====	=====	
516,849	537,523	559,024	581,385	604,640	628,826	735,726	765,155	9,930,548
5,518,268	6,055,791	6,614,815	7,196,200	7,800,840	8,429,666	9,165,393	9,930,548	

REPRODUCED AT GOVERNMENT EXPENSE

Agana Boat Basin
Lease Payment Forecast
FY 2014 to 2027

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Revenues	70,734,367	73,563,741	76,506,291	79,566,543	82,749,204	86,059,172	89,591,539	93,081,601	96,804,865	100,677,059	104,704,142	108,892,308	113,248,000	117,777,920
	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00
Percentages	1.125 %	1.125 %	1.125 %	1.125 %	1.125 %	1.125 %	1.125 %	1.125 %	1.125 %	1.125 %	1.125 %	1.125 %	1.125 %	1.125 %
Percentage Rent	795,762	827,592	860,696	895,124	930,929	968,166	1,006,892	1,047,168	1,089,055	1,132,617	1,177,922	1,225,038	1,274,040	1,325,002

Assumptions: Gross Operating Revenues increase at 4% per year
Does not include income from the sale of assets

Payment to Port

REPRODUCED AT GOVERNMENT EXPENSE

REPRODUCED AT GOVERNMENT EXPENSE

R 08 Nov-89

	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044
	122,887,037	127,388,598	132,484,142	137,783,508	143,294,848	149,026,642	154,987,708	161,187,216	167,634,705	174,340,093	181,313,696	188,566,244	196,108,894	203,953,250	212,111,380	220,595,835	229,419,419
	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00
	1.125 x	1.125 x	1.125 x	1.125 x	1.125 x	1.25 x	1.25 x	1.25 x	1.25 x	1.25 x	1.25 x	1.25 x	1.25 x	1.25 x	1.25 x	1.25 x	1.25 x
	1,378,002	1,433,122	1,490,447	1,550,064	1,612,067	1,662,833	1,937,346	2,014,840	2,095,434	2,179,251	2,266,421	2,357,078	2,451,361	2,549,416	2,651,392	2,757,448	2,867,419

R

REBUDGETED AT GOVERNMENT EXPENSE

K 08-Nov-89

	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060
	238,396,455	248,140,313	258,065,926	268,388,563	279,124,105	290,289,070	301,900,632	313,976,658	326,535,724	339,597,153	353,181,039	367,308,281	382,000,612	397,280,636	413,171,862	429,698,736
	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00
	1.25 %	1.25 %	1.25 %	1.25 %	1.25 %	1.25 %	1.25 %	1.25 %	1.375 %	1.375 %	1.375 %	1.375 %	1.375 %	1.375 %	1.375 %	1.375 %
	2,982,456	3,101,754	3,225,824	3,354,857	3,489,051	3,628,613	3,773,758	3,924,708	4,089,866	4,269,461	4,456,239	4,650,499	4,852,508	5,062,609	5,281,113	5,508,358

R

	2061	2062	2063	2064	2065	2066	2067	Total Lease Payments Over 75 Years
	446,886,686	464,762,153	483,352,639	502,686,745	522,794,215	543,705,983	565,454,223	
	4.00	4.00	4.00	4.00	4.00	4.00	4.00	
	1.375 %	1.375 %	1.375 %	1.375 %	1.375 %	1.375 %	1.375 %	
	6,144,692	6,390,480	6,646,099	6,911,943	7,188,420	7,475,057	7,774,996	177,325,068
								=====

Agana Boat Basin
Lease Rates Received From Proposals

International Design Consortium

\$100,000 per year upon completion of marina
 Increased to \$240,000 at hotel occupancy of 74%
 Increased to \$280,000 at hotel occupancy of 75%
 Increased to \$320,000 at hotel occupancy of 76%
 Increased to \$380,000 at hotel occupancy of 77%
 Increased to \$400,000 at hotel occupancy of 78%
 Payments to accrue without interest till rate = 78%
 Amounts adjusted every 5 years to 75% of CPI

Matsuzato Sogyo Co.

4 methods were suggested:

1. Percentage of revenues from slip rental revenues
2. Percentage of all revenues derived from marina enterprises and charges
3. An in lieu of property tax payment equal to the amount which would have been assessed on improvements
4. An amount equal to a percentage of taxes rebated by GEDA

Annual Cost of Operating and Financing Marina Project

IOC Marina Costs:

Cost Assumptions:

Development Cost Estimate: \$12 million

Debt Service: 30 years @ 11%

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2004
Lease Pymts:	150,000	150,000	252,151	294,167	322,581	352,707	377,657	392,763	408,473	424,812	441,805	459,477	477,856
Debt Service:	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600	1,377,600
Oper. Expenses	150,000	156,000	162,240	168,730	175,479	182,498	189,798	197,390	205,285	213,497	222,037	230,918	240,155
subtotal:	1,677,600	1,683,600	1,771,991	1,840,497	1,875,660	1,912,905	1,945,055	1,967,753	1,991,358	2,015,909	2,041,442	2,067,995	2,095,611
Less: Revenues	193,051	482,628	482,628	482,628	482,628	482,628	482,628	482,628	482,628	482,628	482,628	482,628	482,628
Net cost:	1,484,549	1,200,972	1,309,363	1,357,869	1,393,032	1,430,177	1,462,427	1,485,125	1,508,730	1,533,281	1,558,814	1,585,367	1,612,983

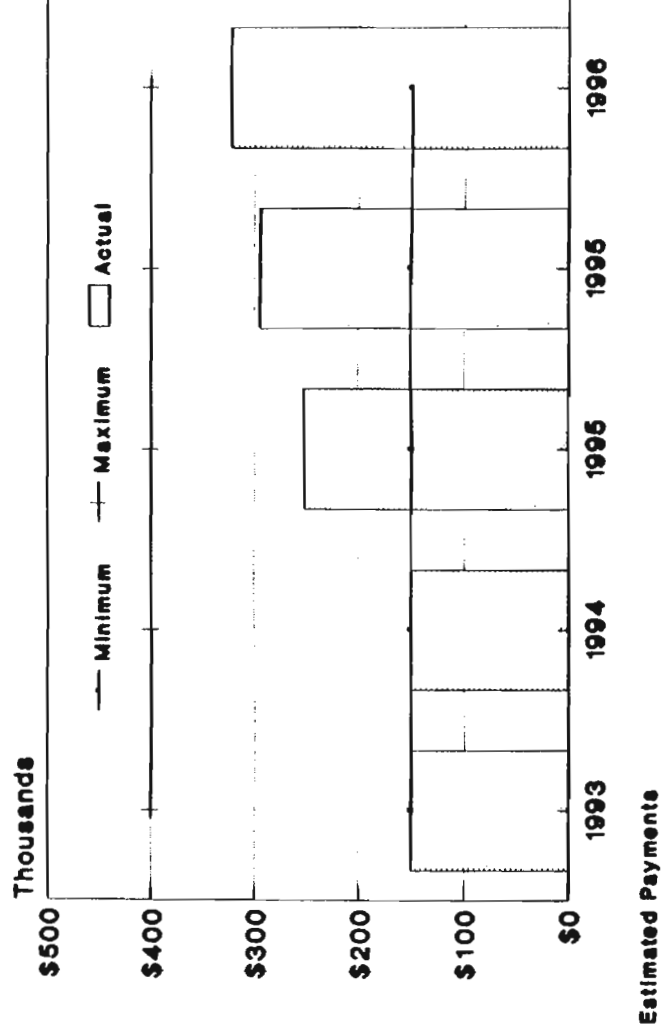
Return as Percentage of:

* \$10.9 Market Value / 7.5%

* \$4.9 Market Value / 9.5%

14%	11%	12%	12%	13%	13%	13%	14%	14%	14%	14%	14%	15%	15%
30%	25%	27%	28%	28%	29%	30%	30%	31%	31%	32%	32%	33%	33%

Agana Boat Basin Lease Payment Calculation



LAW OFFICES OF
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TERRENCE M. BROOKS

TELEPHONE: (671) 472-6848
TELECOPIER: (671) 477-5790
WHEN RESPONDING, PLEASE MAKE
REFERENCE TO

Senator John Perez Aguon, Chairman
Committee on Tourism and Transportation
20th Guam Legislature
Agana, Guam 96910

SUBJECT: Written Testimony for Public Hearing on
International Design Consortium, Inc. Lease

Dear Senator Aguon:

I have been asked to prepare testimony regarding the legal implications of some of the important terms in the Lease agreement between the Port Authority and International Design Consortium, Inc. I will be happy to answer any further questions you may have, as best I can, at the Public Hearing.

PREMISES: The lease basically involves land which is now known as the Agana Boat Basin. The exact area is outlined in the map attached to the lease as "Exhibit A". Under the development scheme, other property within the map's boundaries which is now submerged may be filled to create more usable land. Submerged land, rents, profits, buildings and improvements are also subject to the lease.

CONDITION OF PREMISES: The parties realize that this land was created shortly after the war by the US government by filling submerged land. The exact composition of the fill material is unknown to the parties although much is thought to be rubble from building destroyed during the war. Therefore the property is leased as is, subject to IDC having time to inspect the premises for substantial defects such as hazardous waste or unexploded bombs. If defects are found the lease provides for the parties to negotiate the removal of the defects, or in the alternative, allows IDC to cancel the lease agreement.

TERM OF LEASE: The term of the lease is 50 years with an option to extend the term an additional 25 years.

OWNERSHIP: IDC is a corporation organized to do business on Guam. Its President and CEO is Clifford Guzman. According to Mr. Guzman, the company is more than 50% locally owned.

RENT: No rent shall be paid until the construction of the marina is complete or 24 months from the approval of the Army Corps of Engineers has passed. The parties felt the substantial improvements being made by lessee would be, in effect, rent until such time as the property becomes income producing. The rental

payments, once commenced, will include a minimum rent of \$150,000 supplemented by a percentage rent of the gross profits. The percentages are set out on page 9 of the lease. A rent ceiling or maximum of \$400,000 shall exist for the first 10 years of the lease. The minimum rent shall be paid quarterly in advance. The percentage rent shall be paid semiannually.

GROSS OPERATING REVENUES: The percentage rent is based on "gross operating revenue", (GOR). The term is defined in section 3.5 beginning on page 9 of the lease. GOR includes hotel and convention revenues, food and beverage sales, parking revenues, and services and rentals operated on the leased premises. The figure excludes telephone revenues, fuel dock sales (operated by Fisherman's Coop), boat slip revenues (to allow for lower rents) and sales of assets which do not result in a reduction of GOR. A sale of assets which may impact GOR is covered under section 3.3. The fee would amount to 1% of the net sales price of the asset. The fee would be imposed for resales of assets, too. This section would most likely come into effect in the context of a sale of a condominium.

DEVELOPMENT OF PREMISES: The premises shall be developed in accord with a master plan which shall be prepared by IDC for approval by the Port. The master plan shall include a time table for completion of construction. The Port has 60 days within which to approve or disapprove the Plan. The time table will begin after all governmental approvals have been made by the appropriate agencies. The cost of the development, including demolition and dredging, shall be borne by IDC. All existing structures shall be demolished in the course of the development.

PUBLIC USE: The development calls for extensive areas to be set aside for public use. It is readily apparent that the whole development will not be an open public recreational area. The Port strongly feels that the private development on the premises will not impair the public's use of the land. The development will allow for an immediate upgrading of the entire area at no cost to the Government or the Port. The boat slips and harbor will be renovated to an extent far superior to what the Port and Government could do alone. Instead of piecemeal projects solving emergency type problems, the entire area will receive a much needed face-lift. Public pavilions shall be constructed to be used for barbecues, picnics or family gatherings. Boaters will have access to the a boat ramp. The Fisherman's Coop will be substantially improved. These improvements are not cheap. The Port feels that the concessions which allow for construction on the property of a hotel and possibly condos are well worth it to provide the benefits which shall be available to the people of Guam.

EXISTING TENANTS: Section 7.5 on page 22 deals with persons or businesses which already lease boat slips or property within the premises. Those tenants shall be allowed to stay within the marina at the same rental rates now in existence until the marina

is completed. Upon the expiration of leases during the construction period, the tenants shall continue on a month to month basis, again at the same rent. Tenants may be moved about within the marina to allow IDC to completely renovate the marina. IDC shall use their best efforts to not disrupt activities within the marina, however, both parties realize that because of the complete renovation which is contemplated by the agreement, some disruptions will be unavoidable.

EXISTING GOVERNMENT FACILITIES: Existing governmental operations shall continue. IDC shall make available at no charge to the Government, adequate space to conduct needed governmental functions such as customs, immigration, and the police.

MANAGEMENT OF PREMISES: IDC shall take over the management of the leased land upon approval of the lease by the legislature. The present rules and regulations shall remain in effect until the marina is completed or new rules are adopted.

BOAT BASIN RULES AND REGULATIONS: The Rules and Regulations of the Boat Basin has been a point of concern. The Port has steadfastly required that the implementation of new rules be done through the Administration Adjudication Act (AAA) requirements. IDC has agreed to the Port's demands on this issue and the agreement specifically calls for new rules to be promulgated according to the AAA.

AUDITS: The Port shall at all times have the authority to audit the records of IDC to assure that it is complying with the terms of the lease and is making full payment of rent to the Port. Willfully understating GOR is a ground for the Port to declare default in the lease and terminate the agreement. The cost of the audits shall be borne by the Government unless a material variance in the amounts paid is discovered. In that case IDC would be required to pay for the audit.

INSURANCE AND INDEMNITY: The project, and all construction, shall be fully insured and bonded. Section 2 covers insurance. IDC shall also indemnify the Port for any losses suffered by the Port because of the actions of IDC. The Government indemnifies IDC for losses suffered which were caused by negligence of Government in performing its official operations.

ARBITRATION: Most disputes arising out of this lease are subject to resolution by arbitration. Not subject to arbitration are the failure to pay rent, abandonment or bankruptcy. Appeal of the arbitration award is allowed, however, it can only be overturned if the court determines that the award was "arbitrary or capricious." That is a fairly hard standard to meet so the overturn of arbitration awards would not be likely. Arbitration is generally thought to be faster and less costly than actual court litigation. Also the rules of evidence are less stringent. The arbitration section in the original version of the lease had no right to appeal and covered all disputes. This revised

Written Testimony, re: IDC Lease
October 25, 1989
Page 4

~~DISCUSS AT GOVERNMENT EXTERNAL~~

version is much more favorable to the port because it does contain a right to appeal and does not require arbitration for certain important breaches such as the failure to pay rent.

ASSIGNMENT AND MORTGAGES: IDC is allowed to assign this lease. The right to assign is not unfettered, however. The Port can determine the financial viability of any proposed assignee. The Port may not unreasonably withhold its consent. IDC may also mortgage the premises up to 85% of its value.

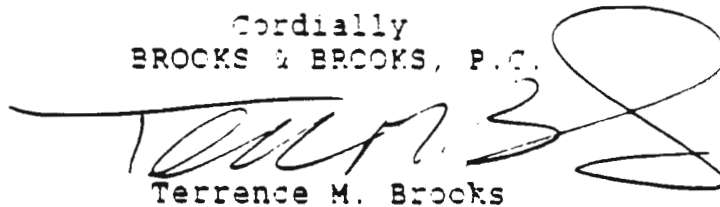
DEFAULT: The events of default are listed in Section 17, beginning on Page 39. Briefly they are 1) failure to pay rent; 2) breach of the lease covenants; 3) abandonment; 4) bankruptcy; 5) fraud.

If the default is not cured within 30 days after written notice is given to lessee, the lease may be terminated.

GOVERNMENTAL APPROVALS: It is understood between the parties that obtaining the necessary government approvals is a condition precedent to the commencement of work on the project. The section which allowed IDC to terminate this agreement if a GEDA loan was not approved has been deleted. The approvals include all necessary local governmental agencies such as the Territorial Planning Commission, Public Works, etc., and federal government agencies like the Army Corps of Engineers and the Department of Interior.

I hope this testimony has been of assistance to you. The Port hopes you will look favorably upon this project which we hope will bring new prosperity to Agana and enhance the recreational facilities of the island as a whole.

Cordially
BROOKS & BROOKS, P.C.



Terrence M. Brooks

TESTIMONY

Mr. Chairman, Members of the Committees, Senators and people of Guam. My name is Clifford A. Guzman and I am President and CEO of International Design Consortium, Incorporated, who along with the Port Authority of Guam has negotiated a lease for the Proposed Agana Marina Project which is before your respective committees in the form of Bill Number 1020.

The conceptual Master Plan and subsequent lease as negotiated, represents a type of development that we feel is in the best interests of our island. In short, this cooperative effort allows for the improvement of the existing facilities and the addition of new ones, creates a revenue producing source for the Government from an annual loss and provides additional opportunities for our residents through the creation of jobs, parks and much needed additional recreational facilities. All this will be done without government expenditures or loss of control of the Public's land and facilities.

The Agana Marina project is a publicly oriented facility that not only encourages but requires public accessibility. It creates a much needed destination development in the heart of our island's capitol city that services our residents and our visitors. We have conceptualized a plan that takes into account the surrounding community's needs and the culture and history of Guam. This project as planned is financially viable, socially sensitive and environmentally sound.

Over the past few months the International Design Consortium has held both public and private forums with public representatives, individuals and special interest groups in order to gather input on their needs, concerns and desires relative to this project. We have included for your review, a listing and summary of those forums. Among some of those groups were the Mayor's Council, The Agana Municipal Council, the Fisherman's Cooperative, the present Boat Basin Tenants, surfers, windsurfers, individual fishermen, boat owners, our business community and residents of Agana. The Proposed conceptual Masterplan and subsequent lease are a result of those meetings.

It is our belief that developers have a responsibility to the community in which they develop that goes beyond the property lines of their development. It is our hope that the Agana Marina will serve as an example for other developers to follow. It is possible for our people to keep their land, have it developed, receive compensation on a long term basis and influence the development in a way that makes sense for the land owner, the community as a whole and the project itself.

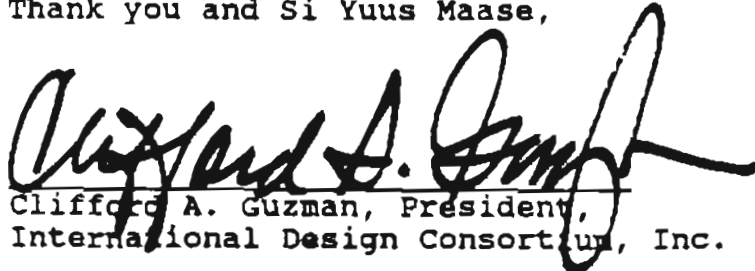
Today our island is experiencing a growth unsurpassed in its history. It is our duty as residents to build a foundation that will increase the quality of life on Guam for the generations to follow. We must now take an assertive and active role in the development of our island. This generation must make the most of today's opportunities in a positive way that will create a win-

win influence on the social, economic and political environment of tomorrow. We believe that the Agana Marina project represents such an opportunity.

Our team will not only demonstrate the economic feasibility of this project type, but will provide an example of how communities can influence development so that parks, public facilities, public safety and other amenities are included as a part of the cost of developing on our island.

In closing, I would like to add that one of the greatest challenges facing our people today is how we can influence development on our island so that we can develop our island in a manner that will influence the way the rest of the world views us.

Thank you and Si Yuus Maase,


Clifford A. Guzman, President,
International Design Consortium, Inc.

*Baumann
Advertising*

October 23, 1989

Senator John Aguon, Chairman
Committee on Tourism and Transportation
20th Guam Legislature

Mailing Address:
P.O. Box 20520
Guam Main Facility
Guam 96921
Office:
114B Hernan Cortez Avenue
Agana, Guam 96910
FAX (671) 477-4876
477-3741 • 2

Dear Senator Aguon,

I encourage members of your committee and the 20th Guam
Legislature to give their full support to the Agana Marina Project by
International Design Consortium. The project is well designed and would
be good for Guam.

Best regards,



Frances Baumann

COMMITTEE ON TOURISM AND TRANSPORTATION JOINT WITH COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT TO HEAR THE FOLLOWING: BILL NO. 1020 "AN ACT TO APPROVE THE ~~LEASE~~ OF THE AGANA BOAT BASIN TO UPGRADE AND IMPROVE THE FACILITY. BILL NO. 1036 " AN ACT AUTHORIZING THE PORT AUTHORITY OF GUAM TO ENTER LEASE WITH INTERNATIONAL DESIGN CONSORTIUM, INC."

MY NAME IS ROSAMUNDE CLAIRE BELL, I AM A NATIVE BORN RESIDENT OF GUAM FOR THE LAST FORTY-SIX YEARS. I AM HERE TO TESTIFY NOT IN FAVOR OF BILL NO. 1020 IN THE SENSE THAT WE HAVE TO LEASE THE AGANA MARINA. THE AGAT MARINA IS BEING DEVELOPED BY THE LOCAL GOVERNMENT AND FEDERAL GOVERNMENT. THE AGAT MARINA IS COMING ALONG NICELY. I SEE NO REASON WHY WE, THE LOCAL GOVERNMENT CANNOT DEVELOP THE AGANA MARINA OURSELVES. THE PORT AUTHORITY OF GUAM BOARD OF DIRECTORS CLAIM THAT THE PORT IS IN THE BLACK, IN OTHER WORDS, THEY ARE MAKING A PROFIT FOR A CHANGE, SO I WOULD FEEL THAT WE SHOULD BE ABLE, WITH THE HELP OF THE FEDERAL GOVERNMENT TO DEVELOPE THE MARINA OURSELVES.

I AM FOR THE UPGRADING OF THE ~~Harbor~~ ^{Harbor} PATROL AND ITS FACILITIES. MORE BOAT SLIPS TO LESSEN THE OVERCROWDING AND WHERE MORE BOATERS AND FISHERMEN ARE ABLE TO UTILIZE THE FACILITIES. WE NEED TO UPGRADE THE FISHERMAN'S COOP. WHERE THERE WILL BE A CLUBHOUSE FOR THE MEMBERS, A SEAFOOD RESTAURANT AND A LOCAL CHAMORRO RESTAURANT AND SOUVENIR SHOPS.

WE MUST TAKE OUR TIME AND GET EVERYONE INVOLVED. BEFORE WE LEASE ANY OF OUR PRECIOSLY LIMITED AMOUNT OF PUBLIC ALND THAT WE HAVE LEFT ON THIS ISLAND. PLEASE, I BEG OF YOU SENATORS, AGANA MARINA IS ONE OF OUR VERY LIMITED RESOURCES.

TESTIMONY ON BILL NO. 1036

MR. CHAIRMAN, SENATOR JOHN AGUON, AND SENATOR GORDON MALIOUX. I AM NOT IN FAVOR OF BILL NO. L036.

AS I HAVE STATED IN THE HEARING FOR BILL NO. 1020, I JUST CANNOT SEE ANY DEVELOPER BEING ALLOWED TO LEASE THE AGANA BOAT MARINA, WHERE THEY IN TURN WOULD BE ALLOWED TO BUILD A NINE AND SIX STORIED HIGH RISES. WHY DO WE FEEL THAT WE HAVE TO HAVE MORE HOTELS IN AN AREA THAT HAS ALWAYS BEEN KNOWN FOR THE FISHERMEN AND BOATERS OF GUAM?

OUR ISLAND OF GUAM IS ALREADY BEING OVERLY DEVELOPED WITH NO MASTER PLAN IN SIGHT. PEOPLE COME FROM ALL OVER THE WORLD TO SEE GUAM IN ITS NATURAL BEAUTY, ITS FRIENDLY PEOPLE, AND ITS ^{local} LOCAL CHAMORRO CULTURE.

I HAVE HAD THE EXPERIENCE OF BEING ONE OF THE FIRST TOUR GUIDES ON THE ISLAND IN THE EARLY SIXTIES. WE MUST CERTAINLY DID NOT HAVE MUCH TO OFFER THE TOURISTS EXCEPT OURSELVES AND OUR ISLAND. THAT SENATORS, IS WHY PEOPLE UP-ROOT THEIR HOMES AND FAMILIES TO COME AND LIVE WITH US BECAUSE OF OUR ISLAND STYLE ENVIRONMENT, AND THE SENSE THAT HERE IN GUAM, WE ARE ONE UNITED FAMILY. THE TOURISTS DON'T COME OUT HERE OR PEOPLE WHO COME OUT HERE TO LIVE EXPECT TO SEE SKYSCRAPERS, HOTELS ON EVERY CORNER OF THE ISLAND, INSTEAD THEY COME TO SEE AND MEET THE LOCAL PEOPLE AND LEARN THEIR LOCAL CULTURE AND SEE HOW THEY LIVE IN THE HOMES AND NOT NECESSARY IN NOTHING BUT HIGH RISES FOR THE RETIREES AND INVESTORS OF OFF-ISLAND!

IN CLOSING SENATORS ALL I CAN SAY, IS THAT BEFORE WE LEASE ANY OF OUR PRECIOUSLY LIMITED AMOUNT OF PUBLIC LAND THAT WE HAVE LEFT ON THIS ISLAND. PLEASE, I BEG OF YOU SENATORS, AGANA MARINA IS ONE OF OUR VERY LIMITED RESOURCES. I AM A RESIDENT HERE BY CHOICE, I FEEL STRONGLY THAT WE MUST ALL GET INVOLVED IN THE DEVELOPMENT OF OUR ISLAND BECAUSE ITS FOR THE FUTURE OF OUR CHILDREN AND OUR CHILDREN'S CHILDREN. LET'S TRY TO AT LEAST LEAVE A LITTLE OF GUAM WHAT WE HAVE ALWAYS KNOWN IT TO BE.

P. O. Box 1728
Agana, Guam 96910
October 24, 1989

Mr. Chairman John Aguon
Mr. Chairman Gordon Mailloux
Members of the Two Committees

My name is Edith Rosario Blankenfeld. I am here to urge you to approve Bill 1020.

The Agana Boat Basin has been an eyesore for 45 years. Guam is surrounded with beautiful blue ocean and is a treasure of our island. We need to capitalize on our God-given asset.

I have been to the Jack London Square in Oakland, Sasalito Marina and the Seaport Village in San Diego and I have always wondered why Guam can't emulate these marinas which are not only for boaters and fishermen but also for tourists and local residents alike. Therefore, when I first heard about this project I was ecstatic that finally something which I have always wanted to see on Guam is being introduced. For that reason I am here to support this project and only through your full support can this project get off to a start.

It has always been the tradition of our parents and grandparents to provide their posterity with something to remember them by. Leaving them with an improved island will be our heritage. This will be a great boom to Guam and will be the only opportunity for Guam to have a marina of this size and magnitude. If this project becomes a reality, it will not only be comparable to any marina in California and Oregon, but it will excel those marinas because of our inherent tropical climate and beauty. I can envision how lovely this area will be on a full-moon night where people can take their strolls and enjoy nature at its best.

The Agana Boat Basin is nothing but a junky place as it is. Let us do something about it but approving Bill 1020.

Thank you for giving me this opportunity to submit my input and I trust that you all feel as I do that it is about time that we uplift the Agana Boat Basin to a first class marina and seaport village of Guam--something that Guam will be proud of.


Edith Rosario Blankenfeld

October 25, 1989

Committee on Tourism and Transportation
20th Guam Legislature

Chairman,

I am submitting this to support the Agana Boat Basin Project which is being proposed by International Design, Inc.

I have personal knowledge of the Agana Boat Basin as I have been boating and fishing with Greg D. Perez, of the motor boat "Connie", for the past nine years.

I feel the Agana Boat Basin is in need of improvement, and the proposed upgrading development by International Design would benefit both current and future users of the boat basin.

I am presently a resident and registered voter on Guam.

Respectfully submitted,



Edward A. Hord
P.O. Box 4589
Agana, Gu 96910

October 23, 1989

Senator John Aguon
Chairman
Committee on Transportation and Tourism
20th Guam Legislature
Agana, Guam

Dear Senator Aguon,

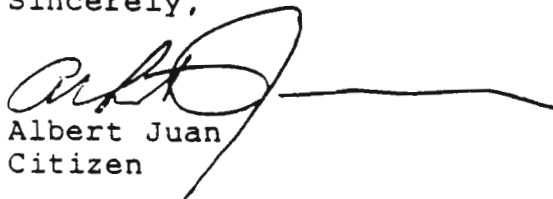
As a long time resident of Guam, a surfer and father of two, I would like to indicate my support for the Agana Marina project as proposed by International Design Consortium.

Other surfers and I had the opportunity to review the proposed plans by IDC. Though the surfing area is outside the jurisdiction of the Port's land, the fact that they sought the input of surfers demonstrates a willingness to work together with the Boat Basin users. IDC's plans to ask Army Corp for permission to build a walkway along the outer jetty is a good one, as far as safety is concerned. It's also a good faith measure that other developers should take note of.

Guam needs more facilities for water recreation on Guam. The Agana Marina project is an opportunity to upgrade government facilities, build new ones without using government funds or losing control of the use of the area by the general public. The fact that local residents are managing it is an extra plus.

Thank you for allowing me the opportunity to express myself. I hope the committee members and yourself consider this project favorably.

Sincerely,



Albert Juan
Citizen

CHAIRMAN, COMMITTEE ON TOURISM,
TRANSPORTATION & COMMUNICATIONS

REC'D BY: pt

January 31, 1990

DATE: 1/31/90 TIME: 10:00

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

Dear Senator Aguon:

I am writing this letter in support of Bill 1020 - AN ACT TO APPROVE THE LEASE OF AGANA BOAT BASIN TO UPGRADE AND IMPROVE THE FACILITY.

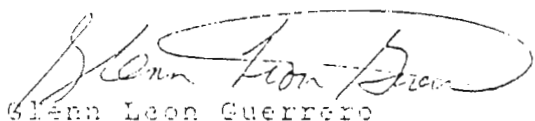
As a private citizen of Guam, I'm always concerned about the future development of this community. I believe this bill will provide a significant precedent on how to manage Guam's development. As Guam continues to rapidly grow, more attention is given toward qualitative growth versus quantitative growth. I feel, International Design Consortium (IDC) is proposing to fill this need.

As a sports water enthusiast, there is a need to improve the Agana, Marina. The proposal by IDC will provide a safe, convenient, and esthetic boat facility for Guam.

The concept of providing another first class hotel in Guam, will also fill our hotel rooms need. Currently, many of my business colleagues have to be rerouted and schedules delayed because of the room shortage in Guam. The concept of putting a first class hotel in Agana, will provide an alternate site in our capital village and a more convenient site to my business guests.

You and your colleagues are to be complemented for your consideration and its implied support for home grown projects.

Sincerely,



Glenn Leon Guerrero
Private citizen
Phone - 477-3310
P.O. Box 6383
Tamuning, Gu 96911

LETTER OF SUPPORT

The Agana Boat Basin project proposed by Mr. Clifford Guzman & Associates is something that is beneficial for the economic development of Guam.

This project diversify Guam's attraction and provides jobs for the local population.

In this light, I encourage full support of this project and recommend its approval.

Vincent Quinata
Vincent Quinata
734-3946/7

Mr. Joseph Murphy, Editor
 Pacific Daily News
 238 O'Hara Street
 Agana GU 96910

Dear Editor:

About 33 years ago, while stationed at NAS, I built my first boat on Guam. At one time, I can remember there were three boats tied up in the Agana Boat Basin. I had built two of those and Ricky and Madeleine Bordallo had bought the third one from Les Gottwald.

We got a few people together and spent evenings and weekends cleaning out the boonies near the present Harbor of Refuge. If I remember correctly, that was Navy property and we were refused access.

When I returned to Guam for a second tour of duty in 1963, boating had advanced very little. A group of us re-formed the old Guam Yacht Club into the Guam Fishing and Boating Association. After many years, we finally got ourselves a boat basin--correction: a "tide flat" with a wall around it.

The size of that walled-in area was planned to accommodate projected boating needs for several years. If that basin had been dug out from the beginning, as I argued many times, there would be many more boats moored there today.

After attending I don't know how many hearings just to get a boat basin even partially capable of caring for projected needs, I wonder how anyone with a genuine feeling for Guam's citizens and our infant fishing/charter industry can even consider giving this hard-fought-for basin away.

I believe that every effort should be made to retain our resources. To start building hotels on the reef area seems an unsound decision. To lose half or more of our basin now, considering the time to replace those moorings at the expense of the emerging fishing/charter industry, shows a lack of development foresight.

This has been an anchor around our collective neck for many years, and will continue until our Governor and the Legislature stop this one-sided "giveaway and runaway" development.

J Murphy -2-

Yes, I testified before a legislative hearing that there was "something improper going on", as Tony Charfauros wrote in his Letter to the Editor.

I intend to investigate further and to write further on this subject.

Sincerely,


Jack Rice

23 February 1989

TPC Okays Agat Boat Works

FOR 2
YEARS
TIME NEEDED
MIN. 5 YEARS.
RESOLVED BY P.L.
BILL #512 P.L. 13.95
TO M-2 LT. 1W107

By Dina Kageler
Daily News Staff Writer

Boat building and repair facilities may soon come to Agat. The Territorial Planning Commission yesterday conditionally approved the request of petitioner Jack Rice for permission to construct a business on the shoreline area. According to Rice, the three acres of land involved in the venture would support an enclosed building in which Rice could begin his "limited production" of boats.

"We need boats for tourism," said Rice, noting that the law requires that boats used in the tourist industry be U.S.-made. "I would be the only one building boats that could be used for this purpose," he said. Rice further noted that the Agat beach area is an excellent site for a boat basin since the off-shore coral is an attraction for snorkelers and divers.

The TPC decision for approval of the zoning variance specified that several building qualifications be met by Rice. In other TPC action the following decisions were rendered:

ZONE CHANGE

Lot 7019-4, Yigo, (Marianas Architects), PUD Revision, conditionally approved; Sasayjan Valley, Mangilao, tabled; and Lot 7027-6, -7 & -8, Yigo, (A. Yee/Ting Ka Ping), Final PUD, conditionally approved.

ZONE VARIANCE

Lot 5052-1, Dededo (A. Yee & Assoc.), Height Variance, approved; Lot 144, Inarajan, (R. Chung), Free Standing Sign

tabled; Lot 5114-1-R9N, Tumon, (J. Melvani), Density Variance, approved; Lot 1098-2-1 & 1098-2-2, Mangilao, (Manuel Jose), "O" Rearyard Setback, approved; Pioneer Enterprises, Harmon, (James Yu), Free Standing Sign, tabled; Tract 305, Yona, (Baza Gardens/Kaiser), Monuments (Sign), approved; Lot 7, Blk 5, Tract 112, Dededo, (T. Quitoriano), Setback Variance, disapproved; Lot 309, Agat, (Dina P. Chaco), Parcel/Mortgage - "A" Zone, approved; Lot 2385-2, Barrigada (L.J. Meno), Parcel/Mortgage - "A" Zone, approved; Lot 4, Blk

3 New-Rem., Dededo, (Afdona Ysrael), Height Variance, approved; Lot 2145-93, Tamuning, (Marda Inc.), Height Variance, approved; Lot 8, Tract 1031, Dededo (J. Busha), Parcel/Mortgage, disapproved; ParaPara Gift Shop, East Agana, (K. Choi), Sign Variance, conditionally approved and Lot 308-2, Agat, (Jack Rice), Variance for Boat Mfg. & Repair Shop, conditionally approved.

CONDITIONAL USE

Lot 2150-2A-2, Tamuning, (T.V. Paeste), Construct single-family above existing duplex, "C" Zone, conditionally approved; Lot 2150-3-8A-2,

Tamuning, (Isabel R. Estelle), Eye Clinic, conditionally approved and Lot 3402-8, Gongg, Radio Station (R. Ulloa), "A" Zone, approved to go to public hearing.

SUBDIVISION

Tract 305, Unit IV, Yona, (Kaiser Hawaii Kai), Subdivision, conditionally approved and Tract 305, Unit VI, Yona, (Kaiser Aetna), Multi Family, tabled.

SUBDIVISION VARIANCE

Lot 3383-7, Sinajana (R. Ventura), To create substd. lot, conditionally approved; Lot 3350-4, Sinajana (A. Trinidad),

Substandard Lot and Easement, conditionally approved; Lot 1019-5-3, Barrigada, (J. Limtiaco), Requests 20' Access, disapproved; and Lot 5159-4, Dededo, (P.D. Hemilani), Over-Parcelling, conditionally approved.

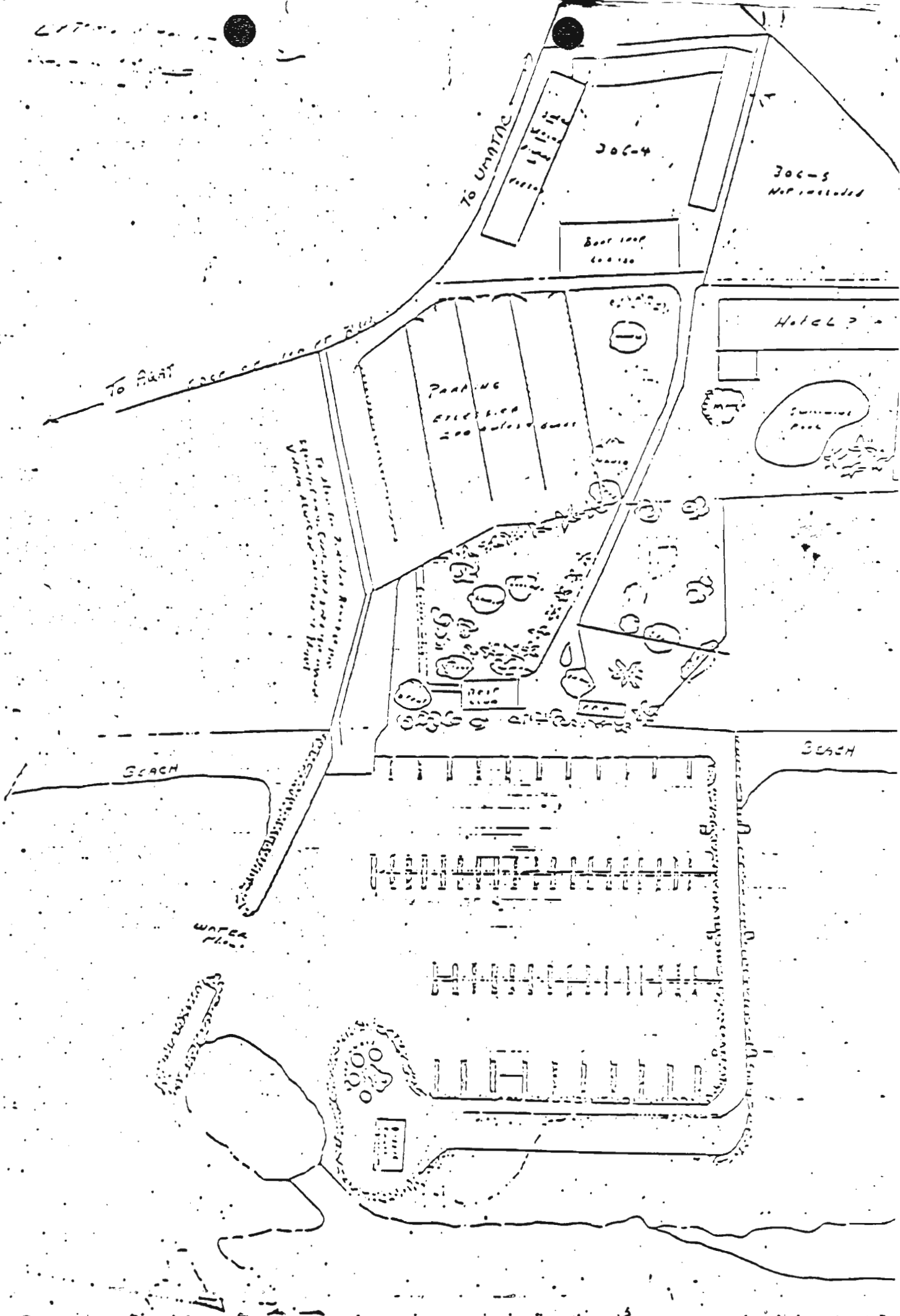
MISCELLANEOUS

As-Built Specifications Resolution, approved; Lot 3-1, Tract 169, Yigo, (Nery Construction), Appeal of Denial, conditionally approved, Attorney General's opinion re. Funeral Home Approval, planning staff directed to prepare analysis for possible re-zoning.

BIG FISH SEASON looks to be in full swing. Roman Soriano of Merizo landed this 700-pound marlin late Tuesday between the Eleven Mile Reef and Cocos Island. Soriano, manager of Yellow Fin Charters, was sailing in the 20-foot Wahoo with Art Day Jr. when he caught the fish. (Daily News Photo by Gail Watts)



REPRODUCED AT GOVERNMENT EXPENSE



2770

To UNIT 10

306-4

306-5
Not included

Boat Loop
600' x 100'

Hotel

Summer Pool

To Beach

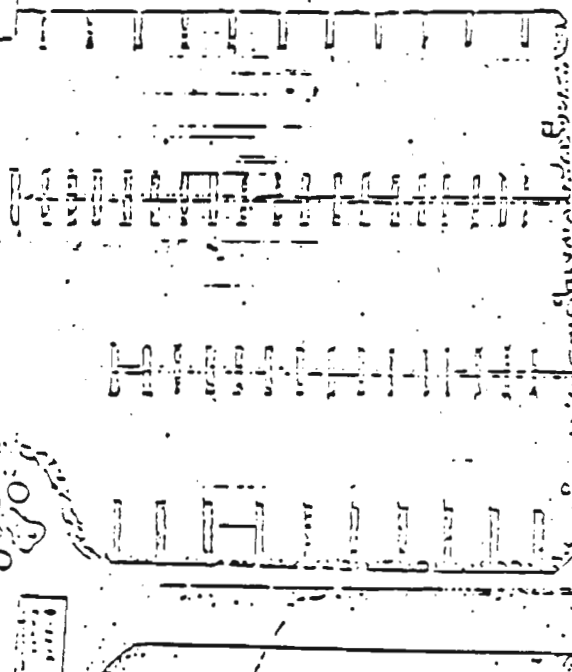
Parking

To allow for Future Expansion of the project, please refer to the site plan for the proposed future expansion of the project.

Beach

Beach

Water Line



October 23, 1989

Senator John P. Aguon
Chairman
Committee on Tourism, Transportation & Communication
20th Guam Legislature
Agana, Guam 96910

Dear Senator Aguon:

I am writing in support of International Design Consortium's proposal to develop and manage the Agana Marina Boat Basin.

The project will most certainly upgrade Agana's infrastructure in terms of public recreational facilities and create new recreational activities without use of government funds. In addition, use of the land and its proposed facilities will be under the jurisdiction of the government through the Administrative Adjudication Act.

And unlike most developers, the Consortium has included in its proposal provisions for not only safeguarding but, more importantly, enhancing the island's cultural and aesthetic environment. This, coupled with the fact that IDC does not seek governmental financial assistance in the form of GEDA loans or tax exemptions, certainly attests to the group's commitment to develop a complex that will become a part of the community it serves. And without financial subsidies from the government, the project's expected gross revenues, direct and indirect, will remain on island and significantly contribute further to the economic growth of the territory.

The proposed project will most certainly complement the City of Agana and enhance the tourism appeal of our island's capita particularly in the area of marine recreation.

I urge you to support the project in its entirety.

Sincerely,



Dave J. Santos

Research Consultation

- PACIFIC HISTORY
- CULTURAL & ARTS DEVELOPMENT
- GENERAL

November 8, 1989

Committee on Economic Development
20th Guam Legislature
Agana, Guam 96910

Hafa Adai!

I would like to take this opportunity to commend to you a development project that I feel has the real interests of our community at heart. The proposed Agana Marina project is admirable and distinct from many other development proposals currently under public scrutiny in some significant ways.

Firstly, it is partly owned and managed by a capable Chamorro businessperson, Clifford Guzman. This is important from several perspectives. Mr. Guzman is a contributing/ active member of our island community. He cares and has demonstrated this sensitivity in his approach to seeking public opinion about what "we" want to see happen at the boat basin. He has gone above and beyond any developer that I am aware of, to enhance a currently existing facility by incorporating cultural and historical themes into the architectural designs of the recreational, shopping, and hotel structures. While the development is planned to benefit tourists and visiting business people (and will be financially sustained by them), the needs of boaters, those in the fishing industry, and other residents who have enjoyed the boat basin as a place to kick back and relax are of primary consideration. This is evident in the plan.

The project is also a joint venture between the government and private business. Such partnerships may be the future solution to limited public funds and an alternative to outright sale of government owned and operated services.

At a time when our island is being deluged by development projects, many of which are clearly organized around the single objective of profiteering without due regard for the community, it is important that we as members of our community make choices and speak out. It is in this spirit that I offer my support for a development effort that will, I am confident, stand the test of being a sound business investment while being able to serve the community's needs directly and contribute to the historical/cultural restoration of our beautiful city of Agana.

Si Yu'os Maase pot i attension miyo.



Laura M. Torres Souder, Ph.D.

Laura Marie Torres Souder

Research Consultant

P.O. BOX 1057, AGANA, GUAM 96910
OFFICE: 155-A CUESTA SAN RAMON, AGANA
TELEPHONE: 477-9228



Office of the Mayor
Capital City of Agaña

Territory of Guam

FELIX F. UNGACTA
MAYOR

October 24, 1989

(A WRITTEN TESTIMONY OF MAYOR FELIX F. UNGACTA IN FAVOR OF BILL NO. 1020. SEE ATTACHMENT : CONCURRENT APPROVAL OF THE MAYORS' COUNCIL OF GUAM.).

MY NAME IS FELIX FLORES UNGACTA, MAYOR OF THE CAPITAL CITY OF AGANA FOR THE PAST THREE TERMS. MY PRONOUNCEMENT TODAY IS THAT I AM STRONGLY IN FAVOR AND IN FULL SUPPORT IN THE PASSAGE OF BILL NO. 1020: AN ACT TO APPROVE THE LEASE OF THE AGANA BOAT BASIN TO UPGRADE AND IMPROVE THE FACILITY.

MOREOVER THE PASSAGE OF BILL NO. 1020 WILL INDEED FACILITATE THE QUALITY OF LIFE IN THE ECONOMICS, SOCIAL AND AESTHETICAL ASPECTS OF THE TOTAL COMMUNITY OF THE TERRITORY OF GUAM.

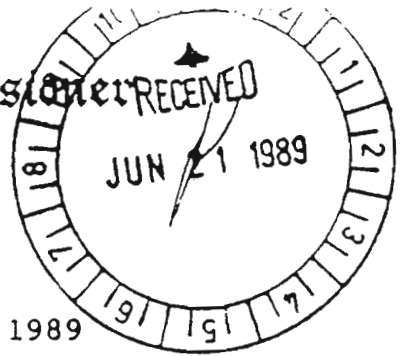
I THEREFORE URGE ALL THE MEMBERS OF THIS AUGUST BODY TO TAKE UT-MOST CONSIDERATION IN THE APPROVAL OF BILL NO. 1020.

THANK YOU.

FELIX FLORES UNGACTA



Office Of The Commissioner
City of Agana
Guam, U.S.A.



June 21, 1989

FELIX F. UNGACTA
Commissioner
&
Chairman
Agana Municipal
Planning Council

TERESITA SALAS
Vice Chairperson

JESSE J.U. ARROYO
Secretary

REMEDIOS CRUZ
Treasurer

JOSE D. SAN AGUSTIN
Sergeant-at-Arms

MEMBERS

PILAR BURGESS
FRANCES A. CRUZ
FRANK CRUZ
MERILYN S.N. CRUZ
BARCILIZA FRANQUEZ
REGINA MAFNAS
TERESITA PABLO
BENNETTE PEREZ
RANDY REYES
EDUARDO SIGUENZA

Commissioner Raymond Laguana
President
Commissioners' Council of Guam
Agana, Guam 96910

Dear President Laguana:

Greetings and Hafa Adai! The Agana Municipal Planning Council and I have fully endorsed the Agana Marina project which is being developed by International Design Consorti Mr. Clifford Guzman architect.

The development will take place where the existing Agana Boat Basin is presently located.

The project will indeed develop the boat basin and the surrounding areas at the Paseo de Susana as well as the capital city of Agana in the economic, social and aesthetic aspects of the total community.

I therefore solicit your support and cooperation from your respective villages to join forces with me and the people of Agana to make this project a reality. Para y menauleg Guahan!

Sincerely,

Felix F. Ungacta
Commissioner of Agana

FFU/jjua

cc: International Design Consortium
Commissioners & Asst. Commissioners

P.O. BOX 786
AGANA, GUAM 96910

477-8045

Senator John Aguon
 Chairman
 Committee
 20th Guam Legislature
 Agana, Guam

Mr. Chairman,

As businessmen and charter boat owners, we ask that you approve the lease between the Port Authority and International Design Consortium. We reviewed the plans by IDC and listened to the public hearings they held. We see that they not only have created a good marina but are willing to seek input from us boaters.

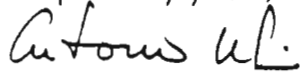
We feel that the lease gives us a way to protect our local charter business in the Agana Marina. The adaptation of rules and regulations allows us the opportunity to propose certain requirements for operating businesses related to water recreational activities.

The charter business is how we make a living. We have hundreds of thousands of dollars invested, because we feel the potential is there, and the proposed Agana Marina will only enhance the market place.

The Agana Boat Basin has not kept up with the growth of the industry in the hands of the government. We feel the new Agana Marina under the direction of IDC, will be committed to a shared interest in the Marina and boaters. This falls in line with the privatization desires of many gov't operated facilities.

The Agana Marina is needed in Guam, needed by the boating public, and needed by people who have never experienced what the ocean has to offer. We feel IDC will fulfil these needs.

Respectfully yours,



Antonio Waki

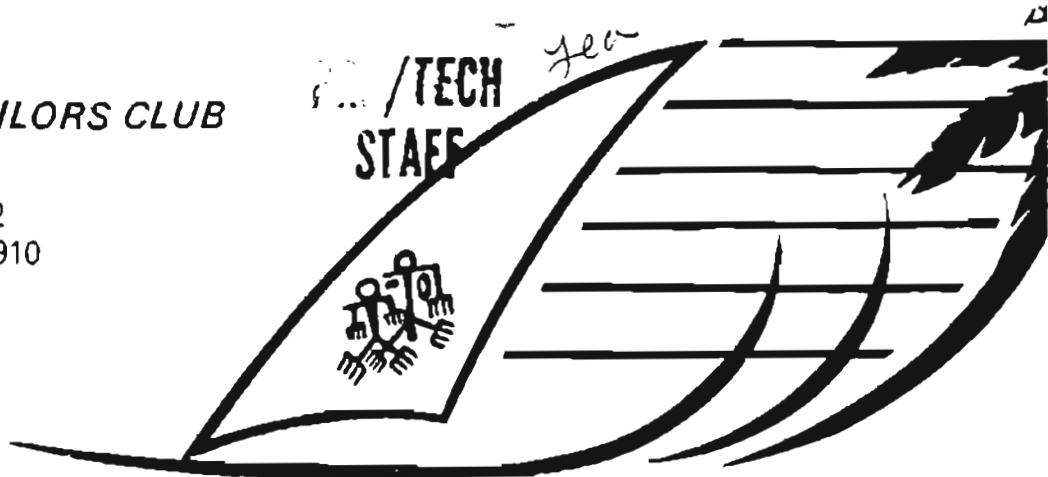


Carl Wegner

"Bien Biahi Sportfishing Charters"

BAILAN TASI BOARDSAILORS CLUB

P.O. BOX 1262
Agana, Guam 96910



October 23, 1989

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

Dear Senator Aguon,

I am writing this letter as an officer of Bailan Tasi Boardsailing Club, a non-profit sports organization. We are in support of the intent of Bill 1020 - An Act to Approve the Lease of the Agana Boat Basin to Upgrade and Improve the Facility.

We feel that the Agana Marina is definitely in need of upgrading. We do not necessarily agree with the height and placement of the hotel but are in agreement with the rest of the plan as long as the interests, rights and resources of the boardsailing and surfing community are respected, protected and taken into account in any future plans of development for the area.

We feel that in this case International Design Consortium Inc. has done so. IDC Inc. has successfully made efforts to contact the boardsailing community and other groups such as surfers and fisherman who use the area frequently. IDC Inc. has been sympathetic to our needs for a common meeting room (preference to water-oriented groups), recreational clubhouse or office and storage facility. It is commendable also that they have done so in the early planning stages. For these reasons we also support IDC's contract with the Port Authority of Guam to implement the intent of Bill 1020.

Thank you for contacting us and if you feel any need to contact our organization on other matters please do not hesitate to contact us.

CHAIRMAN, COMMITTEE ON TOURISM,
TRANSPORTATION & COMMUNICATIONS

Sincerely,

BY: Rita

DATE: 10/26/89 TIME: 3:42

Victor R.H. Torres
Victor R.H. Torres

President Bailan Tasi

CC:
IDC Inc.



**GUAM CHAMBER OF COMMERCE
PARTNERS IN PROGRESS**

November 9, 1989

Senator John Perez Aguon
Chairman
Committee on Tourism and Transportation
Twentieth Guam Legislature
324 Soledad Avenue
Suite 202, Quan's Building
Agana, Guam 96910


Dear Mr. Chairman and Committee Members:

We thank you for the opportunity to participate in today's discussion on Bill Nos. 1020 and 1036.

While the Chamber has no position on these two bills, we note that the passage of either measure would pave the way for a joint-venture arrangement between private industry and government on a project area which at the present time is being administered exclusively by the government. As such, we would like to take this opportunity to state that the Chamber supports any joint venture project in which the private sector assumes management of services or programs which at the present time are administered solely by the government. It is our hope that such a trend will continue and that our leaders will look into other possible areas where similar action can occur.

Thank you.

Sincerely yours,


ELOISE R. BATA
President



guam fishermen's coop

P. O. Box 24023 GMF, Guam M. I. 96921

November 9, 1989

Senator John Perez Aguon
20th Guam Legislature
Chairman
Committee on Tourism and Transportation

Dear Senator Aguon:


The Board of Directors of the Guam Fisherman's Co-op fully supports the efforts of the Guam Port Authority to privatize the Agana Boat Basin facilities. Guam has long needed a first class marina and this has not proved to be possible with the Government of Guam as the operator of the Agana Boat Basin. Over the past years the Boat Basin has been the responsibility of several government agencies, none of which has been able to adequately and safely provide services and facilities.

The Guam Fisherman's Co-op does have some concerns in the privatization of the Agana Boat Basin. The U. S. Government originally gave the Agana Boat Basin to the people of Guam for recreational purposes. This must be preserved and protected within any lease agreement. The local user of the Agana Boat Basin Facilities must never be displaced. There should never be any fees applied or restrictions imposed on the simple use of the Agana Boat Basin; such as, launching and retrieving boats, car and trailer parking, use of day slips for loading and unloading of boats. Shorelines should remain accessible and open to the public, with adequate parking facilities. Additionally, surfers must have reasonable access to the boat basin entrance.

Another concern is unreasonable high slip fees. It should be understood that the local fisherman, charter operator and pleasure boater could not afford to pay the slip fees that foreign boaters could afford. Therefore, within the lease, provisions should be made to protect the local boater from high slip fees.

Sincerely,


Ralph G. Borja
President


Edward H. Poppe
Secretary

FILE



Guam Visitors Bureau
Setbision Bisitan Guahan

CHAIRMAN, COMMITTEE ON TOURISM,
TRANSPORTATION & COMMUNICATIONS

REC'D BY: [Signature]

DATE: 10/27 TIME: 2:40

October 27, 1989

The Honorable John Perez Aguon
Senator and Chairman
Committee on Tourism and Transportation
Twentieth Guam Legislature
Quan's Building; Suite 202
324 Soledad Avenue
Agana, Guam

Dear Senator Aguon:

The Guam Visitors Bureau supports the development for the Agana Boat Basin.

One of the key elements used in the marketing of Guam is its water-recreation activities. The Agana Boat Basin is the major staging area for Guam's charter boats, and the proposed plans would appear to provide additional facilities to enhance this activity. GVB has also been approached on the viability of the sale or hire of pleasure craft to both the local residents as well as our visitors. The improvements to the Boat Basin would again appear to enhance the emergence of greater water-related recreational activities.

Additionally, the construction of a hotel to house visitors to Guam would provide further employment opportunities for our residents. By its location, the Agana Marina Hotel may provide for a greater diversity of activities in the Agana area proper, especially during weekends and holidays when traffic in the area is at its lowest. The operation of restaurants and shops may spur business opportunities for local residents to avail themselves of.

In closing, GVB endorses the proposed development and asks that the Legislature approve the lease as submitted.

Sincerely,

[Signature]
JOEY B. CEPEDA
General Manager



ASTA



SETBISION MAMPLANEHA
Bureau of Planning
GOVERNMENT OF GUAM
AGANA, GUAM 96910

CHAIRMAN, COMMITTEE ON
TRANSPORTATION & COMMUNIC

REC'D BY: Joanette

DATE: 11-24-89 TIME: 11.

NOV 15 1989

John Perez Aguon
Chairman,
Committee on Tourism and Transportation
324 Soledad Avenue,
Suite 202, Quan's Building
Agana, Guam 96910

Reading
FILE
Lee

Hafa Adai Mr. Chairman:

The Bureau is pleased to inform you that it is in full support of the intent of Bills 1020 and 1036, to allow for the leasing of the Agana Boat Basin for the purpose of upgrading and improving the existing facility and the authorization for the Port Authority of Guam to enter into the lease with International Design Consortium, Inc.

As a member of the task force which negotiated and reviewed the proposed agreement and lease between Port Authority and International Design Consortium, Inc., the Bureau of Planning believes that the lease is in the best interest of all the people of Guam.

The lease will not only provide for the immediate need of Guam's boaters and fishermen but also provide the base for a quality marina for Guam's future.

The Bureau fully supports the lease agreement and the passage of both bills in their entirety.

Thank you for the opportunity to comment.

Si Yu'os Ma'ase


PETER P. LEON GUERRERO
Director

COMMONWEALTH NOW!

GOVERNMENT OF GUAM
AGANA, GUAM 96910



Office: 472-6940
477-8461

AUG 31 1989

Senator John P. Aguon
Chairman, Tourism and Transportation
Twentieth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

Dear Senator Aguon:

Transmitted herewith is Resolution No. 89-02, "Relative to endorsing the proposed development of the Agana Marina by the International Design Consortium, Inc. (IDC)," which was duly and regularly adopted by the Commissioners' Council of Guam on the 26th day of July, 1989 at Agana, Guam 96910.

Respectfully yours,

Isabel S. Haggard
ISABEL S. HAGGARD
Secretary

Enclosure

CHAIRMAN, COMMITTEE ON TOURISM
TRANSPORTATION & COMMUNICATION

REC'D BY:
DATE: 01-05-89 TIME:

COMMISSIONER'S COUNCIL OF GUAM
Agana, Guam

RESOLUTION
No. 89-02

RELATIVE TO ENDORSING THE PROPOSED DEVELOPMENT
OF THE AGANA MARINA BY THE INTERNATIONAL
DESIGN CONSORTIUM INC. (IDC).

BE IT RESOLVED BY THE COMMISSIONER'S COUNCIL OF THE TERRITORY
OF GUAM:

WHEREAS, on April 5, 1989, the Port Authority of Guam selected International Design Consortium Inc. (IDC) to negotiate a lease to develop the existing Agana Boat Basin into a full fledged Marina; and

WHEREAS, the proposed Marina is being developed under the auspices of a Joint-Venture approach between the Port Authority of Guam and International Design Consortium. This new concept will allow our island to develop major improvements on Guam, while increasing government revenue and providing job opportunities without government expenditure or loss of public land; an island with diverse talents and direction uniting for the purpose of developing improvements on Guam for the benefit of our people; and

WHEREAS, the City of Agana has been a site of historical significance since the pre-war days of Guam. Development in Agana has been limited but it is inevitable that it will increase; and

WHEREAS, the proposed plan for the Agana Marina provides a unique one-time opportunity to influence the direction of development in Agana, through a positive example; and

WHEREAS, International Design Consortium believes that the Marina will create a destination in the heart of Agana that will serve to augment its significance as our island's capital. In essence, this project will foster the revitalization of Agana while satisfying the following essential objectives:

1. Providing quality facilities for both recreational and commercial boating activities at the most reasonable cost, while increasing the number and type of water sport activities available.
2. Providing facilities for effective life safety and rescue operations.
3. Creating an atmosphere conducive to boaters and non-boaters through improved public parks, cultural centers, and retail and hospitality facilities that will serve the needs of the public.
4. Providing an economically viable revenue generating project for the Government of Guam from an annual revenue loss, while contributing directly to the island's economy and to its community; and
5. Providing facilities that promote business development, cultural enhancement, and tourist attractions; and

WHEREAS, International Design Consortium, through its President, Mr. Clifford A. Guzman, appeared before the Commissioner of Agana, the Municipal Planning Council of Agana and the Commissioner's Council, to present their proposed development plan of the Agana Marina project and to attain support and input from the community; and

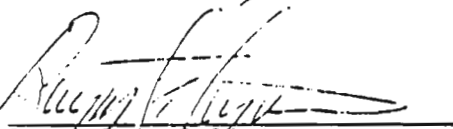
WHEREAS, this is the first event on Guam that a developer appeared before the representatives of the people of Guam and provided an awareness towards their proposed development; now, therefore, be it

RESOLVED, that the Commissioner's Council of Guam, does hereby promote and endorse the development of the Agana Boat Basin into a full fledged Marina by the International Design Consortium Inc.; and be it further

RESOLVED, that as representatives of the people of Guam, the Commissioner's Council fully supports this project by International Design Consortium Inc.; and be it further

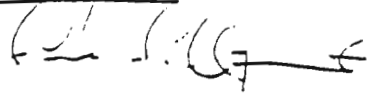
RESOLVED, that the President of the Council attest and the Secretary certify to the adoption hereof and that thereafter official copies of this resolution be transmitted to the Governor of Guam; to the Port Authority of Guam; to the Chairman, Board of Directors, Port Authority of Guam; to the Speaker, 20th Guam Legislature; to the U.S. Army Corps of Engineers; to the U.S. Region 9 Environmental Protection Agency; to the Chairman, Committee on Tourism and Transportation of the Legislature; and to the Chairman, Territorial Planning Commission (TPC).


DULY ADOPTED THIS 26TH DAY OF JULY, 1989.

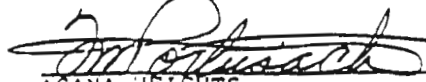

RAYMOND S. LAGANA
Commissioner of Barrigada
President

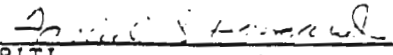

ISABEL S. HAGGARD
Commissioner of Piti
Secretary

COMMISSIONERS


AGANA
FELIX F. UNGACTA

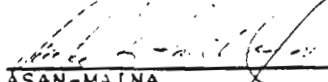

MONGMONG-TOTO-MAITE
ANTONIO D. MATERNE


AGANA HEIGHTS
FRANK M. PORTUSACH

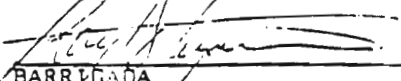

PITI
ISABEL S. HAGGARD

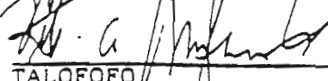
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ANTONIO C. BABAUTA



SANTA RITA
GREGORIO M. BORJA

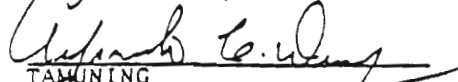

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VICENTE L. SAN NICOLAS

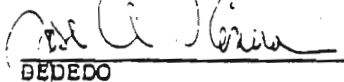

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FRANCISCO N. LIZAMA

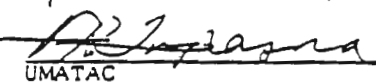

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RAYMOND S. LAGUANA

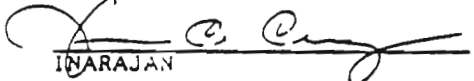

TALOFOFO
TITO A. MANTANONA


CHALAN PAGO-ORDOT
VICENTE S. SAN NICOLAS



TAMUNING
ALFREDO C. DUNGCA

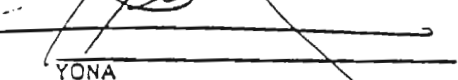

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JOSE A. RIVERA

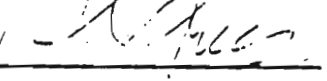

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ALBERT T. TOPASNA


INARAJAN
JUAN C. CRUZ

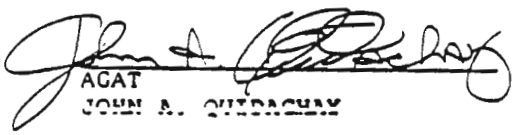

YIGO
JOHN F. BLAS



MANGILAO
NONITO C. BLAS

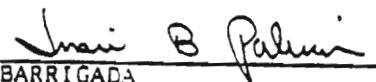

YONA
VICENTE C. BERNARDO



MERIZO
IGNACIO S. CRUZ

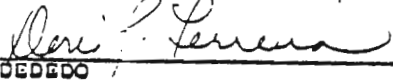
ASSISTANT COMMISSIONERS

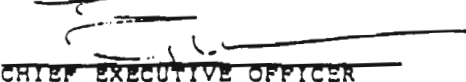

AGAT
JOHN A. QUIDACHAY


SINAJANA
DANIEL E. SABLAN


BARRIGADA
JESSIE B. PALICAN


TAMUNING
TERESITA C. BORJA


BEDED0
DORIS P. FERREIRA


CHIEF EXECUTIVE OFFICER
ENRIQUE S.M. AFLAGUE

ANTONIO S. QUITUGUA
DIRECTOR



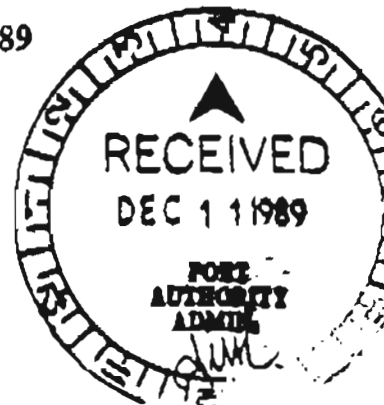
AGANA, GUAM 96910

Director's Office 734-3941
Aquatic & Wildlife Resources 734-3944
Agricultural Development Services 734-3946
Forestry & Soil Resources 734-3948
Animal & Plant Industry 734-3940

December 07, 1989

Memorandum

To: Executive Director, Port Authority
From: Director of Agriculture
Subject: Comments on Signed Agana Marina Contract



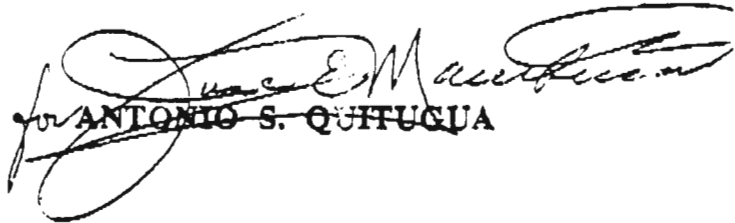
On October 18, 1989, I submitted comments on the Draft Agana Marina Contract. On November 9, 1989, you responded providing me with a copy of the signed contract which you said you "...hope satisfactorily addresses the concerns...raised..." in my October 18, 1989 memorandum.

The amendment to Section 8.2 in the signed contract that requires that a public hearing be held prior to the promulgation of rules and regulations for the management of the new marina, and that these rules and regulations be submitted to the Port Authority for review and approval in accordance with the Administrative Adjudication Law (AAL), helps to ease my concern on a repeat of the Harbor of Refuge incident. I am still concerned, however, that the potential for a repeat of that incident still exists because there are no specific safeguards for the local recreational boater, nor for the locally-owned commercial boats that presently operate out of the Boat Basin, written into the contract document itself. The future enjoyment of the new Agana Marina by this segment of the public is totally dependent upon the contents of these yet-to-be-written rules and regulations. The requirement that a public hearing be held, and that fact that the AAL will require that the Lessor (Port Authority) submit the final rules and regulations to the Legislature for review, 45 days prior to their effective date, will help to protect the public interest.

The Lessor, however, must recognize their obligation to protect the interests of the local boating public as mandated by Public Law 17-71, which transferred the responsibility for small boat facilities to the Port Authority of Guam, and take measures to ensure that the rules and regulations that are drafted by the Lessee contain the necessary safeguards. Without the Lessor acting as an advocate for the local recreational boater and the locally-owned commercial charter and tour operators, there is a very real possibility that the local boating public could be excluded from full enjoyment of the new marina facility due to unreasonably high mooring fees, overly restrictive rules and regulations, and preferential treatment for foreign-owned or controlled charter boats and other tourist ventures.

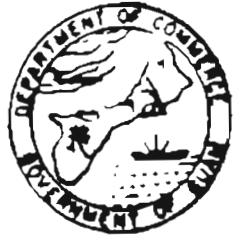
I am in support of the contract agreement with the above issues addressed to ensure the safeguards are in place.

I would like to point out that numerical citation of the Administrative Adjudication Law is in error. It should be §24000 rather than §2400 as written on line 2, p. 23.


ANTONIO S. QUIÑIGUA



DEPARTMENT OF COMMERCE
DEPARTAMENTON I KOMETSIO
GOVERNMENT OF GUAM
SUITE 601, 6th FLOOR, GITC BLDG.
590 SOUTH MARINE DRIVE
TAMUNING, GUAM 96911
Tel: 646-5841/4
Fax: 646-7242



CHAIRMAN, COMMITTEE ON TOURISM
TRANSPORTATION & COMMUNICATIONS

REC'D BY: Janet

October 23, 1989 DATE: 10-23-89 TIME: 4:35

The Honorable John P. Aguon
Chairman, Committee on Tourism & Transportation
Twentieth Guam Legislature
324 Soledad Avenue, Suite 202
Agana, Guam 96910

Dear Senator Aguon:

This is in response to your letter of October 18, 1989 concerning the following bill:

BILL 1020 - AN ACT TO APPROVE THE LEASE OF AGANA BOAT BASIN TO UPGRADE AND IMPROVE THE FACILITY.

My office has no objection to Bill 1020 as long as the following are taken into consideration:

- 1) That the Agana Marina project ties in with the overall Paseo concept as a recreational, cultural and small business center to revitalize Agana's image as Guam's administrative and commercial capital.
- 2) That the Port Authority of Guam provide further documentation pertinent to safeguarding the best interests of the existing users of the marina's facilities prior to final approval of the lease agreement. These interests include costs for relocation/temporary berthing during construction; cost-contained fee and rental schedules for use of the new facility upon its completion.

Also, we reiterate an earlier request to PAG for regular progress reports on the permit and construction phases of the project. This is based on the following concerns:

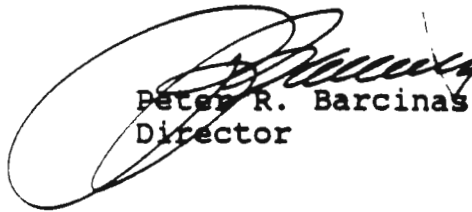
"COMMONWEALTH NOW"

1) The location of the Fishermen's Coop retail and fueling facilities within the project site, and the Guam Public Market being adjacent to the marina;

2). Our interest and concern is also related to our involvement in the encouragement of Guam's small boat fisheries and charter boat activities as viable local industries, as well as our concern that the Agana marina continues to be a major recreational facility for the general public.

If you require additional information on our concerns and activities in the above areas, please do not hesitate to contact my office.

Sincerely,



Peter R. Barcinas
Director



DEPARTMENT OF LAND MANAGEMENT
GOVERNMENT OF GUAM

AGANA, GUAM 96910

November 9, 1989

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

Subject: Legislative Bills No. 1020 and 1036

Dear Mr. Chairman:

Thank you for allowing us to testify on the said Bills. Actually, the Department of Land Management will only want to yield to the position being taken by the Port Authority of Guam.

Sincerely yours,

F. L.G. CASTRO
Director, Department of
Land Management

COMMONWEALTH NOW !!
CLOSER PARTNERSHIP WITH AMERICA LONG OVERDUE



DEPARTMENT OF PARKS AND RECREATION



GOVERNMENT OF GUAM
490 Naval Hospital Road
Agana Heights, Guam 96919
Telephone: (871) 477-9820/1

JOSEPH F. ADA
Governor

FRANK F. BLAS
Lt. Governor

ANTHONY C. MARIANO
Director

DENNIS M. ZERMENO
Deputy Director

NOV 09 1989

The Honorable John P. Aguon
Chairman
Committee on Tourism,
Transportation & Communications
Twentieth Guam Legislature
163 Chalan Santo Papa St.
Agana, Guam 96910

Dear Senator Aguon:

As Director of the Department of Parks and Recreation, I am testifying in support of Bill 1036, an act to enter into a lease of the Agana Boat Basin with International Design Consortium, Inc.

The Development of the Agana Marina will serve as a major step in the overall development of the Marina and Paseo area into a true territorial recreational site.

Over the past several months, our department has had several meetings with International Design Consortium, Inc. concerning the project. As we all know, DPR is next door neighbors to the East of the proposed marina site. We have been assured that developmental assistance will be provided towards the improved development of the Paseo. It is critical that development of the marina area to include the Paseo be integrated for overall consistency and coordination in area theme, use and design.

We therefore anxiously await a final determination and design which incorporate ideas and suggestions by all parties to include the International Design Consortium, Department of Commerce, Port Authority and the Department of Parks and Recreation regarding this matter.

Thank you.

Sincerley,


ANTHONY C. MARIANO
Director

PETITION

WE, THE EMPLOYEES OF THE PORT AUTHORITY OF GUAM, PETITION THE TWENTIETH GUAM LEGISLATURE TO ENACT BILL NO. 1020LS INTO LAW. THIS BILL, IF PASSED, WILL ENABLE THE PORT TO DIVERT FUNDS EARMARKED TO THE AGANA MARINA TO OTHER PROGRAMS SUCH AS CAPITAL IMPROVEMENT PROJECTS, THE PURCHASE OF CARGO HANDLING EQUIPMENT AND THE UPGRADING OF PORT FACILITIES.

1. FRANCISCO N. REYES

[Signature] 10-2-89

2. H. P. GARCIA

[Signature] 11-8-89

3. RUDY J. SANTOS

[Signature] 11/8/89

4. CHARLES R. QUINTANILLA

[Signature] - 11-8-89

5. JOSEPH M. CALDERON

[Signature] 11/8/89

6. BENNY D. SANTOS

[Signature] 11/8/89

7. STONOR BLAS

[Signature] - 11-8-89

8. NORMA JEAN CALVO

[Signature] 11/8/89

9.

PETITION

WE, THE EMPLOYEES OF THE PORT AUTHORITY OF GUAM, PETITION THE TWENTIETH GUAM LEGISLATURE TO ENACT BILL NO. 1020LS INTO LAW. THIS BILL, IF PASSED, WILL ENABLE THE PORT TO DIVERT FUNDS EARMARKED TO THE AGANA MARINA TO OTHER PROGRAMS SUCH AS CAPITAL IMPROVEMENT PROJECTS, THE PURCHASE OF CARGO HANDLING EQUIPMENT AND THE UPGRADING OF PORT FACILITIES.

~~Francisco G. Santos~~

Joseph A. Aguon
E. L. Neal

Joseph A. Aguon

E. L. Neal

...

Series of horizontal dashed lines for additional signatures or text.

PETITION

WE, THE EMPLOYEES OF THE PORT AUTHORITY OF GUAM, PETITION THE TWENTIETH GUAM LEGISLATURE TO ENACT BILL NO. 1020LS INTO LAW. THIS BILL, IF PASSED, WILL ENABLE THE PORT TO DIVERT FUNDS EARMARKED TO THE AGANA MARINA TO OTHER PROGRAMS SUCH AS CAPITAL IMPROVEMENT PROJECTS, THE PURCHASE OF CARGO HANDLING EQUIPMENT AND THE UPGRADING OF PORT FACILITIES.

E. P. de 58664909

Don L. Lute 58650656

Frankie Fern 586-64-5517

Don E. P. de 586-64-9375

Alma L. de 548-77-244

Frankie Fern

Beatriz de 586-03-1966

Marta de 586-05-2829

Don 586-72-1683

PETITION

WE, THE EMPLOYEES OF THE PORT AUTHORITY OF GUAM, PETITION THE TWENTIETH GUAM LEGISLATURE TO ENACT BILL NO. 1020LS INTO LAW. THIS BILL, IF PASSED, WILL ENABLE THE PORT TO DIVERT FUNDS EARMARKED TO THE AGANA MARINA TO OTHER PROGRAMS SUCH AS CAPITAL IMPROVEMENT PROJECTS, THE PURCHASE OF CARGO HANDLING EQUIPMENT AND THE UPGRADING OF PORT FACILITIES.

Ferdinand Bader

Rosario A. Concepcion

Francisco C. Ferrer

Carina S. Anahita

Estelle E. Santiago

John B. Pugh

Frankie Cruz

Ronald S. Reyes

Rose C. Jimenez

Rose L. Napata

Doreen B. Jarama

Alfonso Jimenez

Christine M. Ho

Shirley Mays

PETITION

WE, THE EMPLOYEES OF THE PORT AUTHORITY OF GUAM, PETITION THE TWENTIETH GUAM LEGISLATURE TO ENACT BILL NO. 1020LS INTO LAW. THIS BILL, IF PASSED, WILL ENABLE THE PORT TO DIVERT FUNDS EARMARKED TO THE AGANA MARINA TO OTHER PROGRAMS SUCH AS CAPITAL IMPROVEMENT PROJECTS, THE PURCHASE OF CARGO HANDLING EQUIPMENT AND THE UPGRADING OF PORT FACILITIES.

James B. Patricia
James F. ...
Gregorio M. Borja
Frank C. ...
Thomas C. Tomares
Frankie C. ...
James B. ...
Jose B. Menciaola
Jose B. ...

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Donald S. Garcia
John M. Moya
Joseph A. ...
Katherine M. ...
Eugene E. ...
J. D. ...
Arturo P. ...
Francisco C. ...

Albert B. ...
Joseph J. ...
Jose O. ...
Mary J. ...
Christina ...

[Empty lined area for additional signatures]

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Ramon S. Santos

Ramon S. Santos 11-8-89

David C. Mendez

David C. Mendez 11-8-89

George S. Duenas 11-8-89

George S. Duenas

Jaime S. Villagomez

Jaime S. Villagomez

MARIA L. SALAS

M.L.L.

JUAN C. PALACIOS

Juan C. Palacios

MARIANO C. SUINATA

Mariano C. Suinata 11-8-89

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LAWRENCE J. ESCOBAR
Francisco J. Torres 11-8-89
Felipe T. Torres 11-8-89
Francisco J. Torres
Juan C. Torres
PETER P. BELINAD 11-8-89
Peter P. Belinad
Honorable P. B. Keenan
Thomas H. Keenan
Peter M. San Augustin
Peter M. San Augustin
MARCOS A. CALO 'E
Marcos A. Calo
Juan A. Perez
Juan A. Perez
Antonio A. Cruz
Antonio A. Cruz
Bobby A. Ovas
Bobby A. Ovas
Francis M. Mendoza 11/6/89
Francis M. Mendoza
EDWARD T. SAN NICOLAS
Edward T. San Nicolas 11-9-89
Edward T. San Nicolas
Edward T. San Nicolas 11-9-89
Edward T. San Nicolas
Edward T. San Nicolas 11-9-89
Edward T. San Nicolas

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[Handwritten signatures and text]
3. Ricardo L. Quiogue
[Handwritten signature]

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Marky Robinson

Gay L. Rogers

Juan F. Flores

Edna C. ...

Johnny B. ...

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ERNEST G. CANDOLETA

Thomas M. Reyes

~~Yogis B. ...~~

Jul C. Carles

ARVIN B. SKOTOS

Roy ...

Ronald G. Cruz

Series of horizontal dashed lines for additional signatures.

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F. H. Surolo

Julia Borja

of Guam

Ancesto America

R. SALVADO

R. A. A. A.

F. B. A. A.

C. C. ESCOBAR

M. A. A. A.

C. A. A. A.

[Dotted lines for signature continuation]

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Michael V. Taitano SS# 562-33-8846

[Signature]

ERNE J. OFRATA (SS-582-07489)

[Signature]

JOSUA M. ...

[Signature]

... ..

[Signature]

RW B ...

[Signature]

Multiple sets of horizontal dashed lines for additional signatures and names.

AGANA MARINA

BILLS NOS. 1020 & 1036

VOLUME 2

1. ORIGINAL LEASE AGREEMENT

COMMUNICATIONS

2. FEB. 21, 1990 LETTER OF SEN. JOHN PEREZ AGUON TO DAVID TYDINGCO

3. FEB. 23, 1990 LETTER OF DAVID TYDINGCO TO SEN. JOHN PEREZ AGUON (WITH ATTACHMENTS)

4. MAR. 1, 1990 LETTER OF SEN. JOHN PEREZ AGUON TO DAVID TYDINGCO

5. MAR. 1, 1990 LETTER OF CLIFFORD GUZMAN TO SEN. JOHN PEREZ AGUON

6. MAR. 2, 1990 LETTER OF DONALD WILLIAMS TO SEN. JOHN PEREZ AGUON

7. MAR. 21, 1990 LETTER OF DAVID TYDINGCO TO CLIFFORD GUZMAN

8. MAR. 29, 1990 LETTER OF DAVID TYDINGCO TO SEN. JOHN PEREZ AGUON

PORT AUTHORITY OF GUAM
An autonomous agency of the Government of Guam

Resolution 89-010

RELATIVE TO APPROVING THE PROPOSAL OF INTERNATIONAL DESIGN CONSORTIUM TO ENTER INTO A LEASE WITH THE PORT AUTHORITY OF GUAM FOR THE DEVELOPMENT AND MANAGEMENT OF THE AGANA BOAT BASIN AND REQUESTING THE CONSENT OF THE LEGISLATURE AND THE GOVERNOR TO THE PROPOSED LEASE.

BE IT RESOLVED BY THE DIRECTORS OF THE BOARD OF THE PORT AUTHORITY OF GUAM:

WHEREAS, the Port Authority of Guam is charged by its enabling act with responsibility for the development and management of the harbors of Guam; and

WHEREAS, the Agana Boat Basin is a recreational facility within that area of responsibility which, in the opinion of the Board, is underdeveloped; and

WHEREAS, International Design Consortium, a Guam corporation, has proposed a plan that would result in the orderly improvement of the Agana Boat Basin so that its potential can be more fully realized with resulting recreational and economic benefits to the people of Guam; and

WHEREAS, the proposal would not only be without expense to the Port Authority of Guam but would in fact result in the Port being the reversionary owner of the development and the recipient during the term of the lease of significant income from International Design Consortium; and

WHEREAS, notwithstanding the privatization of the Agana Boat Basin the lease reserves to the Port Authority of Guam

Port Authority of Guam
Resolution 89-010 Re Agana Boat Basin
Page 2

the right to approve rates and rules that would be imposed upon users of the facility; and

WHEREAS, it is the opinion of the Board of Directors of the Port Authority of Guam, after due consideration of all aspects of this proposal and the conducting of a public hearing on it, that the proposal is in the best interest of the people of Guam and the Port Authority; and

WHEREAS, the Board of Directors of the Port Authority of Guam recognize that a project of this magnitude should be concurred in by the Legislature and the Governor; now, therefore, be it

RESOLVED, that the Board of Directors of the Port Authority of Guam approves the lease proposal submitted to it by International Design Consortium and it requests that the Legislature and the Governor concur in the proposal in order that the lease can be executed and put into effect; and be it further

RESOLVED, that the Chairman of the Board of Directors of the Port Authority of Guam shall certify and the Secretary of the Board shall attest the adoption of this resolution and that thereafter the Executive Manager of the Port Authority of Guam shall personally transmit certified copies of this resolution to the Speaker of the Twentieth Guam Legislature and the Governor; and be it further

RESOLVED, that at any public hearing conducted by the Legislature upon the proposal of International Design Consortium the

Port Authority of Guam
Resolution 89-010 Re Agana Boat Basin
Page 3

appear as the duly authorized representative of the Board to
submit to questions of the Legislature.

DULY ADOPTED OCTOBER 12, 1989, AT A SPECIAL MEETING OF
THE BOARD OF DIRECTORS OF THE PORT AUTHORITY OF GUAM, SAID
MEETING HAVING BEEN CONDUCTED AT THE AGANA BOAT BASIN UPON
THE GIVING OF ALL NOTICE REQUIRED BY LAW.

Philip Flores, Chairman

Frances P. Santos
Frances Santos, Secretary

1 Recording requested by)
 2 _____)
 3 After recordation, deliver)
 4 copies to: CARLSMITH, WICHMAN,)
 5 CASE, MUKAI AND ICHIKI, 4th)
 6 Floor, Bank of Hawaii)
 7 Building, Agana, Guam. The)
 8 real property affected by)
 9 this instrument is registered)
 10 land, the name of the)
 11 registered owner being and)
 12 _____, and the number)
 13 of the certificate of last)
 14 registration being)
 15 No. _____)
 16 _____)

(Space Above This Line For Registrar's Use)

LEASE AGREEMENT

22 THIS LEASE AGREEMENT is made and entered into this
 23 day of _____, 1989, by and between PORT AUTHORITY OF
 24 GUAM, a Government agency, whose address is 1026 Cabras
 25 Highway, Suite 201, Piti, Guam, ("Lessor"), and INTERNATIONAL
 26 DESIGN CONSORTIUM, INC., a Guam corporation, whose address is
 27 997 South Marine Drive, Tamuning, Guam 96911, ("Lessee").

R E C I T A L S

29 WHEREAS, Lessor owns a parcel of land in the
 30 Territory of Guam known as the Agana Boat Basin as more
 31 particularly described herein which property could best be
 32 developed through the joint efforts of the public and private
 33 sectors; and

1 WHEREAS, Lessor has solicited proposals for the
2 utilization and development of the Agana Boat Basin through
3 publication of a Request for Proposal No. 88-001, Management
4 and Development of Agana Marina Boat Basin dated September 15,
5 1988; and

6 WHEREAS, Lessee, after consideration of the responses
7 to Lessor's solicitation, has been selected by Lessor to
8 develop and manage the operation of the Agana Boat Basin; and

9 WHEREAS, Lessee intends to develop the Agana Boat
10 Basin in a manner consistent with Lessee's response to Lessor's
11 Request for Proposal No. 88-001 which will take considerable
12 time and require a substantial investment by Lessee in the
13 Premises.

14 WHEREAS, the development of the Agana Boat Basin in a
15 manner which is consistent with the preservation of the public
16 use of the Agana Boat Basin will take considerable time and
17 investment; and

18 NOW, THEREFORE, in consideration of the terms,
19 covenants and conditions contained herein, and other good and
20 valuable consideration, receipt and sufficiency of which is
21 hereby acknowledged, Lessor and Lessee enter into this Lease
22 and agree as follows:

23

1 Section 1. PREMISES.

2 Section 1.1. Description of Premises. The Lessor, in
3 consideration of the rent payable under this Lease and of
4 the covenants of Lessee under this Lease, does hereby
5 demise and lease unto the Lessee the following, which are
6 collectively referred to as the "Premises": (a) those
7 portions of the Agana Boat Basin comprising a total of
8 approximately 36.8 acres, as more fully shown on the map
9 attached hereto as Exhibit "A"; (b) all existing
10 landfill created by Lessor prior to the effective date of
11 this Lease together with all lands created hereafter
12 during the term of this Lease by Lessee or its designees
13 by dredging or any other means within the Agana Boat Basin
14 or other areas approved in accordance with this Lease; and
15 (c) all rents, issues and profits of the Agana Boat Basin,
16 submerged lands, and any landfill, together with all
17 buildings, improvements, rights, easements, privileges and
18 appurtenances thereto.

19 Section 1.2. Condition of Premises.

20 Section 1.2.1. Representations. The Premises are
21 demised to Lessee with no representations or
22 warranties as to its physical condition except as may
23 have been contained in the Request for Proposal No.

1 88-001, Management and Development of Agana Boat
2 Basin dated September 16, 1988.

3 Section 1.2.2. Inspection for Discovery of Defects.
4 Lessee shall have 60 days from the commencement date
5 of this lease to fully and completely inspect the
6 physical condition of the premises. If defects are
7 discovered which are in violation of law, Lessee and
8 Lessor may negotiate reasonable terms for the
9 correction of any violations which may exist. If no
10 agreement regarding the corrections of violations is
11 reached within 90 days of the commencement date of
12 this lease, the Lessee may terminate the lease by
13 giving Lessor 30 days written notice. If no viola-
14 tions of law are discovered within 60 days of the
15 commencement date of the lease or if Lessee does not
16 give notice to terminate the contract as set forth in
17 this paragraph within 90 days of the commencement
18 date of the lease, Lessee shall be fully responsible
19 for the correction of any violations of law which
20 must be made upon the premises.

21 Section 1.2.3. Discovery of Defects During Dredging.
22 If defects which are violations of law are discovered
23 during the dredging and such defects were not
24 otherwise discoverable as provided in Section 1.2.2.,

1 Lessee shall give Lessor notice of such defects
2 within thirty (30) days of such discovery. Lessee
3 and Lessor may negotiate reasonable terms for the
4 correction of any violations which may exist. If no
5 agreement regarding the correction of violations is
6 not reached within ninety (90) days of notice to
7 Lessor, Lessee may terminate this Lease by giving
8 Lessor thirty (30) days written notice.

9 Section 2. TERM.

10 Section 2.1. Initial Term. The term of this Lease shall
11 be for a period of fifty (50) years commencing on the ____
12 day of _____, 1989 and expiring on the ____
13 day of _____, 2039. The actual date of
14 commencement shall be on the first day of the month after
15 final approval of this Lease by the Legislature, or final
16 approval of the Army Corps of Engineers, whichever shall
17 occur last. The actual date will be completed and
18 initialed by the Lessor and Lessee to reflect the actual
19 commencement date.

20 Section 2.2. Extension of Term. Lessee shall have the
21 option to extend the term of this Lease for an additional
22 twenty-five (25) years commencing on the first day
23 following the 50th anniversary of the date of this Lease
24 upon the same terms and conditions (including rent subject

1 to the rental adjustments as provided in Section 3.5) as
2 set forth herein. Lessee shall provide Lessor written
3 notice of its desire to extend the term for the additional
4 twenty-five (25) not less than three hundred sixty (360)
5 days prior to the initial expiration of the term of this
6 Lease by registered mail, and such notice shall
7 constitute an agreement to be bound by the terms of this
8 Lease for the additional term. Lessee shall have a right
9 of first refusal to lease the Premises for such additional
10 term and on such conditions as Lessor may determine in its
11 best interest should Lessor decide to lease out the
12 Premises after expiration of the term of this Lease.

13 Section 3. RENT. The rent for the term of this Lease shall
14 be as follows:

15 Section 3.1. Completion of the Marina. No rent shall
16 accrue until completion of the Marina or 24 months from
17 the final approval by the Army Corps of Engineers as
18 provided in Section 20.1.2, whichever shall occur first

19 Section 3.2. Percentage Rent. Lessee shall pay to
20 Lessor the following percentage rent on the gross
21 operating revenues received by Lessee in connection with
22 Lessee's use of the Premises:

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First twenty years	1%
Second twenty years	1.125%
Third twenty years	1.250%
Last Fifteen years	1.375%

Section 3.3. Minimum Rent. Notwithstanding the percentage rent provided in Section 3.2, Lessee shall pay to Lessor a minimum rent of \$150,000 per annum in advance. This minimum rent shall be increased by ten percent (10%) every five (5) years after the first full year of rental payments during the term of this lease or any extension thereof the minimum rent shall be paid quarterly in advance on January 1, April 1, July 1, and October 1, of each year.

Section 3.4. Maximum Rent. The maximum rent payable by Lessee to Lessor under the terms of this Lease shall be the sum of \$400,000 per annum. This maximum rent shall be increased by ten percent (10%) every five years after the first full year of rental payments until the tenth (10th) year after which there shall be no maximum rent ceiling. Any sums received by Lessor under this provision shall be applied to the percentage rent as provided in Section 3.2.

Section 3.5. Gross Operating Revenues. The term "gross operating revenues" as used herein shall be defined to

1 include all annual gross operating revenues from only the
2 following uses or functions of the Premises in calculating
3 the annual percentage rental due from the Lessee to the
4 Lessor regardless of whether the Lessee or a sublessee,
5 affiliate or other entity related to Lessee operates and
6 controls said use or function:

7 Section 3.5.1. All hotel, motel, meeting and
8 convention revenues.

9 Section 3.5.2. All food and beverage sales made on
10 the leased premises.

11 Section 3.5.3. All parking revenues.

12 Section 3.5.4. All services and rentals operated on
13 or from the leased premises except revenues produced
14 from the following uses or functions are specifically
15 excluded from computation within gross operating
16 revenues: Telephone revenues, fuel dock sales and
17 inter-company revenues and boat slip revenues, sale
18 of assets, the exclusion of which shall not reduce
19 gross operating revenues under subparagraph 3.5
20 above.

21 Section 3.6. Payment of Percentage Rent. The percentage
22 rent due pursuant to Section 3.2 shall be paid semi-
23 annually as follows:

1 Section 3.6.1. Initial Annual Payment. The initial
2 annual percentage rental payment for the first six
3 months of each year required by Section 3.2, less the
4 amounts of minimum rental paid the first two quarters
5 as provided in Section 3.3 shall be paid on or before
6 August 1 of each year. At the time of the initial
7 percentage rental payment, Lessee shall submit an
8 itemization of all gross operating revenues for the
9 preceding six months showing the gross operating
10 revenues for each of the classifications set forth in
11 Section 3.6.2. Final Annual Payment. The final
12 percentage rental payment for the last six months of
13 each year required by Section 3.2 less the amount of
14 minimum rental paid the last two quarters as provided
15 in Section 3.3. and less the initial annual payment
16 as provided in Section 3.6.1 or the minimum rent for
17 the first two quarters whichever shall be greater
18 shall be made 30 days after the audit in Section
19 3.6.3. At the time of the final percentage rental
20 payment, Lessee shall submit an itemization of all
21 gross operating revenues for the preceding six months
22 showing the gross operating revenues for each
23 classification set forth in Section 3.5.

1 Section 3.6.3. Audit and Adjustments. Within ninety
2 (90) days after the end of each lease year, the
3 Lessee shall deliver to the Lessor a certified audit
4 duly signed by a certified public accountant setting
5 forth an itemization of all gross operating revenues
6 for the preceding lease year, which statement shall
7 further show the gross operating revenues for each of
8 the classifications set forth in Section 3.5. If
9 said audit shows the rent as provided in Sections
10 3.6.1 and 3.6.2. has been underpaid, Lessee shall
11 make any payments revealed by the audit to be due
12 Lessor. If said audit shows the rent as provided in
13 Sections 3.6.1 and 3.6.2 has been overpaid, Lessee
14 shall deduct said amount from the next quarterly
15 minimum rent payments due under Section 3.4.

16 Section 3.7. Records. The Lessee shall also keep and
17 maintain accurate records and complete books and records
18 of accounts indicating all of Lessee's gross operating
19 revenues and sale of assets as described in Sections 3.5
20 and 3.8. Said records and statements of gross operating
21 revenues and sale of assets shall be kept and maintained
22 by the Lessee in accordance with generally accepted
23 accounting principles and shall be available to be
24 examined by the Lessor or its agents, servants, employees

1 or representatives, and said records shall be kept and
2 maintained, or a true and accurate copy thereof, in and
3 upon the Premises. In event that the Lessee has inten-
4 tionally, willfully and with intent to defraud made any
5 reports to the Lessor showing less gross operating
6 revenues or sale of assets than actually received, such
7 conduct and action on the part of the Lessee shall
8 constitute a material breach of the covenants of this
9 lease agreement by the Lessee.

10 Section 3.8. Sale of Assets. Lessee, or any assignee or
11 sublessee of Lessee, or any subsequent assignee or
12 sublessee having any ownership or leasehold interest in
13 all or any portion of the Premises who sells any assets
14 shall pay to the Lessor one percent (1%) of the net
15 proceeds of any sales [gross sales proceeds minus
16 commissions and closing costs]. Assets as used here shall
17 mean any fixed asset or improvement (including but not
18 limited to condominiums) and shall not include personal
19 property).

20 Section 4. TAXES AND ASSESSMENTS. Except as set forth in
21 this Section, after receipt of written notice, Lessee will pay,
22 not less than sixty (60) days before the same will become
23 delinquent, all property taxes, rates, assessments, and charges
24 of every nature and kind whatsoever which shall, during the

1 term of this Lease, be lawfully charged, assessed or imposed,
2 become a lien upon, or become due and payable upon or on
3 account of the Premises. This requirement includes all assess-
4 ments and charges for any permanent benefit or improvement of
5 the Premises or any part thereof, and all assessments or
6 charges for sewerage or street improvements or other charges
7 which may be legally imposed upon the Premises or any part
8 thereof, for which the Premises or any part thereof, or the
9 Lessor or Lessee in respect thereof, are now or during the term
10 hereof may become liable. Provided, however, that not-
11 withstanding the foregoing, pursuant to Section 1.2 above,
12 Lessee shall not be required to pay or otherwise discharge any
13 lien which arises out of any violation of law that may exist on
14 the Premises as of the date of this Lease. Real property taxes
15 assessed against the Premises for the initial and terminal
16 years hereof shall be prorated as of the date of commencement
17 and of termination of the term hereof, respectively. Lessee
18 shall have the right to contest any such tax or assessment in
19 good faith, so long as it: (a) commences its action before the
20 tax or assessment becomes delinquent; (b) files a bond or takes
21 all other actions as shall be necessary to stay the collecta-
22 bility of the tax or the assessment of any lien against the
23 Premises; (c) provides Lessor with proof of adequate security
24 to discharge all taxes, assessments, interest or other similar

1 charges; (d) pays on demand any costs or attorneys' fees
2 incurred by the Lessor in any such proceedings; and (e) if all
3 or part of any such tax, rate, assessment, imposition, duty, or
4 charge, the amount or validity of which shall have been so
5 contested, shall be finally determined by any court or other
6 governmental authority of competent jurisdiction to be lawfully
7 charged, assessed, imposed, due or payable, Lessee will
8 promptly pay the same, together with any interest, penalty or
9 fine resulting from any such contest by Lessee. If Lessee
10 shall fail to pay any such taxes, rates, assessments, imposi-
11 tions, duties or charges as herein provided, the Lessor may at
12 any time after the same become due pay the same, together with
13 any interest, penalties, fines and costs accrued thereon or
14 imposed in connection therewith, and Lessee will repay to the
15 Lessor, upon demand, the full amount so paid by the Lessor,
16 together with interest at the rate of twelve percent (12%) per
17 annum. Notwithstanding the foregoing, Lessor shall pay any and
18 all taxes based upon the gross receipts or net income of all
19 amounts payable to Lessor under this Lease.

20 Section 5. QUIET ENJOYMENT. Upon payment by Lessee of the
21 rent as aforesaid and upon the observance and performance of
22 the covenants by Lessee hereinafter contained, Lessee shall
23 peaceably hold and enjoy said Premises for the term hereby

1 demised without hindrance or interruption by Lessor or any
2 other person or persons claiming by, through or under Lessor.

3 Section 6. USE. Lessee will use the Premises for the
4 development of a marina boat harbor, hotel, condominium, retail
5 shops, restaurants, offices and any other lawful purposes
6 related to said uses.

7 Section 7. DEVELOPMENT OF PREMISES.

8 Section 7.1. Improvements. The Lessee will construct
9 improvements on the Premises consistent with Lessee's
10 response to Lessor's Request for Proposal No. 88-001,
11 Management and Development of Agana Marina Boat Basin
12 dated September 16, 1988.

13 Section 7.2. Construction. The Premises are subject to
14 development by the Lessee's construction and completion of
15 all necessary improvements, including without limitation
16 all streets, curbs, gutters, drains, sidewalks, street
17 lighting, sewer and water facilities, utilities, filling
18 and grading, piers and bulkheads, and docks and similar
19 facilities, all in general accordance with a master plan
20 to be prepared by Lessee and approved by Lessor as herein
21 provided, subject to amendment in like manner.

22 Section 7.2.1. Preparation of Master Plan. Lessee
23 shall prepare at its sole expense and shall submit to
24 Lessor within ninety (90) days after the commencement

1 of this Lease, a proposed master plan for development
2 of the Premises which shall include a proposed
3 construction time table which will provide the
4 estimated timetables for completion of the construc-
5 tion. Such master plan shall be subject to the
6 approval of Lessor, which approval Lessor covenants
7 shall not be withheld provided the master plan
8 substantially conforms to Lessee's proposal submitted
9 in response to Lessor's Request for Proposal No. 88-
10 001, Management and Development of the Agana Marina
11 Boat Basin dated September 16, 1988.

12 Section 7.2.2. Lessor's Review of Master Plan.
13 Lessor shall promptly review the master plan after
14 submission and shall approve or disapprove such plan
15 within sixty (60) days after the date of submission.
16 In the event of disapproval, Lessor shall specify
17 with particularity what portions of the master plan
18 are disapproved, and the reasons therefore. Unless
19 Lessor shall specifically disapprove in writing the
20 master plan within sixty (60) days after the date of
21 submission, the master plan shall be deemed approved
22 as submitted. In the event Lessor within such
23 sixty (60) day period disapproves a portion of the
24 master plan, those portions which have not been

1 disapproved shall be deemed approved. Unless Lessor
2 shall specifically disapprove the master plan in
3 writing within sixty (60) after the date of
4 submission, the plan shall be deemed approved as
5 submitted. In the event Lessor disapproves a portion
6 of the master plan within such sixty (60) day period,
7 those portions which have not been disapproved shall
8 be deemed approved.

9 Section 7.2.3. Preparation of Construction Plans.

10 After approval of the master plan by Lessor, Lessee
11 shall proceed, with reasonable diligence and in
12 accordance with the master plan, with complete
13 construction plans for the Premises prepared by the
14 Lessee at the Lessee's cost, which construction shall
15 be in compliance with the provisions of the master
16 plan.

17 Section 7.2.4. Government Approval of Construction

18 Plans. Final construction plans shall be subject to
19 the approval of the ordinary governmental authorities
20 (such as the Territorial Planning Commission, the
21 Environmental Protection Agency, Public Works and
22 similar such agencies) having normal jurisdiction
23 over construction projects.

1 Section 7.2.5. Completion of Construction. Lessee
2 shall after the approvals in Section 7.2.4, at its
3 cost and in accordance with the master plan (subject
4 to the terms and conditions hereof) proceed with
5 construction and completion on the Premises of
6 buildings and other improvements suitable for the
7 respective use thereof as shown on the master plan in
8 accordance with complete plans, and specifications
9 therefor prepared by the Lessee. The Premises shall
10 be developed in accordance with any timetables as may
11 be applicable.

12 Section 7.2.6. Construction Delays. If any such
13 development or improvement shall be delayed by war,
14 typhoon, earthquake or other acts of God or force
15 majeure, fire, or other similar disaster, or by
16 general or industry-wide strike in the Territory of
17 Guam, governmental regulation or any other cause
18 beyond the control of the Lessee which without
19 Lessee's fault renders unobtainable any labor,
20 materials or equipment necessary therefore, or by
21 failure of Lessor or any third party including
22 without limitation any governmental authority, within
23 a reasonable time after request therefor and without
24 fault of the Lessee to approve or consent to any

1 matter for which such approval or consent is required
2 by any provision hereof or which approval or consent
3 is required in or contemplated by the master plan,
4 the time for completion thereof shall be extended
5 according to the duration and nature of such delay.
6 Section 7.2.7. Non-Material Variances. Lessee in
7 the course of its planning, design, construction and
8 operation of the Premises shall not materially vary
9 from the provisions of the master plan as approved by
10 the Lessor; provided however, Lessee may in its
11 discretion vary from the terms of the master plan
12 (particularly, but without limitation, to accommodate
13 sublessees and users) so long as such variations do
14 not have any material deleterious economic effect as
15 to the rent to be paid by Lessee hereunder or
16 adversely affect the public or the Government of
17 Guam's access or use of the Premises. The parties
18 may from time to time by mutual agreement formally
19 amend or modify the approved master plan. Lessor
20 agrees not to unreasonably withhold condition or
21 delay, its consent or agreement to any modifications
22 or changes requested by Lessee so long as such
23 modifications or changes do not adversely affect the
24 public or Government of Guam's access or use of the

1 Premises or have a deleterious economic affect on the
2 rent to be paid by Lessee.

3 Section 7.3. Demolition of Improvements. All costs and
4 expenses relating to the demolition of improvements
5 existing on the Premises as of the date of commencement of
6 this Lease, as well as the dredging, filling and construc-
7 tion of any new improvements on the Premises during the
8 term of this Lease shall be borne by Lessee. Lessee shall
9 be responsible for obtaining all necessary governmental
10 land use, building and construction licenses, permits,
11 approvals, and consents for any construction and use of
12 the Premises. All construction shall be performed in
13 accordance with local building and zoning codes and to the
14 specifications of the master plan submitted to and
15 approved by Lessor.

16 Section 7.4. Existing Structures. The parties acknow-
17 ledge that the development of the Premises in accordance
18 with the plans of Lessee will require demolition of all
19 facilities existing on the Premises at the date of
20 execution of this Lease, which were constructed in the
21 past by governmental agencies. Lessor hereby transfers
22 and quitclaims to Lessee all of its right, title and
23 interest in and to all such facilities which were con-
24 structed on the Premises in the past by governmental

1 agencies. In the event that Lessee elects to destroy any
2 facilities quitclaimed hereby, the Lessor shall have a
3 right to salvage such materials as it may desire from
4 these structures, after Lessee has removed therefrom all
5 materials it will be using as part of the redevelopment of
6 the Premises.

7 Section 7.5. Existing Occupants. With regard to any
8 existing occupants with boats or doing business on the
9 Premises as of the date of execution of this lease
10 ("Occupants"). From and after the commencement date of
11 this Lease, the Lessee shall have the right to charge rent
12 to all existing Occupants at the rates currently charged
13 by Lessor upon the date of commencement of this Lease.
14 Lessee will not increase the rent or charges to any such
15 individuals until such time as the new marina docks are
16 ready for occupancy or in the case of business currently
17 operating on the land at such time new facilities are
18 ready for occupancy. Provided however, all Occupants
19 shall be on a month to month tenancy upon expiration of
20 any current leases and Lessee reserves the right to
21 relocate any of the occupants during the construction of
22 the Marina. Subject to the foregoing, Lessee will make
23 reasonable efforts not to disrupt the Occupants of the
24 Agana Boat Basin or their use of the Agana Boat Basin

1 during construction. However, during the course of
2 construction of new facilities, it is recognized that
3 there will be increase in the noise level, dust and
4 sediment in the water and nothing contained herein shall
5 give anyone not a party to this agreement any rights they
6 may not otherwise have by law. Occupants shall have the
7 opportunity to rent space in the new marina facilities
8 subject to such rules and regulations as may be adopted by
9 Lessee as approved by Lessor herein for operation of the
10 new marina facilities.

11 Section 7.6. Existing Government Facilities. All
12 present government operations located on the Premises at
13 the time of commencement of this Lease shall remain on the
14 Premises without payment of rent. Upon completion of the
15 Marina, Lessee will make available at no charge to the
16 Government of Guam, or its agencies and instrumentalities,
17 adequate space for the conduct of governmental functions
18 related to the health, safety and welfare of the people of
19 the Territory of Guam as would normally be present at a
20 marina of a similar size and purpose. The amount and
21 nature of such space is set forth in Exhibit B.

22 Section 7.7. Warranty of Lessee. Lessee represents and
23 warrants to Lessor that it has adequate capacity and the
24 technical and business skill and ability to perform all

1 obligations herein imposed upon Lessee to diligently,
2 skillfully and successfully operate the Premises in order
3 that the same may be operated as contemplated under the
4 terms of this Lease.

5 Section 8. MANAGEMENT OF PREMISES.

6 Section 8.1. Interim Period. Lessee will assume
7 management of the Premises upon approval of the Lease by
8 the Legislature as provided in Section 24 under the same
9 rules and regulations of Lessor as in effect on the date
10 of commencement of the Lease. Unless otherwise amended as
11 provided in Section 8.2.

12 Section 8.2. Completion of Marina. Upon completion of
13 the marina, Lessee may institute rules and regulations for
14 the use of the Premises as may be consistent with the
15 operation of public marinas of a similar size and nature.
16 Lessee will solicit comments from the public and users of
17 the Premises before implementation or amendment of any
18 rules or regulations for use of the Premises and Lessee
19 agrees to hold a public hearing and to give public notice
20 of its intent to adopt new or amend rules or regulations
21 thirty (30) days prior to the date of the public hearing.
22 Any such rules and regulations shall be submitted to
23 Lessor for review and approval. The review and approval
24 by Lessor shall be conducted in accordance with the

1 Administrative Adjudication Law, Government Code of Guam,
2 § 2400, et seq.

3 Section 8.3. Inspection and Audit.

4 Section 8.3.1. Inspection of Premises. Lessor or
5 its agents shall have the right to enter the leased
6 Premises, buildings and improvements constructed
7 thereon at reasonable hours and upon reasonable
8 notice for the purpose of inspecting the same or for
9 any other purposes not inconsistent with the terms or
10 spirit of this Lease.

11 Section 8.3.2. Inspection of Records. Lessor and
12 its agents are hereby given the right to inspect
13 Lessee's books at all reasonable times in order to
14 ascertain gross operating revenues and sales of
15 assets. Lessee agrees to keep proper and up to date
16 books and records at all times showing the gross
17 operating revenues and sales of assets including the
18 reports that Lessee may be required to furnish to any
19 government agency (except to the extent such reports
20 are confidential by law) which shall at all reasona-
21 ble times be open to inspection of the Lessor or its
22 agents. Lessee agrees to give its reasonable full
23 assistance to Lessor or its agents in the making of
24 any inspection or examination of any such books and

1 records, and Lessor shall have the right to make
2 copies of all such records pertaining to gross
3 operating revenues and sales of assets as Lessor may
4 desire.

5 Section 8.3.3. Audit. Lessor may, at any time,
6 cause an audit of the gross operating revenues and
7 sales of assets to be made by an accountant to be
8 selected by Lessor, and if such audit discloses any
9 statement of gross operating revenues or sales of
10 assets made by Lessee to Lessor understate the actual
11 gross operating revenues or sales of assets reported
12 by any such audit, Lessee shall immediately pay the
13 cost of any such audit as well as any additional rent
14 payable by Lessee to Lessor plus interest at the rate
15 applicable to judgments of the Superior Court of
16 Guam; otherwise, the cost of such audit shall be paid
17 by Lessor. The access to records shall be limited
18 only to those records reasonably necessary to
19 determine the gross operating revenues and sale of
20 assets as defined in Section 3.5 and 3.8.

21 Section 8.4. Maintenance. The Lessee agrees at its own
22 expense to keep and maintain the Premises, including, but
23 not limited to, grounds, buildings, furnishings, fixtures

1 and personal property, in good state of repair and first
2 class condition.

3 Section 8.5. Repairs. The Lessee agrees at its expense
4 to make all repairs to the Premises including, but not
5 limited to, buildings, improvements, including electrical,
6 plumbing, sewer, sewer connections, structural and all
7 other repairs that may be required to be made on the
8 leased premises.

9 Section 9. INSURANCE AND BONDS. Lessee will procure at its
10 own expense and keep in force during the entire period of this
11 Lease policies of insurance with respect to said Premises
12 with any insurance company authorized to do business in the
13 Territory of Guam, naming the Lessor as an additional insured.

14 Section 9.1. Improvement Insurance. The Lessee at its
15 expense shall provide fire and extended coverage insurance
16 on the real property herein described and all improvements
17 (building and contents) thereon situated for the benefit
18 of the Lessor and the Lessee. Insurance coverage to be at
19 least 90% of the insurable value of said real property and
20 improvements. Copies of all insurance policies shall be
21 furnished the Lessor.

22 Section 9.2. Personal Property Insurance. The Lessee at
23 its expense shall provide comprehensive insurance
24 (including, but not limited to, fire, theft and windstorm)

1 on all personal property situated on the leased premises,
 2 and replacement for the benefit of the Lessor and the
 3 Lessee and must be in an amount to provide full replace-
 4 ment cost of said personal property.

5 Section 9.3. Liability Insurance. The Lessee at its
 6 expense shall provide comprehensive and all-inclusive
 7 liability insurance for the benefit of the Lessor and the
 8 Lessee in the amounts of _____ bodily injury,
 9 and _____ property damage. (These numbers to be
 10 determined by qualified insurance agents for competitive
 11 and reasonable coverage.)

12 Section 9.4. Insurance Proceeds. In the event of
 13 destruction of damage of any of the property covered by
 14 insurance subject to the reasonable requirements of any
 15 institutional mortgage, Lender having a lien on the
 16 property, the funds payable in pursuance of said policies
 17 shall be deposited with a financial institution authori-
 18 zed to conduct business in the Territory of Guam (or other
 19 mutually acceptable financial institution), as a trust
 20 fund, and said funds shall be used for the purpose of
 21 reconstruction or repair, as the case may be, of any of
 22 the buildings, improvements or personal property so
 23 damaged or destroyed. Such reconstruction and repair work
 24 shall be done in strict conformity with the building codes

1 of the Territory of Guam. Should the cost of recons-
2 truction or repair exceed the amount of funds available
3 from the proceeds of such insurance policy, then and in
4 such event, such funds shall be used as far as the same
5 will permit in paying costs of said reconstruction or
6 repair, and any difference shall be made up by the Lessee.
7 Section 9.5. Bonds. Lessee shall require any contractor
8 performing improvements on the Premises to furnish bonds
9 covering faithful performance of the construction and
10 payment of all obligations incurred in the course of said
11 construction.

12 Section 10. INDEMNITY.

13 Section 10.1. Lessee's Indemnification. Lessee will
14 indemnify and hold the Lessor harmless from and against
15 all claims and demands for loss or damage, including
16 property damage, personal injury and wrongful death,
17 arising out of or in connection with: the use or occupancy
18 of said Premises by the Lessee or any other person
19 claiming by, through or under the Lessee; or any accident
20 or fire on said Premises or any nuisance made or suffered
21 thereon, or any failure by the Lessee to keep said
22 Premises in a safe condition; or to observe and perform
23 any term covenant or condition herein contained; and will
24 reimburse the Lessor for all its costs and expenses

1 including reasonable attorneys' fees incurred in con-
2 nection with the defense of any such claims, and will hold
3 all goods, materials, fixtures, equipment, machinery and
4 other property on said Premises at the sole risk of the
5 Lessee and hold the Lessor harmless from liability for
6 loss or damage thereto by any cause whatsoever, and will
7 indemnify and hold the Lessor harmless from and against
8 all loss, costs and expenses, including reasonable
9 attorneys' fees with respect to any attachment, judgment,
10 lien, charge or encumbrance whatsoever against said
11 Premises made or suffered by the Lessee or any person
12 claiming by, through or under Lessee. Provided, however,
13 this indemnity shall not apply to any claim, loss or
14 damage resulting from, arising out of or connected with
15 any act or omission of Lessor, the Government of Guam, its
16 officers, employees, agencies or other authorized repre-
17 sentatives performing Government operations on the
18 Premises.

19 Section 10.2. Indemnification of Lessor. Lessor will
20 indemnify and hold Lessee harmless from and against all
21 claims and demands for loss or damage including property
22 damage, personal injury (including reasonable attorneys'
23 fees) and wrongful death arising out of or in connection
24 with: the use or occupancy of the Premises by Lessor or

1 the Government of Guam, its officers, employees, agencies
2 or authorized representatives (the "Government"); or any
3 accident or fire on the Premises or any nuisance made or
4 suffered thereon or any failure by the Government to keep
5 any portion of the Premises occupied by the Government in
6 a safe condition; and will reimburse the Lessee for all
7 its costs and expense including reasonable attorneys' fees
8 incurred in connection with the defense of such claims,
9 and will hold all goods, materials, fixtures, equipment
10 and machinery and other property on any portion of the
11 Premises occupied by the Government at the sole risk of
12 Lessor and hold Lessee harmless from liability or loss or
13 damage thereto as a result of any Government operations on
14 the Premises.

15 Section 11. LIENS. Lessee, except as otherwise provided
16 herein, will not commit or suffer any act or neglect whereby
17 said Premises or any improvement thereon or the interest of
18 Lessor or Lessee therein shall at any time during said term
19 become subject to any attachment, judgment, lien, charge or
20 encumbrance whatsoever, and will indemnify and hold Lessor
21 harmless from all loss, cost and expense with respect thereto;
22 provided, however, that notwithstanding the foregoing, Lessee
23 shall not be required to pay or otherwise discharge any lien

1 which rises out of any violation of law that may exist on the
2 Premises as of the date of this Lease.
3 Section 12. WASTE, HAZARDOUS WASTE AND UNLAWFUL USE. Lessee
4 will not at any time make or suffer any strip or waste or
5 unlawful, improper or offensive use of said Premises or cause
6 or permit any hazardous waste or substances as defined in 42
7 U.S.C. §9601, to be used or stored on the Premises; provided,
8 however, that the provisions of this paragraph shall not: (a)
9 prevent the demolition of any buildings and improvements
10 existing upon the Premises upon the commencement date of this
11 Lease and which Lessee otherwise has a right to demolish; (b)
12 apply to any hazardous waste or hazardous substances located on
13 the Premises as of the date of this Lease which would then
14 handled in accordance with Section 1.2; or (c) apply to any
15 conditions which may exist on the Premises as of the date of
16 execution of this Lease. Subject to the limitations set forth
17 in the proviso in the immediately preceding sentence, Lessee
18 will observe and comply with all laws, ordinances, rules and
19 regulations now or hereafter made by any governmental authority
20 for the time being applicable to or in connection with the
21 Premises or any improvement thereon or the use thereof, and
22 will indemnify the Lessor against all actions, suits, damages
23 and claims by whomsoever brought or made by reason of the
24 nonobservance or nonperformance of such laws, ordinances, rules

1 and regulations or of this covenant. Provided however, Lessor
2 will indemnify Lessee from any liability, claims or damage of
3 any nature whatsoever arising out of or in any way connected
4 with any toxic substances, hazardous waste or unlawful use of
5 the Premises existing at the time of commencement of this
6 Lease. Lessee will provide for the safe and appropriate
7 disposal of sewage, used petroleum products and hazardous
8 substances as per the requirements of the Guam Environmental
9 Protection Agency and other concerned agencies or governmental
10 authorities and, will furthermore cooperate in the design of a
11 contingency plan to effectively address any occurrence of a
12 toxic spill in the harbor as a result of the operation of the
13 Marina.

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

22 In the event of the taking or transfer of only a
23 portion of the Premises leaving the remainder in such location,
24 or in such form, shape, or reduced size as to render the

1 Premises to be not effectively and practicably usable for the
2 purposes provided in this Lease or otherwise impair the
3 economic viability of Lessee's use of the Premises in the sole
4 opinion of Lessee, at Lessee's sole option, this Lease and all
5 right, title and interest thereunder shall cease on the date
6 title of the Premises or the portion thereof so taken or
7 transferred vests in the condemning authority.

8 In the event of such taking or transfer of ^{only} a
9 portion of the Premises leaving the remainder in such location
10 and in such form, shape, or size as to be effectively and for
11 the purposes provided in this Lease practicably usable for the
12 purposes in this Lease and which does not impair the economic
13 viability of Lessee's use of the Premises in the sole opinion
14 of Lessee, this Lease shall terminate and end as to the portion
15 of the Premises so taken or transferred as of the date title to
16 such portion vests in the condemning authority, but shall
17 continue in full force and effect as to the portion of the
18 Premises not so taken or transferred. In such an event the
19 rent payable hereunder shall be reduced in proportion to the
20 area of the Premises taken.

21 It is understood and agreed by and between the
22 parties that all compensation and damages awarded for the
23 taking of all buildings and other improvements whatsoever on
24 the Premises or any portion thereof shall belong to and be the

1 property of Lessee; provided, however, Lessor shall be entitled
2 to receive an award and compensation from the condemning
3 authority (not Lessee) for the value of its remainder interest
4 in the Premises. Furthermore, Lessee shall be entitled to the
5 award for and on account of any cost or loss Lessee may sustain
6 in the removal of Lessee's fixtures, equipment and furnishings
7 from the Premises, or as a result of any alterations, modifi-
8 cations, or repairs which may be reasonably required by Lessee
9 in order to place the remaining portion of the Premises not so
10 condemned in a suitable condition for the continuance of
11 Lessee's tenancy, or on account of any diminution in value of
12 its leasehold estate hereunder. All interested parties may
13 independently file separate claims in the condemnation
14 proceedings for the purpose of having the value of their
15 respective claims determined.

16 Section 14. ARBITRATION. All disputes and controversies of
17 every kind and nature between the Lessor and Lessee arising out
18 of or in connection with this Lease, the construction, valid-
19 ity, interpretation or meaning, performance, non-performance,
20 enforcement, operation, breach, continuance, or termination
21 thereof except matters set forth in Sections 17.1.1, 17.1.3 and
22 17.1.4 shall be submitted to arbitration pursuant to the
23 following procedure:

1 Section 14.1. Demand. Either party may demand
2 arbitration in writing within 30 days after the con-
3 troversy arises, which demand shall include the name of
4 the arbitrator appointed by the party demanding arbitra-
5 tion, together with a statement of the matter in con-
6 troversy.

7 Section 14.2. Appointment of Arbitrators. Within 20 days
8 after such demand, the other party shall name its
9 arbitrator, or in default thereof, such arbitrator shall
10 be named forthwith by the Arbitration Committee of the
11 American Arbitration Association, and the two arbitrators
12 so selected shall name a third arbitrator within 15 days
13 or, in lieu of such agreement on a third arbitrator by the
14 two arbitrators so appointed, a third arbitrator shall be
15 appointed by the Arbitration Committee of the American
16 Arbitration Association.

17 Section 14.3. Costs. Each party shall bear his own
18 arbitration costs and expenses.

19 Section 14.4. Hearing. The arbitration hearing shall be
20 held at Agana, Guam or such other place as may be agreed
21 by the parties on 30 days' notice to the parties, the
22 arbitration rules and procedures of the American Arbitra-
23 tion Association shall be incorporated by reference

1 therein, and the Federal Rules of Evidence shall govern
2 the presentation of evidence therein.

3 Section 14.5. Award. The arbitration hearing shall be
4 concluded within three days unless otherwise ordered by
5 the arbitrators and the award thereon shall be made within
6 20 days after the close of the submission of evidence. An
7 award rendered by a majority of the arbitrators appointed
8 pursuant to this agreement shall be final and binding on
9 all parties to the proceeding during the period of this
10 agreement, unless appealed as provided in Section 14.6

11 Section 14.6. Appeal. Either party may appeal an award
12 of the arbitrators by instituting an action in the
13 Superior Court of Guam within thirty (30) days of the date
14 of the award. The review by the court shall be based on
15 the record before the arbitrators to determine if the
16 award is arbitrary or capricious.

17 Section 14.7. Construction. Nothing herein contained
18 shall be deemed to give the arbitrators any authority,
19 power, or right to alter, change, amend, modify, add to,
20 or subtract from any of the provisions of this Lease.

21 Section 15. ASSIGNMENT AND SUBLEASE.

22 Section 15.1. Assignment. Except as provided under
23 Section 16 below, Lessee shall not assign this Lease
24 without first having obtained the written consent of

1 Lessor. Lessor shall have the right to determine the
2 financial stability of any assignee and such consent shall
3 not be unreasonably withheld. In any event, Lessee may
4 assign this Lease without consent of Lessor to any entity,
5 business or venture in which the Lessee owns a substantial
6 interest. The Lessee shall also have the right without
7 the consent of but with consultation of Lessor to assign
8 all or a portion of Lessee's rights under this Lease by
9 way of mortgage under the conditions set forth in Section
10 16 below.

11 Section 15.2. Subleases. Lessee may enter into subleases
12 of portions of the Premises without the necessity of
13 obtaining the consent of Lessor, provided that any
14 sublease is expressly subject to the terms of this Lease.

15 Section 16. MORTGAGE OF THE PREMISES. The Lessee shall have
16 the right, without the necessity of the consent of but in
17 consultation with the Lessor, to assign all or any portion of
18 Lessee's rights under this Lease by way of mortgage provided
19 such mortgage is for a sum of not less than eighty-five percent
20 (85%) of the value of the premises, then Lessee's written
21 approval shall be necessary prior to the execution of any
22 mortgage. If so requested by Lessee and by any Lender, Lessor
23 will execute such document or documents as are customary and
24 reasonably required to provide for the protection of an

1 institutional mortgagee as to the leasehold estate ("Mortgagee
2 Protection Documents"). Such Mortgagee Protection Documents
3 would include but not be limited to the matters set forth in
4 Exhibit "C" attached hereto.

5 Section 17. EVENTS AND CONSEQUENCES OF DEFAULT. Any one or
6 more of the following events shall constitute a default:

7 Section 17.1. Events of Default.

8 Section 17.1.1. Failure to Pay Rent. The Lessee
9 shall fail to pay the rent herein reserved or any
10 part thereof within fifteen (15) days after the same
11 becomes due, whether the same shall or shall not be
12 legally demanded; or

13 Section 17.1.2. Failure to Observe Covenants. The
14 Lessee shall fail to observe or perform any other of
15 the covenants herein contained and on the part of the
16 Lessee to be observed and performed, and such failure
17 shall continue for a period of thirty (30) days after
18 written notice thereof given by Lessor to the Lessee.
19 For the purposes hereof, no event of default shall be
20 deemed to exist under this Lease in respect to the
21 performance of work required to be performed, or of
22 acts to be done, or of conditions to be remedied, if
23 steps shall, in good faith, have been commenced
24 within the time permitted therefor to rectify the

1 same and shall be prosecuted to completion with
2 diligence and continuity; or
3 Section 17.1.3. Abandonment. The Lessee shall
4 abandon the demised Premises; or
5 Section 17.1.4. Bankruptcy. The Lessee shall become
6 bankrupt or insolvent, or seek protection under any
7 provision of the Bankruptcy Act, or if any assignment
8 be made of Lessee's property for the benefit of its
9 creditors, or if the Premises or any part thereof
10 shall be taken upon execution.
11 Section 17.1.5. Fraud. The Lessee shall knowingly
12 with intent to defraud Lessor understate the revenues
13 for the calculation of rent as provided in Section 3.
14 Section 17.2. Remedies. In case of any such event of
15 default the Lessor may, upon the occurrence of such event
16 of default or at any time thereafter during the con-
17 tinuance of such default for a period of thirty (30) days
18 after written notice to Lessee, at its option, terminate
19 this Lease by giving written notice thereof to the Lessee,
20 and upon such termination the Lessor may then or at any
21 time thereafter re-enter the Premises or any part thereof
22 in the name of the whole and thereupon take possession of
23 the said Premises and all improvements thereon and may
24 expel and remove from the Premises the Lessee and those

1 claiming under the Lessee, and the Lessee and its effects,
2 without service of notice or resort to any legal process
3 and without being deemed guilty of any trespass or
4 becoming liable for any loss or damage which may be
5 occasioned thereby, or may then or at any time thereafter
6 bring an action for summary possession of said Premises or
7 any part thereof as provided by law, all without prejudice
8 to any other remedy or right of action which the Lessor
9 may have for arrears of rent or for any preceding or other
10 breach of contract.

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

19 Section 19. FORCE MAJEURE. Lessee's performance is subject
20 to force majeure, and is contingent upon strikes, accidents,
21 acts of God, weather conditions, inability to secure labor,
22 fire regulations or restrictions imposed by any government or
23 governmental agency, or other delays beyond the control of the
24 Lessee.

1 Section 20. GOVERNMENT APPROVALS.

2 Section 20.1. Approvals Necessary. The parties under-
3 stand that the approval of several federal and territorial
4 governmental agencies shall be required before work can be
5 commenced for development of the Premises as follows:

6 Section 20.1.1. Territorial. The Territorial
7 agencies are as follows: Territorial Planning
8 Commission; Territorial Seashore Protection Com-
9 mission; Department of Land Management, Government of
10 Guam-Division of Aquatic and Wildlife Resources;
11 Government of Guam-Department of Parks and Recrea-
12 tion; Guam Environmental Protection Agency; Bureau of
13 Planning, Coastal Zone Management, Federal Consist-
14 ency Determination and Subdivision Development Review
15 Committee.

16 Section 20.1.2. Federal. The Federal agencies
17 are as follows: United States Army Corps of
18 Engineers; United States Environmental Protection
19 Agency; United States Fish and Wildlife Services;
20 National Marine Fisheries; and United States Coast
21 Guard.

22 Section 20.2. Lessee Processing Approvals. Lessee agrees
23 upon or before the commencement date of this Lease to
24 submit appropriate applications to the governmental

1 agencies set forth in Section 20.1.2. plus any other
2 governmental agency claiming jurisdiction over any aspect
3 of the development of the Premises as may be required by
4 such agencies as may be necessary for such agency to
5 complete its review and approval of Lessee's development
6 of the Premises. Lessee agrees to diligently follow
7 through with each agency to obtain the required approvals
8 in a timely manner as may be consistent with each of the
9 above agencies' availability and schedule. However, the
10 timing and sequence of the filing with the agencies set
11 forth in Section 20.1 shall be at the sole discretion of
12 Lessee.

13 Section 20.3. Lessor's Cooperation. It is understood by
14 Lessor that Lessor's cooperation will be necessary in many
15 of the review processes of the agencies set forth in 20.1.
16 and Lessor shall cooperate with Lessee in connection with
17 preparation of any applications, or documents in support
18 of such application and will support such applications in
19 any hearings or review by such agencies.

20 Section 21. CONDITIONS PRECEDENT TO LESSEE'S PERFORMANCE.
21 The parties understand that the development of the Agana Boat
22 Basin will be an expensive and time-consuming project and
23 further, such development will require the approval of several
24 governmental agencies before work can commence.

1 Section 21.1. Government Approvals. The approval of the
2 governmental agencies set forth in Section 20.1 and any
3 other governmental agency asserting jurisdiction over the
4 development of the Premises shall be a condition precedent
5 to Lessee's performance under the terms of this Lease and
6 if such approval is not obtained within a reasonable time
7 frame, the Lessee at its sole option and discretion, may
8 terminate this Lease by giving written notice to Lessor.

9
10 Section 21.2. Cooperation of Guam Fisherman's Co-Op. It
11 is understood that the land currently occupied by the Guam
12 Fisherman's Co-Op and the services currently provided by
13 the Guam Fisherman's Co-Op are an important aspect of the
14 development of the Marina. In the event Lessee is unable
15 to reach an agreement with the Guam Fisherman's Co-Op for
16 relocation of its facilities or otherwise acquire the land
17 occupied by the Guam Fisherman's Co-Op, Lessee may at its
18 sole option waive the necessity of having the cooperation
19 or land of the Guam Fisherman's Co-Op.

20 Section 22. MISCELLANEOUS PROVISIONS.

21 Section 22.1. Notices. Any notice of demand to Lessor or
22 Lessee provided for or permitted by this Lease may be
23 given sufficiently for all purposes in writing mailed as
24 registered or certified mail, addressed to such party at

1 the post office address herein specified or the last such
2 address designated by such parting in writing to the
3 other, or delivered personally to Lessor or Lessee, as the
4 case may be, and shall be deemed conclusively to have been
5 given on the date of such mailing or personal delivery.

6 Section 22.2. Consents. As to any matter herein to which
7 the Lessor's consent is required, such consent shall be
8 made in writing and shall not be unreasonably withheld or
9 delayed, nor shall any compensation be required for such
10 consent. If such consent or denial of consent is not
11 forthcoming within thirty (30) days of receipt by Lessor,
12 the consent to such matters so submitted shall be deemed
13 to have been granted.

14 Section 22.3. Attorneys' Fees. Should either party com-
15 mence to any legal action or proceeding against the other
16 based upon this Lease or any provision hereof, including,
17 without limitation, this provision, the prevailing party
18 shall be entitled to an award of attorneys' fees.

19 Section 22.4. Further Assurances. The parties hereto
20 shall, whether before or after the date hereof, execute
21 and deliver such further instruments and do such further
22 acts and things as may be required to carry out the intent
23 and purposes of this Lease.

1 Section 22.5. Number and Gender. Whenever required by
2 the context hereof, the singular shall include the plural,
3 and vice versa, and the masculine gender shall include the
4 feminine and neuter genders, or vice versa. All terms
5 defined within quotation marks are as defined whenever
6 such terms are used herein.

7 Section 22.6. Captions. Captions at the beginning of
8 each paragraph are for convenience only and shall not be
9 deemed to be a part of any contents of this Lease.

10 Section 22.7. Binding Effect; Inurement to Successor.
11 Except as otherwise provided herein, this Lease and each
12 and every provision hereof shall be binding on and shall
13 inure to the benefit of the parties hereto, their
14 respective personal representatives, successors, heirs,
15 and permitted assigns, and to each and every successor-in-
16 interest of any party hereto.

17 Section 22.8. Severability. This Lease is intended to be
18 performed in accordance with and only to the extent
19 permitted by all applicable laws, ordinances, rules and
20 regulations of the Territory of Guam. If any provision of
21 this Lease or the application thereto to any person or
22 circumstances shall, for any reason and to any extent be
23 invalid or unenforceable, the remainder of this Lease and
24 the application of such provision to the other persons or

1 circumstances shall not be affected thereby, but rather
2 shall be enforced to the greatest extent permitted by law.
3 Section 22.9. Governing Law. This Lease shall be
4 governed by and construed in accordance with the laws of
5 the Territory of Guam.
6 Section 22.10. Entire Agreement. This Lease contains the
7 entire understanding among the parties and supersedes any
8 prior or contemporaneous understandings or agreements
9 between them respecting the matters herein.
10 Section 22.11. Neither Party Deemed Drafter. Lessor and
11 Lessee agree that neither party shall be deemed to be the
12 drafter of this Lease and that in the event that this
13 Lease is ever construed by a court of law, such court
14 shall not construe this Lease or any provision of this
15 Lease against either party as drafter of the Lease.
16 Section 22.12. Amendment. This Lease may only be amended
17 by an instrument in writing signed by each of the parties
18 hereto.
19 Section 22.13. Relationship of Parties. Nothing contained
20 herein shall be construed to constitute Lessee as the
21 agent of Lessor, or otherwise constitute Lessee as an
22 agency of the Government of Guam.
23 Section 23. RIGHT OF FIRST REFUSAL. Should Lessor, at any
24 time during the term of this Lease or any renewal or extension

1 hereof, receive an acceptable bona fide offer for the purchase
2 of the Premises from any third party, Lessor shall forthwith
3 promptly submit such offer to Lessee and Lessee shall be
4 entitled for a period of ninety (90) days after receipt of the
5 offer within which to elect whether or not Lessee will purchase
6 the Premises on the terms and conditions set forth in the
7 offer. All offers must be bona fide and in writing. Should
8 Lessee elect not to purchase the Premises on the terms and
9 conditions specified in the offer then Lessor shall be free to
10 sell the Premises but only on the express terms noticed and
11 offered to Lessee. Any sale to a third party shall be in all
12 events subject to and subordinate to the terms and conditions
13 of this Lease. This provision shall be binding upon all
14 successors and assigns of Lessor, and shall continue in full
15 force and effect throughout the term hereof, as may be
16 extended.

17 Section 24. LEGISLATIVE APPROVAL. It is understood that
18 under applicable law, this Lease must be approved or confirmed
19 by the Guam Legislature and the parties shall cooperate in
20 submitting this Lease for approval and in using their best
21 efforts and good faith to obtain such approval as promptly as
22 reasonably possible. The term of this Lease shall not commence
23 until legislative approval is obtained and the date is provided
24 in Section 2.1. Provided, however, that prior to the date

1 legislative approval is obtained, Lessee may, at its sole risk
2 and sole expense, enter upon and make any investigations and
3 tests it may deem necessary or appropriate for its contemplated
4 development of the Premises and Lessee may, at its option,
5 submit such plans and any other documents which may be required
6 hereunder for Lessor's approval. In the event Lessee chooses
7 to submit such documents, then time periods required for
8 approval hereunder shall commence as of the date of submission
9 of such documents. In the event any required legislative
10 approval is not obtained within a reasonable period not-
11 withstanding the efforts of the parties then Lessee, in its
12 sole discretion and its sole option, may upon not less than
13 ninety (90) days prior written notice to Lessor, elect to
14 cancel this Lease without penalty.

15

1 IN WITNESS WHEREOF, the parties hereto have executed this
2 Lease as of the date first above written.

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LESSOR:

PORT AUTHORITY OF GUAM

By: [Signature]
Its Duly Authorized
Representative

LESSEE:

INTERNATIONAL DESIGN
CONSORTIUM, INC.

By: [Signature]
Its Duly Authorized
Representative

Witness:

[Signature]
[Signature]

Date: [Date]

Date: [Date]

7-31-89
10-6-89 (rev.)

PROTECTION OF MORTGAGEE

1. In the event there is a mortgage on the Premises, Lessor will not terminate the Lease because of any default on the part of Lessee to observe or perform any of the covenants or conditions herein contained if the mortgagee or its assigns, within sixty (60) days after the date that the Lessor shall have mailed to the mortgagee or its assigns at the last known address thereof a written notice of Lessor's intention to terminate this Lease for such cause, shall cure such default, if the same can be cured by the payment of money, or, if such is not the case, shall undertake in writing to thereafter pay all rent and other charges as and when due under this Lease and to perform all other covenants of this Lease capable of performance by the mortgagee or its assigns until such time as this Lease shall be sold upon foreclosure of such mortgage commenced promptly and completed with due diligence.

2. Any default (a) consisting of Lessee's failure promptly to discharge any attachment, judgment, lien, charge or encumbrance against the premises junior in priority to such mortgage or (b) which is otherwise not susceptible to cure by mortgagee except upon obtaining possession of the premises or foreclosure, shall be deemed to be duly cured if such mortgage shall be foreclosed by appropriate action instituted within

said 60-day period and thereafter prosecuted in a diligent and timely manner.

3. Lessor agrees that simultaneously with mailing or delivering any notice of default or breach under or with respect to this Lease to Lessee, that it will mail or deliver a copy thereof to the permitted mortgagee(s) of this Lease at their last known address.

4. The name of any mortgagee may be added to any loss payable endorsement of any insurance policies required to be carried by Lessee. Lessor will make all insurance proceeds or condemnation proceeds to which Lessee may otherwise be entitled hereunder available jointly to Lessee and to any mortgagee, and such proceeds may be applied as provided in any mortgage.

5. If Lessee fails to exercise any extension or renewal option provided for in this Lease the Lessor shall send to the mortgagee written notice thereof and if there is a remaining balance due on the mortgage, such mortgagee, within ten (10) days after receipt of such notice, may exercise any such option on behalf of Lessee.

6. There should be no cancellation, mutual termination, surrender or amendment of this Lease without the prior written consent of any mortgagee.

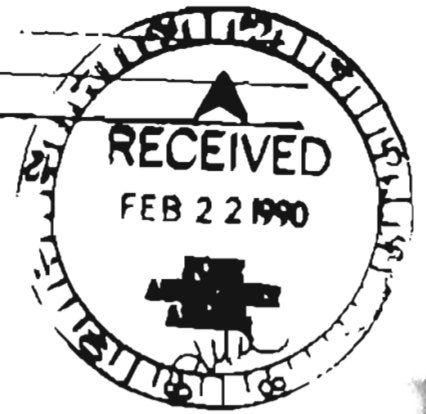
11-08-89

ACKNOWLEDGEMENT RECEIPT

Received By _____

Time _____

Date _____



FILE

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

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

February 21, 1990

Mr. David Tydingco
General Manager
Port Authority of Guam
1026 Cabras Highway
Suite 201
Piti, Guam

RE: Review of proposed lease agreement of the
Port Authority of Guam and International Design
Consortium, Inc. for the Agaña Marina (the
"Lease").

Dear Mr. Tydingco,

As Chairman of the Committee on Tourism & Transportation and the Acting Chairman of the Committee on Housing and Community Development, I and the other members have been reviewing the Lease so as to be able to recommend to the Legislature at its next session whether the same should be approved or disapproved.

The same public law that requires legislative approval of the Lease, namely, §3 of Public Law 6, 15th Guam Legislature, also provides that no lease of government property shall be for a term exceeding fifty years. The Lease while for an initial term of fifty years contains the right to extend the term for an additional twenty-five years at the option of the lessee, and the rent formula in the Lease based on a percentage of revenue is calculated for seventy-five years. Accordingly, the Lease is in point of fact for a seventy-five year term.

These committees are not in a position to judge the appropriateness or fairness of the law in question, but can only operate under its direction. Accordingly, this is to advise you that these committees cannot recommend to the Legislature

that the Lease be approved so long as it contains the seventy-five year term so in violation of law. There is no legislation now pending which would change the law, no request has been made by the Administration or any of the committees at the Legislature to revise same, and we therefore believe that it is not within the purview of our review of the Lease to propose any changes in the law.

If the Port Authority of Guam feels that it cannot negotiate the type of lease it wishes for the development of the Agana Marina without the flexibility of a seventy-five year term, we suggest that you initiate efforts, through appropriate channels, to amend the law.

The Committees are continuing to review the terms of the Lease and will make its report thereon to the Legislature. However, we deemed it important to notify you at this juncture that the Committees believe that the law must be adhered to insofar as the Lease term is concerned.

Your immediate attention and expeditious reply on the aforementioned matter will be greatly appreciated.

Sincerely,


JOHN PEREZ AGUON

c: Philip Flores



PORT AUTHORITY OF GUAM
ATURIDATI PUEYTON GUAHAN
GOVERNMENT OF GUAM
1026 Cabras Highway
Suite 201
Piti, Guam 96925

Telephone: (671) 477-5931/35
(671) 477-2683/85
Telex: (7211 6689 PAAGUM
Facsimile: (671) 477-2689

February 23, 1990

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

Hafa Adai Mr. Chairman:

Thank you for your letter of February 21, 1990 relative to the Agana Marina Privatization Project.

I have discussed the issue relative to the term of the lease with the Chairman of the Port Authority Board of Directors and International Design Consortium, Inc. ("IDC") officials. We believe that a fifty (50) year lease can only be financially feasible if IDC is given the following options:

1. Provided a valid lease exists at the expiration of the term, Lessee should have at least the right of first refusal to a new term should the Port Authority decide to release the property to a private entity for management. In essence, they would be given the right to match the highest reasonable and qualified bid and continue management for an agreed upon term.

2. IDC should be afforded the opportunity to extend the lease for the maximum term allowed by the Legislature for other leases of government land in the event the Legislature should change its position in the future. This extension would, of course, be subject to application to the lessor and requiring ultimate approval by the Legislature.

Other issues that may have been of concern to the Legislature are discussed in more detail in the enclosed letter from IDC.

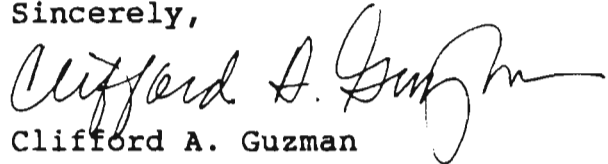
" COMMONWEALTH NOW "

Mr. David B. Tyngco
General Manager
Port Authority of Guam
February 23, 1990
Page 4

project and upon approval of the Army Corps, they will have spent an additional \$2 Million in the project. The shares of IDC are to be held as follows: Tasuku Chino, 68.6%; Clifford A. Guzman, 15.4%; Yasuhiro Kishimoto, 10.0%; S. Cornell Tanetani, 3.0%; and Henry M. Simpson, 3.0%.

While the local interest is slightly less than provided in the letter of intent, I have retained the operational and developmental discretion I felt were vital to the project. Although Mr. Chino is responsible for securing 98% of the funds necessary for this project (\$103 Million), he has recognized my continued contribution and has agreed to only a 68% equity ownership. I am very comfortable with the corporate structure we now have and am confident we will deliver a project which will bring great pride to Guam.

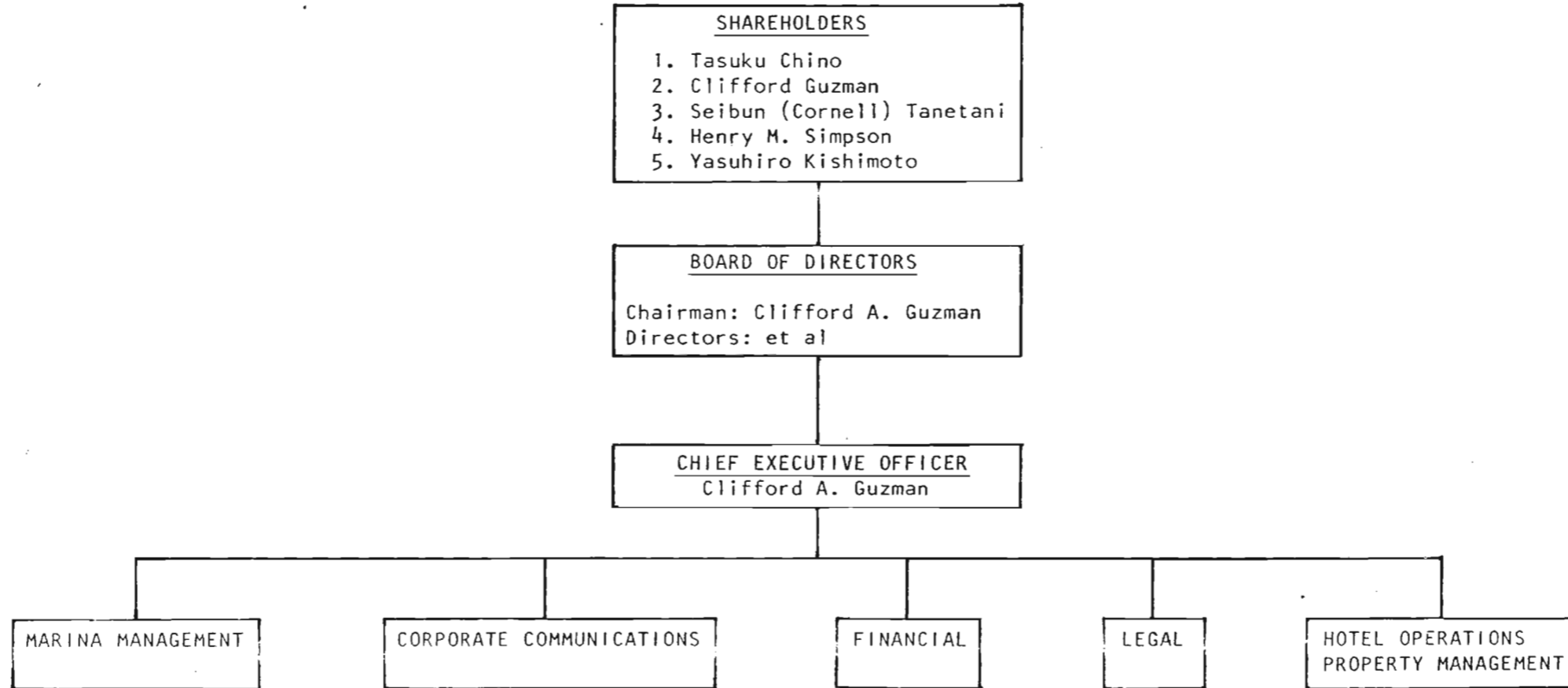
Sincerely,



Clifford A. Guzman

CAG:DCW:lcs:agi
Enclosure
G9001788

INTERNATIONAL DESIGN CONSORTIUM
CORPORATE STRUCTURE



AGANA MARINA DEVELOPMENT PROJECT
 OVERALL BENEFITS TO THE PORT AUTHORITY IN TERMS OF
 GROUND LEASE PAYMENTS AND OTHER RELATED IMPROVEMENT COSTS
 (IN THOUSANDS OF DOLLARS)

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	TOTAL
GROUND LEASE PAYMENTS(+)	75	150	150	271	299	343	368	393	412	434	462	484	484	494	484	5,292
NET OP. INCOME (-)	(43)	(327)	(240)	(354)	(357)	(282)	(398)	(414)	(430)	(447)	(465)	(484)	(502)	(523)	(544)	(6,021)
REPLACEMENT COSTS (+)	0	363	363	363	363	363	363	363	363	363	363	363	363	363	363	5,052
DEBT SERVICE (+)	0	0	1,227	1,227	1,227	1,227	1,227	1,227	1,227	1,227	1,227	1,227	1,227	1,227	1,227	15,991
TOTAL	2,023	2,198	3,413	3,521	3,536	3,567	3,577	3,587	3,591	3,597	3,608	3,612	3,594	3,575	3,555	50,554
CUM TOTAL	2,023	4,221	7,634	11,155	14,691	18,258	21,835	25,422	29,013	32,610	36,218	39,830	43,424	46,999	50,554	
% OF GROSS REVENUES	3.86%	9.58%	4.98%	4.61%	4.25%	4.05%	3.84%	3.72%	3.58%	3.45%	3.34%	3.22%	3.06%	2.90%	2.75%	4.08%

OVERALL CASH FLOW PROJECTIONS FOR THE
AGANA MARINA DEVELOPMENT PROJECT
(IN THOUSANDS OF DOLLARS)

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	TOTAL
<MARINA>																
REVENUES	0	193	483	502	522	543	565	587	611	635	661	687	714	743	772	8,219
EXPENSES	0	150	156	1,390	1,396	1,403	1,410	1,417	1,425	1,433	1,441	1,450	1,459	1,468	1,477	17,475
NET CASH FLOW BEFORE TAX	0	43	327	(888)	(874)	(860)	(845)	(830)	(814)	(798)	(780)	(763)	(745)	(725)	(704)	(9,256)
CUMULATIVE CASH FLOW	0	43	370	(518)	(1,392)	(2,252)	(3,097)	(3,927)	(4,741)	(5,539)	(6,319)	(7,082)	(7,827)	(8,552)	(9,256)	(9,256)
<HOTEL>																
REVENUES	0	0	0	24,647	27,484	31,847	34,424	36,658	38,491	40,493	42,437	44,558	46,787	49,213	51,566	437,810
EXPENSES	71	143	143	30,430	32,383	34,753	36,441	37,792	38,861	40,050	41,392	42,544	43,717	45,535	48,392	472,647
NET CASH FLOW BEFORE TAX	(71)	(143)	(143)	(5,583)	(4,899)	(2,906)	(33,012)	(1,134)	(370)	443	1,045	2,014	3,070	3,678	3,174	(34,837)
CUMULATIVE CASH FLOW	(71)	(214)	(357)	(5,940)	(10,839)	(13,745)	(46,757)	(47,891)	(48,261)	(47,818)	(46,773)	(44,759)	(41,689)	(38,011)	(34,837)	(34,837)
<VILLAGE>																
REVENUES	0	828	2,153	2,239	2,329	2,422	2,518	2,619	2,724	2,833	2,946	3,064	3,187	3,314	3,447	36,623
EXPENSES	4	143	343	2,085	2,100	2,115	2,132	2,148	2,166	2,184	2,203	2,223	2,241	2,261	2,282	26,630
NET CASH FLOW BEFORE TAX	(4)	685	1,810	154	229	307	386	471	558	649	743	841	946	1,053	1,165	9,993
CUMULATIVE CASH FLOW	(4)	681	2,491	2,645	2,874	3,181	3,567	4,038	4,596	5,245	5,988	6,829	7,775	8,828	9,993	9,993
<TOTAL>																
REVENUES	0	1,021	2,636	27,588	30,335	34,812	6,512	39,864	41,826	43,961	46,044	48,309	50,688	53,270	55,786	482,652
EXPENSES	75	436	642	33,905	35,879	38,271	39,983	41,357	42,452	43,657	45,036	46,217	47,417	49,264	52,151	516,752
NET CASH FLOW BEFORE TAX	(75)	585	1,994	(6,317)	(5,544)	(3,459)	(33,471)	(1,493)	(626)	294	1,008	2,092	3,271	4,006	3,635	(34,100)
CUMULATIVE CASH FLOW	(75)	510	2,504	(3,813)	(9,357)	(12,816)	(46,287)	(47,780)	(48,406)	(48,112)	(47,104)	(45,012)	(41,741)	(37,735)	(34,100)	(34,100)

\$ UNITS: 1,000

INTERNATIONAL MARINA CLUB AND HOTEL
ESTIMATED STATEMENT OF FIXED CHARGES AND CASH FLOW

EXHIBIT V-3

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
FIXED CHARGES & AFTER TAX INCOME:																					
Operating profit	7,116	8,465	10,970	12,130	13,195	13,854	14,603	15,276	16,039	16,842	17,743	18,556	19,477	20,447	21,544	22,528	23,649	24,824	26,156	27,352	
Short term interest 5.0%		0	0	0	0	0	0	0	0	0	0	0	0	13	250	531	852	1,219	1,634	2,102	
Depreciation & Amortization	3,600	3,679	3,770	3,917	4,074	4,239	4,413	3,211	3,323	3,433	3,497	3,561	3,628	3,698	3,772	3,849	3,930	4,015	4,105	4,199	
Lease	248	275	318	343	367	385	400	400	400	400	400	400	609	609	609	609	609	609	609	609	
Property taxes	309	309	309	340	340	340	374	374	374	411	411	411	452	452	452	497	497	497	547	547	
Increase	685	719	755	793	833	875	919	965	1,013	1,064	1,117	1,173	1,232	1,294	1,359	1,427	1,498	1,573	1,652	1,735	
Incentive Management Fee	227	348	582	674	758	802	850	1,033	1,093	1,153	1,232	1,301	1,356	1,439	1,535	1,615	1,712	1,813	1,924	2,026	
Interest:																					
Working Capital Loan 10.0%	0	558	1,048	1,339	1,533	1,667	1,704	1,659	1,533	1,353	1,046	679	361	0	0	0	0	0	0	0	
Bank loan 1 - Y 11.0%	7,550	7,173	6,795	6,323	5,946	5,568	5,191	4,813	4,436	4,058	3,680	3,303	2,925	2,548	2,170	1,793	1,415	1,038	660	283	
Bank loan 2 - \$ 10.0%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total Fixed Charges	12,619	13,061	13,577	13,729	13,871	13,876	13,851	12,435	12,194	11,872	11,383	10,828	10,563	10,040	9,897	9,790	9,661	9,545	9,437	9,399	
Income for Profit Sharing	(5,503)	(4,596)	(2,607)	(1,599)	(676)	(22)	752	2,821	3,845	4,970	6,360	7,728	8,914	10,420	11,897	13,269	14,840	16,498	18,293	20,055	
Profit Share Contribution 10.0%	0	0	0	0	0	0	75	282	385	497	636	773	891	1,042	1,190	1,327	1,484	1,650	1,829	2,006	
NET PROFIT (LOSS) BEFORE TAX	(5,503)	(4,596)	(2,607)	(1,599)	(676)	(22)	677	2,539	3,460	4,473	5,724	6,955	8,023	9,378	10,707	11,942	13,356	14,848	16,464	18,049	
Unused loss carryforward	(5,503)	(10,099)	(12,706)	(14,305)	(14,981)	(15,003)	(14,326)	(11,787)	(8,327)	(3,854)	0	0	0	0	0	0	0	0	0	0	
Taxable income	0	0	0	0	0	0	0	0	0	0	1,870	6,955	8,023	9,378	10,707	11,942	13,356	14,848	16,464	18,049	
Income tax payable	0	0	0	0	0	0	0	0	0	0	636	2,365	2,728	3,189	3,640	4,060	4,541	5,048	5,598	6,137	
NET PROFIT (LOSS)	(5,503)	(4,596)	(2,607)	(1,599)	(676)	(22)	677	2,539	3,460	4,473	5,088	4,590	5,295	6,189	7,067	7,882	8,815	9,800	10,866	11,912	
OTHER SOURCES OF CASH:																					
Depreciation deduction	3,600	3,679	3,770	3,917	4,074	4,239	4,413	3,211	3,323	3,433	3,497	3,561	3,628	3,698	3,772	3,849	3,930	4,015	4,105	4,199	
Loan proceeds:																					
Bank loan 1 - Y	68,637																				
Bank loan 2 - \$	0																				
Equity Contribution	12,113																				
TOTAL CASH SOURCES	80,750	3,600	3,679	3,770	3,917	4,074	4,239	4,413	3,211	3,323	3,433	3,497	3,561	3,628	3,698	3,772	3,849	3,930	4,015	4,105	4,199
USE OF CASH:																					
Local Construction:																					
Building Costs	58,920																				
Capitalized expenses	10,890																				
Furniture & Fixtures	9,440	248	550	637	1,029	1,100	1,155	1,215	1,273	1,337	1,404	1,476	1,547	1,624	1,705	1,794	1,879	1,973	2,071	2,179	2,283
Loan Repayments:																					
Bank loan 1 - Y	3,432	3,432	3,432	3,432	3,432	3,432	3,432	3,432	3,432	3,432	3,432	3,432	3,432	3,432	3,432	3,432	3,432	3,432	3,432	3,429	
Bank loan 2 - \$	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Dividend payments																					
TOTAL CASH USES	79,250	3,680	3,982	4,069	4,461	4,532	4,587	4,647	4,705	4,769	4,836	4,908	4,979	5,056	5,137	5,226	5,311	5,405	5,503	5,611	5,712
NET CASH FLOW	1,500	(5,583)	(4,899)	(2,906)	(2,143)	(1,134)	(370)	443	1,045	2,014	3,070	3,677	3,172	3,867	4,750	5,613	6,420	7,340	8,312	9,360	10,399
Working Capital Loan Required	5,583	4,899	2,906	2,143	1,134	370	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Working Capital Loan Repayment	0	0	0	0	0	0	443	1,045	2,014	3,070	3,677	3,172	3,614	0	0	0	0	0	0	0	
Working Capital Balance	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,753	6,503	12,116	18,536	25,876	34,188	43,548	53,947
DEBT BALANCES:																					
Working Capital Loan	0	5,583	10,482	13,388	15,531	16,665	17,035	16,592	15,547	13,533	10,463	6,786	3,614	0	0	0	0	0	0	0	
Bank loan 1 - Y	68,637	65,205	61,773	58,341	54,909	51,477	48,045	44,613	41,181	37,749	34,317	30,885	27,453	24,021	20,589	17,157	13,725	10,293	6,861	3,429	
Bank loan 2 - \$	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
ENDING TOTAL DEBT	68,637	70,788	72,255	71,729	70,440	68,142	65,080	61,205	56,728	51,282	44,780	37,671	31,067	24,021	20,589	17,157	13,725	10,293	6,861	3,429	0

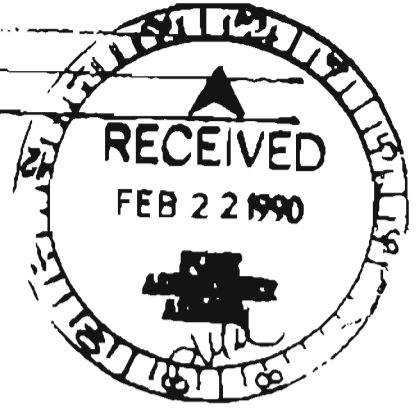
ACKNOWLEDGEMENT RECEIPT

Received By _____

Time _____

Date _____

FILE



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

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

February 21, 1990

Mr. David Tydingco
General Manager
Port Authority of Guam
1026 Cabras Highway
Suite 201
Piti, Guam

RE: Review of proposed lease agreement of the Port Authority of Guam and International Design Consortium, Inc. for the Agaña Marina (the "Lease").

Dear Mr. Tydingco,

As Chairman of the Committee on Tourism & Transportation and the Acting Chairman of the Committee on Housing and Community Development, I and the other members have been reviewing the Lease so as to be able to recommend to the Legislature at its next session whether the same should be approved or disapproved.

The same public law that requires legislative approval of the Lease, namely, §3 of Public Law 6, 15th Guam Legislature, also provides that no lease of government property shall be for a term exceeding fifty years. The Lease while for an initial term of fifty years contains the right to extend the term for an additional twenty-five years at the option of the lessee, and the rent formula in the Lease based on a percentage of revenue is calculated for seventy-five years. Accordingly, the Lease is in point of fact for a seventy-five year term.

These committees are not in a position to judge the appropriateness or fairness of the law in question, but can only operate under its direction. Accordingly, this is to advise you that these committees cannot recommend to the Legislature

that the Lease be approved so long as it contains the seventy-five year term so in violation of law. There is no legislation now pending which would change the law, no request has been made by the Administration or any of the committees at the Legislature to revise same, and we therefore believe that it is not within the purview of our review of the Lease to propose any changes in the law.

If the Port Authority of Guam feels that it cannot negotiate the type of lease it wishes for the development of the Agana Marina without the flexibility of a seventy-five year term, we suggest that you initiate efforts, through appropriate channels, to amend the law.

The Committees are continuing to review the terms of the Lease and will make its report thereon to the Legislature. However, we deemed it important to notify you at this juncture that the Committees believe that the law must be adhered to insofar as the Lease term is concerned.

Your immediate attention and expeditious reply on the aforementioned matter will be greatly appreciated.

Sincerely,


JOHN PEREZ AGUDON

c: Philip Flores



PORT AUTHORITY OF GUAM
ATURIDAT I PUEYTON GUAHAN
GOVERNMENT OF GUAM
1026 Cabras Highway
Suite 201
Piti, Guam 96925

Telephone: (671) 477-5931/35
(671) 477-2683/85
Telex: (721) 6689 PAGGUM
Facsimile: (671) 477-2689

February 23, 1990

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

Hafa Adai Mr. Chairman:

Thank you for your letter of February 21, 1990 relative to the Agana Marina Privatization Project.

I have discussed the issue relative to the term of the lease with the Chairman of the Port Authority Board of Directors and International Design Consortium, Inc. ("IDC") officials. We believe that a fifty (50) year lease can only be financially feasible if IDC is given the following options:

1. Provided a valid lease exists at the expiration of the term, Lessee should have at least the right of first refusal to a new term should the Port Authority decide to release the property to a private entity for management. In essence, they would be given the right to match the highest reasonable and qualified bid and continue management for an agreed upon term.

2. IDC should be afforded the opportunity to extend the lease for the maximum term allowed by the Legislature for other leases of government land in the event the Legislature should change its position in the future. This extension would, of course, be subject to application to the lessor and requiring ultimate approval by the Legislature.

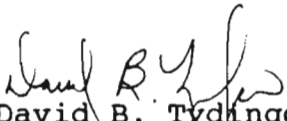
Other issues that may have been of concern to the Legislature are discussed in more detail in the enclosed letter from IDC.

" COMMONWEALTH NOW "

The Honorable John P. Aguon, Chairman
Committee on Tourism & Transportation
February 23, 1990
Page 2 of 2

We look forward to working with you and other members
of the Legislature to make this project successful for the
people of Guam.

Si Yu'os Ma'ase,


David B. Tydingco
General Manager

DBT:pca

cc: Chairman of the Board
Members of the Board of Directors



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

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

March 1, 1990

David B. Tydingco, General Manager
Port Authority of Guam
1025 Cabras Highway, Suite 210
Piti, Guam 96925

Dear Mr. Tydingco,

Hafa adai. The Committee on Tourism & Transportation has completed its analysis of Bills 1020 and 1036 concerning the lease agreement between the Port Authority of Guam and International Design Consortium, Inc. and is prepared to report the bills out of Committee pending receipt of all requested documents.

Your proposed Agana Marina project is one that I believe can be of great, long-term benefit to the people of Guam. I am pleased that we have been able to work together to correct the numerous deficiencies found by my Committee in the original lease agreement. I am also delighted to know that International Design Consortium's commitment to this project is such that they have agreed to a 50 year term for the lease as required by Public Law 15-6.

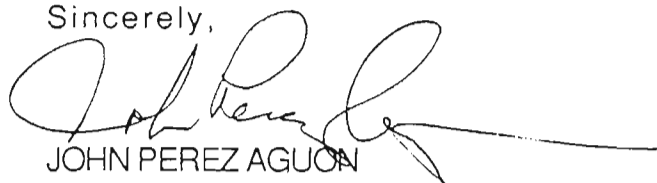
It is important, however, that all of our concerns are completely satisfied and that the documents before us are absolutely legal, proper and in order. I therefore must remind you that IDC has not yet complied with several requests for a legally executed document concerning an assignment of shares agreement among the members of their corporation. The document was originally requested verbally on several occasions by Committee staff, requested again on Feb. 26 by Committee members at a mark-up meeting, and once more at a Feb. 28 meeting. The document requested must identify the shareholders, their individual holdings following approval of the lease, and the role each will play in the project's various aspects.

This is a crucial issue in light of Mr. Clifford Guzman's plan to relinquish control of IDC and surrender more than two-thirds of his shares upon approval of the lease. Several of my colleagues have made clear to me their concern over the fact that majority ownership of the company will be transferred from local to foreign hands the moment the lease is

approved. Favorable consideration of the lease may be in jeopardy unless the proper documents can be produced and the concerns of all Senators are satisfied.

I request that you work with IDC and encourage them to submit to the Committee this important document so that the Legislature can properly act.

Sincerely,



JOHN PEREZ AGUON

c: Governor Ada
Philip Flores
Clifford Guzman
All Senators
All Media

INTERNATIONAL DESIGN CONSORTIUM INC.

997 SOUTH MARINE DRIVE, TAMUNING, GUAM, 96911.
TEL (671) 477-6102
FAX.(671) 646-7929

March 1, 1990

Honorable Senator John Aguon
Chairman
Committee on Tourism and Transportation
20th Guam Legislature
Agana, Guam 96910

CHAIRMAN, COMMITTEE ON TOURISM
TRANSPORTATION AND RECREATION

REC'D BY: Ganet
DATE: 2/2/90 TIME: 2:35

Dear Mr. Chairman:

I wish to thank you and the Committee for your kind diligence and attention to Bills 1020 and 1036, which deal with the Agana Boat Basin lease.

As investors of the Agana Marina project, we are extremely concerned about the direction that this lease has taken. We have invested our resources and our funds pursuing this partnership with the people of Guam, through the Port Authority. The resulting lease agreement was negotiated in good faith, honesty and trust on both parts; protecting the interests of the people of Guam while creating a project which makes sound business sense.

We appreciate the concerns that have been raised by the 20th Guam Legislature but feel that the lease negotiated with the Port addresses those concerns. The mark-up meetings have served to "tighten up" the language in some areas. The Committee's position that the Legislature cannot approve a fifty year lease with a twenty five year extension, denying the right to apply for a Qualifying Certificate and the placement of assignment flexibility in the political arena are placing the viability of the project in an unhealthy situation.

IDC feels that the major business points of the lease have been negotiated with the Port Authority. It is extremely important that IDC retains the ability and flexibility to develop and operate this project using sound business principles. We are creating a project by which the people of Guam can enjoy additional public amenities while sharing in the economic benefits of this project. To that end, it is important that we not limit the ability of the project to deal with inflation, and other potential business problems.

There seems to be serious misunderstandings regarding IDC's ownership composition. We have always been very up-front and open with our intentions relative to the issue of the ownership of IDC. Our need for outside financing, the investors backgrounds, and the change in ownership was presented to the Port Authority throughout the bidding and negotiations process to the Port who was authorized to negotiate this lease. Our ability to finance, develop and operate the project has been scrutinized carefully.

GUAM HONOLULU PHOENIX SAN DIEGO

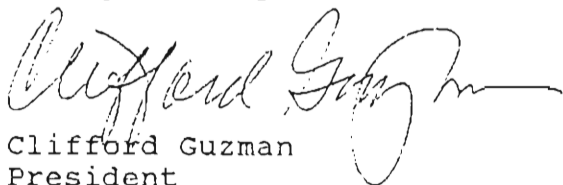
The percentage of ownership is clearly stated in the letter we submitted to your Committee on February 26, 1990 and should help you expedite your Committee report. We, as investors, cannot expose ourselves to further liability and commit further to a lease that is still undergoing changes and has not even been finalized. To do so goes against the basic fundamentals of good business practices. We have proven our commitment to the people of Guam by investing close to \$1,000,000 towards the consummation of the lease. This includes soliciting and incorporating public input, architectural and engineering expenses and other expense that we felt was necessary. Any further delays or cost incurred on our part is not be possible without knowing what we are committing to. I am respectfully requesting that a decision on the lease be forthcoming.

It has been pointed out that there are precedents that have been set in past leases relative to certain issues. I can only respond by stating that this is a very special and singular lease that deserves special and singular considerations. The risks associated with an investment of over \$100 million dollars in a project of this magnitude are extensive and sensitive. The risk to the people of Guam are minimal as there is no invested capital on the part of the Government and the property will always remain in the hands of the people.

The lease provides the Port with the ability to monitor and gauge our progress, review our revenue streams and protect the interests of the public. We feel that the Port has the ability to administer the lease in the most efficient and businesslike manner. Therefore, we respectfully request that the Legislature endeavor to keep the Port's negotiated lease intact relative to the extension, assignability clauses and our right to apply for a QC.

I respectfully request that you and your colleagues consider the positive effect that this project will have on this island. IDC is prepared to proceed with the lease as negotiated with the Port relative to the issues I have indicated. The ramification of any additional terms and conditions imposed by the Legislature in the lease can have a far reaching effect on the project's viability. IDC and our investors will have no choice but to base our decision to continue the project on the finalized lease as approved by the Legislature.

I respectfully await the decision of the Legislature.


Clifford Guzman
President

cc: General Manger Port Authority

CARLSMITH, WICHMAN, CASE, MUKAI AND ICHIKI

ATTORNEYS AT LAW

OFFICES

TELEPHONE
(671) 472-6813
CABLE ADDRESS
CWCM GU
TELECOPIER
(671) 477-4375
TELEX
721-8445 CWCM GM

A PARTNERSHIP INCLUDING LAW CORPORATIONS
134 WEST SOLEDAD AVENUE
BANK OF HAWAII BUILDING, SUITE 401
P. O. Box BF
AGANA, GUAM 96910

HONOLULU, HAWAII
HILO, HAWAII
KAILUA-KONA, HAWAII
WAILUKU, MAUI, HAWAII
LOS ANGELES, CALIFORNIA
SAIPAN, MP

March 2, 1990

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

CHAIRMAN, COMMITTEE ON TOURISM,
TRANSPORTATION & COMMUNICATIONS

RECD BY: Janet
DATE: 3/6/90 TIME: 8:10

Re: Lease Agreement between International Design Consortium ("IDC") and the Port Authority of Guam ("Port") of the Agana Boat Basin.

Dear Senator Aguon:

This letter is in follow up of your request for something more in writing concerning the ownership of IDC. I can assure you the agreement as to the stock ownership in IDC is as follows: 68%-Tasuku Chino; 15.4%-Clifford A. Guzman; 10%-Yasuhiro Kishimoto; 3%-S. Cornell Tanetani and 3%-Henry Simpson which is as set forth in Mr. Guzman's letter to David Tydingco dated February 23, 1990, and these commitments continue unaltered. I have requested a revised Investors Agreement or an amendment showing the ownership in an effort to satisfy the concerns which have been expressed by some Committee members.

Although the commitment to the project remains as set forth above, the commitment has been based on a lease agreement that would not only be workable from a business standpoint, but financeable. As a result of the substantial changes in the Lease suggested by the Legislature with no clear indication as to what the final Lease will look like, there is concern in Japan that the continued requests for signatures when the information was previously provided is in some way an effort by the Legislature to obtain their acquiescence to a lease that otherwise may not be acceptable from a financial and operational business standpoint.

I have been advised that while everyone remains committed to and believes in the project, they are not willing to do anything further by way of documentation until such time



PORT AUTHORITY OF GUAM
ATURIDAT I PUEYTON GUAHAN
GOVERNMENT OF GUAM
1026 Cabras Highway
Suite 201
Piti, Guam 96925

Telephone: (671) 477-5931/33
(671) 477-2683/86
Telex: (721) 6680 PAGGUM
Facsimile: (671) 477-2639

MAR 21 1990

Mr. Clifford Guzman
President
International Design Consortium
997 South Marine Drive
Tamuning, Guam 96911

Hafa Adai Clifford:

Enclosed for your review is a letter I received from Senator John Aguon dated March 20, 1990 relative to the lease agreement on the Agana Marina.

The Chairman and Vice Chairperson of the Board of Directors and I met with Senator Aguon on March 20, 1990 and discussed the issues that must be resolved before he will report the lease to the Legislature for action on the April 23, 1990 session.

First of all, Senator Aguon reiterated his position that the lease must comply with Public Law 15-6 relative to the term of the lease. The lease must be amended to reflect a 50 year term. Senator Aguon did state that he was willing to support a right of first refusal at the end of the term of the lease as well as giving IDC the right to petition for an extension should Public Law 15-6 be amended to allow for a longer term.

The second issue that must be resolved is the stockholders agreement. Senator Aguon will not take action on the lease as presented without a signed stockholder's agreement outlining the names of the stockholders and the distribution of shares.

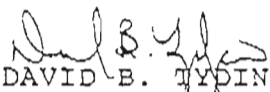
These two items, if not provided by March 30, 1990, may delay legislative consideration on this matter beyond the April session.

In addition, I will need the amended lease which will include a signatory block for the Attorney General to approve as to form, the Lt. Governor to attest, and the Governor to sign the lease so that I may obtain their signatures before the March 30, 1990 deadline. In order for me to meet that deadline, I will need the amended lease not later than Monday, March 26, 1990.

Letter to IDC
Subject: Agana Marina
Page 2

I would appreciate a meeting to review the lease and other matters related to same as soon as possible.

Si Yu'os Ma'ase,


DAVID B. TYDINGCO
General Manager

Enclosure



PORT AUTHORITY OF GUAM
ATURIDAT I PUEYTON GUAHAN
GOVERNMENT OF GUAM
1026 Cabras Highway
Suite 201
Piti, Guam 96925

Telephone: (671) 477-5931/35
(671) 477-2683/85
Telex: (721) 6689 PAGGUM
Facsimile: (671) 477-2689

MAR 29 1990

COMMISSION COMMITTEE ON TOURISM,
TRANSPORTATION & COMMUNICATIONS

Honorable John P. Aguon
Chairman
Committee on Tourism and Transportation
Twentieth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

READ BY: Ganet
DATE: 3/29/90 TIME: 2:30

Hafa Adai Senator Aguon:

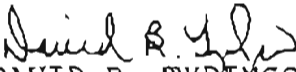
As per your request on the Cabras Island Industrial Park lease,
enclosed are the following documents:

1. Revenue projections for the life of the lease at 50 years.
2. Legal documents relative to the transfer of subject property from the federal government to the government of Guam.

The second appraisal on the property is now being conducted and should be completed shortly. In addition, the contract is currently being circulated for final signature.

With respect to the Agana Marina contract, the contract is currently being circulated for signature and the investors' agreement is being secured by Mr. Clifford Guzman. We hope to have all documents to your Committee on Friday, March 30, 1990.

Thank you for your patience on this matter.


DAVID B. TYDINGCO
General Manager

Enclosures

AGANA MARINA

BILLS NO. 1020 & 1036

VOLUME 3

1. CORPORATE DOCUMENTS OF IDC

- ARTICLES OF INCORPORATION (APR. 15, 1988)**
- BY LAWS (APR. 15, 1988)**
- RESOLUTION OF THE BOARD OF DIRECTORS (APR. 15, 1988)**
- WAIVER OF NOTICE & CONSENT TO HOLDING OF FIRST MEETING OF DIRECTORS OF IDC (APR. 15, 1988)**
- RESOLUTION OF THE BOARDS OF DIRECTORS (APRIL 15, 1988)**
- UNANIMOUS CONSENT OF SHAREHOLDERS IN LIEU OF SPECIAL MEETING (MAY 2, 1988)**
- UNANIMOUS CONSENT OF DIRECTORS IN LIEU OF SPECIAL MEETING (MAY 2, 1988)**
- MUTUAL RELEASE AGREEMENT (OCT. 3, 1988)**
- ASSIGNMENT OF SUBSCRIPTION RIGHTS (MAY 2, 1988)**
- STOCK POWER (AUG. 2, 1989 & JUN. 22, 1989)**
- WAIVER (JUN. 22, 1989 & AUG. 2, 1989)**
- STOCK CERTIFICATES**

2. FEB. 10, 1989 MEMORANDUM OF UNDERSTANDING BETWEEN IDC AND TASUKU CHINO

- JAN. 20, 1989 LETTER OF INTENT OF TASUKU CHINO**
- FEB. 13, 1989 LETTER TO DAVID TYDINGCO FROM TASUKU CHINO**
- JAN. 20, 1989 LETTER OF REFERENCE FROM THE LONG TERM CREDIT BANK OF JAPAN, LTD.**
- JAN. 26, 1989 LETTER OF RECOMMENDATION FROM SANWA BANK**

3. NOV. 14, 1989 INVESTORS AGREEMENT BETWEEN CLIFFORD
GUZMAN, TASUKU CHINO, S. CORNELL TANETANI, YASUHIRO
KISHIMOTO AND HENRY SIMPSON, JR.

ARTICLES OF INCORPORATION

OF

INTERNATIONAL DESIGN CONSORTIUM, INC.

RECORDED
11/10/73
OFFICE OF THE
REGISTRAR

TO ALL TO WHOM THESE PRESENTS MAY COME:

KNOW that we, the undersigned, desiring to become incorporated as a corporation under and in accordance with the laws of the Territory of Guam, and to obtain the benefits conferred by said laws upon corporations, do hereby mutually agree upon and enter into the following Articles of Incorporation:

ARTICLE ONE

The name of the corporation shall be:

INTERNATIONAL DESIGN CONSORTIUM, INC.

ARTICLE TWO

The place of the principal office of the corporation shall be in the city of Agana, Territory of Guam, and there may be such subordinate or branch offices in such place or places within or without the said territory as may be deemed necessary or requisite by the board of directors to transact the business of the corporation.

ARTICLE THREE

The corporation's purposes are:

- (a) To provide services related to land use applications, zoning matters, including variances, conditional uses and subdivisions.

(b) To provide services related to planning, urban design and landscape architecture.

(c) To provide programming services for development projects including commercial, resort, public and institutional projects.

(d) To provide services related to architectural design, interior design and space planning.

(e) To provide services related to development of construction documents and administrative procedures.

(f) To provide services related to feasibility studies market research and technical analysis.

(g) To do any and all of the above things as fully and to the same extent as natural persons could or might do in any part of the world, and to have and exercise all rights and powers from time to time granted to a corporation by law and to act either as principal or agent or partner or joint venturer or in any other legal capacity in any transaction in association with other corporations, firms, or individuals, or by organization of subsidiary corporations, and to do all and everything necessary, suitable and proper for accomplishment of any of its purposes or pertaining thereto.

The above purpose clauses shall not be limited by reference to or interference from one another, but each such purpose clause shall be construed as a separate statement conferring independent purposes and powers upon the corporation.

ARTICLE FOUR

The corporation shall have succession by its corporate name for the term of fifty (50) years and as thereafter extended in the manner provided by law, and it shall have all the powers herein enumerated or implied herefrom and the powers now provided (or which may be hereafter provided) by law for incorporated companies.

ARTICLE FIVE

The capital stock of the corporation shall be FOUR THOUSAND DOLLARS (\$4,000.00) divided into FOUR THOUSAND (4,000) shares of common stock of the par value of ONE AND NO/100 DOLLARS (\$1.00) each, all with equal rights, powers and privileges. The board of directors is authorized to determine the consideration and the terms and conditions upon which shares may be issued.

Shares of stock in this corporation shall not be transferred or sold except pursuant to the provisions of Article Six hereof, and shall be subject to such restrictions as may be provided in the bylaws of the corporation. The corporation shall have power from time to time to create an additional class or classes of stock with such preferences, voting powers, restrictions and qualifications thereof as shall be fixed in the resolution authorizing the issue thereof in accordance with law. In offering for sale the balance of the original authorized stock not issued or subscribed, and in cases of any authorization to increase the capital stock of the corporation of any class, except where

such authorization by for the purpose of stock dividend, or for the purpose of furnishing shares provided for in conversion privileges of stock authorized, such balance, the original stock or such newly authorized stock shall be offered for subscription to the holders of record of all shares of stock outstanding (on such date as shall be determined by the board of directors) in proportion to the number of shares of stock held by them respectively, subject to the regulation and adjustment as the board of directors from time to time determine with a view of avoiding the issuance of fractional shares. If the shares be offered for subscription to the stockholders as aforesaid, and at the expiration of any subscription rights, any old or new shares authorized have not been subscribed for, then, and in either event, the suthorized and unissued shares may be issued and sold from time to time for such price and to such persons and on such terms as the board of directors may determine.

*after
right said
can sell
to
anyone*

The corporation shall have the power to issue preferred stock subject to redemption pursuant to provisions set forth in a resolution adopted by the holders of not less than fifty-one percent (51%) of all the shares of stock of the corporation issued and outstanding at the time of the adoption of such resolution.

ARTICLE SIX

Before there can be a valid sale or transfer of any of the shares of the corporation by any holder thereof, he shall first offer said shares to the corporation and then to the other holders of shares in the following manner:

(a) such offering shareholder shall deliver a notice in writing by mail or otherwise to the secretary of the corporation stating the price, terms and conditions of such proposed sale or transfer, the number of shares to be sold or transferred, and his intention so to sell or transfer such shares. Within thirty (30) days thereafter, the corporation shall have the prior right to purchase all or any full number of such shares so offered at the price and upon the terms and conditions stated in such notice. Should the corporation fail to purchase all of said shares, at the expiration of said thirty (30) day period, or prior thereto upon the determination of the corporation to purchase none or only a portion of such shares so offered, the secretary of the corporation, shall within five (5) days thereafter, mail or deliver to each of the other shareholders a notice setting forth the particulars concerning said shares not so purchased by the corporation described in the notice received from the offering shareholder. The other shareholders shall have the right to purchase all of the shares specified in said secretary's notice by delivering to the secretary by mail or otherwise a written offer or offers to purchase all or any specified number of such shares upon the terms so described

in the secretary's notice of such offer or offers are so delivered to the secretary within twenty (20) days after mailing or delivering such secretary's notice to such other shareholder. If the total number of shares specified in such offers so received within such period by the secretary exceeds the number of shares referred to in such secretary's notice, each offering shareholder shall be entitled to purchase such proportion of the shares referred to in said notice to the secretary, as the number of shares of this corporation, which he holds, bears to the total number of shares held by all such shareholders desiring to purchase the shares referred to in said notice to the secretary.

(b) If all of the shares referred to in said notice to the secretary are not disposed of under such apportionment, each shareholder desiring to purchase shares in a number in excess of his proportionate share, as provided above, shall be entitled to purchase such proportion of those shares which remain thus undisposed of, as the total number of shares held by all of the shareholders desiring to purchase shares in excess of those to which they are entitled under such apportionment.

(c) If none or only a part of the shares referred to in said notice to the secretary is purchase, as aforesaid, by the corporation or in accordance with offers made by other shareholders within said twenty (20) day period, the shareholder desiring to sell or transfer may dispose of all shares of stock referred to in said notice to the secretary not so purchased by the corporation or by the other

shareholders, to any person or persons he may so desire; provided, however, that he shall not sell or transfer such shares at a lower price or on terms more favorable to the purchaser or transferee than those specified in said notice to the secretary.

(d) Within the limitations herein provided, this corporation may purchase the shares of this corporation from any offering shareholder; provided, however that at no time shall this corporation be permitted to purchase all of its outstanding voting shares.

ARTICLE SEVEN

(a) The officers of the corporation shall be a president, vice president, secretary and a treasurer. The president must be a member of the board of directors and the secretary or treasurer must be a resident of Guam. The corporation may have such additional officers as may be determined in accordance with the bylaws from time to time. The officers shall have the powers, perform the duties and be appointed as may be determined in accordance with the bylaws. Any person, except the president, may hold two or more offices of said corporation, if so provided by the bylaws.

(b) The Board of Directors shall consist of such number of persons, not less than three (3) and not more than seven (7), as shall be determined in accordance with the bylaws from time to time. The officers of the corporation, except the president, need not be stockholders of the corporation,

but the directors and the president must be. The directors (and alternate directors or substitute directors, if any) shall be elected or appointed in the manner provided by the bylaws and all vacancies in the office of director or any officer shall be filled in the manner provided for in the bylaws.

The persons who are the first directors of the corporation and their residences are as follows:

<u>NAME</u>	<u>RESIDENCE</u>
Clifford A. Guzman	1717 East Morten Suite 100 Phoenix, Arizona 85020
Charles C. MacLean III	6232 North 32nd St. Phoenix, Arizona 85018
Ignacio F. Santos	P.O. Box 725 Agana, Guam 96910

(c) All the powers and authority of the corporation shall be vested in and may be exercised by the board of directors, except as otherwise provided by law, these Articles of Incorporation or by the Bylaws of the corporation, and, in furtherance and not in limitation of said general powers, the board of directors shall have power to: acquire and dispose of property, appoint a managing director, a general director, branch managers, and such other managers, officers or agents of the corporation as in its judgment this business may require, and to confer upon and to delegate to them, by power of attorney or otherwise, such power and authority as it shall determine; fix the salaries or compensation of any or all of its officers, agents, and in

its discretion require security for all or any of them for the faithful performance of any of their duties, declare dividends in accordance with law when it shall deem it expedient, make rules and regulations not inconsistent with law or these articles of incorporation or the bylaws for the transaction of business; instruct the officers or agents of the corporation with respect to, and to authorize the voting of, stock of other incorporations owned or held by this corporation; incur such indebtedness as may be deemed necessary; create such committees (including, but not limited to an executive committee or committees) and to designate and to confer upon such committees such powers and authority as may by resolution be set forth for the purpose of carrying out or exercising any of the powers of the corporation; create any funds of the corporation in such securities or other property as to it may seem proper; remove or suspend any officer, and generally, to do any and every lawful act necessary or proper to carry out and put into effect the powers, purposes and objects of this corporation.

ARTICLE EIGHT

Service of legal process may be made upon the corporation in the manner provided by law.

ARTICLE NINE

No stockholder shall be liable for the debts of the corporation beyond the amount which may be due or unpaid upon

any share or shares of stock of said corporation subscribed by him.

ARTICLE TEN

No director or officer at the corporation shall be liable to the corporation for the act, default, or neglect of any other director or officer or for any loss suffered or sustained by the corporation on account of the above or any action or omission by the director or officer himself as such, unless the same has resulted from his own willful misconduct or willful neglect in the performance of such duties.

ARTICLE ELEVEN

No contract or other transaction between the corporation and any other corporation or any firm, association or other organization, and no act of the corporation, shall in any way be affected or invalidated by the sole fact that any of the directors or officers of the corporation are parties to such contract or transaction or are pecuniarily or otherwise interested in or act as or are directors, officers, employees, independent contractors or members of and such corporation or any such firm, association or other organization; provided that the interest of such director or officer shall be disclosed or shall have been known to the board of directors authorizing or approving the same. Any director of the corporation who is pecuniarily or otherwise interested in or is a director, officer, employee,

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independent contractor or officer or member or such other corporation or any such firm, association or other organization, may be counted in determining a quorum of any meeting of the Board of Directors which shall authorize or approve any such contract, transaction or act, and may vote thereon with like force and effect as if he were in no way interested therein. Neither any director or officer of the corporation being so interested in any such contract transaction or act of the corporation which shall be approved by the board of directors of the corporation nor any corporation, firm, association, or other organization in which such director, or officer may be interested, shall, solely because of such interest, be liable or accountable to the corporation, or to any stockholder thereof, for any loss incurred by the corporation pursuant to or by reason of such contract, transaction, or act, or for any gain received by any such other party pursuant thereto or by reason thereof.

ARTICLE TWELVE

The names and residences of the incorporators who are the persons subscribing to the capital stock of this corporation, the amount of stock subscribed, the amount subscribed by each, and the sum paid by each on his subscription are as follows;

<u>NAME AND RESIDENCE</u>	<u>AMOUNT OF STOCK SUBSCRIBED</u>	<u>AMOUNT PAID</u>
CLIFFORD A. GUZMAN 1717 East Morten Suite 100 Phoenix, Arizona 85020	1	\$1.00
CHARLES C. MACLEAN III 6232 North 32nd Street Phoenix, Arizona 85018	1	\$1.00
IGNACIO F. SANTOS P.O. Box 725 Agana, Guam 96910	1000	\$1,000.00
CCMIII ARCHITECTS LTD. 6232 North 32nd St. Phoenix, Arizona 85018	999	\$999.00
GP CONSULTING INC. 1717 East Morten Suite 100 Phoenix, Arizona 85020	999	\$999.00

for a total of THREE THOUSAND shares subscribed and
 THREE THOUSAND DOLLARS (\$3,000.00) in cash paid in.

ARTICLE THIRTEEN

These Articles of Incorporation may be altered, amended,
 added to or repealed by an affirmative vote of a majority of
 the Board of Directors and two-thirds (2/3) of the shares of
 the capital stock issued, outstanding and entitled to vote at
 any meeting of the stockholders of the corporation if notice
 of the proposed amendments shall have been given in the call
 for such meeting or, by the affirmative vote of a majority of
 the Board of Directors and the written consent of those

persons owning at least two-thirds (2/3) of the shares of the capital stock issued and entitled to vote on the amendment, with or without meeting.

IN WITNESS WHEREOF, the directors and incorporators hereinabove named have hereunto set their hands on the dates indicated hereinbelow.

DATE: 4-15-88

Clifford A. Guzman
CLIFFORD A. GUZMAN

DATE: 4-15-88

Charles C. MacLean III
CHARLES C. MACLEAN III

DATE: 4-15-88


Ignacio F. Santos
IGNACIO F. SANTOS

TREASURER'S CERTIFICATE

TERRITORY OF GUAM)
) ss:
CITY OF AGANA)

The undersigned, being duly sworn, states:


- 1. That he is the treasurer elected by the aforesaid subscribers of the aforesaid corporation.
- 2. At least twenty percent (20%) of the entire capital stock of the aforesaid corporation has been subscribed.
- 3. At least twenty-five percent (25%) of the aforesaid subscription has been paid to him for the benefit and to the credit of the corporation.



IGNACIO F. SANTOS

SUBSCRIBED and SWORN to before me this 15th day of
April, 1988.

)SEAL(



NOTARY PUBLIC

DARLA L. CARR
NOTARY PUBLIC
In and for the Territory of Guam
My commission expires July 15, 1992.

RECEIVE

BY-LAWS

APR 13 1968

OF

REGULATORY DIV
Dept of Revenue & T
Government of G

INTERNATIONAL DESIGN CONSORTIUM, INC.

ARTICLE I
OFFICES

1.01. PRINCIPAL OFFICE.

The principal office for the transaction of business of the corporation is hereby fixed and located in the city of Agana, Territory of Guam. The Board of Directors is hereby granted full power and authority to change said principal office from one location to another within the Territory of Guam.

1.02. OTHER OFFICES.

Branch or Subordinate offices may at any time be established by the Board of Directors at any place or places where the corporation is qualified to do business.

ARTICLE II
SHAREHOLDERS' MEETINGS

2.01. PLACE OF MEETINGS.

All meetings of the shareholders shall be held at the office of the corporation in Guam.

2.02. ANNUAL MEETINGS.

The annual meeting of the shareholders shall be held on the 1st day of August in each year, if not a legal

holiday, and if a legal holiday, then on the next succeeding business day, at the hour of 10:00 a.m. at which time the shareholders shall elect by majority vote a Board of Directors, consider reports of the affairs of the corporation, and transact such other business as may properly be brought before the meeting.

2.03. SPECIAL MEETINGS.

Special meetings of the shareholders, for any purpose or purposes whatsoever, may be called at any time by the President, or by the Board of Directors, or by any two or more members thereof, or by one or more shareholders holding not less than two-thirds of the voting power of the corporation.

2.04. NOTICE OF MEETINGS.

Notices of meetings, annual or special, shall be given in writing to shareholders entitled to vote by the Secretary or the Assistant Secretary, or if there be no such officer, or in case of his neglect or refusal, by any director or shareholder.

Such notices shall be sent to the stockholder's address appearing on the books of the corporation, or supplied by him to the corporation for the purpose of notice, not less than ten (10) and not more than fifty (50) days before such meeting.

Written or printed notices shall be addressed to each stockholder, absent from Guam, at his place of residence as shown by the books of the corporation and registered and deposited so addressed in the post office with postage prepaid. Service of said notice may be proved prima facie by the post office receipt of the registered letter.

When a meeting is adjourned for thirty (30) days or more notice of the adjourned meeting shall be given as in the case of an original meeting. Save, as aforesaid, it shall not be necessary to give any notice of the adjourned meeting other than by announcement at the meeting at which such adjournment is taken.

2.05. CONSENT TO SHAREHOLDERS' MEETINGS.

The transactions of any meeting of shareholders, however called and noticed, shall be valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy, and if, either before or after the meeting, each of the shareholders entitled to vote, not present in person, or by proxy, sign a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Any action which may be taken at a meeting of the shareholders, may be taken without a meeting if authorized by a writing signed by all of the holders of shares who would be entitled to vote at a meeting for such purpose, and filed with the Secretary of the corporation.

2.06. QUORUM.

The holder of a majority of the shares entitled to vote thereat, present in person, or represented by proxy, shall be requisite and shall constitute a quorum at all meetings of the shareholders for the transaction of business except as otherwise provided by law, by the Articles of Incorporation, or these By-Laws. If, however, such majority shall not be present or represented at any meeting of the shareholders, the shareholders entitled to vote thereat, present in person, or by proxy, shall have the power to adjourn the meeting from time to time, until the requisite amount of voting shares shall be present. At such adjourned meeting at which the requisite amount of voting shares shall be represented, any business may be transacted which might have been transacted at the meeting as originally notified.

2.07. VOTING RIGHTS: CUMULATIVE VOTING.

Only persons in whose names shares entitled to vote stand on the stock records of the corporation on the date of

any meeting of shareholders, unless some other day be fixed by the Board of Directors for the determination of shareholders of record, then on such other day, shall be entitled to vote at such meeting.

Every shareholder entitled to vote at any election for directors may cumulate his votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which his shares are entitled, or distribute his votes on the same principle among as many candidates as he thinks fit. The candidates receiving the highest number of votes up to the number of directors to be elected are elected.

2.08. PROXIES

Every shareholder entitled to vote, or to execute consents, may do so, either in person or by written proxy, executed in accordance with the provisions of the Civil Code of Guam and filed with the Secretary of the corporation. A proxy duly executed is not revoked and continues in full force and effect until an instrument revoking it or a duly executed proxy bearing a later date is filed with the Secretary of the corporation.

ARTICLE III

DIRECTORS: MANAGEMENT

3.01. POWERS.

Subject to the limitation of the Articles of Incorporation, of the By-Laws and of the laws of the Territory of Guam as to action to be authorized or approved by the shareholders, all corporate powers shall be exercised by or under authority of, and the business and affairs of this corporation shall be controlled by, a Board of Directors.

3.02. NUMBER AND QUALIFICATION.

The authorized number of directors of the corporation shall be three (3) until changed by amendment to the Article of Incorporation or by an amendment to this section, 3.02, Article III of these By-Laws, adopted by the vote or written assent of the shareholders entitled to exercise the majority of the voting power of the corporation.

3.03 ELECTION AND TENURE OF OFFICE

The directors shall be elected by two-thirds majority vote of all shareholders at a annual meeting of the shareholders, to serve for one (1) year and until their successors are elected and have qualified. Their term of

office shall begin immediately after election. Each director must be a shareholder of the corporation.

3.04. VACANCIES.

Vacancies in the Board of Directors may be filled by a majority of the remaining directors, though less than a quorum, or by a sole remaining director, and each director so elected shall hold office until his successor is elected at an annual meeting of shareholders or at a special meeting called for that purpose.

The shareholders may at any time elect a director to fill any vacancy not filled by the directors, and may elect the additional directors at the meeting at which an amendment of the By-Laws is voted authorizing an increase in the number of directors.

If the Board of Directors accepts the resignation of a director tendered to take effect at a future time, the board, or the shareholders, shall have power to elect a successor to take office when the resignation shall become effective.

No reduction of the number of directors shall have the effect of removing any director prior to the expiration of his term of office.

3.05. NUMBER OF DIRECTORS- INCREASE OR DECREASE

The numbers of directors may at any time be increased or decreased, within the limit set forth in the Articles of

incorporation, by vote of a majority of the shareholders entitled to vote at any regular or special meeting.

3.06. REMOVAL OF DIRECTORS.

The entire Board of Directors or any individual director may be removed from office as provided by Section 310 of the Civil Code of the Territory of Guam.

3.07. PLACE OF MEETINGS.

Regular meetings of the Board of Directors shall be held at any place within or without the Territory of Guam which has been designated from time to time by resolution of the board, or by written consent of all members of the board. Any meeting shall be valid, wherever held, if held with the written consent of all members of the Board of Directors, given either before or after the meeting and filed with the Secretary of the corporation.

3.08. ORGANIZATION MEETINGS.

The organization meetings of the Board of Directors shall be held immediately following the adjournment of the annual meetings of the shareholders.

3.09. OTHER REGULAR MEETINGS.

Other regular meetings of the Board of Directors may be established by resolution of the Board of Directors. If the day or days selected shall fall upon a holiday, such meetings

shall be held on the next succeeding business day thereafter
No notice need be given of such regular meetings.

3.10. SPECIAL MEETINGS-NOTICES.

Special meetings of the Board of Directors for any
purpose or purposes, shall be called at any time by the
President or if he is absent or unable or refuses to act, by
any Vice-President or by any two directors.

Written notice of the time and place of special meetings
shall be delivered personally to the directors or sent to
each director by letter or by telegram, charges prepaid,
addressed to him at his address as it is shown upon the
records of the corporation, or if it is not so shown on such
records or is not readily ascertainable, at the place in
which the meetings of the directors are regularly held. In
case such notice is mailed or telegraphed, it shall be
deposited in the United States mail or delivered to RCA
Communications, Inc., at the place in which the principal
office of the corporation is located at least forty-eight
(48) hours prior to the time of the holding of the meeting.
In case such notice is delivered as above provided, it shall
be so delivered at least twenty-four (24) hours prior to the
time of the holding of the meeting. Such mailing,
telegraphing or delivery as above provided shall be due,
legal and personal notice to such director.

3.11. WAIVER OF NOTICE.

When all of the directors are present at any directors' meeting, however called or noticed, and sign a written consent thereto in the records of such meeting, or, if a majority of the directors are present, and if those not present sign in writing a waiver of notice of such meeting, whether prior to or after the holding of such meeting, which said waiver shall be filed with the Secretary of the corporation, the transactions thereof are as valid as if had at a meeting regularly called and noticed.

3.12. NOTICE OF ADJOURNMENT.

Notice of the time and place of holding an adjourned meeting need not be given to absent directors if the time and place be fixed at the meeting adjourned.

3.13. QUORUM.

A majority of the number of directors as fixed by the Articles or By-Laws shall be necessary to constitute a quorum for the transaction of business, and the action of a majority of the directors present at any meeting at which there is a quorum, when duly assembled, is valid as a corporate act; provided that a minority of the directors, in the absence of a quorum, may adjourn from time to time, but may not transact any business.

ARTICLE IV
OFFICERS

4.01. OFFICERS.

The officers of the corporation shall be a president, a vice-president, a secretary, and a treasurer. The corporation may also have, at the discretion of the Board of Directors, a chairman of the board, one or more additional vice-presidents, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed in accordance with the provisions of Section 4.03 of this article. One person may hold two or more offices except those of president and secretary.

4.02. ELECTION.

The officers of the corporation, except such officers as may be appointed in accordance with the provisions of Section 4.03 or Section 4.05 of this article shall be chosen annually by the Board of Directors, and each shall hold his office until he shall resign or shall be removed or otherwise disqualified to serve, or his successor shall be elected and qualified.

4.03. SUBORDINATE OFFICERS, ETC.

The Board of Directors may appoint such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority and

perform such duties as are provided in the By-Laws or as the Board of Directors may from time to time determine.

4.04. REMOVAL AND RESIGNATION.

Any officer may be removed, either with or without cause by a majority of the directors at the time in office, at any regular or special meeting of the board, or, except in case of an officer chosen by the Board of Directors, by any officer upon whom such power of removal may be conferred by the Board of Directors.

Any officer may resign at any time by giving written notice to the Board of Directors or to the president, or to the secretary of the corporation. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.05. VACANCIES.

A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in the By-Laws for regular appointments to such office.

4.06. CHAIRMAN OF THE BOARD.

The chairman of the board, if there shall be such an

officer, shall, if present, preside at all meetings of the Board of Directors, and exercise and perform such other powers and duties as may be from time to time assigned to him by the Board of Directors or prescribed by the By-Laws.

4.07. PRESIDENT.

Subject to such supervisory powers, if any, as may be given by the Board of Directors to the chairman of the board, if there be such an officer, the president shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the corporation. He shall preside at all meetings of the shareholders and in the absence of the chairman of the board, or if there be none, at all meetings of the Board of Directors. He shall be ex officio a member of all the standing committees, including the executive committee if any, and shall have the general powers and duties of management usually vested in the office of president of a corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or the By-Laws.

4.08. VICE PRESIDENT.

In the absence or disability of the president, the vice presidents in order of their rank as fixed by the Board of

Directors, or if not ranked, the vice president designated by the Board of Directors, shall perform all the duties of the president, and when so acting shall have all the powers of, and be subject to, all the restrictions upon the president. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board of Directors or the By-Laws.

4.09. SECRETARY.

The secretary shall keep, or cause to be kept, a book of minutes at the principal office or such other place as the Board of Directors may order, of all meetings of directors and shareholders, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at Directors meetings, the number of shares present or represented at shareholders' meetings and the proceedings thereof.

The secretary shall keep, or cause to be kept, at the principal office or at the office of the corporation's transfer agent, a share register, or duplicate share register, showing the names of the shareholders and their addresses; the number and classes of shares held by each; the number and date of certificates issued for the same; and the number and date of cancellation of every certificate surrendered for cancellation.

The secretary shall give, or cause to be given, notice of all meetings of the shareholders and of the Board of Directors required by the By-Laws, or by Law to be given, and he shall keep the seal of the corporation in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the By-Laws.

4.10. TREASURER.

The treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, surplus and shares. Any surplus, including earned surplus, paid-in-surplus and surplus arising from a reduction of stated capital, shall be classified according to source and shown in a separate account. The books of account shall at all reasonable times be open to inspection by any director.

The treasurer shall deposit all moneys and other valuables in the name and to the credit of the corporation with such depositaries as may be designated by the Board of Directors. He shall disburse the funds of the corporation as may be ordered by the Board of Directors, shall render to the president and directors, whenever they request it, an account

of all of his transactions as treasurer and of the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the By-Laws.

ARTICLE V
EXECUTIVE AND OTHER COMMITTEES

The Board of Directors may appoint an executive committee, and such other committees as may be necessary from time to time, consisting of such number of its members and with such powers as it may designate, consistent with the Articles of Incorporation and By-Laws and the Civil Code of the Territory of Guam. Such committees shall hold office at the pleasure of the Board.

ARTICLE VI
CORPORATE RECORDS AND REPORTS--INSPECTION

6.01. RECORDS.

The corporation shall maintain adequate and correct accounts, books and records of its business and properties. All of such books, records, and accounts shall be kept at its principal place of business in the Territory of Guam, as fixed by the Board of Directors from time to time.

6.02. INSPECTION OF BOOKS AND RECORDS.

All books and records required by law shall be open to the inspection of directors and shareholders at reasonable times and places.

6.03. CERTIFICATION AND INSPECTION OF BY-LAWS.

The original or copy of these By-Laws, as amended or otherwise altered to date, certified by the secretary, shall be open to inspection by the shareholders of the company.

6.04. CHECKS, DRAFTS, ETC.

All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the corporation, shall be signed or endorsed by such person or persons and in such manner as shall be determined from time to time by resolution of the Board of Directors.

6.05. CONTRACTS, ETC.-- HOW EXECUTED.

The Board of Directors, except as in the By-Laws otherwise provided, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the corporation. Such authority may be general or confined to specific instances. Unless so authorized by the Board of Directors, no officer, agent or employee shall have any power or

authority to bind the corporation by any contract or engagement, or to pledge its credit, or to render it liable for any purpose or to any amount.

ARTICLE VII
CERTIFICATES AND TRANSFER OF SHARES

7.01. CERTIFICATES FOR SHARES.

Certificates for shares shall be of such form and device as the Board of Directors may designate and shall state the name of the record holder of the shares represented thereby; its number, date of issuance; the number of shares for which it is issued; the par value, if any, or the statement of such shares are without par value; a statement of rights, privileges, preferences and restrictions, if any; a statement as to the redemption or conversion, if any; a statement of liens or restrictions upon transfer or voting, if any; if the shares be assessable or if assessments are collectable by personal action, a plain statement of such facts.

Every certificate for shares must be signed by the President or a Vice-President and the Secretary or an Assistant Secretary or must be authenticated by a facsimile of the signature of its President and the written signature of its Secretary or an Assistant Secretary.

7.02. TRANSFER ON THE BOOKS.

Upon surrender to the Secretary of the corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the corporation to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

7.03. LOST OR DESTROYED CERTIFICATES.

Any person claiming a certificate of stock to be lost or destroyed shall make an affidavit or affirmation of that fact and advertise the same in such manner as the Board of Directors may require, and shall if the directors so require give the corporation a bond of indemnity, in form and with one or more sureties satisfactory to the Board, in at least double the value of the stock represented by said certificate, whereupon a new certificate may be issued of the same tenor and for the same number of shares as the one alleged to be lost or destroyed.

7.04. CLOSING STOCK TRANSFER BOOKS.

The Board of Directors may close the transfer books in their discretion for a period not exceeding thirty days preceding any meeting, annual or special, of the shareholders, or the day appointed for the payment of a dividend.

ARTICLE VIII
CORPORATE SEAL

The corporate seal shall be in circular form, and have inscribed thereon the name of the corporation, the date of its incorporation, and the word "Guam".

ARTICLE IX
AMENDMENTS TO BY-LAWS

9.01. BY SHAREHOLDERS.

New By-Laws may be adopted or these By-Laws may be repealed or amended at their annual meeting, or at any other meeting of the shareholders called for that purpose, by a vote of shareholders entitled to exercise a two-thirds majority of the corporation, or by written assent of such shareholders.

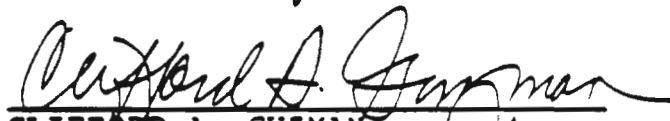
9.02. POWERS OF DIRECTORS.

Subject to the right of the shareholders to adopt, amend or repeal By-Laws, as provided in 9.01 of this Article IX, the Board of Directors may adopt, amend or repeal any of these By-Laws other than a By-Law or amendment thereof changing the authorized number of directors, by a vote by written assent of a majority of the Board of Directors.

9.03. RECORD OF AMENDMENTS.

Whenever an amendment or new By-Law is adopted, it shall be copied in the Book of By-Laws with the original By-Laws, in the appropriate place. If any By-Law is repealed, the fact of repeal with the date of the meeting at which the repeal was enacted or written assent was filed shall be stated in said book.

IN WITNESS WHEREOF, the undersigned stockholders, representing a majority of all the paid up capital stock of INTERNATIONAL DESIGN CONSORTIUM, INC., have hereunto subscribed their names to signify their adoption of the foregoing By-Laws this 15th day of April, 1988.


CLIFFORD A. GUZMAN

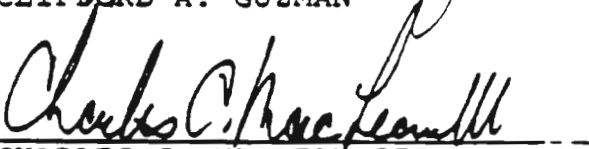

CHARLES C. MACLEAN, III


IGNACIO F. SANTOS

WAIVER OF NOTICE AND CONSENT TO
HOLDING OF FIRST MEETING
OF DIRECTORS OF
INTERNATIONAL DESIGN CONSORTIUM, INC.
A Guam Corporation

We, the undersigned, being the Directors of
INTERNATIONAL DESIGN CONSORTIUM, INC., a Guam corporation,
and desiring to hold the first meeting of the Directors of
said corporation, DO HEREBY waive notice of said meeting and
consent to the holding thereof at Agana, Guam, on the 15th
day of April, 1988 at 4:00 o'clock P.m.; and do
further agree that any business transacted at said meeting
shall be as valid and legal and of the same force and effect
as though said meeting was held after notice duly given.


CLIFFORD A. GUZMAN


CHARLES C. MACLEAN III


IGNACIO F. SANTOS

RESOLUTION OF THE
BOARD OF DIRECTORS
OF
INTERNATIONAL DESIGN CONSORTIUM, INC.

Resolved, that all funds of the corporation be deposited with California First Bank, Territory of Guam;

Further Resolved that the following officers of the corporation whose name and signatures appear as follows:

CLIFFORD A. GUZMAN
President

Clifford A. Guzman
SIGNATURE

and

IGNACIO F. SANTOS
Secretary/Treasurer

Ignacio F. Santos
SIGNATURE

shall be authorized to sign checks drafts, or other evidence of indebtedness made payable to the order of this corporation;

Further Resolved, that all funds of the corporation on deposit with California First Bank, shall be withdrawn on the signature(s) of :

CLIFFORD A. GUZMAN
President

Clifford A. Guzman
SIGNATURE

and

IGNACIO F. SANTOS
Secretary/Treasurer

Ignacio F. Santos
SIGNATURE

WITNESS our signatures this 15th day of April,
1988.


CLIFFORD A. GUZMAN


CHARLES C. MACLEAN III


IGNACIO F. SANTOS

CERTIFICATE OF RESOLUTION

I, IGNACIO F. SANTOS, Secretary of International Design Consortium, Inc., a corporation incorporated under the laws of the Territory of Guam, hereby certify that the foregoing is a full, true and correct copy of a resolution of the Board of Directors of the corporation, duly and regularly passed and adopted at a meeting of the Board of Directors of the corporation which was duly and regularly called and held in all respects as required by law, and by the By-Laws of the corporation, on the 15th day of April, 1988, at which meeting a majority of the Board of Directors of the corporation was present and voted in favor of such resolution.

IN WITNESS WHEREOF, I have set my hand as such Secretary on 4/15/88.
DATE



IGNACIO F. SANTOS

UNANIMOUS CONSENT OF SHAREHOLDERS
IN LIEU OF SPECIAL MEETING
OF
INTERNATIONAL DESIGN CONSORTIUM, INC.,
a Territory of Guam corporation

The undersigned, being all of the shareholders of International Design Consortium, Inc., a Territory of Guam corporation (the "Corporation"), hereby waive notice of the time, place and purpose of a special meeting of the Shareholders of the Corporation, and hereby consent to and approve the following resolutions and each and every action effected thereby:

1. Ratification of Past Actions of Directors.

WHEREAS, between the last meeting of shareholders of the the Corporation and the date hereof, certain actions taken by persons acting as directors of the Corporation, for and on behalf of and in the name of the Corporation, may not be fully reflected in the minute book of the Corporation; and

WHEREAS, it is desirable that such actions, to the extent possible and practicable, be reflected in the minute book of the Corporation as having been adopted, approved, ratified and confirmed by the Corporation;

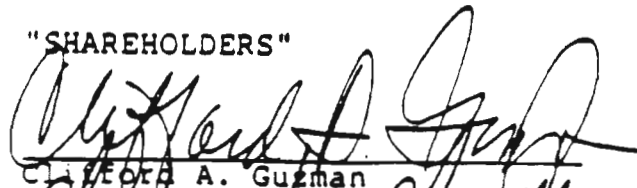
NOW THEREFORE, IT IS RESOLVED, that any and all past actions of Clifford A. Guzman, Charles C. MacLean, III and Mark J. Peterson serving as directors of the Corporation, acting for and on behalf and in the name of the Corporation be, and hereby are, ratified, adopted, confirmed and approved in all respects.

2. Re-Election of Directors.

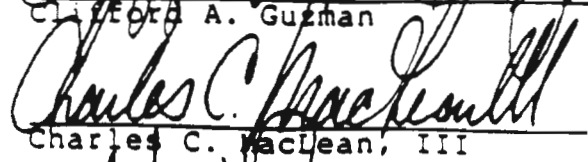
RESOLVED that until further action of the shareholders of the Corporation, three (3) persons shall constitute the entire Board of Directors of the Corporation; and that Clifford A. Guzman, Charles C. MacLean, III and Mark J. Peterson shall be, and hereby are, elected as directors of the Corporation to serve until the next Annual Meeting of Shareholders of the Corporation, or until their removal from office or their death, disability, resignation or incapacity to serve, and until their successors are elected and qualified.

IN WITNESS WHEREOF, the undersigned, as shareholders
have executed this Consent effective May 2, 1988.

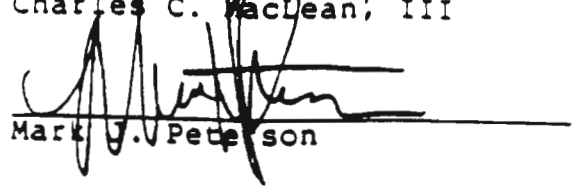
"SHAREHOLDERS"



Clifford A. Guzman



Charles C. MacLean, III



Mark J. Peterson

UNANIMOUS CONSENT OF DIRECTORS
IN LIEU OF SPECIAL MEETING
OF
INTERNATIONAL DESIGN CONSORTIUM, INC.,
a Territory of Guam corporation

The undersigned, being all of the Directors of International Design Consortium, Inc. a Territory of Guam corporation (the "Corporation"), hereby waive notice of the time, place and purpose of a special meeting of the Board of Directors of the Corporation, and hereby consent to and approve the following resolutions and each and every action effected thereby:

1. Ratification of Past Actions of Officers.

WHEREAS, between the last meeting of directors of the the Corporation and the date hereof, certain actions taken by persons acting as officers of the Corporation, for and on behalf of and in the name of the Corporation, may not be fully reflected in the minute book of the Corporation; and

WHEREAS, it is desirable that such actions, to the extent possible and practicable, be reflected in the minute book of the Corporation as having been adopted, approved, ratified and confirmed by the Corporation;

NOW THEREFORE, IT IS RESOLVED, that any and all past actions of Clifford A. Guzman, Charles C. MacLean, III and Carlos Soto Baretto, serving as officers and of any other agent or employee of the Corporation, acting for and on behalf and in the name of the Corporation be, and hereby are, ratified, adopted, confirmed and approved in all respects.

2. Election of Officers.

RESOLVED, that the following individuals be, and they hereby are, elected to the offices of the Corporation set forth opposite their respective names, to serve as such until the next Annual Meeting of the Directors of the Corporation, until their removal from office, or until their respective successors are elected and qualified:

Clifford A. Guzman	President
Charles C. MacLean, III	Vice President
Carlos Soto Baretto	Secretary/Treasurer

3. Authorization to Bind the Corporation.


RESOLVED, that the officers of the Corporation are authorized and directed to negotiate and enter into an agreement with respect to assignment of stock subscription rights of GP Consulting, Inc., an Arizona corporation ("GP") and to release GP from any claims of the Corporation, and to enter into an agreement releasing any claims of the Corporation against CCM III Architects, Ltd., an Arizona corporation with respect to its Subscription Agreement.

4. Additional Authority.

RESOLVED, that the proper officers of the Corporation be, and hereby are, authorized, empowered and directed to sign, execute, certify to, verify, acknowledge, deliver, attest, accept, file and record any and all instruments and documents and take or cause to be taken any and all actions, for and on behalf of and in the name of the Corporation, or otherwise, as, in such officers' sole discretion, shall be necessary, desirable or appropriate in order to effect the purposes of the foregoing resolutions.

IN WITNESS WHEREOF, the undersigned, as directors have executed this Consent effective May 2, 1988.

"DIRECTORS"


Clifford A. Guffman


Charles C. MacLean, III


Mark J. Peterson

MUTUAL RELEASE AGREEMENT

THIS MUTUAL RELEASE AGREEMENT ("Agreement") is entered into as of this 3rd day of October, 1988, by and between INTERNATIONAL DESIGN CONSORTIUM, INC., a Guam corporation ("IDC"), and IGNACIO F. SANTOS ("Santos").

W I T N E S S E T H:

WHEREAS, Santos is a director, officer, and potential shareholder of IDC; and

WHEREAS, the parties hereto desire to sever any and all relationships of whatever nature existing between IDC and Santos and any corporation, partnership, or other entity of which Santos is an owner, participant, officer, director, employee, or agent ("Santos Affiliate");

NOW, THEREFORE, Santos and IDC, each in consideration of the covenants and agreements set forth in this Agreement hereby covenant and agree as follows:

1. Resignation. Santos hereby resigns or confirms that he has previously resigned from: (a) employment with IDC, (b) the Board of Directors of IDC, (c) all corporate offices of IDC, and (d) any position as any agent, employee, or representative of IDC.

2. Termination of Subscription Rights. Santos and IDC each acknowledge that Santos' subscription for 1,000 shares of the common stock, \$1.00 par value per share, has not been paid and that the share certificate representing such shares has not been issued, notwithstanding any other recitals or provisions in any other documents or agreements and as a result no shares of the capital stock of IDC have been validly issued to Santos. Santos and IDC each mutually release, remise, and forever discharge the other party from all claims and demands the other may have for Santos' subscription for such shares and Santos releases, remises, and forever discharges IDC and all other parties from any claim of any interest in IDC or the capital stock of IDC.

3. Mutual Release. Santos, on behalf of himself and any Santos Affiliate hereby transfers and assigns and releases all claims to any of the assets or property of IDC and all claims or demands and causes of action of any kind whatsoever that Santos and any Santos Affiliate may have, whether now known or discovered in the future, against IDC or any officer, director, employee, or shareholder thereof.

IDC hereby releases Santos from all claims or demands and causes of action of any kind whatsoever that IDC may have, whether now known or discovered in the future, against Santos.

This mutual release is intended to and does cover all damages or claims whether known by or unknown to the parties at the time of execution hereof.

4. Indemnity. IDC agrees to indemnify and hold Santos harmless from and against any and all claims, demands, and causes of action asserted by any party against Santos for acting as a director, officer, shareholder, agent, employee, or representative of IDC prior to the date of the Agreement.

Santos agrees to indemnify and hold IDC harmless from and against any and all claims, demands, and causes of action asserted by any party claiming any interest in or to IDC through Santos.

5. Mutual Cooperation. Each party shall cooperate with the other party to this Agreement as may be required to effectuate the intent of this Agreement, including, but not limited to, executing and delivering any documents that either party may reasonably deem necessary.

6. Binding Effect. This Agreement shall bind the parties hereto and their heirs, executors, administrators, successors, and assigns, and any other entity or person controlled by, or in the employment of, and every officer, director, agent, or shareholder of any party to this Agreement.

7. Complete Agreement. This Agreement is the complete and entire understanding of the parties hereto and supercedes all prior agreements, oral or written, and all other communications between the parties relating to the subject matter hereto, and may be amended only by written document executed by each of the parties hereto.

8. Enforceability. If any one or more of the provisions of this Agreement or the applicability of any such provision to a specific situation shall be held invalid or unenforceable, such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable and in any event the validity and enforceability of all other provisions of this Agreement and all other applications of such provisions shall not be effected thereby.

9. Notices. Any notice, claim, or demand given regarding this Agreement shall be in writing and shall be delivered personally, telecopied, telexed, or mailed to the other party, properly addressed, postage prepaid, at the addresses set forth below:

(a) If to IDC:

International Design
Consortium, Inc.
6232 N. 32nd Street
Phoenix, AZ 85018

Attn: Clifford Guzman

(b) If to Santos or a Santos Affiliate

-
Ignacio F. Santos
P.O. Box 725
Aqana, Guam 96910

-
Any party hereto may change the address for notices to be sent to it by written notice delivered pursuant to the terms of this paragraph.

10. Survival. The releases, covenants, and agreements contained herein are contractual and are not a mere recital and shall survive the execution and consummation of this Agreement and shall continue in full force and effect at all times thereafter.

11. Effect. It is agreed and understood that this Agreement represents a compromise of disputed claims and that this Agreement and any action taken pursuant hereto is not to be construed as or deemed to be an admission or concession of liability or wrongdoing whatsoever on the part of any of the parties hereto, each of the parties hereto expressly acknowledging that no wrongdoing whatsoever has occurred. Each of the parties hereto expressly disclaims and denies any liability or wrongdoing whatsoever with respect to any and all matters arising out of the business relationship between them. Each of the parties hereto has entered into this Agreement for the sole purpose of avoiding further expense, inconvenience, and burdens which would result from continued negotiations or potential legal action concerning disputes that have arisen regarding the business relationship between them.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

INTERNATIONAL DESIGN CONSORTIUM,
INC., a Guam corporation

By: Clifford A. Guzman
Clifford A. Guzman
Its President
"IDC"

Ignacio F. Santos
IGNACIO F. SANTOS
"SANTOS"

ASSIGNMENT OF SUBSCRIPTION RIGHTS

This Assignment of Subscription Rights (this "Assignment") is entered into effective May 2, 1988 between and among INTERNATIONAL DESIGN CONSORTIUM, INC., a Guam corporation ("IDC"), CLIFFORD A. GUZMAN ("Guzman"), CHARLES C. MacLEAN ("MacLean"), MARK J. PETERSON ("Peterson"), and GP CONSULTING, INC., an Arizona corporation ("GP").

RECITALS

A. GP subscribed to purchase 999 shares, one dollar (\$1.00) par value, of common stock of IDC (the "Share(s)"), which the parties hereto acknowledge is the true and correct number of Shares for which GP has subscription rights, and which subscription has not been paid and a certificate representing such Shares has not issued, notwithstanding any other recitals or provisions in any other documents or agreements.

B. GP desires to assign its rights to subscribe for 998 of the Shares to the parties and in the manner provided for herein.

C. GP and IDC desire to cancel and release the rights and duties of GP and IDC to issue and purchase the remaining one (1) share.

D. IDC agrees to consent to the assignment and the release and bind itself to issue the Shares to the parties and in the manner provided for herein.

E. Guzman, Peterson, and MacLean agree to consent to the terms of this Agreement.

AGREEMENTS

In consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is expressly acknowledged by the parties, the parties agree as follows:

1. Assignment of Subscription Rights. GP hereby assigns and conveys all its rights to subscribe for 998 of the Shares to Guzman, Peterson, and MacLean, as follows:

Guzman	409 shares
Peterson	260 shares
MacLean	329 shares

2. Consent/Acceptance of Agreement. IDC consents to the assignment set forth in paragraph 1 above and agrees to issue the Shares to Guzman, Peterson, and MacLean upon receipt of the subscription price of \$1.00 per share. Each of Guzman, Peterson,

and MacLean agree to purchase the Shares from IDC for the subscription price of \$1.00 per share. Each respective party hereto consents to the transactions set forth in this Agreement, and waives any rights to acquire property not transferred to the respective party.

3. Mutual Releases. GP hereby transfers, assigns, and releases to IDC all claims to any of the assets and property and the right to subscribe for one (1) Share and all claims or demands and causes of action of any kind whatsoever that GP and any affiliate of GP may have, whether now known or discovered in the future, against IDC or any officer, director, employee or shareholder thereof.

IDC hereby releases GP from all claims or demands and causes of action of any kind whatsoever that IDC may have, whether now known or discovered in the future, against GP.

This mutual release is intended to and does cover all damages or claims whether known by or unknown to the parties at the time of execution hereof.

4. Indemnity. GP agrees to indemnify and hold IDC harmless from and against any and all claims, demands, and causes of action asserted by any party claiming any interest in or to IDC through GP.

IDC agrees to indemnify and hold GP harmless from and against any and all claims, demands, and causes of action asserted by any party against GP in GP's capacity as shareholder or representative of IDC prior to the date of this Assignment.

5. Waiver. The parties hereto knowingly and voluntarily waive the provisions of Article Five and Article Six of the IDC Articles of Incorporation for purposes of consummating this Assignment.

6. Incorporate Recitals. The Recitals stated above are hereby incorporated by reference into, and made a part of, this Agreement as if fully set forth herein.

7. Binding Effect. This Agreement shall bind the parties hereto and their heirs, executors, administrators, successors, and assigns, and any other entity or person controlled by, or in the employment of, and every officer, director, agent, or shareholder of any party to this Agreement.

8. Complete Agreement. This Agreement is the complete and entire understanding of the parties hereto and supersedes all prior agreements, oral or written, and all other communications between the parties relating to the subject matter hereto, and may be amended only by written document executed by each of the parties hereto.

9. Enforceability. If any one or more of the provisions of this Agreement or the applicability of any such provision to a specific situation shall be held invalid or unenforceable, such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable and in any event the validity and enforceability of all other provisions of this Agreement and all other applications of such provisions shall not be effected thereby.

10. Notices. Any notice, claim, or demand given regarding this Agreement shall be in writing and shall be delivered personally, telecopied, telexed, or mailed to the other party, properly addressed, postage prepaid, at the addresses set forth below:

- (a) If to IDC: International Design Consortium, Inc.
997 SOUTH MARINE DR.
TAMUNING, GUAM
96911
Attn: CLIFFORD GUZMAN
- (b) If to GP: GP Consulting, Inc.
1717 EAST MORTEN #100
PHOENIX, ARIZONA
85020
Attn: MARK PETERSON
- (c) If to Guzman: Clifford A. Guzman
997 S. MARINE DR.
TAMUNING, GUAM 96911
- (d) If to MacLean: Charles C. MacLean
6232 NORTH 32ND ST.
PHOENIX, ARIZONA 85018
- (e) If to Peterson: Mark J. Peterson
1717 E. MORTEN #100
PHOENIX, ARIZONA 85020

Any party hereto may change the address for notices to be sent to it by written notice delivered pursuant to the terms of this paragraph.

11. Survival. The releases, covenants, and agreements contained herein are contractual and are not a mere recital and shall survive the execution and consummation of this Agreement and shall continue in full force and effect at all times thereafter.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first written above.

INTERNATIONAL DESIGN
CONSORTIUM, INC.,
a Guam corporation

By: Clifford A. Guzman
Its President

GP CONSULTING, INC.,
an Arizona corporation

By: Clifford A. Guzman
Its President

Clifford A. Guzman
CLIFFORD A. GUZMAN

Charles C. MacLean
CHARLES C. MACLEAN

Mark J. Peterson
MARK J. PETERSON

STOCK POWER

For value received, the undersigned hereby sells, assigns, and transfers unto Clifford A. Guzman one hundred ten (110) shares of common stock of International Design Consortium, Inc, a Territory of Guam corporation, represented by Certificate No. 6, which was issued for 250 shares, and hereby irrevocably constitutes and appoints DON WILLIAMS, attorney, to transfer said shares on the books of the within named corporation and with full power of substitution in the premises.

Effective the 2 day of AUGUST, 1989.




Mark J. Peterson

WITNESS:

STOCK POWER

For value received, the undersigned hereby sells, assigns, and transfers unto Carlos Soto Baretto, 10 shares of common stock of International Design Consortium, Inc, a Territory of Guam corporation, represented by Certificate No. 1, which was issued for 410 shares, and hereby irrevocably constitutes and appoints Michael D. Hool, attorney, to transfer said shares on the books of the within named corporation and with full power of substitution in the premises.

Effective the 22nd day of June, 1989.


Clifford A. Guzman

WITNESS:

STOCK POWER

For value received, the undersigned hereby sells, assigns, and transfers unto Carlos Soto Baretto, 10 shares of common stock of International Design Consortium, Inc, a Territory of Guam corporation, represented by Certificate No. 3, which was issued for 260 shares, and hereby irrevocably constitutes and appoints Michael D. Hool, attorney, to transfer said shares on the books of the within named corporation and with full power of substitution in the premises.

Effective the 22nd day of June, 1989.



Mark J. Peterson

WITNESS:

STOCK POWER

For value received, the undersigned hereby sells, assigns, and transfers unto Carlos Soto Baretto, 10 shares of common stock of International Design Consortium, Inc, a Territory of Guam corporation, represented by Certificate No. 2, which was issued for 330 shares, and hereby irrevocably constitutes and appoints Michael D. Hool, attorney, to transfer said shares on the books of the within named corporation and with full power of substitution in the premises.

Effective the 22nd day of June, 1989.


Charles C. MacLean, III

WITNESS:

WAIVER

This Waiver is made by International Design Consortium, Inc., a Territory of Guam corporation ("IDC"), Mark J. Peterson ("Peterson"), Charles C. MacLean, III ("MacLean"), Clifford A. Guzman ("Guzman"), and Carlos Soto Baretto ("Baretto").

Recital

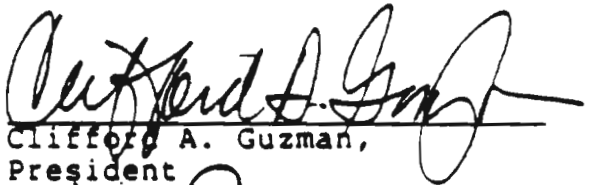
Each of Peterson, MacLean, and Guzman intend on this date to assign and transfer ten (10) shares of common stock of IDC to Baretto.

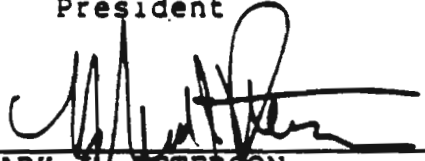
Waiver

To consummate the transfers described above, the parties hereto voluntarily and knowingly waive the restrictions on transfers of shares of common stock of IDC as set forth in Article V and Article VI of the Articles of Incorporation of IDC.

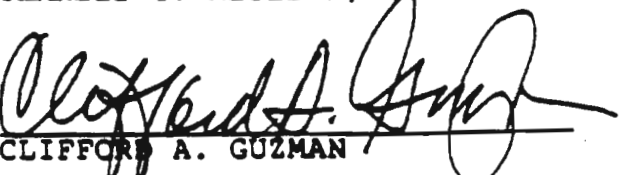
Dated effective June 22, 1989.

INTERNATIONAL DESIGN CONSORTIUM,
INC., a Territory of Guam
corporation

By: 
Clifford A. Guzman,
President


MARK J. PETERSON


CHARLES C. MacLEAN, III


CLIFFORD A. GUZMAN


CARLOS SOTO BARETTO

WAIVER

This Waiver is made by International Design Consortium, Inc., a Territory of Guam corporation ("IDC"), Charles C. MacLean, III ("MacLean"), and Carlos Soto Baretto ("Baretto").

Recital

Peterson intends effective the date referenced herein to assign and transfer one hundred ten (110) shares of common stock of IDC to Guzman.

Waiver

To consummate the transfers described above, the parties hereto voluntarily and knowingly waive the restrictions on transfers of shares of common stock of IDC as set forth in Article V and Article VI of the Articles of Incorporation of IDC.

Dated effective AUGUST 2, 1989.

INTERNATIONAL DESIGN CONSORTIUM,
INC., a Territory of Guam
corporation

By: Clifford A. Guzman
Clifford A. Guzman,
President

Mark A. Peterson
MARK A. PETERSON

Charles C. MacLean III
CHARLES C. MACLEAN, III

Clifford A. Guzman
CLIFFORD A. GUZMAN

Carlos Soto Baretto
CARLOS SOTO BARETTO



INCORPORATED UNDER THE LAWS OF THE TERRITORY OF GUAM
INTERNATIONAL PAPER CORPORATION, INC.

THE CORPORATION IS AUTHORIZED TO ISSUE 1000 SHARES OF CAPITAL VALUE \$100 EACH

Clifford A. Guzman

Clifford A. Guzman

Four Hundred

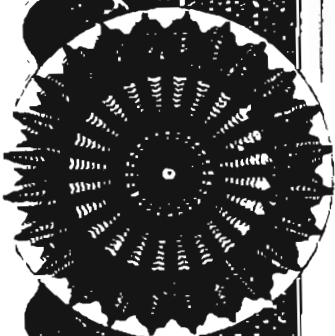
is the sum of

four hundred shares of the above Corporation transferred only on the books of the Corporation by the holder hereof in person or by duly authorized attorney upon surrender of this Certificate properly endorsed.

And Whereas Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation.

Dated June 22, 1989

Clifford A. Guzman



SEE RESTRICTIONS ON REVERSE SIDE



INCORPORATED UNDER THE LAWS OF THE TERRITORY OF GUAM

INTERNATIONAL DESIGN CONSORTIUM, INC.

The Corporation is authorized to issue 4,000 Shares par Value \$1.00 each

Clifford A. Guzman

Clifford A. Guzman

One hundred ten

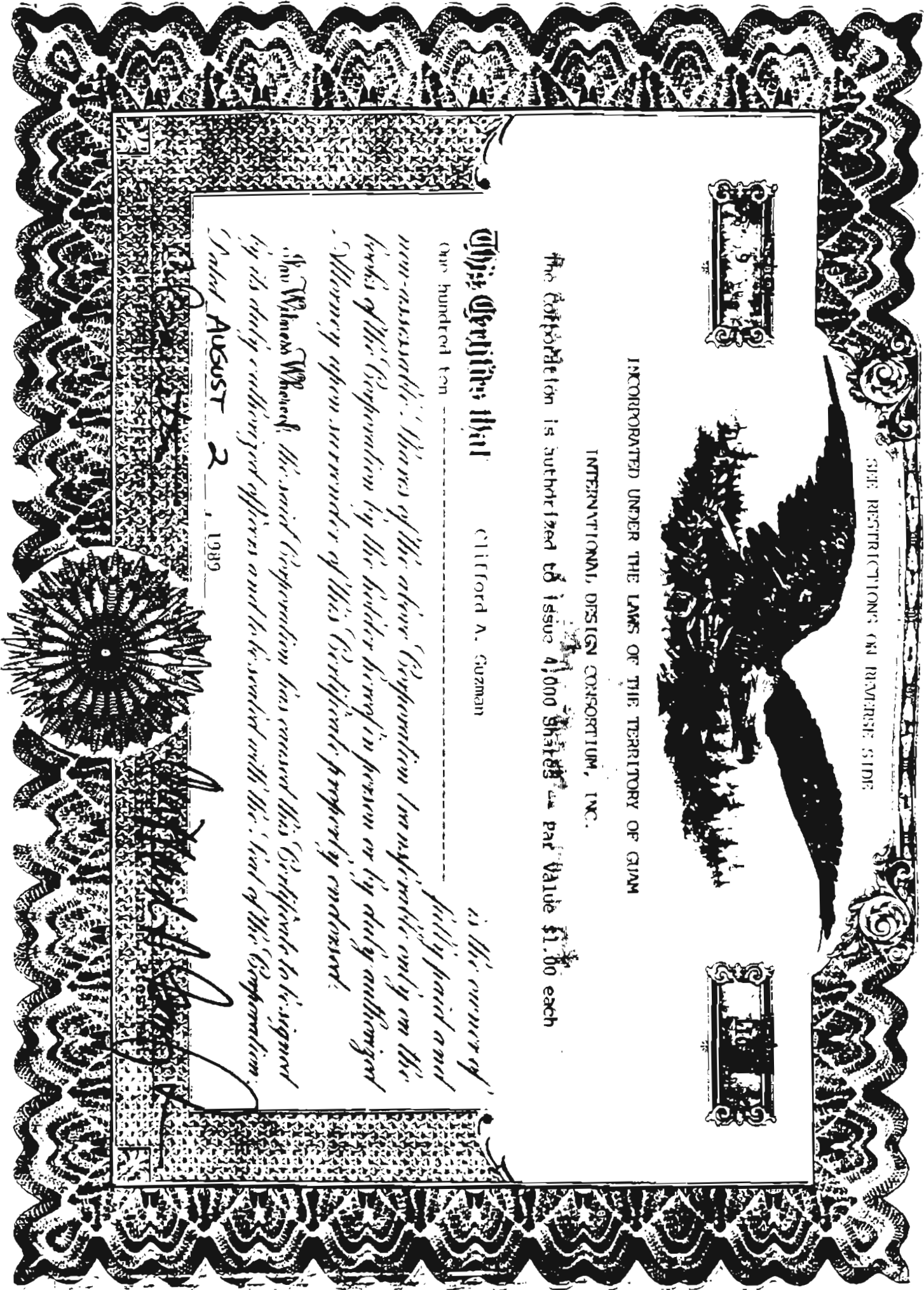
is the owner of
fully paid and

new-assessable shares of the above Corporation for and for only on the books of the Corporation by the holder hereof in person or by duly authorized attorney upon surrender of this Certificate properly endorsed.

Whom Whose The said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation.

Dated AUGUST 2, 1989

Clifford A. Guzman





INCORPORATED UNDER THE LAWS OF THE TERRITORY OF GUAM

INTERNATIONAL PAPER CONSORTIUM, INC.

THE CORPORATION IS AUTHORIZED TO ISSUE 5,000 SHARES OF PAR VALUE \$1.00 EACH

Three Dollars Thirty

Carlos Soto Baretto

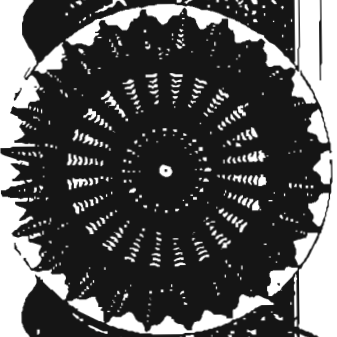
is the owner of

new-assessable' shares of the above Corporation for and payable on the books of the Corporation by the holder hereof in person or by duly authorized Attorney upon surrender of this Certificate properly endorsed.

Now Whomsoever the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation.

Dated June 22, 1939

Secretary



SEE RESTRICTIONS ON REVERSE SIDE



Number 8

140

INCORPORATED UNDER THE LAWS OF THE TERRITORY OF GUAM

INTERNATIONAL DESIGN CONSORTIUM, INC.

The Corporation is authorized to issue 4,000 Shares -- Par Value \$1.00 each

This Certificate Shall

Mark J. Peterson

One hundred forty

is the owner of fully paid and

non-assessable Shares of the above Corporation for which only on the books of the Corporation by the holder hereof in person or by duly authorized attorney upon surrender of this Certificate properly endorsed.

Sho Whoo Whoo, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation.

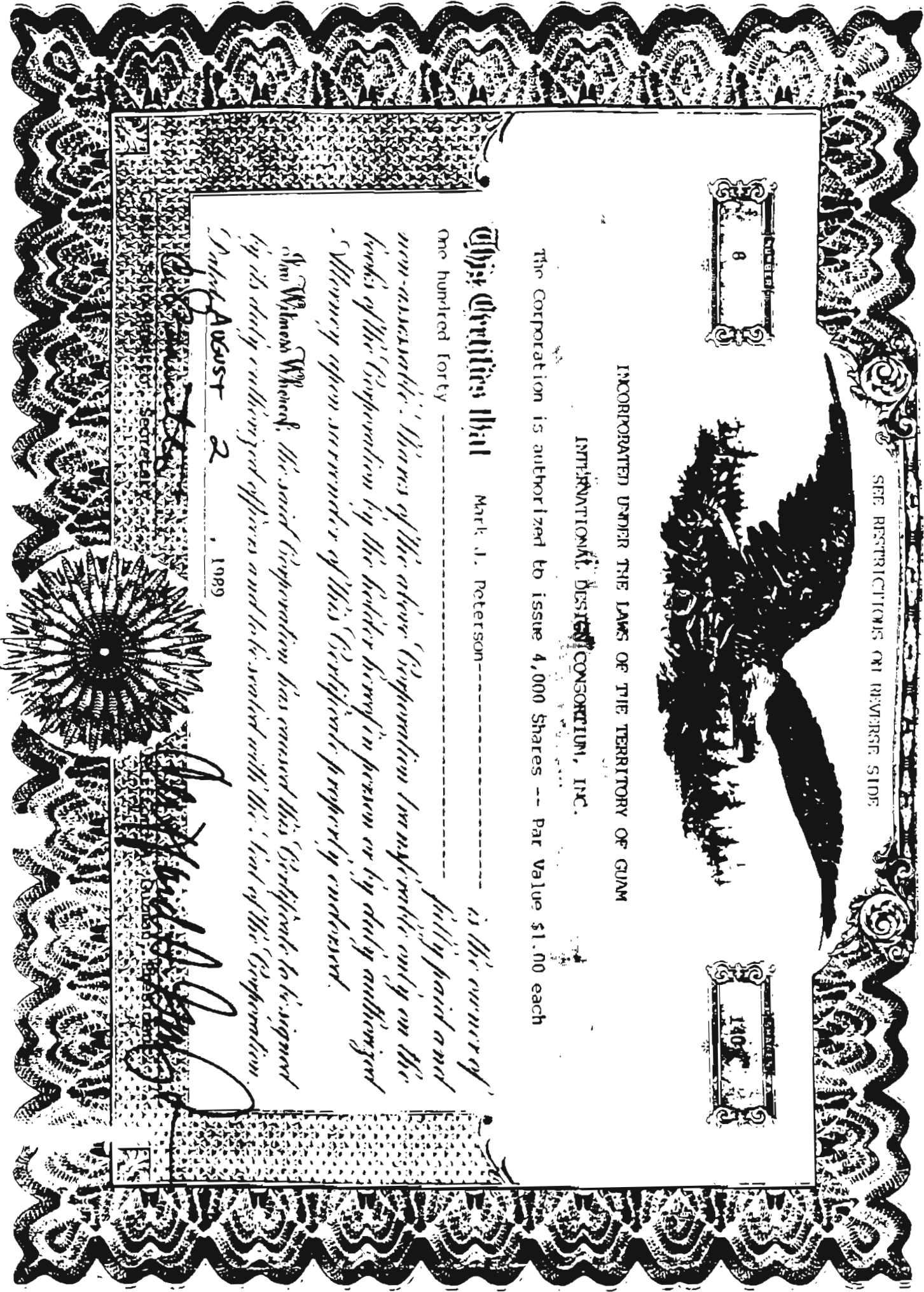
Dated AUGUST 2, 1989

Secretary

Handwritten signature of the Secretary

Secretary

Secretary





INCORPORATED UNDER THE LAWS OF THE TERRITORY OF GUM

INTERNATIONAL DESIGN CONSORTIUM, INC.

The Corporation is authorized to issue 17000 shares of Par Value \$1.00 each

Office Certificate No.

Charles C. Maclean, III

Three hundred Twenty

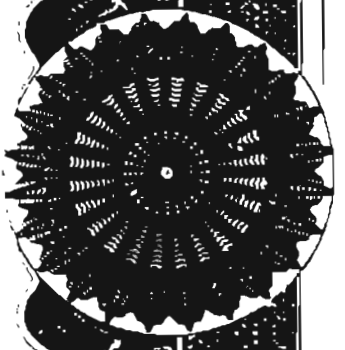
is the sum of

non-assessable, shares of the above Corporation transferred only on the books of the Corporation by the holder hereof in person or by duly authorized attorney upon surrender of this Certificate properly endorsed.

And Whereas Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation.

Dated June 22, 1989

Charles C. Maclean, III



MEMORANDUM OF UNDERSTANDING

This memorandum is made this 10th day of FEBRUARY, 1988 by and between The International Design Consortium Inc., a Guam Corporation and the individuals who will constitute the limited partnership to be formed for the purpose of developing and managing the Agana Marina project.

PARTNERS:

The limited partnership shall comprise the following partners:

GENERAL PARTNERS

Managing General Partner: International Design Consortium, Inc. or its designee.
Majority stockholder for this corporation shall be Clifford A. Guzman, a resident of Guam.

Co-General partner: Tasuku Chino or designee.

Managing General Partner's area of responsibilities:

The Managing General Partner shall have responsibility for all aspects of the project, including general management functions in its conceptual, planning, construction, and operational phases.

LIMITED PARTNERS:

The ownership of the limited partnership shall be as follows:

Local Investors:	CLIFFORD A. GUZMAN et al	25%
Offshore Investors:	TASUKU CHINO et al	75%

The limited partnership will acquire all the design and development concepts for the proposed Agana Marina project. All rights pertaining to said project will be vested with



the limited partnership.

Financing is to be provided to the limited partnership in the form of a loan to the partnership in the amount of \$62,000,000.00 or more. Tasuku Chino who is one of the limited partners shall provide all necessary monies or guarantees to the limited partnership for this purpose.

This agreement is subject to the following conditions:

1. That The International Design Consortium will be selected by the Port Authority of Guam as the developer of the Agana Marina.
2. That the proposed limited partnership is legally established between the parties concerned.
3. That The International Design Consortium, Inc. will be successful in negotiating a satisfactory lease with the Port Authority of Guam and will be reviewed and approved by the limited partnership.
4. The said lease is to be fully executed and legally valid.
5. The lease will be signed by the limited partnership as Lessee.



TASUKU CHINO
In Behalf of Offshore Investors



CLIFFORD A. GUZMAN
President, International Design Consortium, Inc.
In Behalf of Local Investors

⊗

LETTER OF INTENT

January 20, 1989

Mr. Clifford Guzman, President
International Design Consortium, Inc.
997 South Marine Drive,
Tamuning, Guam 96911

Dear Mr. Guzman,

This letter is intended as an indication of my strong interest in your Agana Marina Redevelopment project in which I am called upon to participate as an offshore investor with a first right of refusal.

As I have clearly expressed to you, it is my strong belief that any international business should meet the needs of the offshore investors as well as the requirements of the local community. I have pursued this goal through my many joint ventures with foreign companies such as the Red Robin restaurant chain in California and the Alupang Beach Club Condominiums in Guam. I am particularly impressed with the quality of your proposal and wish to indicate to you that I am prepared to enter into serious negotiations with you to become a partner in the project should your firm be chosen by the Port Authority.

As you are aware, I have already commenced negotiations with the Long-Term Credit Bank of Japan to obtain financing for this project. The reason I invited you and your two other colleagues to Japan the other day at my expense to have you meet with bank officials and make a formal presentation was not only to show you my seriousness but also to facilitate ensuing negotiations with them. Given the fact that this bank is already financing the Alupang Beach Club Condominium project, the total loan of which is expected to be forty (40) million dollars, personally I am quite certain that we will be obtaining the necessary funds once all the conditions are met.

I have commissioned the Long-Term Credit Bank of Japan to prepare a feasibility study on the proposed Marina. Upon the finalization of the feasibility study and the conclusion of our negotiations please be assured that I am prepared to extend every possible financial and other support to make this project a success.

Yours sincerely,


Tasuku Chino



SKYLARK CO., LTD.

February 13, 1989

Mr. David B. Tydingco
General Manager
Port Authority of Guam
Government of Guam
1026 Cabras Highway
Suite 201,
Piti, Guam 96925

Dear Mr. Tydingco,

This is in furtherance to my letter of intent of January 20, 1989 to Mr. Clifford A. Guzman regarding the proposed Agana Marina project, a copy of which is enclosed herewith.

I am happy to inform you that I have reached a basic agreement with Mr. Guzman with respect to the structure of the proposed joint venture. (Please refer to the Memorandum of Understanding dated February 10, 1989 which will be furnished to you by the International Design Consortium, Inc. separately.)

I am positive Mr. Guzman and his team will be able to develop the finest marina hotel project in Micronesia. As the Managing General Partner of this project, he will assume extensive responsibilities the discharge of which requires not only support from our side but, above all, from your government and the local community as well. While I pledge every possible support for Mr. Guzman, I also request your utmost support and cooperation for the realization of this project, the impact of which should be far-reaching for the future of Guam.

We are truly looking forward to the early selection of Mr. Guzman and his team as the developer for this project.

Yours sincerely,


Tasuku Chino

THE LONG-TERM CREDIT BANK OF JAPAN, LTD.

SHINJUKU BRANCH
1-5 NISHISHINJUKU 1-CHOME, SHINJUKU-KU, TOKYO 160, JAPAN
CABLE ADDRESS "SHINJUKCHOGIN"

January 20, 19

LETTER OF REFERENCE

To Whom It May Concern:

Mr. Tasuku Chino is the President and Owner of SKI PARK CO., LTD., Japan's largest family restaurant chain which has been a valued client of our bank for many years.

We have recently had the pleasure to provide financial support for one of Mr. Chino's projects in Guam, namely the Alupang Beach Club Condominiums. We have so far provided a loan of 6 million dollars to Waku Enterprise, Mr. Chino's family investment company. The project, according to the business plan, is expected to require a loan of 40 million dollars.

We are also conducting a feasibility study for the Agana Marina Hotel Project proposed by International Design Consortium in response to the RFP of the Port Authority of Guam. The above project is currently under serious consideration by our bank officials for possible financing.

Toshiaki Uematsu
General Manager
Shinjuku Branch
The Long-Term Credit Bank of Japan
1-5, Nishi-shinjuku 1-chome,
Shinjuku-ku, Tokyo 160 Japan

Toshiaki Uematsu



CABLE ADDRESS SANWABANK
SWIFT ADDRESS SANWJPJT
TELEX "22234 SANWABKJ"
IN REPLY PLEASE REFER TO

THE SANWA BANK LIMITED

1-1 Ottemachi, Chomei, Chiyoda-ku
Tokyo, 100, Japan

LETTER OF RECOMMENDATION

January 26, 1989

To Whom It May Concern:

The Sanwa Bank is pleased to submit hereunder as the main banker the following information regarding Mr. Tasuku Chino and his family-owned company Yugengaisha Taku Enterprise which we believe is correct to the best of our knowledge.

1. Mr. Tasuku Chino is the Founder and President of SKYLARK CO., LTD, Japan's largest family restaurant and food service chain with over 700 outlets in Japan alone.

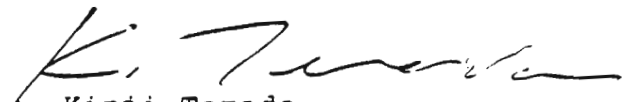
2. Since its inception in 1962, SKYLARK has expanded into a diversified business portfolio of restaurants, transportation, advertising, insurance, contracting, and cleaning. The consolidated annual sales for 1988 for the group is estimated at \$ 1.2 billion.

3. The SKYLARK Group has also expanded internationally: the Group owns and operates the Red Robin gourmet hamburger chain on the West Coast.

4. Yugengaisha Taku Enterprise is a family owned investment company headed by Mr. Chino's wife, Mrs. Masako Chino. While most of the activities so far has been in the area of portfolio management and collection of arts and antiques, recently the company has been positioned as a holding company for promoting new ventures such as international real estate investment and development.

5. It is against this background that the Sanwa Bank has been providing financial assistance for many years to Mr. Chino and Yugengaisha Taku Enterprise. Most recently we have provided a loan of \$ 4,000,000. to Yugengaisha Taku Enterprise for the development of the Alupang Beach Club Condominiums in East Agana.

Overall, we are of the opinion that Mr. Chino and Yugengaisha Taku Enterprise are both quality investors for whom we wish to give our strong recommendation.



Kinji Terada
General Manager
The Sanwa Bank
Kichijoji Branch

INVESTORS AGREEMENT

THIS INVESTORS AGREEMENT by and between CLIFFORD A. GUZMAN, TASUKU CHINO, S. CORNELL TANETANI, YASUHIRO KISHIMOTO, and HENRY M. SIMPSON, JR. (collectively referred hereto as "Investors") for the purpose of reducing to writing the agreement between the Investors regarding the development of the Agana Boat Basin project (the "Project").

R E C I T A L S:

WHEREAS, on February 10, 1989, Tasuku Chino ("Chino") and International Design Consortium, Inc. ("IDC") executed a Memorandum of Understanding for the purpose of developing and managing the Project which contemplated the creation of a limited partnership between IDC and Chino; and

WHEREAS, Pursuant to the Memorandum, IDC has spent considerable time and effort in submitting a proposal to the Port Authority of Guam (the "Port") and negotiation of a Lease with the Port which Lease must be approved by the Guam Legislature; and

WHEREAS, the parties agree that the Lease as signed by the Port and IDC is consistent with the intent of Chino and IDC when the Memorandum was executed; and

WHEREAS, the Project, if developed in accordance with the concept as submitted to the Port, will be financially viable; and

WHEREAS, the parties will enter into more formal agreements for development of the Project once final governmental approvals are granted, the parties desire to reaffirm their agreement on the fundamental principles under which the Project is to be developed.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. Development of the Project. Clifford A. Guzman, on behalf of IDC, will continue to be responsible for all aspects of the Project, including general management in its conceptual, planning, construction and operational phases.

2. Structure of Operational Entity. The parties recognize the primary focus to date has been upon finalizing a lease for the Project and that it may be in the best interest of the Project to have the development and operation of the Project by an entity other than the limited partnership as provided in the Memorandum. Although the parties desire to maintain some flexibility, the basic concept as set forth in

the Memorandum continues to provide the foundation for moving forward with the Project.

3. Investors Action. Regardless of the ultimate structure of the development and operational entity, the parties agree as follows:

(a) An initial equity contribution toward development of the Project of \$5 million will be made by the parties not later than the approval of the Army Corps of Engineers.

(b) The managing of a new Board of Directors of IDC for the Project will consist of the following individuals:

Clifford A. Guzman
Tasuku Chino
S. Cornell Tanetani
Henry M. Simpson, Jr.
Yasuhiro Kishimoto

(c) The officers for the Project shall be follows:

Clifford A. Guzman - Chairman and President,
Chief Executive Officer
S. Cornell Tanetani - Executive Vice President
Henry M. Simpson, Jr. - Secretary
Yasuhiro Kishimoto - Treasurer

(d) No interest in the Project may be transferred without the written consent of all of the Investors.

(e) Any additional equity contribution shall be by the majority vote of Investors and not based on their equity interest in the Project, however, in the event in the fulfillment of the obligations of Tasuku Chino, in paragraph 4 a lending institution requires the infusion of additional capital, the parties shall have ninety (90) days to come up with the necessary funds or an alternative and if they are unable to do so, any infusion of capital shall be accomplished in a manner which will not dilute the voting rights of the Investors as set forth herein.

4. Local Participation Agreement. The parties hereto desire to maintain significant meaningful local Guam participation in the development of the Project. However, until final approvals of the Lease Agreement and indication from the financial institutions as to their requirements, the parties are not in a position to clearly delineate such participation. In any event, the parties intend to preserve the participation of Guzman and IDC through agreements, such as shareholders agreements, management agreements, joint venture agreements, etc., as may be consistent with the development and

management of the project as has existed through the proposal and negotiation stages of the Lease.

5. Future Financing. Tasuku Chino will be responsible for securing all financing for the project contemplated in the lease with the Port Authority of Guam for development of the Agana Boat Basin signed October 13, 1989 (the "Lease") other than the initial \$5,000,000 equity contribution to effect purchase of all of the outstanding shares of IDC and as otherwise provided herein.

6. Investors Obligations. In the event the Lease fails to commence as expected, Investors agree that expenses incurred in connection with the Project shall be borne by the Investors on a pro-rata basis except for the cost of the feasibility study of Lenir, Inc. dated June 23, 1989 and LTCB Research and Management dated May 15, 1989, which cost shall be paid by Tasuku Chino.

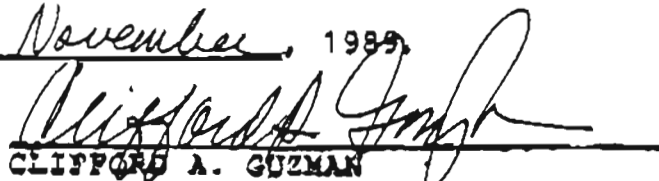
7. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the Territory of Guam.

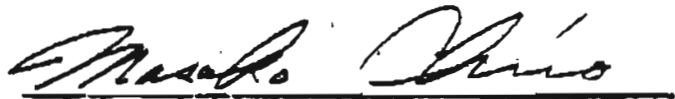
8. Binding Affect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective personal representatives, successors, heirs, permitted assigns.

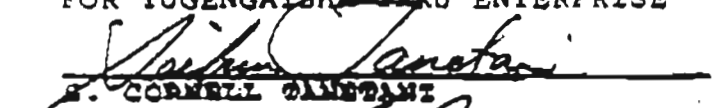
9. Amendments. This Agreement may only be amended by an instrument in writing signed by each of the parties hereto.

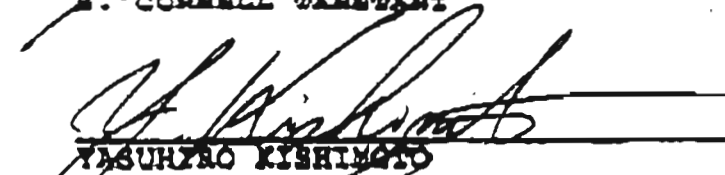
10. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all parties had all signed the same document. All counterparts shall be construed together and shall constitute one single agreement.

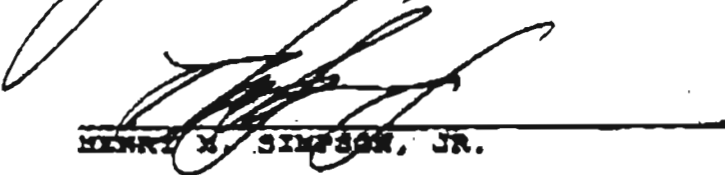
DATED this 14th day of November, 1989.


CLIFFORD A. GUZMAN


MASAKO CHINO
FOR YUGENGAISHA TAKU ENTERPRISE


F. CORNELL SANTANI


YASUHIRO KISHIMOTO


HENRY N. SIMPSON, JR.

10-13-89
11-16-89 (rev.)

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PORT AUTHORITY OF GUAM
ATURIDAT I PUEYTON GUAHAN
GOVERNMENT OF GUAM
1026 Cabras Highway
Suite 201
Piti, Guam 96925

Telephone: (671) 477-5931/01
(671) 477-2689/51
Telex: (721) 5449 PAGO
Facsimile: (671) 477-2622

MAR 02 1990

Honorable John P. Aguon
Chairman
Committee on Tourism and Transportation
Twentieth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

Hafa Adai Mr. Chairman:

On behalf of the Port Authority of Guam Board of Directors, I would like to extend our appreciation for your Committee's efforts in reviewing the Agana Marina Development proposal for legislative consideration. Without your help, we would not have been able to progress this far.

There may be some concern relative to the business structure being proposed by International Design Consortium to carry out the intent of the lease agreement. I believe some clarification from the Port Authority of Guam is necessary in order to allay the concerns raised by the Legislature.

At the onset of the Port's review of the proposal⁴⁴ submitted by International Design Consortium (IDC), it was clear that IDC's financial resources to fund the proposed marina project was to come from Mr. Tasuku Chino, Representative Director and President of Skylark Company. The Port Authority of Guam, via our consultant, Touche Ross, requested the Japanese equivalent of Dunn and Bradstreet, Teikoku Data Bank, to provide background information on Mr. Chino. I am enclosing for your review the report submitted.

As a result of the review, which included in part the enclosed information, IDC was the firm selected by the Port Authority of Guam to negotiate a contract. We recognized that the expertise of IDC and the financial resources of Mr. Chino in combination would assure the success of the project.

The business structure selected by IDC to carry out the intent of the lease was preliminarily outlined in March 1989. At that time, IDC was considering a limited partnership as one method of establishing the formal business relationship among the parties. The actual business structure was not finalized, but the party represented as the major investor since the inception of the review process has not changed.

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Letter to Senator John P. Aguon
Subject: Investors - Agana Marina
Page 2

The Port Authority of Guam believes that IDC should be given the flexibility to choose the business structure best suited to carry out the intent of the lease. We agree that should a change in the make-up of IDC's ownership occur beyond what was originally represented during the Port's review process, the Lessor should have the right to review the financial capability and moral character of any assignee.

I hope the information provided herein is helpful to the Legislature in taking final action on the Agana Marina Lease. Should you require further clarification, please do not hesitate to contact me directly.

Si Yu'os Ma'aso,


DAVID B. TYDINGCO
General Manager

Enclosure


cc: Chairman, Board of Directors
Members, Board of Directors
International Design Consortium

FROM BY: XEROX TELECOPIER 7020 : 3- 2-90 : 3:44PM :
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Inter-Office Communication

 **Tohatsu
& Sanwa**

Date March 3, 1989

To John Blanchard, TRI Guam

Ext.

From Paul Lacy, TAS Tokyo

Ext.

Subject

~~We have done a Takokoku DATA BANK SEARCH on the two companies which you requested a search and we are getting out our findings relate thereto. By coincidence, we know that Mr. Kusanagi lives in a nice house by Japanese standards and drives a Jaguar and Ferrari and has a chauffeur driven car.~~

The information which you requested is set out below:

Company Name:	Skylark Co.
Representative:	Representative Director and President Chino, Tasuku
Date of Incorporation:	June/1948
Capital:	6,567,000,000 Yen
Number of Employees:	2,542
Head Office:	Shinjuku Green Tower Building Nishi Shinjuku 6-14-1 Shinjuku-ku, Tokyo 160 Tel: 03 349 7070
Principal Business:	Dining Facilities, Restaurants, etc.
Type of Entity:	Limited Company
Listed or Unlisted:	Listed Company

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Daiichi Kangyo Bank Nishi Shinjuku Branch
Nippon Longterm Credit Bank Shinjuku Branch
Mitsubishi Bank Shinjuku Shintoshin Branch

Principal Suppliers: Itoh Ham, Banchiku, Meiji Foods, Aoto Katokichi

Principal Purchasers: General Public

Makeup of Shareholders:

Chino, Tasuku	5,164,000 shares
Yokokawa, Tadashi	6,114,000 shares
Yokokawa, Kiwamu	8,112,000 shares
Yokokawa, Norio	6,111,000 shares
Mitsubishi Trust Bank	2,332,000 shares

Number of Shareholders: 6,652

Makeup of Directors

Chairman	Yokokawa, Tadashi
President	Chino, Tasuku
Managing Director	Yokokawa, Kiwamu
Managing Director	Yokokawa, Norio
Executive Director	Idemura, Kazuhiko
Executive Director	Kaneko, Junichi
Executive Director	Bamba, Yoshikatsu
Executive Director	Matsumoto, Tamotsu
Executive Director	Nagai, Yoshiaki
Executive Director	Chiba, Kiyoshi

Objective of the Company: Restaurants

Number of Operation Offices: 545

If you require more detailed information or should you have any further questions with respect to this matter, please feel free to contact this office.

Yours sincerely,

Paul Lacy

FROM BY: XEROX TELECOPIER 7020 : 3- 2-89 : 3:45PM :
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Fiscal Year December 1986
(000's Yen)

Sales	91,158,000
Net Profit	4,648,000
Dividends	20%
Equity Ratio	61%
Balance Sheet	Yes
Tax Return	
Filing Period	December 1986
Income	10,220,810

Fiscal Year December 1987
(000's Yen)

Sales	94,803,000
Net Profit	4,739,940
Dividends	24%
Equity Ratio	54%
Balance Sheet	Yes
Tax Return	
Filing Period	December 1987
Income	9,798,940

Ranking within the industry by sales:

in Japan	2 from a total of 7,436 companies
in the Kan (similar to a State)	2 from a total of 1,957 companies

Teikoku Data Bank
overall rating from
a total of 100 74

Teikoku Data Bank reviews this company at least once per year.

Transaction Bank

Fuji Bank	Shinjuku Shintoshin Branch
Norin Chukin	Head office
Sanwa Bank	Shinjuku Shintoshin Branch
Taiyo Kobo Bank	Shinjuku Shintoshin Branch

CARLSMITH, WICHMAN, CASE, MUKAI AND ICHIKI

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING LAW CORPORATIONS

134 WEST SOLEDAD AVENUE

BANK OF HAWAII BUILDING, SUITE 401

P. O. BOX BF

AGANA, GUAM 96910

OFFICES

HONOLULU, HAWAII

HILO, HAWAII

KAILUA-KONA, HAWAII

WAILUKU, MAUI, HAWAII

LOS ANGELES, CALIFORNIA

SAIPAN, MP

TELEPHONE
(671) 472-6813

CABLE ADDRESS
CWCM1 GU

TELECOPIER
(671) 477-4375

TELEX
721-6445 CWCM1 GM

March 2, 1990

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

CHAIRMAN, COMMITTEE ON TOURISM,
TRANSPORTATION & COMMUNICATIONS

RECD BY: Gant
DATE: 3/6/90 TIME: 8:10

Re: Lease Agreement between International Design
Consortium ("IDC") and the Port Authority of
Guam ("Port") of the Agana Boat Basin

Dear Senator Aguon:

This letter is in follow up of your request for something more in writing concerning the ownership of IDC. I can assure you the agreement as to the stock ownership in IDC is as follows: 68%-Tasuku Chino; 15.4%-Clifford A. Guzman; 10%-Yasuhiro Kishimoto; 3%-S. Cornell Tanetani and 3%-Henry Simpson which is as set forth in Mr. Guzman's letter to David Tydingco dated February 23, 1990, and these commitments continue unaltered. I have requested a revised Investors Agreement or an amendment showing the ownership in an effort to satisfy the concerns which have been expressed by some Committee members.

Although the commitment to the project remains as set forth above, the commitment has been based on a lease agreement that would not only be workable from a business standpoint, but financeable. As a result of the substantial changes in the Lease suggested by the Legislature with no clear indication as to what the final Lease will look like, there is concern in Japan that the continued requests for signatures when the information was previously provided is in some way an effort by the Legislature to obtain their acquiescence to a lease that otherwise may not be acceptable from a financial and operational business standpoint.

I have been advised that while everyone remains committed to and believes in the project, they are not willing to do anything further by way of documentation until such time

Honorable Senator John P. Aguon
March 2, 1990
Page 2

as the Legislature makes its decision on the Lease and a decision can be made on their part if the project is even still viable. The Legislature's approval could be contingent upon the ownership of IDC being represented herein as verified by the Port.

Under the circumstances, there appears to be little else I can obtain for the Committee at this time.

Very truly yours,

A handwritten signature in black ink, appearing to read "DCW", followed by a long horizontal line extending to the right.

Donald C. Williams

DCW:lcs
cc: Mr. Clifford A. Guzman
G9002125

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PORT AUTHORITY OF GUAM
ATURIDAT I PUEYTON GUAHAN
GOVERNMENT OF GUAM
1026 Cabras Highway
Suite 201
Piti, Guam 96925

Telephone: (671) 477-5031/2
(671) 477-2023/4
Telex: (671) 5659 PAGO
Facsimile: (671) 477-2000

MAR 02 1990

Honorable John P. Aguon
Chairman
Committee on Tourism and Transportation
Twentieth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

Hafa Adai Mr. Chairman:

On behalf of the Port Authority of Guam Board of Directors, I would like to extend our appreciation for your Committee's efforts in reviewing the Agana Marina Development proposal for legislative consideration. Without your help, we would not have been able to progress this far.

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Letter to Senator John P. Aguon
Subject: Investors - Agana Marina
Page 2

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Si Yu'os Ma'asa,


DAVID B. TYDINGCO
General Manager

Enclosure


cc: Chairman, Board of Directors
Members, Board of Directors
International Design Consortium

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SENT BY: Xerox Telecopier 7020 : 3- 2-90 : 3:30PM :

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Inter-Office Communication

 Tobimatsu
& Sarwa

Date March 3, 1989

To John Blanchard, TRI GUAM

Ext.

From Paul Lacy, TAS Tokyo

Ext.

Subject

~~We have done a Teikoku Data Bank search on the two companies which you requested a search and we are getting out our findings relate thereto. By coincidence, we know that Mr. Kusanagi lives in a nice house by Japanese standards and drives a Jaguar and Ferrari and has a chauffeur driven car.~~

The information which you requested is set out below:

Company Name:	Skylark Co.
Representative:	Representative Director and President Chino, Tasuku
Date of Incorporation:	June/1948
Capital:	6,587,000,000 Yen
Number of Employees:	2,642
Head Office:	Shinjuku Green Tower Building Nishi Shinjuku 6-14-1 Shinjuku-ku, Tokyo 160 Tel: 03 349 7070
Principal Business:	Dining Facilities, Restaurants, So
Type of Entity:	Limited Company
Listed or Unlisted:	Listed Company

RDV BY: XEROX TELECOPIER 7020 : 3- 2-90 : 3:46PM :
SENT BY: Xerox Telecopier 7020 : 3- 2-90 : 3:31PM :

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Daiichi Kangyo Bank Nishi Shinjuku Branch
Nippon Longterm Credit Bank Shinjuku Branch
Mitsubishi Bank Shinjuku Shintoshin Branch
Principal Suppliers: Itoh Ham, Zenchiku, Meiji Foods, Aoto Katokichi
Principal Purchasers: General Public
Makeup of Shareholders: Chino, Tasuku 5,184,000 shares
Yokokawa, Tadashi 6,114,000 shares
Yokokawa, Kiwamu 6,112,000 shares
Yokokawa, Norio 6,111,000 shares
Mitsubishi Trust Bank 2,332,000 shares
Number of Shareholders: 6,652
Makeup of Directors

Chairman	Yokokawa, Tadashi
President	Chino, Tasuku
Managing Director	Yokokawa, Kiwamu
Managing Director	Yokokawa, Norio
Executive Director	Idemura, Kazuhiko
Executive Director	Kaneko, Junichi
Executive Director	Banba, Yoshikatsu
Executive Director	Matsumoto, Tamotsu
Executive Director	Nagai, Yoshiaki
Executive Director	Chiba, Kiyoshi

Objective of the Company: Restaurants

Number of Operation Offices: 345

If you require more detailed information or should you have any further questions with respect to this matter, please feel free to contact this office.

Yours sincerely,

Paul Lacy

RCV BY: XEROX TELECOPIER 7020 : 3- 2-88 : 3:45PM :
SENT BY: Xerox Telecopier 7020 : 3- 2-88 : 3:30PM :

6714772669+

3712779551+

Fiscal Year December 1986
(000's Yen)

Sales	91,158,000
Net Profit	4,640,000
Dividends	20%
Equity Ratio	61%
Balance Sheet	Yes
Tax Return	
Filing Period	December 1986
Income	10,220,810

Fiscal Year December 1987
(000's Yen)

Sales	94,803,000
Net Profit	4,739,940
Dividends	24%
Equity Ratio	54%
Balance Sheet	Yes
Tax Return	
Filing Period	December 1987
Income	9,795,940

Ranking within the industry by sales:

in Japan	2 from a total of 7,436 companies
in the Kon (similar to a Stato)	2 from a total of 1,957 companies

Taikoku Data Bank
overall rating from
a total of 100 74

Taikoku Data Bank reviews this company at least once per year.

Transaction Bank

Fuji Bank	Shinjuku Shintoshin Branch
Norin Chukin	Head office
Sanwa Bank	Shinjuku Shintoshin Branch
Taiyo Kobe Bank	Shinjuku Shintoshin Branch

CARLSMITH, WICHMAN, CASE, MUKAI AND ICHIKI
ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING LAW CORPORATIONS
134 WEST SOLEDAD AVENUE
BANK OF HAWAII BUILDING, SUITE 401
P. O. BOX 8F
AGANA, GUAM 96910

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March 2, 1990

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

CHAIRMAN, COMMITTEE ON TOURISM,
TRANSPORTATION & COMMUNICATIONS

RECD BY: Garet
DATE: 3/6/90 TIME: 8:10

Re: Lease Agreement between International Design Consortium ("IDC") and the Port Authority of Guam ("Port") of the Agana Boat Basin

Dear Senator Aguon:

This letter is in follow up of your request for something more in writing concerning the ownership of IDC. I can assure you the agreement as to the stock ownership in IDC is as follows: 68%-Tasuku Chino; 15.4%-Clifford A. Guzman; 10%-Yasuhiro Kishimoto; 3%-S. Cornell Tanetani and 3%-Henry Simpson which is as set forth in Mr. Guzman's letter to David Tydingco dated February 23, 1990, and these commitments continue unaltered. I have requested a revised Investors Agreement or an amendment showing the ownership in an effort to satisfy the concerns which have been expressed by some Committee members.

Although the commitment to the project remains as set forth above, the commitment has been based on a lease agreement that would not only be workable from a business standpoint, but financeable. As a result of the substantial changes in the Lease suggested by the Legislature with no clear indication as to what the final Lease will look like, there is concern in Japan that the continued requests for signatures when the information was previously provided is in some way an effort by the Legislature to obtain their acquiescence to a lease that otherwise may not be acceptable from a financial and operational business standpoint.

I have been advised that while everyone remains committed to and believes in the project, they are not willing to do anything further by way of documentation until such time

Honorable Senator John P. Aguon
March 2, 1990
Page 2

as the Legislature makes its decision on the Lease and a decision can be made on their part if the project is even still viable. The Legislature's approval could be contingent upon the ownership of IDC being represented herein as verified by the Port.

Under the circumstances, there appears to be little else I can obtain for the Committee at this time.

Very truly yours,



Donald C. Williams

DCW:lcs
cc: Mr. Clifford A. Guzman
G9002125

AGANA MARINA

BILL NOS. 1020 & 1036

VOLUME 4

APPRAISALS

1. APPRAISAL DESK - THIRD PARTY APPRAISER REVIEW AND RECONCILIATION
2. WESTCO / PAC INTERNATIONAL LTD.
3. DE LA PENA REALTY

OTHERS

4. AGANA MARINA RULES AND REGULATIONS
5. PL 86-664 & PL 93-435
 - AUG. 4, 1989 LETTER OF DAVID TYDINGCO TO ANTONIO PALOMO (FIELD REPRESENTATIVE, U. S. DEPT. OF INTERIOR, TERRITORIAL AND INTERNATIONAL AFFAIRS
 - JAN. 27, 1989 LETTER OF DAVID TYDINGCO TO THE ATTORNEY GENERAL
 - JAN. 1979 MEMO OF THE ASSISTANT SOLICITOR, TERRITORIES TO THE DIRECTOR, OFFICE OF TERRITORIAL AFFAIRS
6. IMPACT STATEMENTS
 - GUAM ENVIRONMENTAL PROTECTION AGENCY
 - GUAM POWER AUTHORITY
 - GUAM TELEPHONE AUTHORITY
 - PUBLIC UTILITY AGENCY OF GUAM



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January 03, 1990

Mr. David Tydingco
General Manager
Port Authority of Guam
Suite 201, Port Administration Building,
1026 Cabras Highway, Cabras Island,
Piti, Guam

CHAIRMAN, COMMITTEE ON TOURISM,
TRANSPORTATION & COMMUNICATIONS

REC'D BY: Janet

DATE: 1-5-90 TIME: 11:20

RE: Third Party Appraiser Review and
Reconciliation on some Ten (10) acres of
land in the Agana Marina,
Marine Drive, Agana, Guam

Dear Mr. Tydingco:

As requested, we have prepared a report entailing the results of our review on the submitted appraisal reports performed by Dela Pena Realty and Westco/Pac, and have reconciled the values estimated by these valuator.

Briefly, between the two reports, the most preferred presentation, in my opinion, is the one performed by WESTCO/PAC, International, Inc. While not to completely agree with their final value estimate on the subject property, the report was performed with the methodology essential in valuation of a project such as the subject and as conditioned.

The Dela Pena report seems rather vague and in certain sections of the report, quite difficult to follow. Ironically so, his final value, at least on a per unit basis seems more realistic but not as supported by the comparable sales used.

The market value of the subject property predicated on the reviews on the reports and on current available data, as of the date of this letter, is:

FIVE MILLION SIX HUNDRED SIXTY SIX THOUSAND DOLLARS
\$ 5,666,000

Respectfully submitted,

J.C. Concepcion
Chief Appraiser

STATEMENT OF LIMITING CONDITIONS AND ASSUMPTIONS

The certification appearing in this study is subject to the following conditions and to such other specific and limiting conditions set forth in this study.

1. This review covers the property as described in this report, and the areas and dimensions as shown herein are assumed to be correct.
2. The appraiser has made no survey of the property and assumed no responsibility in connection with such matters. Any sketch or identified survey of the property included in this report is only for the purpose of assisting the reader to visualize the property.
3. No responsibility is assumed for matters involving legal or title considerations.
4. The information identified in this report as being furnished by others is believed to be reliable, but no responsibility for its accuracy is assumed.
5. Possession of this report, or a copy thereof, does not carry with it the right of publication, nor may it be used for any purpose by any but the client for whom it was made without the consent of the appraiser or client.
6. The appraiser/reviewer is not required to give testimony or attendance in court by reason of this appraisal unless arrangements have been previously made.
7. The reviewer's valuation reported herein is based on current economic conditions which have been substantiated by my independent and current economic surveys in the subject area. Should economic conditions change, and if certain economic factors vary, the future value of the subject property could conceivably be more or less than the valuation figure reported.
8. The accompanying report has been prepared on the basis on information and assumptions set forth in the submitted appraisal reports prepared by WESTCO/PAC, International, Ltd. and Dela Pena Realty. Although I believe the information and assumptions used constitute reasonable basis for preparation of the report, the achievement of any financial projection is dependent upon the occurrence of future events which cannot be assured. Therefore, the actual results achieved may vary from the projections.
9. The terms of the engagement are such that I have no obligation to update this report or revise the reported financial results because of events and transactions occurring subsequent to the date of this report.

10. The property has not been surveyed. Boundary lines, size, and other pertinent data were based on my physical inspection and the submitted copies of the appraisal report prepared by WESTCO/PAC International, Inc. and Dela Pena Realty, as is the basis of this review. Any maps shown in this report identifying the property were a result of the plans and sketches founded in these appraisal reports.

DEFINITION OF TERMS

Various terms are used in this report. These terms are defined to assist the reader in understanding particular terminology.

Discounting - A concept of time preference which holds that future income or benefits are worth less than the semi-income, or, benefits now, and that they decrease in value systematically as the time for their receipt is further deferred into the future. In appraisal analysis, discounting is the arithmetic procedure of applying a specific rate (usually) derived from the market to the anticipated future income stream in order to develop a present worth estimate.

Ellwood Premise - An extension of basic mortgage-equity analysis involving certain additional assumptions, concerning income flows and the nature of the claims against those income flows. (L.W. Ellwood, M.A.I., originator of the Ellwood method of mortgage-equity capitalization and author of Ellwood Tables for Real Estate Appraising and Financing).

Fee Simple Estate - Absolute ownership unencumbered by any other interest or estate; subject only to the limitation of eminent domain, escheat, police power, and taxation.

Highest and Best Use -

1. The reasonable and probable use that supports the highest present value or improved property, as defined, as of the date of appraisal.
2. That probable use which is expected to yield the highest net return to the land over a given period of time.
3. The use must be legal and in compliance with regulations and ordinances within the police power of the city, county and state, including health regulations, zoning ordinances, building code requirements, etc.
4. The most profitable use.

Market Value - Is the major focus of most real property appraisal assignments. Both economic and legal definitions have been developed and refined. Continual refinement is essential to the growth of the appraisal profession. The current economic definition of market value can be stated as follows:

Market value is defined as the most probable price estimated in terms of money (U.S. legal tender) which a property would bring if exposed for sale for a reasonable period of time on the open market, to a seller, willing but not compelled to buy; both parties being fully informed of all the purposes of which the property is best adapted and is capable of being used.

Fundamental assumptions and conditions presumed in this definition are:

1. Buyer and seller are motivated by self-interest.
2. Buyer and seller are well informed and are acting prudently.
3. The property is exposed for a reasonable time on the open market.
4. Payment is made in cash or its equivalent, or specified financing terms.
5. Specified financing, if any, may be the financing actually in place or on terms generally available for the property type in its locale on the effective appraisal date.
6. In effect, if any, on the amount of market value of a typical financing, services, or fees shall be clearly and precisely revealed in the appraisal report.

Present Value - The current monetary value. Sometimes it is used synonymously, and advisedly, with the term present worth. It is the today's cash lump sum which represents the current value of the right to collect future payments. It is the discounted value of aggregated future payments.

Square Meter - The square meter is a commonly used land measurement in Guam. One square meter equals 10.764square feet; 4,046.88square meters approximate one acre.

PURPOSE OF THE REPORT

The Port Authority of Guam in pursuit of a value estimate on some ten (10) acres of land in the Agana district, had retained Dela Pena Realty to perform a comprehensive appraisal report on the property. The appraisal report was dated August 03, 1986. Subsequent to this period, the agency, under a Request for Proposal (RFP) had received a copy of a valuation report prepared by WESTCO/PAC International, Ltd., on behalf of Matsuzato Sogyo Co. Ltd. on a proposed development plan that included the subject property. The report submitted by WESTCO/PAC International, Ltd., was dated March 07, 1989.

The subject property is some ten (10) acres of land located along Marine Drive in Agana. It is the site of the existing Agana Boat Basin and specifically, the hard areas (as opposed to the submerged areas) or surrounding ground servicing the basin.

While the WESTCO/PAC report was indeed performed almost two (2) years after the Dela Pena report, there were disparities in final valuation between the two, that prompted concern on the part of the responsible agency.

The Port Authority of Guam, a Government of Guam agency, had requested a review of these valuation reports on the property with which such a review may be used as a reference to assist in reflecting the most reliable value estimate and methodology.

The purpose of this report is to:

1. Review the methods of valuation used by the appraisers and their affects to their final opinion.
2. Review the data utilized in arriving at their final value.
3. Perform our own probable value based on obtainable data.
4. Reconcile the value results.

FUNCTION OF THE APPRAISAL

The function of this report is to be used as a reference to assist in reflecting a reliable value estimate which would serve as a basis of determining limits in likely negotiations by the Port Authority of Guam and private developers for a future re-development plan that may include the subject property.

The date of this report is **December 15, 1989.**

PROPERTY DATA

Legal Description

The "Legal" description of the government parcel was not submitted. WESTCO/PAC International describes the parcel as a portion of "ML-1" and contains a total of ten (10) acres of hard area. WESTCO/PAC refers to a Government of Guam survey map dated 11/14/88, LM Number E4-88T 703 showing a total area of 36.75 acres. Further, the map does imply that the majority of this site is submerged land (73%). Dela Pena's report describes the subject as "Harbor Back-up area) and contains 10.3 acres of land. He based this land area on the study prepared by the U.S. Army Engineer Division, 1973, Plan C.

These descriptions seemingly are based on several plans or survey maps prepared on the subject area on behalf of the agency.

The owner of the subject is **PORT AUTHORITY OF GUAM.**

PROPERTY DESCRIPTION:

Site:

As shown on the map sketch opposite this page, the subject parcel is part of the existing Agana Boat Basin development. It includes the hard areas only and this is the portion that is under scrutiny. The subject area surrounds the basin to the north and west.

Improvements:

This is a report on some ten (10) acres of vacant and improved land. No improvements were included in this report.

SUMMARY OF APPRAISAL VALUATIONS

The next following pages are the in depth review of each of the appraisal reports performed by WESTCO/PAC, International and Dela Pena Realty. It must be understood that the critical aspects of our review are based on our experience as real estate appraisers. The factors or verbiage used shall not be construed as a question of the appraiser's integrity or professionalism.

We have presented the summary of the reports in a critique form with our review of each section of presented data.

Project: Agana Boat Basin
Marine Drive, Agana, Guam

Appraiser: Dela Pena Realty
Eduardo F. dela Pena Sr., Senior Appraiser

Date of Appraisal: As of July 1986

Transmittal Letter: August 03, 1986

SECTION I:

Transmittal Letter

Basis of Cost:

1. *Original Cost of outer basin, rivetted mole, breakwater and cir-channel \$ 1,921,000

Appraiser assumes an 8 percent increase per annum for this type of construction but utilizes a 1.09 factor against the original cost and summed the cost new of the above at \$ 3,555,600. The present factor on the increases should have been 1.54% (8% increase per year nine times)

2. *Original basin improvements 1,215,150
The depreciation factor (about 21%) was applied only to these improvements and not on the outer basin and breakwater and cir-channel original costs and totals
Present Worth (?) 249,240
\$ 965,910

3. *Cost of new improvements (docks, utilities, dredging, yard improvements, and so forth 600,000

After recap, the total present worth (?) \$ 5,121,510

* Assumed by the reviewer that these figures were submitted by Mr. Jerry Carrera who was an engineer retained for the purpose of planning and reconstruction of the subject facility at the time of the appraiser's report.

** Assumed by the reviewer this was a part of the cost for a total reconstruction of the subject.

Reviewer's comments:

- a. Why weren't the outer basin, rivetted moles and breakwater improvements depreciated?

- b. What was the basis of using an 8% increase per year?
- c. The term "Present Worth" maybe confusing and the appraiser may be indicating Depreciated Replacement Cost. Present Worth is a valuation term used by lenders and real estate valutors that generally means the current monetary value of a discounted aggregate future payment or payments. Present Worth of One is a reversion factor that is used to discount a single future payment to a present worth figure given the appropriate discount rate and period.

SECTION II.

Part II of the appraisal report, page III-1 to III-9, under Appraisal Methodology details a sale transaction on the Achang Bay Marina in the Merizo district, two years prior to the date of valuation. Seemingly enough, the appraiser did not use this to any extend although he did explain that while this sale is NOT comparable to the subject property, "the underlying principles in the land sales would give rise to local principles influencing values of beach land and concomitant submerged land and jetty improvements, moorings and channels". Further, he stated that the sale price of the property was fifty-percent of the original listing price and although unclear, we assume that the sale included the unimproved beach property with surrounding submerged land only and not the improvements (dry storage, bar and restaurant and accommodations for transients). Mr. dela Pena further states the allocation of the sale price of \$ 125,000 as being evenly divided between the beachfront parcels and the surrounding submerged land.

The total sales price at \$ 125,000 reportedly included the aggregated land area of 2,489.97 square meters (assumed the land surface areas as opposed to submerged portions) and the jetties at 500 square meters. The essence of this analysis is the inconsistency of unit values when academically checked. i.e.,

\$ 125,000 by 2,489.97 s.m. \$ 50.20

Mr. dela Pena indicates \$ 46.83 per square meter

Even with the inclusion of the 500 square meter jetty areas:

\$ 125,000 by 2,989.97 s.m. \$ 41.81

He emphasizes that the cost approach is the best approach to the subject value using the calculator method as guided by the Marshall Swift Valuation Manual and he incorporated this with the Cost Growth Projection Method as utilized by the Naval Architects and Engineers. The value of the land was based on the market comparison method which he analyzed in Part III of the report.

He explained alternative appraisal methodology where a professionally managed business is valued and since the "Commercial Port" rests in this particular

category he will utilize this approach based on a published handbook. He would derive value based on this which is similar to the typical income approach to value method.

No analysis was found within the report where the income potentials or even the existing income was converted to a value.

SECTION III.

Part III of the appraisal report, page III-1 to III-5, under Appraisal Method, Calculations, Valuations.

The Land Valuation Section was reportedly based on the parcels' highest and best use however no mention of Mr. dela Pena's opinion of the site's most profitable use.

Comparable sales data describes three (3) parcels located in the Pago Bay area and the more appealing Tumon Bay district. Mr. dela Pena did not "resort to detailed adjustment grid" but reconciled the harbor back-up area (?) or land fill containing 10.3 acres of land at \$ 140.00 per square meter or the unit values indicated by the first two sales in the Pago Bay area.

The following items should have been considered by the appraiser:

1. Proper techniques in valuation of marinas or boat yards must be considered. Described methods by experienced real estate appraisers, most of which are considered as authorities in valuation of real property and properties such as the subject, seem to favor the Income Approach to Value as essentially the subject property is an economic investment.
2. While the market data approach was used in the land valuation section, a more detailed analysis on similarities or dissimilarities should have been made to the subject property. No adjustment was presented. It would be difficult to actually compare both Pago Bay and Tumon Bay to the subject because of location amenities and appeal without considering the highest and best use theory. Further, zoning differences could have been a major factor in his value results for the subject.
3. The emphasis on using the business income as a part of his valuation process seems redundant as it was not shown in the report.
4. The emphasis on using the cost approach to value may have been out of line as comparable land sales used in the valuation process was in actuality not substitute land. The principle of substitution maybe unrealistic and inapplicable.

Project: Agana Boat Basin
Marine Drive, Agana, Guam

Appraiser: WESTCO/PAC International Ltd.
James LaMantia, ASA, SCV, President

Date of Report: As of March 07, 1989

Transmittal Letter: March 07, 1989

Report prepared for: Matsuzato Sogyo Co. Ltd.
Mr. Hidehiko Kashima, Director

Purpose of report: Economic study - Privatization of the Management and Development of the Agana Marina and Estimate of the Fair Rental Value of the Marina and Hotel sites.

Transmittal Letter

1. Purpose of the report was explicit with great emphasis on client interest in privatization of the marina.

Executive Summary

1. Good layout and simple verbiage of purpose and results of his study including the privatization synopsis.

SECTION 1 - GENERAL INFORMATION

1. Concise explanation of data on the property including descriptive graphics.

SECTION 2 - ECONOMIC STUDY

1. Basic data analysis the essence of the preparation of the report. Easy comprehension of the intent of the report.
2. The economic problem is well defined and underlines the need of the Port Authority's move to the Request for Proposal for management and development of the subject.
3. The highest and best use theory is explained to the fullest degree and indeed is the underlying factor in property value.
4. Present Use and After Use Comparative Analysis well defined.

SECTION 3 - VALUATION SECTION

1. The site appraised consists of two (2) parcels, identified as ML-1 (the subject and HL-1, the proposed hotel development site.
2. Purpose of the report was explicit.
3. Cost of Improvements was well supported by his data of actual costs and units.
4. Land Value section on the subject (ML-1) well explained however seems a bit conservative on the per unit assignment of \$ 100.00 per square meter. The subject portion (hard land) was also subjected to a decrease as "preparation costs (dredging, etc.) for full utilization" were deducted.
5. Land Transactions or comparable data used in estimate of value are verified and documented transactions however no comparison analysis was performed. The Agat and Tumon sales should have been adjusted for location and appeal to the subject among other things and the Agana sales should have been also adjusted for size and for frontage amenities.

No. 1 - Land Lease

Lot No.: 3, Block 23, (formerly Lot 3, Block 23 New), Agana, Guam

Location: Between Guam Savings and Loan and Marina Travel and Sale on Asphenal Avenue, Agana

Instrument/Date: May 27, 1987

Document No.: 385342

Lease Terms: 99 years commencing May 1, 1987 to April 30, 2086 at \$550 per month for 5 years, escalating 10% each 5 years thereafter

Land Area: 632 SM or 6,799 SF

Indicated Value: Capitalized at 9% for a value of \$73,333

Unit Value: \$116 SM

Lessor: Roman R. Flores, Leon R.; David R.; Erlinda F. Leon Guerrero

Lessee: Uttamchandi, Hiro, Clayton Duvall, and Michael Pena

Zoning: "C" Commercial

Property Description: Level lot fronting sidewalk on Asphenal Avenue

Remarks: Good location and fully usable and it is on city side of Marine Drive.

No. 2 - Land Lease

fee

Lot No.: 294, Estate No. 9587, Urban, Asan, Guam

Location: On oceanside of Marine Drive in Asan

Instrument/Date: October 1, 1971

Document No.: 106133

Lease Terms: 55 years, commencing October 1, 1971 at \$350 per month

Land Area: 1,611.33 SM or 17,345 SF

Indicated Value: Capitalized at 10% for a value of \$40,283

Unit Value: \$25 SM

Lessor: Pedro N. Aguon

Lessee: Vincent J. and Tai K. Bartolomeo

Zoning: "C" Commercial

Property Description: Level area on oceanside of Marine Drive with commercial units fronting Marine Drive and lessor residence on rear portion of lot

Remarks: The lessee constructed small commercial units: clinic, pharmacy, and nutrition store. It is estimated that the lessee has a unit value leasehold estate in the land of \$75 SM - Therefore: Leased Fee \$25 SM
Leasehold Estate \$75 SM
Estimated Value \$100SM

No. 3 - Land Lease

Lot No.: 2045-4,-8,-11,-12,-13,-15, and -16,
Agana, Guam

Location: South of Marine Drive on Route 8,
almost at the intersection of Route 8
and Marine Drive

Instrument/Date Ground lease dated June 6, 1984

Document No.: 348339

Lease Terms: 30 year lease with first year at
\$300 per month and remaining
term at \$700 per month. Lease
is to compound at 1% per year
for remaining term

Land Area: 1,224.40 SM or 13,180 SF

Indicated Value: \$112,200 at 9% based upon PU

Unit Value: \$92 SM

Lessor: Frank D. Perez and Carmen D. Perez

Lessee: Lee Chang, Kun and Lee Kyung Sup

Zoning: "C" Commercial

Property Description: All of the lot fronts are on Route 8,
fairly level with some upslope

Remarks: This was an assemblage of small lots
to form a large commercial unit.

No. 4 - Land Sale

Lot No.: 235-3 New, Agat, Guam

Location: Route 2 just south of river and Navy boundary

Instrument/Date: Agreement of Sale dated June 1986
Warranty Deed dated December 1986

Sale Price: \$402,500

Terms of Sale: Cash

Land Area: 5,750 SM or 61,895 SF

Unit Value: \$70 SM

Seller: Estate of Carlos Bordallo

Buyer: Phillip Flores

Zoning: "C" Commercial

Property Description: Level site on beach along river, just south of Navy boundary and northern edge of Agate

Remarks: Agreement of sale was made in June 1986 and seller died prior to closing of December of 1986 at which time the estate closed.

No. 5 - Land Sale

Lot No.: 5095-2-R4-2, Tumon, Guam

Location: Interior lot located between Marine Drive and San Victores Road in Tumon Bay area

Instrument/No.: Warranty Deed #388983

Sale Price: \$170,000

Terms of Sale: Cash

Land Area: Net 824.5 SM after reserving out a 40 foot wide access easement

Unit Value: \$206 SM (net access)

Date of Sale: August 28, 1987

Seller: Luis S. Santos and wife

Buyer: Guam Trading Co.

Zoning: "C" Hotel use

Property Description: Fairly level lot that is subject to a 40 foot wide access easement

Remarks: One of three lots acquired for hotel use in the Tumon Bay area. See sales Nos. 6 and 7.

No. 6 - Land Sale

Lot No.: 5095-2-R4-3, Tumon, Guam

Location: Interior lot located between Marine Drive and San Victores Road in Tumon Bay area

Instrument/No.: Warranty Deed #389627

Sale Price: \$150,000

Terms of Sale: Cash

Land Area: Net 824.5 SM after reserving out a 40 foot wide access easement

Unit Value: \$182 SM

Date of Sale: September 17, 1987

Seller: Juan and Linda Santos

Buyer: Ten Star, Yasoki, and Takeuchi

Zoning: "C" Hotel use

Property Description: Fairly level lot which is subject to a 40 foot side easement

Remarks: One of three lots acquired in the Tumon Bay area for hotel use. See sales 5 and 7.

No. 7 - Land Sale

Lot No.: 5095-2-A4-A4, Tumon, Guam

Location: Interior lot located between Marine Drive and San Victores Road in the Tumon Bay area

Instrument/No. Warranty Deed #388957

Sale Price: \$87,870

Terms of Sale: Cash

Land Area: 606 SM after reserving out a 40 foot wide access easement

Unit Value: \$145 SM

Date of Sale: August 27, 1987

Seller: Bernardo Lastimoza and wife

Buyer: Ten Star, Kaihatsu, and Tokyo

Zoning: "C" Hotel use

Property Description: Fairly level lot which is subject to a 40 foot wide easement

Remarks: One of three lots acquired for hotel use in the Tumon Bay area. See sales 5 and 6.

COMPARABLE DATA ANALYSIS SHEET

Agana Boat Basin
 December 15, 1989
 Comparable Sale

A M E N I T I E S										Value	Net	Indicated
Location	Size	Date	Frontage	Zoning	Usability	Adjust	Value	Per SM				
Lot 3329-1-4-R1, Pago Bay (dela Pena)	-15.00%	20.00%	25.00%	0.00%	0.00%	\$63.00	\$140.00				\$63.00	\$203.00
Lot 3329-1-R4, Pago Bay (dela Pena)	-15.00%	20.00%	25.00%	0.00%	0.00%	\$63.00	\$140.00				\$63.00	\$203.00
Lot 5052-6, Tumon (dela Pena)	-10.00%	40.00%	0.00%	-25.00%	0.00%	(\$98.18)	\$218.18				(\$98.18)	\$120.00
Lot 3, Block 23, Agana (WESTCO/PAC)	-30.00%	15.00%	25.00%	0.00%	0.00%	\$11.60	\$116.00				\$11.60	\$127.60
Lot 294, Asan (WESTCO/PAC)	-30.00%	60.00%	0.00%	0.00%	0.00%	\$20.00	\$25.00				\$20.00	\$45.00
Lot 2045-4-8-11 thru 16 Agana (WESTCO/PAC)	-20.00%	20.00%	10.00%	0.00%	0.00%	\$32.20	\$92.00				\$32.20	\$124.20
Lot 235-3 NEW, Agat (WESTCO/PAC)	-20.00%	15.00%	25.00%	0.00%	0.00%	\$31.50	\$70.00				\$31.50	\$101.50
Lot 5095-2-R4-2, Tumon (WESTCO/PAC)	25.00%	20.00%	0.00%	0.00%	0.00%	(\$10.30)	\$206.00				(\$10.30)	\$195.70
Lot 5095-2-R4-3, Tumon (WESTCO/PAC)	-30.00%	10.00%	25.00%	-25.00%	0.00%	(\$127.40)	\$182.00				(\$127.40)	\$54.60
Lot 5095-2-R4-R4, Tumon, (WESTCO/PAC)	-30.00%	10.00%	25.00%	-25.00%	0.00%	(\$101.50)	\$145.00				(\$101.50)	\$43.50
Lot 1489 & 1490, Agana (Appraisal Desk)	-30.00%	20.00%	25.00%	0.00%	0.00%	\$55.90	\$86.00				\$55.90	\$141.90
Lot 3201-1-2-1, Agana, (Appraisal Desk)	-25.00%	20.00%	25.00%	0.00%	0.00%	\$66.50	\$95.00				\$66.50	\$161.50
Lot 9, Block 23, Agana (Appraisal Desk)	-30.00%	0.00%	25.00%	0.00%	0.00%	\$106.71	\$237.14				\$106.71	\$343.85
										Indicated Average		\$143.49

Prepared for The Port Authority of Guam

Prepared by The Appraisal Desk

**WESTCO/PAC
International
Ltd.**

California
Washington, D.C.
Hawaii
Guam

Appraisals
Litigation Support
Economic Analysis/Studies
Taxes

970 So. Marine Dr., Suite 122
Tamuning, Guam 96911-3403
Tel.: (671) 646-5907
Fax: (671) 646-9223



**ECONOMIC ANALYSIS AND
VALUATION FOR THE
PRIVATIZATION
OF
AGANA MARINA**

**PREPARED FOR THE
MATSUZATO SOGYO CO. LTD.**

This data will be used to establish ratios of hard land to submerged land. Rental policies used by various ports and harbors are considered.

All of the following base their rents on a percentage of fee:
Los Angeles - submerged land @ 30% to 36% of hard land rent
San Diego - submerged land @ 25% to 30% of hard land rent
San Luis - submerged land @ 30% to 35% of hard land rent
Sand Island (HI) - submerged land @ 40% to 50% of hard land rent
Kauai (HI) - submerged land @ 30% to 40% of hard land rent
All of the above ports and harbors base their rents on a rate of return on fee value.

There are very few ocean front sales on the island of Guam. The Agat sale is on the ocean and it has been developed for motel use (without marina). The Tumon Bay area sales are high density hotel and beach sales. The adjustments needed would no longer make them comparable. Recent acquisitions studies made on the ocean side of Marine Drive in Asan have been the \$75 SM to \$100 SM range.

The subject property has approximately 10 acres of hard land or 40,470 SM and approximately 26 acres of submerged land or 105,222 SM. Based upon the available data, it is our opinion that the estimated value of the hard land is \$100 SM.

Therefore, the hard land is:

40,470 SM @ \$100 SM	\$4,047,000
The submerged land is:	
105,222 SM @ \$30 SM	<u>\$3,156,660</u>
Total fair market value of land	\$7,203,660
Fair Market Value of Improvements	<u>\$1,625,179</u>
Total value marine	<u>\$8,828,839</u>
Less:	
Site Improvement cost to prepare the marina to the above value	* <u>(\$3,920,000)</u>
Fair Market Value	\$4,908,839

*This figure is obtained from the proposal on sheet 1 of Appendix A and it deals with the necessary improvements and dredging needed to utilize the entire parcel.

~~CONFIDENTIAL~~



Dela Pena Realty

Licensed in Guam and Saipan

Eduardo dela Pena, Sr.
Appraiser - Broker

Victor dela Pena
Associate Appraiser

Real Estate Appraisers • Business Valuation • Real Estate Broker • Personal Property Valuation

August 3, 1986

Mr Frank Perez
Port Manager
Port Authority of Guam
P.O. Box 1445
Agana, Guam 96910

Attn Frank Badar

Re: Agana Boat Basin located at Marine Drive , Agana, Guam.

Gentlemen:

Pursuant to your request , we are pleased to present to you our valuation of the above described properties.

Our basis for this report is the Detailed Project Report for the Agana Light Draft Harbor prepared for the U.S. Engineer Division Pacific Ocean in 1973, thru Colonel Leonard Edelstein.

The report is comprehensive and our valuation necessitates the cooperative effort of an Engineer who is well versed in the project.

To inject professionalism and expertise in this report , we have thus prepared this report in consultation with Engineer Jerry Carrera who is involved in the current reconstruction and planning of the existing and Phase II of the Agana Boat Basin.

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VALUATION

EXISTING IMPROVEMENTS:

1. 65'X 20' Combination concrete and tin roofed building presently utilized as harbor master office and Public Safety Station.
2. 20'x 20' reinforced concrete toilet building.
3. Approximately 1,100 lineal feet of bulkhead.
4. Approximately 8,000 square yards of paved parking and driveway area.
5. Boat slips consisting of:
 - a. 6,300 square foot of new slips comprising of
 - 4- 20 foot finger pier
 - 4- 30 foot finger pier
 - 6- 40 foot finger pier
 - b. 2,000 square foot of old slips, comprising of seven (7) x 26' finger pier.
6. Approximately 140,000 square yards of protected basin.
7. Approximately 2,500 lineal feet of revetted mole protecting the outer basin.



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Victor dela Pena
Associate Appraiser

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BASIS OF COST:

- 1. Original cost of outer basin, revetted mole, breakwater, cir-
channel (1977) \$ 1,921,000

Assume 8% cost increase per annum for this type of construction.

$$\text{Present cost} = \$1,921,000 \times (1.09)^8 = \$ 3,555,600$$

- 2. Original basin improvements , present cost = \$ 1,215,150

Total depreciation of buildings, bulkhead, utilities & yard improvements, (individually assessed of the remaining percentage if the usefull life) = \$ 249,240

Present worth \$ 965,910

- 3. Cost of new improvements(docks, utilities, basin dredging, yard improvements etc = \$ 600,000

RECAP: PRESENT WORTH:

1.	\$ 3,555,600
2.	\$ 965,910
3.	\$ 600,000
Total Present Worth=	
	\$ 5,121,510
Land value by comparison	
	\$ 5,835,774
Market value	
	\$10,957,284

Dela Pena Realty

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P. O. Box 7784 Agaña Guam 96916

Eduardo dela Pena, Sr.
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Victor dela Pena
Associate Appraiser

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We hereby certify that the present worth of the Agana Boat Basin
is

" TEN MILLION NINE HUNDRED FIFTY SEVEN THOUSAND DOLLARS"
(\$10,957,00)
as of July 1986

Respectfully submitted:

Eduardo F. dela Pena Sr.
Senior Appraiser
Dela Pena Realty Inc.

MARINA COP;

TITLE 16 NATURAL RESOURCES AND RECREATION 1104.19
(Orig. Pub. 2-15-75)
(Rev. 6-1-81)

hoped that the revised numerical system will eventually be substituted for that formulated by the Director of Parks and Recreation.]

§15430. Definition of Terms.

Unless otherwise expressly provided, the following words when used in these rules and regulations shall have the following meanings:

- (a) The term of "boat" or "vessel" shall mean any watercraft or other contrivance used on or capable of being used as a means of transportation in the water.
- (b) "Department" shall mean the Department of Parks and Recreation.
- (c) "Director" shall mean the Director of Parks and Recreation, government of Guam or his designee.
- (d) "Government" shall mean the government of Guam.
- (e) "Marina" shall mean that portion of government property known as the Agana Boat Basin. The physical measurements are as outlined in Figure 1. (Note: Please contact the Department of Parks and Recreation for all diagrams concerning Agana Boat Basin.)
- (f) "Recreational boating activities" shall mean utilization of watercraft for hobbies, sports or pleasure. This excludes watercraft whose sole or principal use is for human habitation or commercial fishing activities.
- (g) "These rules and regulations have been compiled in the light of the requirements of other agencies of the government of Guam and the various activities of the United States having jurisdiction of activities herein contemplated. 'Incorporation by Reference' to such regulations is hereby stated to be the basic rule of interpretation for these rules and regulations. In case any disputes arise as to applicability they will be determined by the Director." [Part I, Sec. 1.01]

→ §15430.1. Use of Agana Marina: General Statement.

It shall be unlawful for any person to anchor, store, moor, tie or otherwise confine any boat, vessel or contrivance in the mooring areas of the marina (except at designated loading, transient or fueling docks) without first obtaining a Use Permit from the Director. It is the policy of the Department that moorings in the small boat harbors be used for the purpose of accomodating vessels used for recreational boating activities. To implement these purposes, only vessels capable of being propelled, maneuvered and navigated with safety, convenience and efficiency in the waters surrounding and within the confines of the marina shall be permitted to moor, anchor or berth at such marina or use any of its facilities. Habitation of boats in the marina is strictly prohibited, except for periods of short emergency as designated by the Director.

The Department reserves the right to restrict the use of government property or facilities to those who observe these rules and regulations and make full and timely payments of applicable fees and charges. [Part II, Sec. 2.01].

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§15430.2. Same: Use Permits - Issuance.

The "Use Permit" mentioned in this Section and in these rules and regulations shall mean the written authorization granted by the Director for the purpose of allowing a boat to be anchored, stored, moored, tied or otherwise confined in or at the marina.

Use Permits shall be issued only after a determination by the Director that all applicable laws have been complied with and that all fees and charges payable at the time of the issuance or reissuance of a permit have been paid. [Part II, Sec. 2.02]

§15430.3. Same: Period of Validity and Renewal of Use Permit.

The Director may issue or renew a Use Permit for any period up to, but not exceeding one (1) year. Upon expiration of the period stated therein, the permit and all rights of the permittee thereunder shall automatically terminate. No Use Permit shall be renewed unless the conditions of the original issuance are met nor shall a Use Permit be issued or renewed unless all fees and charges due and payable are paid. [Part II, Sec. 2.03]

§15430.4. Same: Revocation of Use Permits.

(a) A Use Permit may be revoked for any of the following reasons:

- (1) Delinquency in the payment of any fee or charge;
- (2) The vessel no longer meets the Department's standards of safety, sanitation and maintenance; and
- (3) Any other grounds specified in these rules and regulations. [Part II, Sec. 2.04]

§15430.5. Same: Application - Contents and Requirements.

Any person who is the owner of a private pleasure boat shall be entitled to make application for a permit to tie, moor or dock his boat in the marina. Such permits shall be issued in the order in which they are received by the Director, and he shall assign the applicant a specific berth:

(a) Such application shall be upon the form prescribed by the Director and shall contain:

- (1) The United States Coast Guard, government of Guam or other official registration number of the boat, if any.
- (2) Name of the boat.
- (3) Manufacturer's name.
- (4) The overall length and beam of such boat for which the permit is applied.
- (5) Date of such application.
- (6) The name, residence and mailing address of the owner.
- (7) Age of the owner.

(b) Any holder of a permit must attach same to the boat as herein provided and failure to do so shall be prima facie evidence that no valid permit is held by the owner of such boat. [Part II, Sec. 2.05]

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§15430.6. Same: Cancellation of Use Permit - Refund.

A Use Permit may be cancelled by a boat owner upon thirty (30) days written notice to the Director. Any refund shall be prorated according to remaining period of validity of the permit. [Part II, Sec. 2.06]

§15430.7. Same: Inspections.

All vessels located on or upon the waters of a marina shall be subject to inspection by the Director at any time when necessary and proper for the purpose of enforcing these rules and regulations. In keeping with marine custom, reasonable efforts shall be made to obtain permission to board from the owner or captain prior to inspections. [Part II, Sec. 2.07]

§15430.8. Same: Removal of Vessels.

~~Persons~~ docking, tying or mooring a boat shall remove such boat from the marina within ten (10) days after written notification from the Director in the event the boat becomes sunk or for any reason the Director determines that such boat would create a hazard to other boats stored in the marina. Any action taken by the Department to remove the vessel or contrivance shall be at the sole cost and risk of the owner of the vessel or contrivance. [Part II, Sec. 2.08]

§15430.9. Same: Department Authorized to Move Vessel.

(a) The Department reserves the right, when it is necessary and proper to do so, to:

- (1) move any vessel from one part of the marina to another;
 - (2) remove any vessel from the confines of the marina;
- and
- (3) remove any vessel to dry storage.

(b) Unless emergency or other circumstances require otherwise, such action shall be preceded by reasonable effort by the Department to give notice and opportunity to the owner to remedy the situation himself by removal or otherwise. Upon failure to comply within ten (10) days of such notice, such actions may be effected either by the Department itself or through the hiring of an independent contractor and at the sole risk and expense of the owner. [Part II, Sec. 2.09]

§15430.10. Same: Salvage.

If a vessel is moored so as to be in danger of sinking, the Department shall, after making reasonable effort to give due notice and opportunity of its owner or agent to effect appropriate remedy, take action as the circumstances require to save or rescue the vessel, prevent damage to other property or destruction of waterways. The cost for such service shall be assessed the owner. [Part II, Sec. 2.10]

§15430.11. Same: Liability - Content.

(a) Acceptance of a permit shall constitute an agreement that the permit holder will hold the Government and its authorized

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representatives completely blameless for any liability in connection with the operation, docking, tying or mooring of any boat.

(b) The holder of a Use Permit shall be responsible for any damage occurring as a result of the operation of his boat by any minor.

(c) The actual operator of any vessel shall be liable for any damage caused by such vessel in the water of the marina except as stated in Section (b) above. [Part II, Sec. 2.11]

§15430.12. Same: Age Restriction.

No permits shall be issued to minors under eighteen (18) years of age. No persons under twelve (12) years of age shall be admitted to the marina unless accompanied by an adult who shall assume full responsibility for his safety and conduct. [Part II, Sec. 2.12]

§15430.13. Same: Non-Transferability of Permits.

A permit granted by the Director shall not be assigned or transferred. Persons holding a permit may not sublease the space assigned to the holder of such permit nor allow any person to dock, moor or otherwise use such space and the same must be solely by the boat for which the permit is issued. [Part II, Sec. 2.13]

§15430.14. Same: Auction of Abandoned Undocumented Vessels to Collect Delinquent Fees.

In the event any vessel is abandoned or any owner is delinquent in the payment of any fee or charge after reasonable notice, the Director may publicly auction off such undocumented vessel, applying funds received to any unpaid charge holding the balance to the credit of the owner. [Part II, Sec. 2.14]

§15430.15. Same: Cases Involving Seizure and Auction of Documented Vessels.

Documented vessels which are abandoned or delinquent in the payment of any fees or charges shall be referred to the U.S. Attorney for further action. [Part II, Sec. 2.15]

§15430.15. Same: Report of Change of Ownership, Address and Other Material Factors.

(a) The owner of any vessel moored in the marina shall notify the Department in writing within seven (7) days if:

- (1) He no longer has possession of the vessel; or
- (2) All or any interest in the vessel is transferred to another person or persons; or
- (3) The owner's address or telephone number changes; or
- (4) The vessel is chartered, leased or rented.

The new possessor or owner of any interest in any vessel moored in the marina shall within seven (7) days after acquiring same notify the Department in writing concerning the acquisition. [Part II, Sec. 2.16]

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§15430.17. Sanitation: Standard.

All vessels and any property or facility used in the marina shall be kept, at all times, in condition of reasonable cleanliness and sanitation so as not to constitute a common nuisance or potential danger to public health. [Part III, Sec. 3.01]

§15430.18. Same: Garbage and Other Offensive Matter.

No person shall have or keep on his vessel any offal, garbage, decaying matter or any other matter which gives off an offensive odor except when the same is being disposed of as garbage and is kept in a receptacle which shall be kept closed by a tight fitting cover at all times except when being filled or emptied. [Part III, Sec. 3.02]

§15430.19. Same: Flies.

No person shall have or keep on his vessel any article, substance or thing whatsoever in which flies may breed, unless the same be kept securely protected from flies. [Part III, Sec. 3.03]

§15430.20. Same: Rodents.

No rubbish or waste of any kind shall be placed, left, dumped or permitted to accumulate or remain on any vessel or in the vicinity of the same, in such a way so as to constitute a breeding place for rodents. [Part III, Sec. 3.04]

§15430.21. Same: Littering Land Areas - Prohibited.

No person shall throw, place, leave, deposit or abandon or cause or permit to be thrown, placed, left, deposited or abandoned any litter within the marina, except in receptacles designated by the Department for the disposal of such materials. No person shall use refuse containers or other refuse disposal facilities in a harbor for disposing of litter brought as such into the harbor except when the litter is generated during and results from a vessel's voyage. Without limiting the generality of the foregoing, "litter" as used in this Section means any and all types of debris and substance, whether liquid or solid and materials such as garbage, refuse, rubbish, glass, cans, bottles, papers, wrappings, fish or animal carcasses or any other nauseating or offensive matter or any machinery, appliance or automobile or parts thereof, or any other substances which render land or facilities unsightly, noxious or otherwise unwholesome or to the detriment of the public health and welfare or the enjoyment of the harbor for recreational purposes. [Part III, Sec. 3.05]

§15430.22. Same: Littering or Polluting Water - Prohibited.

No person shall place, throw, deposit or discharge into the waters of the marina any litter, sewage or other gaseous, liquid or solid materials which might render the water unsightly, noxious or otherwise unwholesome so as to pollute the water and to be detrimental to the enjoyment of the water for recreational purposes. [Part III, Sec. 3.06]

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§15430.23. Same: Marine Toilets - Restrictions.

(a) No toilet on a vessel or contrivance shall be operated so as to discharge any treated or untreated sewage directly or indirectly into the waters.

(b) No person on a vessel or contrivance equipped with a toilet shall use or permit the use of, such toilet while within the marina unless the toilet is equipped with facilities in good operating condition that will adequately treat, hold, incinerate or otherwise handle sewage in a manner that is capable of preventing water pollution. A water pollution control device is acceptable for the purposes of this Section is any device determined by the Director of Public Health and Social Services, to be effective in arresting the possibility of pollution from sewage passing into or through a toilet aboard a vessel or contrivance.

(c) Marine toilets shall be mandatory aboard boats utilizing the marina in keeping with the U.S. Coast Guard Regulations. [Part III, Sec. 3.07]

§15430.24. Fire Safety: Standard.

All vessels and all property or facilities used at the marina shall be used in such manner and maintained in such condition as not to constitute a potential fire hazard. [Part IV, Sec. 4.01]

§15430.25. Same: Appliances and Electrical Wiring.

All cooking or heating appliances or any other machinery, equipment, utensils or apparatus which is used at the marina and could be the cause of fire shall be so constructed, installed, wired, situated, maintained and used so as to meet the standard set out in §15430.24 CGAR [Section 4.01] (15513 Guam Admin. Rules). [Part IV, Sec. 4.02]

§15430.26. Same: Fire Extinguishing Equipment.

Any vessel utilizing the waters of the marina shall be provided with approved fire extinguishers in keeping with U.S. Coast Guard Regulations. The extinguishers shall at all times be maintained in good and serviceable condition for immediate and effective use and shall be so placed as to be readily accessible. [Part IV, Sec. 4.03]

§15430.27. Same: Fueling.

(a) The fueling of vessels at the marina where a marine fueling station has been established, shall be accomplished only at such station:

- (1) Prior to fueling a vessel, the operator shall:
 - a. Securely moor the vessel.
 - b. Stop all engines, motors, fans and devices liable to produce sparks.
 - c. Extinguish all fires.
 - d. Close all ports, windows, doors and hatches.
- (2) Persons fueling a vessel shall:
 - a. Refrain from smoking, striking matches or throwing switches.

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b. Keep nozzle of hose or can in continuous contact with fuel opening to guard against static sparks.

(3) After fueling is completed, the following actions shall be taken:

- a. Close fill openings.
- b. Wipe up all spilled fuel.
- c. Open all ports, windows, doors and hatches.
- d. Permit vessel to ventilate for at least five (5) minutes.
- e. Ascertain that there are no fuel fumes in the bilges or below deck before starting machinery or lighting fires. [Part IV, Sec. 4.04]

§15430.28. Same: Smoking.

Smoking shall be prohibited when so prescribed by signs, and regardless of the Department's failure to post signs, no smoking or lighting of a match or any other fire-generating device shall be permitted within a fifty (50) foot radius of any fueling operation. [Part IV, Sec. 4.05]

§15430.29. Same: Dumping of Combustibles.

No person shall dump, discharge or pump oil, spirits, gasoline, distillate, any petroleum product or any other flammable material whatsoever into the water. All discharges of any quantity will be reported to the Coast Guard and the responsible party shall be liable to prosecution under applicable Federal law. [Part IV, Sec. 4.06]

§15430.30. Same: Emergency Exits.

Each vessel shall be provided with adequate exits to afford sufficient paths of escape in case of emergencies. The number and location of such exits shall be commensurate with the size, type and make of each vessel. [Part IV, Sec. 4.07]

§15430.31. Same: Open Fires.

Charcoal grills and similar open fire cooking devices shall, while lighted, be attended at all times. [Part IV, Sec. 4.08]

§15430.32. Same: Lifesaving Equipment Required.

Any vessel utilizing the waters of the marina shall be equipped with the required Coast Guard approved lifesaving devices. The lifesaving equipment shall at all times be kept in good and serviceable condition for immediate and effective use and shall be so placed as to be readily accessible; provided, that if any person is aboard any vessel or contrivance, it shall be equipped with at least one USCG approved type preserver, ring life buoy, buoyant vest or special cushion for each adult person aboard for that USCG class of vessel. If there are any children aboard, Coast Guard approved life preservers suitable for children shall be provided for each child aboard. [Part IV, Sec. 4.09]

§15430.33. Maintenance and Storage: Standard.

Every vessel and all other personal property and facilities at a small boat harbor shall be kept in such condition of repair, maintenance, neatness and orderliness so as not to constitute a common

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nuisance, substantial danger to person or property, or obstruction to proper public use. [Part V, Sec. 5.01]

§15430.34. Same: Storage.

(a) No person shall store supplies, materials or equipment on catwalks, piers, sidewalks, parking areas or any other public area at the marina, except:

- (1) in areas set aside by the Department for storage purposes; or
- (2) upon prior consent by the Department. [Part V, Sec. 5.02]

§15430.35. Same: Special Areas.

The Department may designate areas to be used only for specified purposes or operations, as required from time to time. [Part V, Sec. 5.03]

§15430.36. Same: Gear Lockers.

No person shall construct a gear locker at the marina without the prior written approval of the Department. [Part V, Sec. 5.04]

§15430.37. Miscellaneous Rules and Regulations: Standard.

Persons using the docking facilities of the marina shall at all times comply with any reasonable request of the Director or any other person designated by him to be in charge of such boat basin for the purpose of facilitating the effective management of the marina. [Part VI, Sec. 6.01]

§15430.38. Same: Tampering With or Damaging a Vessel or Government Property; Construction of Structures.

(a) No person shall deface, mark, damage or erect any structure or attach any wood, metal or other material to the dock facilities or the dock, piling or wharf belonging to or under the control of the Government nor permit any persons to damage or deface, mark, destroy or attach anything to said dockage installation as aforesaid without the written approval of the Director.

(b) No person shall injure, deface, displace, remove, fill in, raise, destroy or tamper with any drive, path or walk; take up, remove or carry away trees, shrubs, turf or any material or substance; remove or destroy any structure, building or any appurtenances connected with the marina or any other property or equipment; real or personal owned by the Government, or under the jurisdiction and control of the Government. [Part VI, Sec. 6.02]

§15430.39. Same: Launching Restriction.

No person shall lift, drag, launch or otherwise cause any boat to be dragged, lifted, launched, passed upon or otherwise taken across the dock, bulkhead, pilings or other dockage facilities, wharf, catwalk or dockage installations surrounding or installed at the marina, except when removing vessels from or replacing in the water in connection with drydocking, removal or similar activity.

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(Orig. Pub. 2-15-75)
(Rev. 6-1-81)

Small watercraft which may be launched at the ramp facility, provided necessary and reasonable transport at the marina shall be done so under the sole direction of the owner or responsible representative of the owner and without risk or liability in any manner to the Government. [Part VI, Sec. 6.03]

§15430.40. Same: Loitering and Trespassing Prohibited.
Loitering, trespassing in boats, unauthorized climbing and boarding, damaging or interfering with boats docked, stored or moored in the marina is prohibited. [Part VI, Sec. 6.04]

§15430.41. Same: Lines; Requirements.
Owners of boats are required to supply, install and maintain their own lines for mooring, tying and securing their boats. In the case of outboards, rowboats and other small crafts, sixteen (16) feet or under, 3/8" line is required; other watercraft over sixteen (16) feet, 1/2" is required. [Part VI, Sec. 6.05]

§15430.42. Same: Small Crafts; Restrictions.
Dinghies, rowboats, floats or any small craft usually tied to the stern of a larger boat are not permitted in the marina except when firmly secured to the upper deck of the accompanying boat or placed in the davits which are usually provided for such craft. [Part VI, Sec. 6.06]

§15430.43. Same: Repairs.
Only emergency repairs are permitted on boats stored at the marina, except at designated repair or drydocking areas for periods of such use necessary, and subject to prior approval of the Director. [Part VI, Sec. 6.07]

§15430.44. Same: Appearance and Sanitation; Responsibility.
Boat owners holding permits to lock or moor their boat at the marina shall be responsible for the appearance and cleanliness of the boat, piling and bulkhead in front of and adjacent to the berth or dock space assigned to such owner. [Part VI, Sec. 6.08]

§15430.45. Same: Speed Limit.
No boat shall be operated at a greater speed than is reasonable nor more than four (4) miles per hour in the marina. The term "speed" shall mean the speed of a boat as measured in slack water in statute miles. All boats are responsible for damage caused by their wakes. [Part VI, Sec. 6.09]

§15430.46. Same: Swimming.
No person shall bathe, wade, snorkel, scuba dive or swim in any waters of the marina, except during those activities necessary in the launching, removal or emergency repair of vessel. [Part VI, Sec. 6.10]

§15430.47. Same: Responsibility of Boat, Equipment and Installations.
The Government shall not be responsible for the loss, damage, theft, destruction or other injury to any boat, vessel or watercraft

TITLE 16 NATURAL RESOURCES AND RECREATION 1104.28
 (Orig. Pub. 2-15-75)
 (Rev. 6-1-81)

including equipment, fixtures and contents of any boat, vessel or watercraft for which a permit is issued, or otherwise whether the boat is tied to, launched or attached to any installations provided by the Government, and the use of the dockage installations at the marina shall be the sole responsibility of the owner or person holding the permit or license. [Part VI, Sec. 6.11]

§15430.48. Same: Personal Injury and Property Damage.

The Government shall not be responsible for any personal injury, loss of life or damage to property, to passengers, guests, visitors, spectators or employees of permit holders in connection with the use of the marina. By the acceptance of a permit hereunder, the holder thereof assumes full liability and responsibility therefor. [Part VI, Sec. 6.12]

§15430.49. Same: Solicitation and Advertisement.

No person shall solicit alms or contributions for any purpose at the marina nor post or distribute advertisements or other matter for advertising purposes, except as conducted or approved by the Director or his agent and then not to exceed two (2) weeks at any one time. [Part VI, Sec. 6.13]

§15430.50. Same: Berthing Rates.

(a) Assigned slips or mooring areas:

	Apr. - Nov.	Dec. - Mar.
Under 16 feet	\$15 monthly	\$10 monthly
16 - 23	18	12
24 - 39	30	20
40 and over	40	30

(b) At the transient "hotel" dock:

	All Year
Under 16 feet	\$1 per day
16 - 23	2
24 - 30	3
40 and over	4

[Part VI, Sec. 6.14]

§15430.51. Fishing Methods.

Angling and cast-net (talaya) fishing are the only approved methods of fishing within the Agana Boat Basin proper and within fifty (50) feet of the western edge of the Agana Boat Basin channel, provided that:

(a) When angling, not more than three (3) hooks are attached to the mainline, and no snagging methods are used. (See §15430.51 3GAR [Section 7.031])

(b) The use of the cast-net (talaya) is prohibited within the Agana Boat Basin proper. Within the channel, it may be used during the hours of 3:00 a.m. and 7:00 a.m. However, the cast-net (talaya) is not permitted to be thrown within the channel (or Basin proper) from any boat, whether stationary or in motion.

(c) The use of the cast-net (talaya) shall not be per-

TITLE 16 NATURAL RESOURCES AND RECREATION 1104.29
(Orig. Pub. 2-15-75)
(Rev. 6-1-81)

mitted if there is any rope attached. [Part VII, Sec. 7.01]

[Editor's Note: §15430.51 was amended pursuant to Executive Order 75-30]

§15430.52. Same: Net and Trap Devices.

Net and trap devices of all kinds shall not be used for fishing in the area within one hundred fifty (150) yards of the shoreline surrounding the Agana Small Boat Basin and the Paseo de Susana Shoreline adjacent to the channel. [Part VII, Sec. 7.02]

§15430.53. Same: Definition.

For purposes of this regulation, the following terms are defined as follows:

(a) Angling. Fishing with a hook and line in an attempt to catch the fish by piercing a hook internally through the mouth of the fish.

(b) Snagging. Fishing in a manner with violent jerking motions in an attempt to pierce the body of the fish externally. [Part VII, Sec. 7.03]

§15430.54. Penalties.

(a) Any violation of the above rules and regulations shall be cause for revocation of the Use Permit and/or removal of the vessel from the boat basin.

(b) Pursuant to §47253 of the Government Code of Guam, every person who violates, causes, permits to be violated or fails or refuses to comply with any rules or regulations adopted herein is guilty of misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment of not more than one (1) year or by both such fine and imprisonment. [Part VIII, Sec. 9.01]



PORT AUTHORITY OF GUAM
ATURIDAT I PUETTON GUAHAN
GOVERNMENT OF GUAM
1026 Cabras Highway
Suite 201
Piti, Guam 96925

Sen
Lee
DH
Telephone: (671) 477-5931/35
(671) 477-2683/85
Telex: (721) 6689 PAGGUA
Facsimile: (671) 477-2689

APR 5 1989

APR 05 1989

Mr. Antonio M. Palomo
Field Representative
U.S. Department of Interior
Territorial and International Affairs
PDN Bldg. Suite 908
Agana, Guam 96910

Hafa Adai Mr. Palomo:

Enclosed is a copy of a memorandum that I sent to the Attorney General's Office regarding the Agana Marina. The memorandum requests the Attorney General to determine whether the U.S.'s reversionary interest on the Agana Marina property as mandated by U.S. Public Law 86-664 was repealed by U.S. Public Law 93-435.

We have not received a response to this date. However, I would appreciate if you would request the Solicitor General's Office to proceed and render an opinion on this matter while we await the local Attorney General's opinion.

I thank you in advance for your assistance on this matter.

Si Yu'os Ma'ase,

David B. Tydingco
DAVID B. TYDINGCO
General Manager

Enclosure

cc: Chairman, Board of Directors
Members, Board of Directors
Chairman, Committee on Tourism and Transportation
Congressman Ben G. Blaz



PORT AUTHORITY OF GUAM
ATURIDATI PUEYTON G. HAN
GOVERNMENT OF GUAM
1026 Cabras Highway
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(671) 477-2
Telex: (721) 6689
Facsimile: (671) 477-21

JAN 27 1980

MEMORANDUM NO. GM89- 027

To: Attorney General
From: General Manager
Subject: Request for Opinion - Agana Marina

Attached for your review is a copy of the Solicitor General's opinion dated January 31, 1979 providing guidance on the types of uses authorized at the Agana Marina. Also attached is a copy of Public Law 86-664 which released the Agana Marina and the Paseo De Susana to the Government of Guam.

In the 93rd Congress, Public Law 93-435 was enacted transferring control of submerged lands to the states and territories (48 USC 1705). The Solicitor in the attached opinion held that the general transfer of submerged lands under 93-435 was not intended to convey the reversionary interest which the U.S. retained on the original transfer of the property under P.L. 86-664. The theory would appear to be that implied repeals are not favored and if Congress meant to convey the reverter clause, it should have so stated.

A better view might be that Congress should be assumed to know about the limitations it had enacted (especially since the Chairman of the Committee in the Senate when 93-435 was enacted was also a member of the Committee when 86-664 was enacted) and had Congress wished to exclude the reversionary interest, it would have done so. This view is supported by the fact that Congress specifically considered the situation of Guam and included a provision retaining interest for the relocation of Hotel Wharf (Ammo Wharf) and a limitation on mineral interests.

I would appreciate if you would review the attached and provide us with some guidance on this matter as it has a significant impact on the direction we are taking with the privatization of the Agana Marina.

Your attention to this matter is appreciated.


DAVID B. TYDINGCO

cc: Chairman, Board of Directors

January 18, 1979

Memorandum

To: Director, Office of Territorial Affairs

From: Assistant Solicitor, Territories

Subject: Proposed Lease of Land in Agaña Boat Basin, Guam

This is in response to your memorandum of January 18, 1979, in which you request our opinion as to whether the Government of Guam can lease land in the Agaña Boat Basin to the Michouana's Cooperative Association for commercial purposes.

Public Law 85-694, dated July 16, 1968, conveyed 26.33 acres of filled land in Pasa de Susana and 8.23 acres in the Agaña Boat Basin to the Government of Guam. The land in Pasa de Susana was conveyed ". . . subject to the condition that the property shall be used solely for civic, park, and recreational purposes. . ." The land in the Agaña Boat Basin was conveyed ". . . subject to the condition that the property be used solely for civic, park, and recreational purposes, and as a boat basin. . ." The law further provides that if the Government of Guam should ever sell or otherwise dispose of such land or any part thereof, title to such land shall revert to the United States.

The Guam Legislature passed Public Law 14-149 over the veto of the Governor. This law provides that the government shall lease to the Michouana's Cooperative Association (association) one acre of land in the Agaña Boat Basin to be used as a fuel station and one additional acre adjacent to the fuel station for the construction in the boat basin or Pasa de Susana a cold storage plant, ice plant, easy loader and scale platform and a building for the headquarters and retail and wholesale transactions of the Association.

The leasing of the property would not cause the property to revert to the United States. When the House Committee reported out the bill (House Report 1527), it stated:

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either tract or over proposing to do so. ...
to were adapted to delete the word "reversion" and to
delete the prohibition against lease. This will give
flexibility in administration if the Government of Guam
should decide to lease in order to implement its development
plans. These amendments do not disturb the provisions for
reversion to the United States if the land cease to be used
for civic, park, or recreational purposes."

Nor would the construction and operation of a fuel station, ice plant,
cold storage plant, cargo loader and scale platform in the Agaña Boat
Basin cause the land to revert to the United States if the services
and products are sold to the general public in a non-discriminatory
manner. These facilities are a necessary and integral part of an
efficiently operated boat basin. The Agaña Boat Basin was developed
prior to WWII and was used by the Navy as a ship repair facility.
Some of the area was filled in prior to WWII and the remainder after
the war with the rubble resulting from the fighting when the United
States recaptured Guam. When the proposed bill to convey the
property was forwarded to the Congress, the Department in its letter
of transmittal to the Vice President stated that the Agaña Boat Basin
presently caters to the berthing and docking needs of the small boat
commercial operations serving Guam and the islands of the Marianas as
well as the needs of the boat operators engaged in fishing. Thus, at
the time the land was conveyed to Guam, the United States knew that
it was being used for commercial and fishing purposes. To find that
the construction and operation of facilities that would make it easier
and more efficient to use the facilities that were operational when
the land was conveyed would cause the land to revert to the United
States, is contrary to the purpose of the law.

The term "civic or community" contemplates an association formed for
purposes beneficial to the community as a whole; one in which members
of the community cooperate for community ends. Thus, where an
electrical cooperative owned its own distribution system and purchased
its power from a power plant but served members and non-members alike,
the court ruled that it was a civic organization (United States v.
Packerich Electric Membership Corp., 158 F.2d 272, 276). However,
where a private nonprofit cooperative was formed to provide low cost
housing for its members, even though it made a park and recreational
lake available to the general public, the court held that it was not
a civic organization in that it sold the houses for a profit and
therefore it was not a movement of citizenry or of the community and
the benefits were not municipal or public in their nature
(Commissioner Internal Revenue v. Lake Forest, Inc., 305 F.2d 814,
817).

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The Association and retail facilities could be made available to the general public. In the Association's presentation of July 5, 1977, to the Guam Legislature in which it stated that because the capital base of the Association is limited, it was waiting for a bill to pass the legislature in which the Government of Guam will lease to it the land adjacent to the boat basin at \$1.00 per year and also guarantee a loan with GEDA. The loan agreement would include the provision that the Government of Guam pays the principal on the loan while the Association pays only the interest. Any federal funds that become available would be used to repay the loan. The cost of construction was estimated at \$241,643. Any fisherman who was not a member of the Association could not use the Association's facilities and services, including the purchase of his catch. The Association would then resell the catch and pay over to the fisherman the net resale proceeds after deducting sales costs, a reasonable portion of the general operating costs and an amount to be determined by the Board of Directors to provide capital for the Association's purposes. In effect, the fisherman would be forced to become a member of the Association to use these facilities. The Association's proposal may be public spirited but it is a privately devoted endeavor and as such would not be civic in nature. Consequently, the use of the property for this purpose could cause the land to revert to the United States. However, if the use of these facilities were made available to any interested person of the general public, for a reasonable fee without being required to sell his catch to the Association or join the association, it is conceivable that such an operation would be civic in nature. Under the present proposal, all of the above facilities would have to be located within the Agaña Boat Basin and adjacent to the Puerto de Susana. The latter area is to be used exclusively for civic, park, and recreational purposes. When the act was transmitted to the Congress for enactment, the Department stated in the accompanying letter that:

"The area when completely developed, will have a picnic ground, a play area for children, various kinds of athletic facilities, parking sections, and a vocational auditorium."

No provision is made for including commercial enterprises in this area. To put such a facility in this area would cause the property to revert to the United States. We have read Public Law 95-664 together with Public Law 95-435 (48 USC 1705 et seq.). The latter law conveyed the tidelands and the submerged or filled lands to the Governments of Guam, Virgin Islands, and American Samoa without a reverter clause. We checked to see if a general law passed after the enactment of a special law would take precedence over such special law. The rule of law is as follows:

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"The enactment of a general law broad enough in its scope and application to cover the field of operation of a special or local statute will generally not repeal a statute which limits its operation to a particular phase of the subject covered by the general law or to a particular locality with the jurisdictional scope of the general statute. An implied repeal of prior statutes will be restricted to statutes of the same general nature, since the legislature is presumed to have known of the existence of prior special or particular legislation, and to have contemplated only a general treatment of the subject matter by the general enactment. Therefore, where the later general statute does not present an irreconcilable conflict, the prior special statute will be construed as remaining in effect as a qualification or exception to the general law." (Sands, Sutherland Statutory Construction, 4th Ed, Section 23.15.)

The United States Supreme Court has held the same. (Clinton v. Mancari, 417 US 535, 41 LEd 2d 290, 945 Ct 2474; Edg. Paper v. Touche Ross & Co. 425 U.S. 148, 48 LEd 2d 540, 95 S Ct 1989). Based on the above, Public Law 86-544 is not in irreconcilable conflict with Public Law 93-435 and the former is controlling.

C. Brewster Chapman
C. Brewster Chapman, Jr.

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ics who were represented at the hearing. Such petition shall set forth the order complained of and the alleged errors in respect thereto. Unless the person aggrieved shall petition for review of such order within such ten-day period, or any extension thereof, the order of the referee shall become final. Upon application of any party in interest, the execution or enforcement of the order complained of may be suspended by the court upon such terms as will protect the rights of all parties in interest."

Approved July 14, 1960.

VETERANS' DISABILITY COMPENSATION

For Legislative History of Act, see p. 3197

PUBLIC LAW 86-663; 74 STAT. 528

(H. R. 7111)

An Act to provide additional disability compensation for certain seriously disabled veterans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

Title 38, United States Code, is amended by adding to section 314 the following new subsection:

"(s) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 per centum or more, or, (2) by reason of his service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be \$265. For the purpose of this subsection, the requirement of 'permanently housebound' will be considered to have been met when the veteran is substantially confined to his house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout his lifetime."

Sec. 2. This Act shall be effective on and after the first day of the second calendar month following the date of its enactment.

Approved July 14, 1960.

GUAM—LAND GRANTS

PUBLIC LAW 86-664; 74 STAT. 529

(H. R. 12077)

An Act to grant to the Government of Guam certain filled lands, submerged lands, and tidelands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

There is hereby granted to the Government of Guam, without reimbursement, all of the right, title, and interest of the United States in and to all of those lands, including filled lands, submerged lands,

44. 33 U.S.C. 1214.

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of tidelands, together with all structures and improvements there located in Guam, and constituting a portion of the land known as the Rancho de Susana, more particularly described as follows:

Beginning at a point, the coordinates of which are east 50,355.512 meters, north 50,439.425 meters, Land and Claims Commission 1915 triangulation system, said point of beginning being also on the mean lower low water line—

thence due south a distance of 30.78 meters;
thence north 81 degrees 35 minutes west a distance of 17.43 meters;
thence north 81 degrees 44 minutes west a distance of 11.20 meters;
thence north 81 degrees 44 minutes west a distance of 11.20 meters;
thence north 78 degrees 15 minutes west a distance of 18.91 meters;
thence north 79 degrees 56 minutes west a distance of 14.65 meters;
thence north 73 degrees 20 minutes west a distance of 29.91 meters;
thence north 72 degrees 57 minutes west a distance of 18.35 meters;
thence north 60 degrees 57 minutes west a distance of 13.09 meters;
thence north 72 degrees 55 minutes west a distance of 22.27 meters;
thence north 60 degrees 03 minutes west a distance of 11.14 meters;
thence north 44 degrees 55 minutes west a distance of 10.93 meters;
thence north 80 degrees 07 minutes west a distance of 6.29 meters;
thence north 75 degrees 50 minutes west a distance of 12.03 meters;
thence north 72 degrees 29 minutes west a distance of 17.11 meters;
thence south 56 degrees 48 minutes west a distance of 13.25 meters;
thence south 73 degrees 55 minutes west a distance of 17.53 meters;
thence south 73 degrees 07 minutes west a distance of 11.19 meters;
thence south 64 degrees 44 minutes west a distance of 13.05 meters;
thence south 74 degrees 52 minutes west a distance of 19.69 meters;
thence south 70 degrees 16 minutes west a distance of 16.35 meters;
thence south 65 degrees 12 minutes west a distance of 14.15 meters;

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thence south 58 degrees 43 minutes west a distance of 12.71 meters;
 thence south 67 degrees 55 minutes west a distance of 12.02 meters;
 thence south 69 degrees 45 minutes west a distance of 6.57 meters;
 thence south 76 degrees 32 minutes west a distance of 6.44 meters;
 thence south 69 degrees 49 minutes west a distance of 4.55 meters;
 thence south 15 degrees 39 minutes west a distance of 14.61 meters;
 thence south 03 degrees 13 minutes west a distance of 11.92 meters;
 thence south 83 degrees 30 minutes west a distance of 21.05 meters;
 thence south 32 degrees 24 minutes east a distance of 3.21 meters;
 thence south 23 degrees 07 minutes east a distance of 2.82 meters;
 thence south 02 degrees 26 minutes east a distance of 3.05 meters;
 thence south 17 degrees 10 minutes west a distance of 4.83 meters;
 thence north 89 degrees 19 minutes west a distance of 11.69 meters;
 thence south 84 degrees 34 minutes west a distance of 30.74 meters;
 thence south 84 degrees 40 minutes west a distance of 6.57 meters;
 thence south 66 degrees 07 minutes west a distance of 12.32 meters to a point on the northerly right-of-way line of Marine Drive;
 thence westerly along said line north 83 degrees 04 minutes west a distance of 10.05 meters;
 thence leaving said right-of-way line, north 14 degrees 09 minutes west a distance of 5.17 meters to a point on the seaward side of the Agaña Boat Basin wall, said point being also on the mean lower low water line;
 thence northeasterly and southeasterly along said mean lower low water line to the point of beginning;

containing an area of 108,560 square meters or 26.83 acres, more or less.

Sec. 2. The property conveyed by the section 1 of this Act shall be subject to the condition that the property shall be used solely for civic, park, and recreational purposes, and if it shall ever cease to be used for such purposes, or if the Government of Guam should ever sell or otherwise dispose of such land or any part thereof, title thereto shall revert to the United States, which shall have the right of immediate entry thereon.

Sec. 3. There is hereby granted to the Government of Guam all of the right, title, and interest of the United States in and to all of those lands, including filled lands, submerged lands, and tidelands, together with all structures and improvements thereon, located in Guam, and known as the Agaña Boat Basin, more particularly described as follows:

Beginning at a point, the coordinates of which are east 49,927.762 meters, north 50,379.613 meters, Land and Claims Commission 1945 triangulation system, said point being common to the boundary of Paseo de Susana and described as a point on the seaward side of the Agaña Boat Basin wall, said point also being on the mean lower low water line—

thence along said wall, being also along said mean lower low water line, south 88 degrees 53 minutes west a distance of 4.00 meters;

thence north 01 degrees 13 minutes west a distance of 15.00 meters;

thence south 89 degrees 22 minutes west a distance of 17.38 meters;

thence leaving said wall and mean lower low water line south 12 degrees 17 minutes west a distance of 18.15 meters;

thence south 00 degrees 21 minutes east a distance of 1.39 meters to a point on the northerly right-of-way line of Marine Drive;

thence westerly along said right-of-way line north 83 degrees 04 minutes west a distance of 297.11 meters;

thence leaving said northerly right-of-way line north 01 degrees 56 minutes east a distance of 126.93 meters;

thence south 83 degrees 04 minutes east a distance of 309.36 meters, more or less, to a point on the boundary of Paseo de Susana and being on the mean lower low water line;

thence southerly and westerly along said mean lower low water line and Agaña Boat Basin wall to the point of beginning, containing an area of 33,635.52 square meters, or 8.23 acres, more or less.

Sec. 4. The property conveyed by section 3 of this Act shall be subject to the condition that the property shall be used solely for civic, park, and recreational purposes, and as a boat basin, and if it shall ever cease to be used for such purposes, or if the Government of Guam should ever sell or otherwise dispose of such land or any part thereof, title thereto shall revert to the United States, which shall have the right of immediate entry thereon.

Approved July 14, 1960.



GUAM ENVIRONMENTAL PROTECTION AGENCY

AHENSIAH PRUTEKSION LINA'LA GUAHAN

POST OFFICE BOX 2999 AGANA, GUAM 96910 TELEPHONE: 646-2863/64/65
FAX: 646-9402

TELECOPIER INFORMATION PAGE

PLEASE DELIVER TO: DAVE TYDINSKO (Port Authority of Guam)

FROM: Arlene Pangolinan (GEPA)

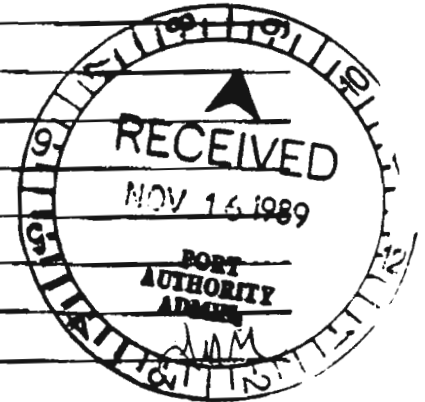
TELECOPIER NUMBER: 477-2689

SENT BY: [Signature] ON: 11-15-89

Total pages including this page: 3

NOTICE!!! If you do not receive legible copies of all the pages, please call back as soon as possible: (671) 646-8863/4/5 and ask for sender.

RE: GEPA position statement dated July-27-89
for the Agana Marina Development.



APPROVED

DISAPPROVED

FRED M. CASTRO
Administrator

Date: _____



GUAM ENVIRONMENTAL PROTECTION AGENCY

POST OFFICE BOX 2999 • AGANA, GUAM 96910 • TELEPHONE: 846-3383/54/55

JUL 27 1989

INTER-AGENCY MEMORANDUM *A/C*

TO: Chairman, Territorial Planning Commission
Executive Secretary, Territorial Planning
Commission

FROM: Administrator

SUBJECT: Lot No. A-4, Agana (International Design Consortium
c/o Ike Iseke and Roland Villaverde), Zone Change
from "A" (Rural) to "PD" (Planned Development)
district, in order to develop a synthesized marina
facility at the present Agana Boat Basin, to
include three hundred (300) boat slips, hotel,
commercial, recreational, public, and fishery uses.

The Agency has reviewed the subject application with requests
for a Zone Change from to "PD" (Planned Development) for a
synthesized marina facility.

The Agency has several concerns with this project that we
feel need to be considered:

1. Since the Agana Marina is a public facility any
changes proposed for the marine should be in the
interests of the general public.
 - a. The proposed development includes 2 hotels.
This is a deviation from the original Agana
Marina Development Plan (1975-77) and would
appear to need public approval. The impact
of this project in altering the future zoning
and development of Agana must also be considered
in your decision.
 - b. The application states: "The proposed marina is
both financially feasible and economically
beneficial to the Government." We recommend
that the public be informed of the financial
benefit which will occur from this project.
We also recommend that any proceeds due to the
Government of Guam through the management
contract be earmarked for recreational
development and placed in a special fund for
this purpose. This will ensure continued public
benefit from this joint venture.

⊗



GUAM ENVIRONMENTAL PROTECTION AGENCY

POST OFFICE BOX 2999 • AGANA, GUAM 96910 • TELEPHONE: 648-8863.64/65

- 2. The environmental impact of the project is also a concern. The previous Environmental Impact Statement prepared by the U.S. Army Corps of Engineers must be updated to reflect impacts of the current project. We recommend this be included as a conditional of approval.

Thank you for the opportunity to comment.

15/

Fred M. Castro





TELEX 6131

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GUAM POWER AUTHORITY

P. O. BOX 2977, AGANA, GUAM, USA 96910-2977

November 27, 1989

Memorandum

To: General Manager, Port Authority of Guam
From: General Manager, Guam Power Authority
Subject: Agana Marina Development Plan, Impact on GPA

Guam Power Authority's facilities serving the Agana area are approaching the limits on loading and service reliability. Although GPA was not provided specific electric usage or demand data, it is our belief that major improvements to the electric system are needed before GPA can serve the electric requirements of the Agana Marina.

GPA is currently assessing the various options it has for providing for customer load growth in the area. These will probably involve the need to obtain land for a new power substation and rights-of-way for transmission supply lines.

We are confident in being able to provide for the Agana Marina's electric requirements given sufficient time, i.e., 24 to 30 months lead time to upgrade existing and to install new facilities.

I trust this information provided will be useful in your future treatment of this project.

John Benavente
JOHN M. BENAVENTE





GUAM TELEPHONE AUTHORITY

POST OFFICE BOX 9008 • TAMUNING, GUAM 96911

November 24, 1989



MEMORANDUM

To: General Manager
Port Authority of Guam

From: General Manager

Subject: Impact Statement Agana Marina Development

The Guam Telephone Authority (GTA) will make every effort needed to meet the telephone communication requirement of the Agana Marina Development project.

Based on the amount of infrastructure we have at present, we foresee a need for the installation of two each four inch (2-4") conduit from the GTA Central Office to the existing boat basin. If this project is to proceed, we recommend that the placement of the conduit be incorporated with the road widening project of Marine Drive.

A nine hundred (900) pair cable will be put in place to accommodate the installation of 338 boat slips and the construction of one 9 story 320 room hotel, one 6 story 120 room hotel, and various retail and office space outlets.

The Agana Central Office already has the capacity to handle the telephone line requirement of the Marina.

Should you require any assistance please call our Engineering department at 646-6363.


JESUS A. MANIBUSAN, P.E.

xc: Engineering, GTA
Plant Department, GTA
Business Administration, GTA



PUBLIC UTILITY AGENCY OF GUAM
GOVERNMENT OF GUAM
POST OFFICE BOX 1010, AGANA
GUAM, USA 96910
TELEFAX: (671) 649-0158

DATE: NOV. 16, 1989

TIME: 8:25 AM.

FROM: ALEX C. CHAN, CHIEF PLANNER

TITLE OF DOCUMENT:

PER YOUR REQUEST, ENCLOSED PLEASE FIND PUAG'S POSITION

PAPER TO TPC REGARDING THE AGANA MARINA PROJECT.

NO. OF PAGES: THREE (3)
(including this telefax cover page)

TO: DAVID TYDINGCO, GENERAL MANAGER

COMPANY: PORT AUTHORITY OF GUAM

LOCATION: PITI

TELEFAX NO. 477-0883



TRANSMITTED BY: ALEX CHAN (TEL: 646-8369)



PUBLIC UTILITY AGENCY OF GUAM
GOVERNMENT OF GUAM
POST OFFICE BOX 3010, AGANA
GUAM, U.S.A. 96910

POSITION PAPER
ON PROJECT NO. 7
TPC MEETING OF 7/27/89

I. BRIEF PROJECT DESCRIPTION:

A. Lot Number(s)/Municipality

A-4, Agana (International Design Consortium c/o Ike Iseke and Roland Villaverde).

B. Project Activities

To develop a synthesized marina facility at the present Agana Boat Basin, to include three hundred (300) boat slips, hotel, commercial, recreational, public and fishery uses.

II. WATER/SEWER INFRASTRUCTURE ANALYSIS:

A. Water

PUAG operates an integrated islandwide water distribution system where additional demand in one service area will impact other service areas. Although the existing waterline is available for connection at the project area, the additional water demand being placed by a project of this magnitude will require substantial additional water supply.

B. Sewer

Although the existing sewerline is available for connection at the project area, sewage being discharged from this project will take up a substantial portion of available capacity of the existing sewerline and associated collection and treatment facilities.

III. RECOMMENDED CONDITION(S) PLACED ON DEVELOPER FOR APPROVAL:

A. Water

Pay proposed designated "development/impact" fee upon implementation by the government. Additional water supply and associated transmission facilities will be developed through such funding source.

B. Sewer

Same as III.A. above regarding the proposed designated "Development/impact fee". In addition, sewerline connection should be conditional on the completion of:

1. The Tumon Sewer Reversion Project transmitting sewage to the Northern District Sewage Treatment Plant (present estimate - December 1990).
2. The Sewage Collection Systems Improvement Project along Camp Watkins area (Present estimate - June 1990).
3. The Barrigada Heights/Liguan Terrace Sewer Pump station and Force main Project transmitting sewage to the Northern District Sewage Treatment Plant (Present estimate - September 1990). Presently, sewage from these areas is being transmitted to the Agana Sewage Treatment Plant.

The developer should also abide to other assessment or conditions as required by PUAG. Such conditions may require the installation of waterlines, sewerlines, and associated facilities to accommodate the proposed development. Developers who wish for early approval of construction permit by PUAG may negotiate with the agency for alternative methods of infrastructure contribution.

AGANA MARINA

BILL NO. 1036

VOLUME 5

- 1. APR. 12, 1990 LETTER OF DAVID TYDINGCO TO SEN. JOHN PEREZ
AGUON WITH PORT AUTHORITY OF GUAM BOARD RES. NO. 90-007
DATED APR. 11, 1990**
- 2. APR. 9, 1990 LETTER OF DAVID TYDINGCO TO SEN. JOHN PEREZ
AGUON WITH MEMORANDUM OF FRANK CASTRO (AGANA MARINA
DELINEATION AND MAPS)**
- 3. FINANCIAL STATEMENT FROM YASUHIRO KISHIMOTO**
- 4. 1987 ANNUAL REPORT OF SKYLARK CO., LTD.**
- 5. MAR. 2 ,1990 LETTER OF DAVID TYDINGCO TO SEN. JOHN PEREZ
AGUON WITH BACKGROUND ON SKYLARK CO., LTD.**
- 6. APR. 12, 1990 LETTER OF PHILIP ISAAC (IDC LEGAL COUNSEL) TO
SEN. JOHN PEREZ AGUON
RE: STATEMENT ON THE PROPOSED IDC SHAREHOLDERS AND THE
CHINO FAMILY**

1 Copy



PORT AUTHORITY OF GUAM
ATURIDAT I PUETTON GUAHAN
GOVERNMENT OF GUAM
1026 Cabras Highway
Suite 201
Piti, Guam 96925

Telephone: (671) 477-5931/35
(671) 477-2683/85
Telex: (721) 6689 PAGGUM
Facsimile: (671) 477-2689

CHAIRMAN, COMMITTEE ON TOURISM,
TRANSPORTATION & COMMUNICATIONS

APR 12 1990

REC'D BY: _____

DATE: _____ TIME: _____

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

Hafa Adai Mr. Chairman:

As per the Committee's request, enclosed is as requested is Resolution No. 90-007 adopted by the Port Authority of Guam's Board of Directors relative to the lease executed by and between the Port Authority of Guam and International Design Consortium.

Should you require additional information, please do not hesitate to contact me directly.

Si Yu'os Ma'ase,

David B. Tydingco
DAVID B. TYDINGCO
General Manager

Enclosure

cc: Clifford Guzman, IDC



PORT AUTHORITY OF GUAM
ATURIDATI PUETTON GUAHAN
GOVERNMENT OF GUAM
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PORT AUTHORITY OF GUAM
An Autonomous Agency of the Government of Guam

Resolution No. 90-007

RELATIVE TO APPROVING THE PROPOSAL OF
INTERNATIONAL DESIGN CONSORTIUM TO ENTER INTO A
LEASE WITH THE PORT AUTHORITY OF GUAM FOR THE
DEVELOPMENT AND MANAGEMENT OF THE AGANA BOAT BASIN
AND REQUESTING THE CONSENT OF THE LEGISLATURE AND
THE GOVERNOR TO THE PROPOSED LEASE

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE PORT
AUTHORITY OF GUAM:

WHEREAS, the Port Authority of Guam is charged by its
enabling act with responsibility for the development and
management of the harbors of Guam; and

WHEREAS, the Agana Boat Basin is a recreational facility
within that area of responsibility which, in the opinion of the
Board, is underdeveloped; and

WHEREAS, International Design Consortium, a Guam
corporation, has proposed a plan that would result in the orderly
improvement of the Agana Boat Basin so that its potential can be
more fully realized with resulting recreational and economic
benefits to the people of Guam; and

WHEREAS, the proposal would not only be without expense to
the Port Authority of Guam but would, in fact, result in the Port
being the reversionary owner of the development and the recipient

" COMMONWEALTH NOW "

Port Authority of Guam
Resolution No. 90-007

during the term of the lease of significant income from International Design Consortium; and

WHEREAS, notwithstanding the privatization of the Agana Boat Basin, the lease reserves to the Port Authority of Guam the right to approve rates and rules that would be imposed upon users of the facility; and

WHEREAS, it is the opinion of the Board of Directors of the Port Authority of Guam, after due consideration of all aspects of this proposal and the conducting of a public hearing on it, that the proposal is in the best interest of the people of Guam and the Port Authority of Guam; and

WHEREAS, the Board of Directors of the Port Authority of Guam recognizes that a project of this magnitude should be concurred in by the Legislature and the Governor; now, therefore, be it

RESOLVED, that the Board of Directors of the Port Authority of Guam approves the lease proposal submitted to it by International Design Consortium as amended by the Committee on Transportation and Tourism and executed by the Governor of Guam on April 1, 1990 and it requests that the Legislature and the Governor concur in the proposal in order that the lease can be executed and put into effect; and

Port Authority of Guam
Resolution No. 90-007

RESOLVED, that the Board of Directors of the Port Authority of Guam requests the Legislature to allow International Design Consortium a thirty (30)-day review period to accept or reject the lease as approved by the Legislature at its session; and be it further

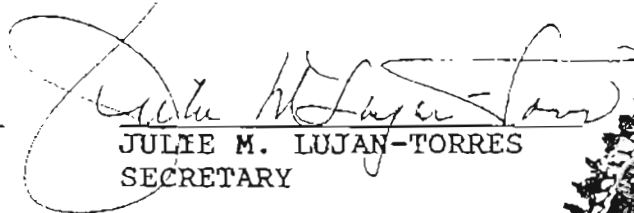
RESOLVED, that the Chairman of the Board of Directors of the Port Authority of Guam shall certify and the Secretary of the Board shall attest the adoption of this RESOLUTION and that, thereafter, the Executive Manager of the Port Authority of Guam shall transmit certified copies of this resolution to the Speaker of the Twentieth Guam Legislature, the Chairman of the Committee on Tourism and Transportation, and the Governor; and be it further

RESOLVED, that at any public hearing conducted by the Legislature upon the proposal of International Design Consortium, the Executive Manager shall be authorized to appear as the only authorized representative of the Board to submit to questions of the Legislature.

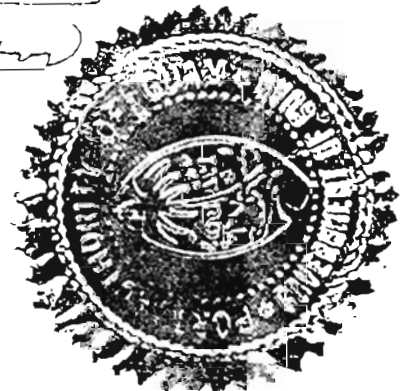
DULY ADOPTED APRIL 11, 1990 AT A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE PORT AUTHORITY OF GUAM, SAID MEETING HAVING BEEN CONDUCTED AT THE AUTHORITY'S CONFERENCE ROOM, UPON THE GIVING OF ALL NOTICE REQUIRED BY LAW.



PHILIP J. FLORES
CHAIRMAN



JULIE M. LUJAN-TORRES
SECRETARY





PORT AUTHORITY OF GUAM
ATURIDAT I PUETTON GUAHAN
GOVERNMENT OF GUAM
1026 Cabras Highway
Suite 201
Piti, Guam 96925
APR 09 1990

Telephone: (671) 477-5931/35
(671) 477-2683/85
Telex: (721) 6668 PAGGUM
Facsimile: (671) 477-2689

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

CHAIRMAN, COMMITTEE ON TOURISM,
TRANSPORTATION & COMMUNICATIONS
REC'D BY: [Signature]
DATE: 4/9/90 TIME:

Hafa Adai Mr. Chairman:

As per your request, the following information is provided:

1. The legal description for the Agana Marina property along with a certification from Land Management that the survey has been properly performed and recorded.

2. A diskette containing the text of the Agana Marina lease agreement as amended. After my discussion with Attorney Steven Unpingco today, we amended the contract to reflect the changes requested by the Committee.

I previously sent you a letter date April 6, 1990 advising your committee the date the lease agreement was executed by the administration and International Design Consortium.

A board resolution from the Port Authority of Guam sanctioning the executed lease will be discussed at a regular board meeting scheduled for April 11, 1990. We should be able to forward a copy of the resolution not later than April 12, 1990. In addition, a section by section analysis of the lease agreement as amended at the request of the Committee on Tourism and Transportation will also be available to your office not later than April 12, 1990.

If there is anything else I can provide, please let me know.

Si Yu'os Ma'ase,

[Signature]
DAVID B. TYDINGCO
General Manager

cc: Chairman, Board of Directors
Members, Board Members



DEPARTMENT OF LAND MANAGEMENT
GOVERNMENT OF GUAM
AGANA GUAM 96910

April 6, 1990

Memorandum

To: General Manager, Port Authority of Guam
From: Director of Land Management
Subject: Agana Marina Delineation and Maps

Provided herewith as per your request of April 6, 1990, are each of the following:

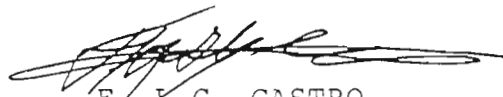
(1) This Department's attestation that the surveys, calculation, and mapping of the Agana Marina North and South boundaries are accurate; that the said surveys are valid; and, the maps thereof has been recorded on the 6th day of April, 1990, under Document No. 432258.

(2) That attached herewith are two (2) sets of the recorded maps covering both of the perimeters concerned.

(3) That also attached herewith are the legal metes and bounds descriptions of both areas.

Please be advised that the signature of Joseph B. Cruz, executing the Maps on behalf of the Territorial Planner does not have any legal effect for in fact, the Planner's input to the retracement survey is not applicable and whether it is executed by the Territorial Planner or not is immaterial.

In future requirements of this nature, please consider in giving us more time for completion over waiting for a last minute situation as is the case with this matter.


F. L.G. CASTRO

Attachments: Maps and Technical Description

LEGAL DESCRIPTION

AGANA MARINA SOUTH PERIMETER AREA

The property involved herein is that of the "AGANA MARINA SOUTH PERIMETER SITE," containing an area of 33,672.70 square meters or 8.32 Acres, more or less, as shown and delineated on Land Management Drawing No. 458-FY88, sheet one of two, and further identified as being E4-88T703, recorded on the 6th day of April, 1990, under Document No. 432258. The said perimeter delineation is more particularly given as follows:

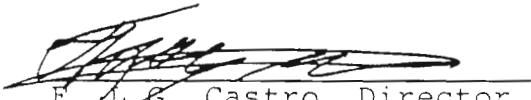
Beginning at a point identified on sheet one of two of the said Map as being Corner No. 1, with the coordinate values of North 165,292.123 feet and East 163,860.784 feet, it proceeds on a course of South 85 Degrees, 52 Minutes, 44 Seconds West, and a distance of 53.74 feet to Corner No. 2. Thence, South 88 Degrees, 54 Minutes, 12 Seconds West, and a distance of 13.42 feet to Corner No. 3. Thence, North 04 Degrees, 14 Minutes, 12 Seconds West, and a distance of 50.36 feet to Corner No. 4. Thence, South 89 Degrees, 23 Minutes, 12 Seconds West, and a distance of 57.02 feet to Corner No. 5. Thence, South 12 Degrees, 18 Minutes, 12 Seconds West, and a distance of 59.55 feet to Corner No. 6. Thence, South 00 Degrees, 19 Minutes, 48 Seconds East, and a distance of 4.79 feet to Corner No. 7. Thence, North 88 Degrees, 02 Minutes, 33 Seconds West, and a distance of 679.49 feet to Corner No. 8. Thence, North 01 Degrees, 57 Minutes, 27 Seconds East, and a Distance of 416.76 feet to Corner No. 9. Thence, South 88 Degrees, 02 Minutes, 33 Seconds East, and a Distance of 1,050.92 feet to Corner No. 10. Thence, South 48 Degrees, 11 Minutes, 28 Seconds West, and a Distance of 307.41 feet to Corner No. 11. Thence, South 05 Degrees, 00 Minutes,

Legal Description
Agana Marina South Perimeter Area
Page 2 of 2 Pages

42 Seconds West, and a Distance of 182.12 feet to Corner No. 1 which is back to the point of beginning.

The above described property is bounded on the North by the Agana Marina North Area; on the South by Route One; on the East by the Paseo De Susana Area; and, on the West by the Sewage Treatment Plant Rights-of-way.

Prepared this 6th day of April, 1990 by:


F. L. G. Castro, Director
Department of Land Management

LEGAL DESCRIPTION

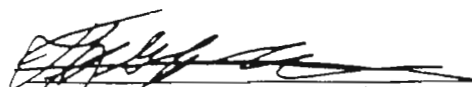
AGANA MARINA NORTH PERIMETER AREA

The property involved herein is that of the "AGANA MARINA NORTH PERIMETER SITE," containing an area of 28.43 Acres, more or less, as shown and delineated on Land Management Drawing No. 458-FY88, sheets one of two, and two of two further identified as being E4-88T703, recorded on the 6th day of April, 1990, under Document No. 432258. The said perimeter delineation is more particularly given as follows:

Beginning at a Corner identified on Sheet one of two as POB-1, with the coordinate values of North 165,678.47 feet, and East 164,105.82 feet, it proceeds on a course of North 88 Degrees, 03 Minutes, 45 Seconds West, and a Distance of 1,050.92 feet to the second point. Thence, North 00 Degrees, 01 Minutes, 12 Seconds East, and a distance of 596.42 feet to the third point. Thence, North 15 Degrees, 25 Minutes, 55 Seconds East, and a distance of 321.56 feet to the fourth point. Thence, South 89 Degrees, 58 Minutes, 48 Seconds East, and a distance of 1,533.99 feet to the fifth point. Thence, South 25 Degrees, 41 Minutes, 08 Seconds West, and a distance of 238.32 feet to the sixth point. Thence, South 35 Degrees, 40 Minutes, 44 Seconds West, and a distance of 153.35 feet to the seventh point. Thence, South 29 Degrees, 56 Minutes, 00 Seconds West and a distance of 504.92 feet to the eighth point. Thence, South 35 Degrees, 40 Minutes, 37 Seconds West, and a distance of 236.22 feet to POB-1 which is back to the point of beginning.

The above described property is bounded on the North by the Agana Bay water area; on the South by the Agana Marina South Boundary; on the East by the Paseo De Susana Area; and, on the West by the Sewage Treatment Plant Area and rights-of-way.

Prepared this 6th day of April, 1990 by:


F. L. G. CASTRO, Director
Department of Land Management

PERSONAL FINANCIAL STATEMENT

AS OF Dec, 26, 1989

NAME: Yoshihiro KISHIMOTO EMPLOYED BY: Corporate Directories Inc.

ADDRESS: 5-13-10, Kitayama, Setagaya, Tokyo POSITION: Vice President AGE: 43 NAME OF SPOUSE: KEIKO

IF EMPLOYED LESS THAN 1 YEAR, PREVIOUS EMPLOYER:

ASSETS		DOLLARS	CENTS	LIABILITIES		DOLLARS	CENTS
Cash in bank	<u>Mitsubishi / Sumitomo</u> (Give Name)	<u>32,000</u>	<u>00</u>	Notes Payable	<u>✓</u> (Give Name)		
Long Term Credit / Equity	<u>Fuji</u> (Give Name)	<u>25,000</u>	<u>00</u>	Notes Payable	<u>✓</u> (Other)		
Accounts Receivable - Good	<u>✓</u>			Accounts Payable	<u>✓</u>		
Stocks and Bonds (Schedule B)		<u>2,165</u>	<u>000</u>	Taxes Payable	<u>✓</u>		
Notes Receivable - Good				Contracts Payable	<u>✓</u> (No Name)		
Cash Surrender Value Life Insurance	<u>✓</u>			Contracts Payable	<u>✓</u> (No Name)		
Autom	<u>1988 - Toyota</u> (Year-Make) (Year-Make)	<u>20,000</u>	<u>00</u>	Real Estate Indebtedness (Schedule A)		<u>30,000</u>	<u>00</u>
Real Estate (Schedule A)	<u>0</u>	<u>3,300,000</u>	<u>00</u>	Other Liabilities (Describe)			
Other Assets (Describe)				1. Bank Loan	<u>Mitsubishi Bank</u>	<u>400,000</u>	<u>00</u>
1. Golf Course Membership	<u>0</u>	<u>950,000</u>	<u>00</u>	2. Bank Loan	<u>Fuji Bank</u>	<u>60,000</u>	<u>00</u>
2. Club Membership	<u>Hotel New Otawa</u>	<u>35,000</u>	<u>00</u>				
3. Club Membership	<u>Alpa Tenjima</u>	<u>30,000</u>	<u>00</u>				
4.							
5.							
TOTAL ASSETS		<u>7,557,000</u>	<u>00</u>	TOTAL LIABILITIES		<u>460,000</u>	<u>00</u>
				NET WORTH		<u>7,097,000</u>	<u>00</u>
				TOTAL		<u>7,557,000</u>	<u>00</u>

ANNUAL INCOME		DOLLARS	CENTS
Salary		320	400 00
Salary (wife or husband)			
Securities Income	1	5	000 00
Rentals		53	600 00
Other (describe)			
1. Salary (Advisers)		28	600 00
2. Reward (Speakeo)		5	600 00
3.			
4.			
5.			
TOTAL INCOME		413	200 00
LESS - TOTAL EXPENDITURES		168	840 00
NET CASH INCOME (Exclusive of ordinary living expenses)		244	360 00

ANNUAL EXPENDITURES		DOLLARS	CT
Real Estate Payment(s)		2	400 0
Rent		55	700 0
Income Taxes		84	240 0
Insurance Premiums			
Property Taxes		7	500 0
Other (describe--include installment other than real estate)			
1.			
2.			
3.			
TOTAL EXPENDITURES		168	840 00

The undersigned certifies that the above statement for in item thereof, the attached statement, as the case may be and supporting, both printed and written, give a full, true and correct statement of the financial condition of the undersigned as of the date indicated.

Dec 26, 1989
 Date Signed

[Signature]
 Signature



SKYLARK Co., Ltd.

Annual Report
1987



Profile

Since its establishment in 1962, Skylark has expanded from a food store chain operator to become the largest family restaurant chain in Japan. Served by four regional central kitchens that process and distribute semiprepared food on a just-in-time basis, Skylark family restaurants have grown in number to 513 outlets.

As part of its long-term strategy for growth, Skylark has diversified its restaurant operations to include family restaurants, casual dining restaurants, coffee shops, fast-food outlets, traditional Japanese and Chinese restaurants, and restaurants featuring French cuisine. With active expansion into new market segments and the establishment of member companies, Skylark has become the Skylark Group. As its first step into the nonrestaurant food industry, the Group began home delivery service of prepared and semiprepared food, and then went a step further by setting up two joint ventures, one that will manage French restaurants and delicatessens and another that will operate large-scale restaurants in convention centers and other kinds of exhibition facilities. Supporting these different domestic endeavors is a corporate division that coordinates activities among different member companies and contributes to operational efficiency. With a well-focused strategy for growth and a strong supporting infrastructure, Skylark is nicely positioned to meet the forces of competition and change for years to come.

Contents

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2	Message from the President
4	Meeting the Focus of Change and Competition through Diversification and Consolidation
12	Financial Review
13	Non-Consolidated Statements of Income
14	Non-Consolidated Balance Sheets
16	Non-Consolidated Statements of Shareholders' Equity
17	Notes to Non-Consolidated Financial Statements
18	Report of Independent Certified Public Accountants
19	Five-Year Summary
20	Board of Directors
20	Directory
21	Skylark Regional Offices

During the fiscal year ended December 31, 1987, the Japanese economy experienced a strong recovery from the recession that began in 1986. Market conditions for the restaurant industry, however, remained severe as competition in an already mature market intensified and as the trend toward the individualization of tastes necessitated innovative and organizational changes.

In this operating environment, Skylark registered a 4% increase in fiscal 1987 net sales, to ¥94,803 million, which, in turn, generated a 2% increase in net income, to ¥4,740 million. Although our rates of growth in sales and net income have slowed since our peak years of expansion, the figures for fiscal 1987 represent solid performance and continuing progress.

Expanding Our Operations and Infrastructure

During the year under review, Skylark opened 43 new family restaurants, bringing the total number of outlets to 513, as we moved a step closer to becoming a nationwide restaurant chain operator. We strengthened our presence in the major regional areas of Japan and entered new markets, including the Shikoku region, which, until recently, has had few family restaurants. To more effectively manage our expanding operations and to accurately respond to regional tastes, Skylark commenced operations at its fourth central kitchen in the Kansai region of western Japan. Located in Nishinomiya City, this kitchen serves over 150 restaurants and is contributing to improved efficiency in our delivery system in this part of Japan. Further, with the expansion of activities in the Hokuriku region, we set up a new business division to manage our outlets there and in surrounding areas.

Recognizing the surge in demand for pizza, in the summer of 1988 Skylark will commence operations at its first pizza kitchen, the Maebashi Pizza Factory, in Maebashi City. This facility is scheduled to mass produce pizza that will be delivered daily to Skylark Group restaurants. As a result of this new production and delivery system, the quality of Skylark's pizza will be standardized, costs lowered, and preparation time reduced. Skylark is investigating the possibility of supplying its pizza to companies outside the Skylark Group.

Fiscal 1987 was a year of growth not only for Skylark family restaurants, but also for Skylark subsidiaries, which increased to five: Jonathan's, a chain of coffee shops; Aiya, a group of Japanese restaurants; Country Farm, the fast-food chain; Hakushian, another Japanese restaurant; and, most recently, Bamiyan, a Chinese restaurant. The number of Yesterday outlets, a restaurant chain directly managed by the Skylark family restaurant operation, now stands at 25.

Also in fiscal 1987, the Skylark Group continued to pursue its strategic diversification into new food-service areas by establishing two joint venture companies, Flo Japon and Nilax Co., Ltd. The first company will operate full-service French restaurants and French delicatessens in major Japanese cities, and the second plans to operate large-scale restaurants in convention centers and other kinds of exhibition facilities. Overseas, the Skylark Group continued to successfully manage the Red Robin chain of full-service restaurants, headquartered in Los Angeles, California.

Although the Skylark Group emphasizes strategic diversification, it also recognizes the importance of coordinating activities among its core operations and subsidiaries and among the chains managed directly by Skylark to achieve maximum growth and efficiency. In 1987, we initiated the Mass Merchandising Center (MMC) to provide a forum where Group member companies can exchange information and where business strategies can be discussed and, when appropriate, consolidated and rationalized. A concrete outcome of effective utilization of the MMC will be coordinated procurement, inventory, and distribution programs. A Central Merchandising Center (CMC) and a Local Merchandising Center (LMC), now under construction, will support MMC activities by ensuring that food materials are efficiently distributed to subsidiaries and local outlets. In addition, an integrated business division was set up in our head office in Shinjuku, Tokyo, to coordinate the development programs of the Group's different companies in line with the Group's objectives.

Meeting Future Challenges Today

In fiscal 1987, Skylark celebrated its 25th year of outstanding performance. The past 25 years have seen the Japanese restaurant industry undergo vast transformation, including rapid expansion, an inundation of competing restaurants, and, finally, market saturation. Skylark carefully monitored these changes, industry trends, and consumption patterns while constantly driving its own growth through creative expansion. Our family restaurants provided Japanese consumers with top-quality food and service on a competitive par with other restaurants. Our well-planned diversification into different kinds of food services ensured our growth even in a mature market. Not resting on our laurels, the Skylark Group is now planning and executing a long-term strategy that will meet our customers' needs and the challenges of the 21st century.

For the long term, we will work to further integrate and rationalize our procurement, inventory, and distribution programs through the expanded use of the MMC. We will continue to develop growth opportunities by creating and expanding new kinds of business, such as offering a novel approach to food shopping. Emphasis will be placed on enhancing our home delivery of prepared and semiprepared food as we answer the growing needs of working women and older people. Viewing our employees as our greatest asset, we will continuously work toward providing them with thorough training and a pleasant and work-conducive environment. We also plan to make full use of our integrated business division, which, by maintaining an overview of the Group, will endeavor to coordinate the programs of individual Group companies to ensure that the Group's objectives are being met.

In the coming years, market conditions in the restaurant industry will remain severe. There will, however, be many opportunities for growth for companies that



Tasuku Chino, President and Representative Director

are innovative and that possess the necessary skills and strengths to maintain leadership. We believe Skylark and its member companies possess the qualities necessary for further growth.

I would like to thank our shareholders, business partners, and customers for their contributions to Skylark's success in fiscal 1987, and I look forward to your continued support in the years to come.

April 1988

茅 野 貴

Tasuku Chino, President and Representative Director

TURNING THE FOCUS OF CHANGE INTO COMPETITION THROUGH DIVERSIFICATIO LAND CONSOLIDATION

Diversification

... family restaurants constitute the largest family restaurant chain in Japan.



... old-fashioned American restaurants offering full-course, upscale dining in a casual atmosphere.



... serves American-style fast food, such as roast beef sandwiches and other sandwich-type food.



... coffee shops have a pleasantly relaxed atmosphere.



... are upscale Japanese restaurants with a relaxed atmosphere.



... is an upscale Chinese restaurant featuring a casual Western atmosphere.



... is a traditional Japanese kaiseki (banquet-type) cuisine restaurant.



... fast-food restaurants specialize in fried chicken and hamburgers.



... offers traditional French cuisine in an enjoyable atmosphere.



... operates large-scale restaurants in convention centers and other kinds of exhibition facilities.

... delicatessens provide take-out food from the Brasserie Flo French restaurants.

... is a line of easy-prepare frozen food from Skylark's central kitchens that can be cooked in microwave and convection ovens.

... and ... are Skylark's international project. ... is a gourmet hamburger chain on the West Coast of the United States.



Direct Operations
Subsidiaries

The Skylark Group emphasizes diversification to meet the needs of increasingly sophisticated consumers, both by expanding its network of outlets and by entering new business areas. There are now 513 Skylark family restaurants in Japan, in addition to fast-food and food-service operations. Amid continuous expansion, the Company ensures that its objectives are being met through a strong infrastructure that includes an integrated business division to coordinate the development programs of the Group's different members.

Open Skitane is a new type of experimental gourmet take-out food store.

Central Kitchens delivers Skylark menu items and other cooking ingredients to our customers' homes.

CENTRAL KITCHENS
 Higashi-Matsuyama
 Tachikawa
 Maebashi
 Kansai
 Kyushu

Skylark Transport handles transportation for the Skylark Group.

Skylark Advertising Co., Ltd. undertakes advertising and publicity for the Skylark Group.

Skylark Insurance Co., Ltd. is a full-scale insurance company that provides insurance coverage for the Skylark Group's employees and for its vehicles and other property.

Skylark Maintenance Co., Ltd. has responsibility for the maintenance of the Skylark Group's facilities and also offers remodeling for ordinary housing.

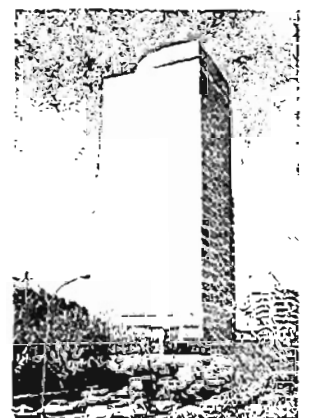
Skylark Cleaning Co., Ltd. provides cleaning for such items as oshibori (hand towels) and employees' uniforms.

Skylark Potatoes, Inc. headquartered in Oregon, in the United States, procures U.S.-produced potatoes for the Skylark Group.

Consolidation

SKYLARK CO., LTD.

provides management, planning, and merchandising for the entire Skylark Group.



**A Blueprint for Success:
Strategic Diversification**
The heyday of the Japanese family restaurant business, when expansion automatically translated into higher earnings, is over. The market is now mature, the competition severe, and customers more selective. To succeed in this environment, family restaurants must carefully target specific market segments, distinguish themselves from the competition, and actively develop new business opportunities. In response to these challenges, the Skylark Group has drafted a blueprint for success and growth: strategic diversification into new kinds of restaurants that are geared

toward specific consumer groups and active participation in consumer food services, such as home delivery of prepared and semiprepared food.

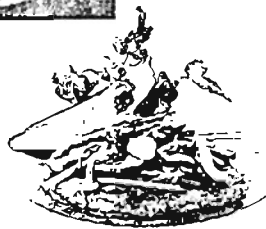
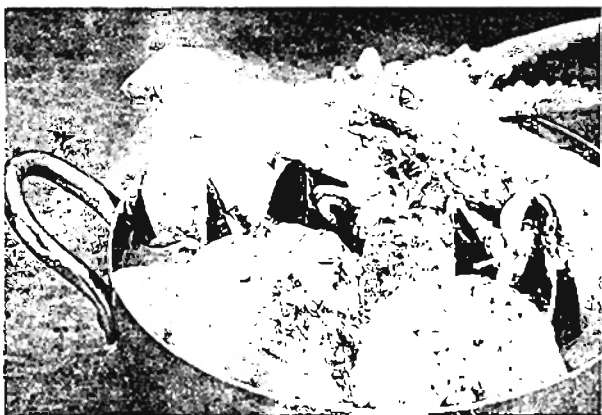
A Strategic Mix of Restaurants
Over the years, Skylark has successfully expanded its restaurant operations to cover seven categories of dining—family, casual, coffee shop, fast food, Japanese, Chinese, and French—all of which are under the Skylark corporate umbrella. Restaurants in each category offer a distinct dining style and atmosphere and feature menus tailored to a specific consumer category and level of disposable income.

The Yesterday chain of restaurants, directly operated by Skylark, offers upscale, casual dining tailored to a more sophisticated consumer.

Following the Skylark family restaurants, Jonathan's is the Group's largest chain. Established as a subsidiary in 1980, this coffee

shop chain has grown to 101 outlets and is frequented by customers younger than those typical of Skylark family restaurants. With nearly 90% of all Jonathan's open 24 hours a day, these coffee shops serve a consumer group largely ignored by other restaurant chains.

In 1985, Jonathan's began testing a new restaurant format called New Jonathan's, the floor space of which is smaller than that of the original Jonathan's. These pilot restaurants have proven successful, and in 1987 we opened three more New Jonathan's. New Jonathan's will





expand its operations to include take-out services, while offering the same quality and taste featured in the eat-in menu. Moreover, New Jonathan's will be located near railroad stations and busy commercial thoroughfares to ensure easy accessibility and high exposure.

Jonathan's and New Jonathan's: two outstanding examples of how the Skylark Group combines

convenience with quality and price.

With a firm position in the family, coffee shop, and casual dining market segments, the Group began looking toward a new consumer category that frequents fast-food outlets and has less disposable income. Two fast-food restaurants were established: Country Farm, which features fried chicken and offers drive-thru service, and Billy Jean, which serves roast beef sandwiches and other sandwich-type food.

In 1983, the Skylark Group commenced operations at two different types of Japanese restaurants. The subsidiary Aiya provides Japanese dishes at half the price of comparable restaurants and

attracts a more mature customer. Over the years, Aiya restaurants have successfully expanded to 24 outlets and, for the long term, this chain is expected to become a leading member of the Group. The Group also formed the Hakushian restaurant, which specializes in traditional and more expensive Japanese *kaiseki* cuisine and, like Aiya, attracts a more mature customer.

Seeking to capitalize on the popularity of Chinese food in Japan, the Skylark Group began operating a family-style Chinese restaurant in 1985. Called Bamiyan, this restaurant



offers the same exceptional service, quality, and reasonable prices of our family restaurants, yet distinguishes itself by featuring authentic Chinese food in a casual, Western-style atmosphere. Consumer response to Bamiyan has been exceptional, resulting in the opening of a second restaurant in October 1987. It has also led us to make Bamiyan an independent, fully owned subsidiary in January 1988. Confident of this restaurant's potential, the Group is preparing for Bamiyan's expansion.

In fiscal 1987, the Skylark Group established Flo Japon in cooperation with the leading French company Flo International to operate Brasserie Flo, full-service French restaurants that specialize in traditional French cuisine. These moderately priced restaurants will compete effectively with other, higher-priced French

restaurants, while providing the Group with invaluable experience in and knowledge of the upscale French food market. Offshore, the Group continued to successfully operate the Red Robin chain of restaurants that is headquartered in Los Angeles, California, and that features gourmet hamburgers.

Special Opportunities in Food-Service Areas As more women enter the work force and as consumer spending increases, the demand for carryout and delivery becomes even greater. Keeping pace with these demands, in 1985 Skylark formed the subsidiary Fresh Skylark as its first step into the nonrestaurant market. From the comfort of their own homes, customers can place orders from a catalog for a variety of Skylark family restaurant menu items and

for a number of basic ingredients. By using coded entries and a push-button phone, customers can send their orders directly to the Group's centralized computer system and Fresh Skylark's delivery staff. Fresh Skylark will also





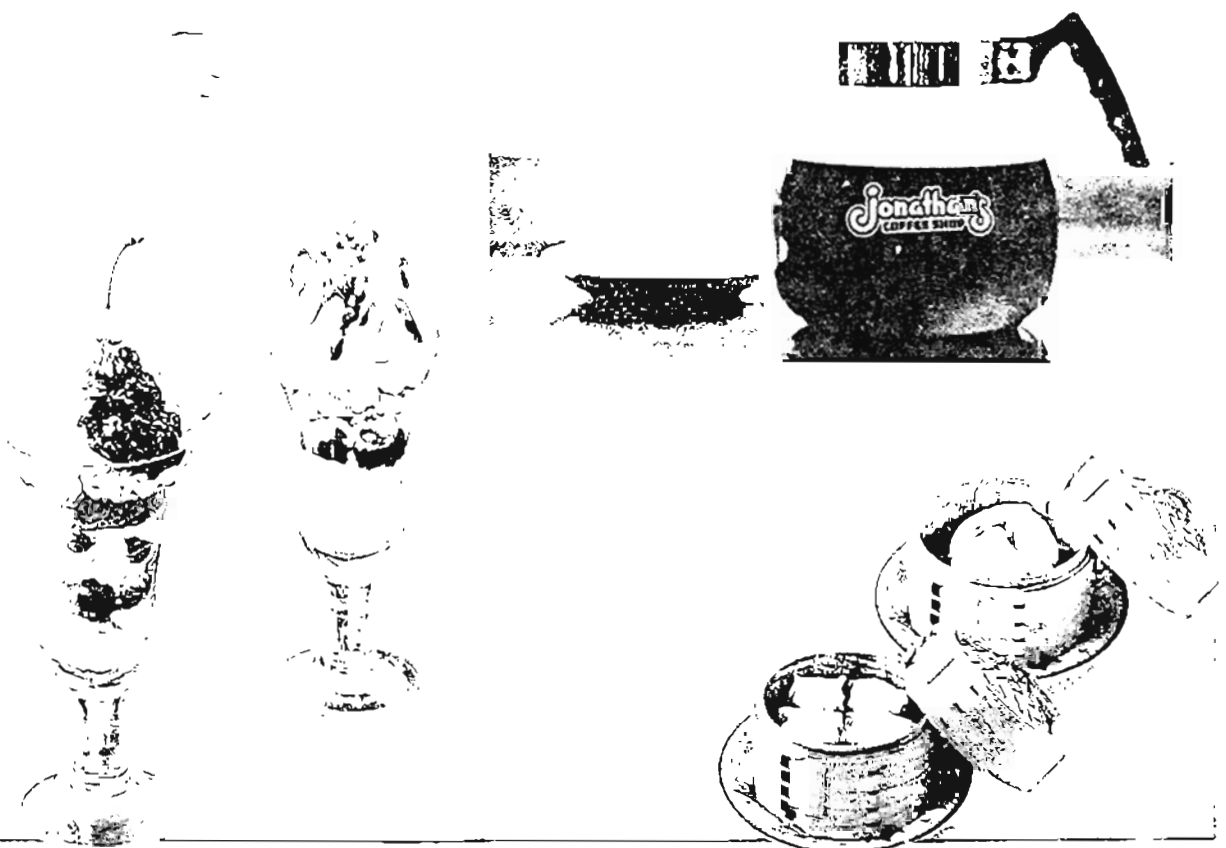
deliver the Company's line of Bon Sante frozen food, which is designed for microwave and convection ovens.

With success in the home delivery market, the Skylark Group confidently moved forward and began targeting the growing consumer group that lies between home diners and restaurant diners. This group is composed of home diners who enjoy top-quality meals but who do not always prepare the food themselves. In response to their dining needs, Flo Japon will

begin operating Flo Prestige delicatessens, which will offer take-out services for the same delicious food found in the Group's French restaurants. We expect demand for these types of food services to intensify, and are creatively addressing a need that has not been fully answered by either grocery stores or restaurants. In fiscal 1987, for example, the Group inaugurated Open Sesame, an experimental gourmet take-out food store that is based on a new concept in food shopping.

The Skylark Group's objective in diversifying is clear: to carefully select and participate in new markets in its established industry area by offering important services. Another step toward meeting this objective was the establishment of

Nilax Co., Ltd., in cooperation with Nippon Steel, the world's largest steel manufacturer, which has successfully diversified into the leisure and entertainment fields. Nilax's first project entails operating a 700-seat restaurant in the world's largest exhibition center, Makuhari Messe, which is located in Chiba Prefecture, near Tokyo, Japan. The restaurant will open in October 1989. By 1993, the Company intends to be managing 40 restaurants in convention centers and other kinds of exhibition facilities that are located primarily in redeveloped urban and regional areas. Opening restaurants in sports facilities is also part of this company's long-term strategy.



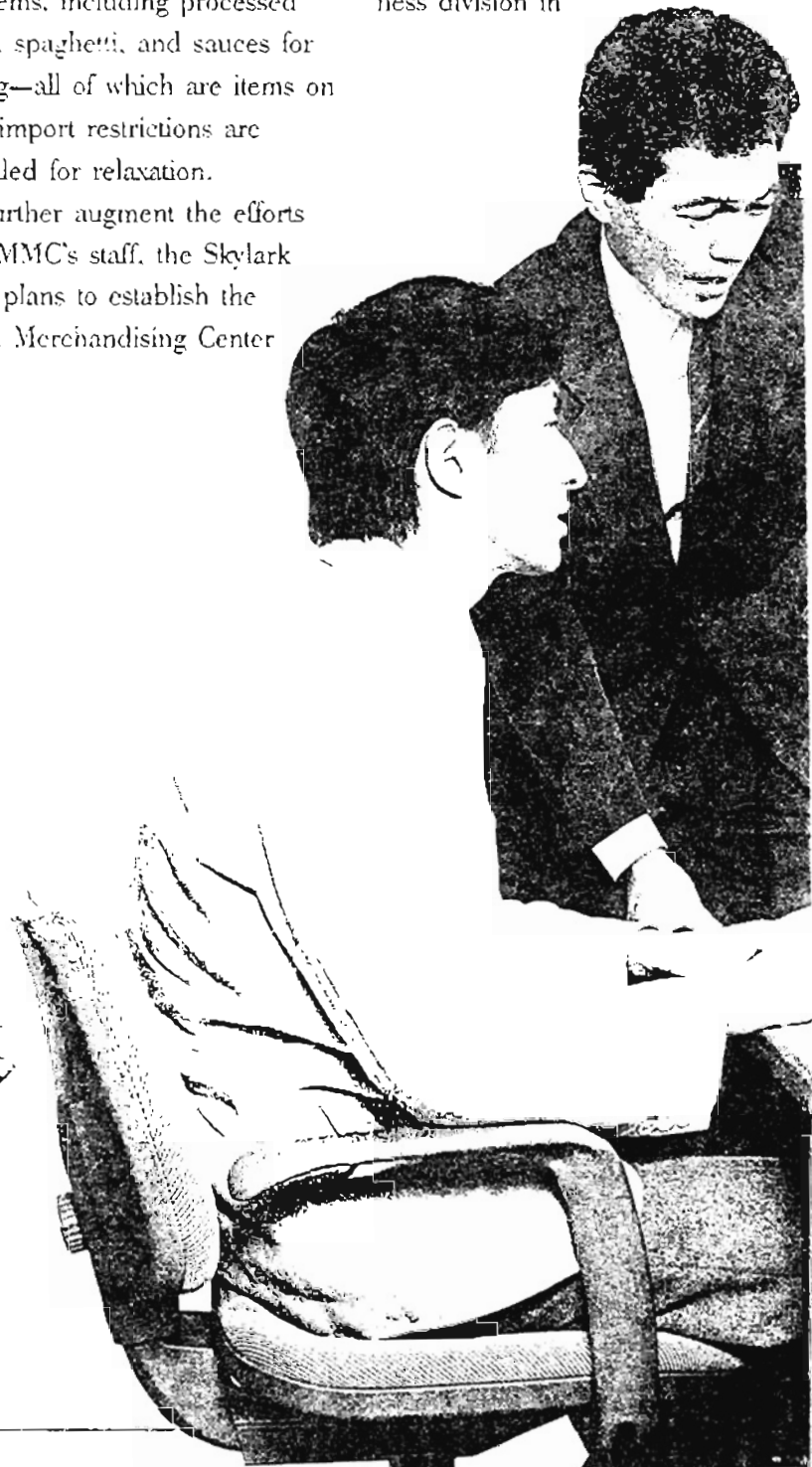
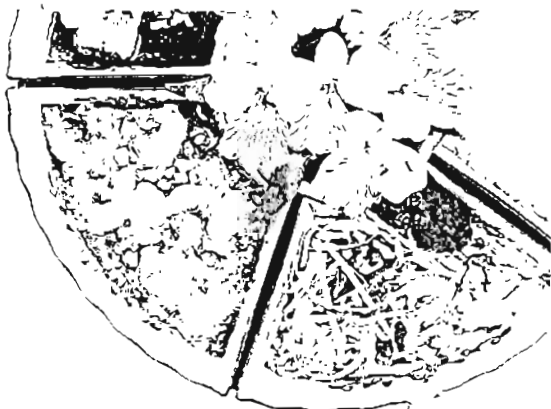
Coordinated Action Drives Growth Although member companies of the Skylark Group are many and diverse, each is committed to a common goal: to provide quality products and services to their customers at reasonable prices. To realize this goal, the Skylark Group established the MMC to provide a forum where Group members can exchange information and discuss and, when appropriate, consolidate and rationalize coordinated business strategies. Used effectively, the MMC should promote the integration and rationalization of procurement, inventory, and distribution. Specifically, the staff of the MMC intends to reduce costs through offshore

procurement of foodstuffs and to work toward developing new products. Adopting a long-term perspective, the staff analyzes and forecasts future prices of certain imported food, estimates long-term currency exchange rates, and selects the most suitable country from which to import. Currently, the staff of the MMC is focusing on 50 food items, including processed cheese, spaghetti, and sauces for cooking—all of which are items on which import restrictions are scheduled for relaxation.

To further augment the efforts of the MMC's staff, the Skylark Group plans to establish the Central Merchandising Center

(CMC) and is in the process of constructing the Local Merchandising Center (LMC), both of which will help determine needs and distribute foodstuffs to affiliated operations. In 1988, the Group intends to construct an office building for the MMC.

In fiscal 1987, the Skylark Group set up an integrated business division in



its head office to coordinate the development programs of the Group's different member companies in line with the Group's objectives.

Though the Company has emphasized the need for its affiliated companies to function as one enterprise, it also recognizes and affirms the importance of individual initiative. To further develop our most

valuable asset—Skylark employees—the Skylark Group recently built Nest, a center that offers seminars for all Group employees at its location in a suburb of Tokyo. Skylark is committed to creating a pleasant work-conducive environment for its employees and to providing superior employee training programs, which in the end will result in greater customer satisfaction.

The Skylark Group remains confident that its enhanced organizational infrastructure and its new,

integrated business division will result in significantly reduced costs, improved efficiency, and better-coordinated activities. A well-focused strategy for growth and a strong supporting infrastructure has positioned Skylark nicely to meet the forces of competition and change in the coming years.



Financial Review

Sales

Since Skylark's establishment in 1962, growth in sales has been consistent. Fiscal 1987, ended December 31, 1987, was no exception, with net sales increasing 4.0% to ¥94.8 billion. This growth stemmed from an increased number of Skylark family restaurants and continued diversification into new restaurants and new market segments in the food-service industry.

Income and Expenses

A combination of cost-cutting measures and reduced materials costs brought about a decline of approximately 2.0% in the cost of sales. Selling, general and administrative expenses, however, rose approximately 8.0%, reflecting surging land prices in Japan and higher expenses associated with the opening of new restaurants. At the end of fiscal 1987, operating income stood at ¥9.1 billion, or 1.1% higher than at the end of fiscal 1986.

Income before taxes declined slightly, stemming from expenses accrued from the issuance of bonds and stocks and losses on the closure of outlets for renewal. With lower taxes, however, net income rose to ¥4.7 billion, up approximately 2.0%.

Income and Expenses as a Percentage of Net Sales

	1987	1986	1985
Net Sales	100.0%	100.0%	100.0%
Cost of Sales	32.8	34.8	34.8
Selling, General and Administrative Expenses	57.5	55.3	54.7
Operating Income	9.6	9.9	10.5
Interest Expense	0.9	0.7	0.6
Other—Net	1.7	1.7	0.7
Income before Income Taxes	10.4	11.0	10.7
Income Taxes	5.4	5.9	5.7
Net Income	5.0	5.1	5.0

Financial Position

In fiscal 1987, Skylark substantially improved its financial position, with its current ratio rising to 436.1%, up from 182.2% the previous fiscal year, and working capital increasing to ¥32.0 billion. Capital expenditures were made for the opening of new restaurants and for the construction of a new kitchen, in Maebashi City. The Company also significantly increased its cash, including time deposits, to ¥35.0 billion, up from ¥11.1 billion in fiscal 1986. A portion of these funds came from the issuance of unsecured convertible bonds, worth ¥20.0 billion, and from operations.

Shareholders' equity increased 30.1%, to ¥46.1 billion, due to the issuance of 2.5 million shares and higher retained earnings. The ratio of shareholders' equity to total assets stood at 51.0%, lower than the 58.0% registered in fiscal 1986.

Financial Ratios

	1987	1986	1985
Current Ratio	436.1%	182.2%	217.1%
Asset to Capitalization Ratio	58.7%	82.5%	75.0%
Equity Ratio	51.4%	57.9%	56.1%
Gross Profit Margin	67.2%	65.2%	65.2%
Average Assets Turnover	1.3	1.6	1.8
Average Inventory Turnover	16.5	16.0	14.9
Average Equity Turnover	2.0	2.7	2.9
Cash Flow per Share	¥102.1	¥95.9	¥106.4

Non-Consolidated Balance Sheets

Skylark Co., Ltd.

December 31, 1987 and 1986

ASSETS	Millions of yen		Thousands of U.S. dollars (Note 1)	
	1987	1986	1987	1986
Current assets:				
Cash, including time deposits	Y34,904	Y11,103	\$283,772	\$ 90,262
Marketable securities (Note 2)	3,519	4,334	28,610	35,236
Accounts receivable	108	145	878	1,179
Allowance for doubtful accounts	(5)	(4)	(41)	(33)
	103	141	837	1,146
Inventories (Notes 2 and 3)	1,865	1,903	15,163	15,472
Prepaid expenses and other	2,423	2,089	19,699	16,984
Total current assets	42,814	19,570	348,081	159,106
Property, plant and equipment (Note 2):				
Land	9,974	9,364	81,089	76,130
Buildings and structures	19,747	15,974	160,545	129,870
Machinery and equipment	12,142	10,222	98,716	83,106
Construction in progress	9	352	73	2,862
	41,872	35,912	340,423	291,968
Accumulated depreciation	(13,154)	(11,153)	(106,943)	(90,675)
	28,718	24,759	233,480	201,293
Intangible fixed assets	323	311	2,626	2,528
Investments and other assets:				
Investments in subsidiaries and affiliates (Note 2)	5,702	5,150	46,358	41,870
Long-term loans to subsidiaries and affiliates	1,455	1,688	11,829	13,723
Guarantee deposits for rental facilities	8,696	8,786	70,699	71,431
Other investments	1,961	1,012	15,943	8,228
	17,814	16,636	144,829	135,252
	Y89,669	Y61,276	\$729,016	\$498,179

See notes to non-consolidated financial statements.

LIABILITIES AND SHAREHOLDERS' EQUITY	Millions of yen		Thousands of U.S. dollars (Note 1)	
	1987	1986	1987	1986
Current liabilities:				
Accounts payable	Y 4,251	Y 4,747	\$ 34,561	\$ 38,593
Accrued expenses	2,036	1,639	16,553	13,325
Accrued income taxes (Notes 2 and 5)	2,922	3,720	23,756	30,244
Other current liabilities	608	637	4,943	5,179
Total current liabilities	9,817	10,743	79,813	87,341
Long-term liabilities:				
Convertible bonds (Note 4)	33,234	14,497	270,195	117,862
Liabilities for severance payments (Notes 2 and 6)	36	34	293	277
Guarantee deposits received	473	548	3,845	4,455
	33,743	15,079	274,333	122,594
Contingent liabilities (Note 9)				
Shareholders' equity (Note 7):				
Common stock, no par value:				
Authorized—114,000,000 shares				
Issued and outstanding—71,120,829 shares in 1987 and 68,605,374 shares in 1986	5,125	1,752	41,667	14,244
Additional paid-in capital	13,383	10,012	108,805	81,399
Legal reserve	394	317	3,203	2,577
Retained earnings	27,207	23,373	221,195	190,024
	46,109	35,454	374,870	288,244
	Y89,669	Y61,276	\$729,016	\$498,179

Non-Consolidated Statements of Shareholders' Equity

Skylark Co., Ltd.

Years ended December 31, 1987 and 1986

	Shares of common stock outstanding (thousands)	Millions of yen			
		Common stock	Additional paid-in capital	Legal reserve	Retained earnings
Balance at January 1, 1986	57,170	¥ 1,675	¥ 10,085	¥ 260	¥ 19,412
Conversion of convertible bonds	1	2	2		
Free share distribution	11,434	75	(75)		
Net income					4,648
Cash dividends (¥10 per share)					(572)
Bonuses to directors and statutory auditors					(58)
Transfer to legal reserve				57	(57)
Balance at December 31, 1986	68,605	1,752	10,012	317	23,373
Conversion of convertible bonds	516	631	631		
Shares sold for cash in a public offering	2,000	2,742	2,740		
Net income					4,740
Cash dividends (¥12 per share)					(766)
Bonuses to directors and statutory auditors					(63)
Transfer to legal reserve				77	(77)
Balance at December 31, 1987	71,121	¥ 5,125	¥ 13,383	¥ 394	¥ 27,207

	Thousands of U.S. dollars (Note 1)			
	Common stock	Additional paid-in capital	Legal reserve	Retained earnings
Balance at January 1, 1986	\$ 13,618	\$ 81,993	\$ 2,113	\$ 157,821
Conversion of convertible bonds	16	16		
Free share distribution	610	(610)		
Net income				37,789
Cash dividends (\$0.08 per share)				(4,650)
Bonuses to directors and statutory auditors				(472)
Transfer to legal reserve			464	(464)
Balance at December 31, 1986	14,244	81,399	2,577	190,024
Conversion of convertible bonds	5,130	5,130		
Shares sold for cash in a public offering	22,293	22,276		
Net income				38,536
Cash dividends (\$0.10 per share)				(6,227)
Bonuses to directors and statutory auditors				(512)
Transfer to legal reserve			626	(626)
Balance at December 31, 1987	\$41,667	\$108,805	\$3,203	\$221,195

See notes to non-consolidated financial statements.

Notes to Non-Consolidated Financial Statements

Years ended December 31, 1987 and 1986

1. BASIS OF PRESENTING NON-CONSOLIDATED FINANCIAL STATEMENTS:

The accompanying non-consolidated financial statements have been prepared in accordance with the provisions set forth in the applicable Japanese laws and the related accounting regulations, and in conformity with generally accepted accounting principles and practices in Japan.

In preparing the non-consolidated financial statements, certain reclassifications and rearrangements have been made to the financial statements issued under the laws and regulations in Japan in order to present them in a form which is more familiar to readers outside Japan. In addition, the accompanying notes include information which is not required under generally accepted accounting principles and practices in Japan but is presented herein as additional information.

The statement of changes in financial position is not required in Japan and is not presented herein.

The United States dollar amounts included herein are given solely for the convenience of readers of the financial statements and have been translated from the Japanese yen amounts at the rate of ¥123=US\$1, the approximate exchange rate at December 31, 1987. The translations should not be construed as representations that the Japanese yen amounts have been, could have been, or could in the future be, converted into United States dollars.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:

(a) Marketable securities and investments in subsidiaries and affiliates

Marketable securities and investments in subsidiaries and affiliates (20% to 50% ownership) are stated at cost determined by the moving average method.

(b) Inventories

Merchandise and supplies are stated at the most recent purchase price. Semi-prepared dishes and raw materials are stated at cost determined by the average method.

(c) Property, plant and equipment and depreciation

Property, plant and equipment are stated at cost. Depreciation is computed by the declining-balance method over the estimated useful lives of the assets.

(d) Employees' retirement benefits

Under the severance payment and pension plan of the Company, employees terminating their employment are entitled to retirement benefits. A portion of the benefits is paid in the form of an annuity by an outside trustee and the remaining portion of the benefits is paid by the Company in a lump sum.

The Company's policy concerning the pension portion of the plan is to fund to an outside trustee and charge the amount to operations. The annual provisions for the lump-sum portion are made to state the liability at 40% of the amount which would be required if all employees voluntarily retired at each balance sheet date less the amount covered by the pension portion. The lump-sum portion of the plan is not funded.

(e) Income taxes

Income taxes are provided for the amounts currently payable. Deferred income taxes related to timing differences in recognizing certain income and expense items for financial and tax reporting purposes are not provided.

3. INVENTORIES:

Inventories at December 31, 1987 and 1986 consisted of the following:

	Millions of yen		Thousands of U.S. dollars	
	1987	1986	1987	1986
Merchandise	¥ 262	¥ 216	\$ 2,130	\$ 1,756
Semi-prepared dishes	274	200	2,228	1,626
Raw materials	1,213	1,451	9,862	11,797
Supplies	116	36	943	293
	¥1,865	¥1,903	\$15,163	\$15,472

4. CONVERTIBLE BONDS:

Convertible bonds at December 31, consisted of:

	Millions of yen		Thousands of U.S. dollars	
	1987	1986	1987	1986
3.2% secured convertible bonds due in 1991	¥13,236	¥14,497	\$107,610	\$117,862
1.6% unsecured convertible bonds due in 1996	19,998	—	162,585	—
	¥33,234	¥14,497	\$270,195	\$117,862

Summary of terms of conversion, etc., at December 31, 1987 is as follows:

	Conversion price per share	Redemption at the option of the Company
3.2% secured convertible bonds due in 1991	¥2,449.20	At 102% to 100% of the principal amount
1.6% unsecured convertible bonds due in 1996	¥3,289.00	At 103% to 100% of the principal amount

At December 31, 1987, assets pledged as collateral for convertible bonds were as follows:

	Millions of yen	Thousands of U.S. dollars
Land	¥ 9,311	\$75,699
Buildings and structures, less accumulated depreciation	1,791	14,561
Machinery and equipment, less accumulated depreciation	287	2,333
	¥11,389	\$92,593

5. INCOME TAXES:

The Company is subject to several taxes based on income which, in the aggregate, result in a normal tax rate of approximately 56%.

The effective tax rates in the non-consolidated statements of income and retained earnings, however, differ from the normal tax rates due to (1) enterprise taxes of ¥1,271 million (\$10,333 thousand) in 1987 and ¥1,411 million (\$11,472 thousand) in 1986 that were charged to selling, general and administrative expenses, and (2) such items as permanently non-deductible expenses, timing differences and reduced tax rates applied to earnings which are paid out as dividends.

6. RETIREMENT BENEFITS:

The Company has a severance payment and pension plan covering substantially all employees. The amount of the severance and pension payments is, in general, determined on the basis of length of service, basic salary at the time of termination and certain other factors. If the termination is involuntary, caused by retirement at the mandatory retirement age or caused by death, an employee is entitled to greater payments than in the case of voluntary termination.

The expenses for the severance and pension plan charged to operations for the years ended December 31, 1987 and 1986 were ¥76 million (\$618 thousand) and ¥73 million (\$593 thousand), respectively.

7. SHAREHOLDERS' EQUITY:

The Japanese Commercial Code provides that retained earnings in an amount equivalent to at least 10% of cash dividends paid with respect to each fiscal period be appropriated as a legal reserve until such reserve equals 25% of stated capital. Neither additional paid-in capital nor legal reserve is available for dividends, but both may be used to reduce a deficit by resolution of the shareholders, or may be capitalized in the form of free share distributions by resolution of the Board of Directors.

On February 10, 1986, the Company made a 20% free share distribution of shares of common stock to holders of record on December 31, 1985. This free share distribution was made from additional paid-in capital to stated capital in the amount of ¥75 million (\$610 thousand), and 11,434,025 shares were issued.

On May 20, 1987, the Company sold 2,000,000 shares of common stock to the public at the price of ¥2,741 (\$22) per share.

On March 30, 1988, the shareholders of the Company authorized the following appropriations of retained earnings as of December 31, 1987:

	Millions of yen	Thousands of U.S. dollars
Year-end cash dividends, ¥6.0 per share	¥427	\$3,472
Transfer to legal reserve	43	350
Bonuses to directors and statutory auditors	79	642

8. AMOUNTS PER SHARE:

Net income per common stock computations are based on the weighted average number of shares outstanding, adjusted retroactively for free share distributions, without any consideration for outstanding convertible bonds.

Cash dividends per common stock are the amounts applicable to the respective years.

9. CONTINGENT LIABILITIES:

Contingent liabilities for guarantees of loans of an affiliated company and others at December 31, 1987 amounted to ¥1,942 million (\$15,789 thousand).

Report of Independent Certified Public Accountants

To the Board of Directors
Skylark Co., Ltd.

We have examined the non-consolidated balance sheets of Skylark Co., Ltd. as of December 31, 1987 and 1986 and the related non-consolidated statements of income and shareholders' equity for the years then ended, all expressed in Japanese yen. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the non-consolidated financial statements referred to above present fairly the financial position of Skylark Co., Ltd. as of December 31, 1987 and 1986 and the results of its operations for the years then ended, in conformity with generally accepted accounting principles and practices in Japan applied on a consistent basis.

The United States dollar amounts shown in the accompanying non-consolidated financial statements have been translated solely for convenience. We have reviewed this translation and, in our opinion, the non-consolidated financial statements expressed in Japanese yen have been translated into United States dollars on the basis described in Note 1.



Certified Public Accountants

Tokyo, Japan, March 30, 1988

Five-Year Summary

Skylark Co., Ltd.

For the years ended December 31

	Millions of yen					Thousands of U.S. dollars
	1987	1986	1985	1984	1983	1987
Operating results:						
Net sales	Y94,803	Y91,159	Y84,535	Y72,805	Y62,246	\$770,756
Income before income taxes	9,890	9,984	9,007	8,239	7,007	80,406
Net income	4,740	4,648	4,200	3,814	3,323	38,536
Financial position at year-end:						
Total current assets	Y42,814	Y19,570	Y21,411	Y 9,153	Y 8,734	\$348,081
Property, plant and equipment, net	28,718	24,759	21,594	19,292	16,302	233,480
Intangible fixed assets	323	311	278	141	132	2,626
Investments and long-term receivables	17,814	16,636	12,743	11,786	9,272	144,829
Total assets	89,669	61,276	56,026	40,372	34,440	729,016
Total current liabilities	9,817	10,743	9,862	12,898	10,189	79,813
Total long-term liabilities	33,743	15,079	14,732	237	237	274,333
Total shareholders' equity	46,109	35,454	31,432	27,237	23,914	374,870
Yen						
U.S. dollars						
Per share:						
Net income ⁽¹⁾	Y67.5	Y 67.8	Y 61.3	Y 55.8	Y 48.6	\$0.55
Dividends, historical, unadjusted	12.0	10.0	8.0	8.0	7.8	0.10
Other data:						
Number of stores ⁽²⁾	682	498	469	419	368	
Number of full-time employees		2,459	2,415	2,211	2,006	

Notes: (1) The computations of net income per share are based on the average number of shares outstanding during the periods, appropriately adjusted for the free distribution of shares and stock split.

(2) Excluding Jonas and Co., Hakushian and Co., Ltd and Baniyan Co., Ltd.

Board of Directors

Directory

Chairman
Tadashi Yokokawa

President and
Representative Director
Tasuku Chino

Senior Managing Directors
Kiwamu Yokokawa
Norio Yokokawa

Managing Directors
Kazuhiko Tamura
Junichi Kaneko
Yoshikatsu Banba
Tamotsu Matsumoto
Yoshiaki Nagai
Kiyoshi Chiba

Directors
Yasutaka Ito
Shuji Iwanami
Yasuo Kudou
Hideki Nozaki
Shichiro Kobo
Joichi Ide
Nobuyoshi Todoroki

Statutory Auditors
Kizo Shimoda
Kikuo Hama
Mikiya Kinoshita

Head Office-Administration
16th Floor,
Shinjuku Green Tower Bldg.,
14-1, Nishi-Shinjuku 6-chome,
Shinjuku-ku, Tokyo 160, Japan
Tel: (03) 349-7070
Fax: (03) 349-8244

Head Office-Operations
25-8, Nishikubo 1-chome,
Musashino-shi, Tokyo 180, Japan
Tel: (0422) 51-8111
Fax: (0422) 55-2300

Higashi-Matsuyama
Central Kitchen
55-37, Shingo,
Higashi-Matsuyama-shi,
Saitama 355, Japan
Tel: (0493) 23-8921
Fax: (0493) 23-8970

Tachikawa Central Kitchen
14-15, Nishiki-cho 6-chome,
Tachikawa-shi, Tokyo 190, Japan
Tel: (0425) 24-1190
Fax: (0425) 27-9461

Kansai Central Kitchen
5-7, Naruohama 3-chome,
Nishinomiya-shi, Osaka 663, Japan
Tel: (0798) 43-2081
Fax: (0798) 46-2065

Kyushu Central Kitchen
434-11, Aza Machiura,
Mizuki Dazaifu, Fukuoka 818-01, Japan
Tel: (092) 924-5272
Fax: (092) 924-5270

Restaurants

Tokyo	180	Hyogo	23
Saitama	103	Kyoto	5
Kanagawa	103	Mie	1
Chiba	54	Nara	8
Gunma	17	Okayama	3
Ibaraki	15	Shiga	1
Tochigi	8	Aichi	20
Yamanashi	18	Gifu	3
Nagano	11	Shizuoka	21
Miyagi	11	Hiroshima	4
Fukushima	6	Kagawa	2
Iwate	1	Miyazaki	3
Osaka	32	Kumamoto	5
Ishikawa	4	Fukuoka	14
		Nagasaki	1
		Kagoshima	5
		Total	682*

* Includes all Group restaurants

(As of May 31, 1988)

(As of May 31, 1988)

Skylark Regional Offices

Tohoku Regional Office

No. 202, Kosan Bldg.,
43, Higashikyuban-cho, Sendai-shi,
Miyagi 980, Japan
Tel: (0222) 99-0271
Fax: (0222) 99-0280

Toho-Ihara Regional Office

Mona First Bldg., 2-24,
Eki-Higashi-Dori 1-chome, Oyama,
Tochigi 323, Japan
Tel: (0285) 22-1468
Fax: (0285) 22-4440

Chiba Regional Office

No. 301, No. 8 Higashi Bldg.,
46, Shinmachi, Chiba 260, Japan
Tel: (0472) 48-2428
Fax: (0472) 48-2426

Saitama Regional Office

No. 2 Hashimoto Bldg., 32-19,
Tohoku 2-chome, Niiza,
Saitama 352, Japan
Tel: (0484) 74-9500
Fax: (0484) 74-4344

Tokyo Regional Office

Tada Bldg., 27-10, Owada-cho
5-chome, Hachioji, Tokyo 192, Japan
Tel: (0426) 44-8303
Fax: (0426) 44-9393

Kanagawa Regional Office

No. 2 Shida Bldg., 10-20,
Aobadai 2-chome, Midori-ku,
Yokohama, Kanagawa 227, Japan
Tel: (045) 984-1376
Fax: (045) 981-2294

Kanagawa Regional Office

Sanyo Plaza Bldg., 12-11,
Shonandai 1-chome, Fujisawa,
Kanagawa 251, Japan
Tel: (0466) 45-6237
Fax: (0466) 45-8599

Koshin Regional Office

Room E, Third Floor,
Fukuzawa Bldg., 3-28,
Shiraita 2-chome, Matsumoto-shi,
Nagano 390, Japan
Tel: (0263) 36-8750
Fax: (0263) 36-8724

Chubu Regional Office

Miyaji Kosan Bldg., 3-8, Issha,
Meito-ku, Nagoya, Aichi 465, Japan
Tel: (052) 704-2191
Fax: (052) 704-1393

Hokuriku Regional Office

No. 2 Tamura Bldg., 201, 2-231,
Shinkanda, Kanagawa, Japan
Tel: (0762) 92-0890
Fax: (0762) 92-0891

Kinki Regional Office

Asakawa Bldg., 2-1, Kasuga 2-chome,
Ibaraki, Osaka 567, Japan
Tel: (0726) 26-1065
Fax: (0726) 26-1067

Sanyo Regional Office

No. 2 Yamada Bldg., 1-21,
Yahata-dori 4-chome, Chuo-ku, Kobe,
Hyogo 651, Japan
Tel: (078) 231-1662
Fax: (078) 231-1746

Kyushu Regional Office

434-11, Aza Machiura, Mizuki
Dazaifu, Fukuoka 818-01, Japan
Tel: (092) 924-5272
Fax: (092) 924-5270

The Skylark head office oversees all Yesterday,
Aiya, Billy Jean, and Bamiyan restaurants.



SKYLARK CO., LTD.

Head Office

16th Floor, Shinjuku Green Tower Bldg.,

14-1, Nishi-Shinjuku 6-chome,

Shinjuku-ku, Tokyo 160, Japan

Tel: (03) 349-7070



PORT AUTHORITY OF GUAM
 ATURIDATI PUETTON GUAHAN
 GOVERNMENT OF GUAM
 1026 Cabras Highway
 Suite 201
 Piti, Guam 96925

Telephone: 671) 477-5931/35
 671) 477-2883/85
 Telex: 721) 8829 PAGGUS
 Facsimile: 671) 477-2889

MAR 02 1990

Honorable John P. Aguon
 Chairman
 Committee on Tourism and Transportation
 Twentieth Guam Legislature
 P.O. Box CB-1
 Agana, Guam 96910

Hafa Adai Mr. Chairman:

On behalf of the Port Authority of Guam Board of Directors, I would like to extend our appreciation for your Committee's efforts in reviewing the Agana Marina Development proposal for legislative consideration. Without your help, we would not have been able to progress this far.

There may be some concern relative to the business structure being proposed by International Design Consortium to carry out the intent of the lease agreement. I believe some clarification from the Port Authority of Guam is necessary in order to allay the concerns raised by the Legislature.

At the onset of the Port's review of the proposal⁴⁴ submitted by International Design Consortium (IDC), it was clear that IDC's financial resources to fund the proposed marina project was to come from Mr. Tasuku Chino, Representative Director and President of Skylark Company. The Port Authority of Guam, via our consultant, Touche Ross, requested the Japanese equivalent of Dunn and Bradstreet, Teikoku Data Bank, to provide background information on Mr. Chino. I am enclosing for your review the report submitted.

As a result of the review, which included in part the enclosed information, IDC was the firm selected by the Port Authority of Guam to negotiate a contract. We recognized that the expertise of IDC and the financial resources of Mr. Chino in combination would assure the success of the project.

The business structure selected by IDC to carry out the intent of the lease was preliminarily outlined in March 1989. At that time, IDC was considering a limited partnership as one method of establishing the formal business relationship among the parties. The actual business structure was not finalized, but the party represented as the major investor since the inception of the review process has not changed.

" COMMONWEALTH NOW "

RCV BY:XEROX TELECOPIER 7010 ; 3- 2-90 3:44PM ;
SENT BY:Xerox Telecopier 7020 ; 3- 2-90 ; 3:29PM ;

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6714772689+


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6714772689# 1

Letter to Senator John P. Aguon
Subject: Investors - Agana Marina
Page 2

The Port Authority of Guam believes that IDC should be given the flexibility to choose the business structure best suited to carry out the intent of the lease. We agree that should a change in the make-up of IDC's ownership occur beyond what was originally represented during the Port's review process, the Lessor should have the right to review the financial capability and moral character of any assignee.

I hope the information provided herein is helpful to the Legislature in taking final action on the Agana Marina Lease. Should you require further clarification, please do not hesitate to contact me directly.


Si Yu'os Ma'ase,


DAVID B. TYDINGCO
General Manager

Enclosure

cc: Chairman, Board of Directors
Members, Board of Directors
International Design Consortium

Inter-Office Communication

 **Tohatsu A
& Sanwa**

Date March 3, 1989

To John Blanchard, TRI Guam

Ext.

From Paul Lacy, TAS Tokyo

Ext.

Subject

We have done a Teikoku Data Bank search on the two companies which you requested a search and we are setting out our findings related thereto. By coincidence, we know that Mr. Kusanagi lives in a nice house by Japanese standards and drives a Jaguar and Ferrari and has a chauffeur driven car.

The information which you requested is set out below:

Company Name:	Skylark Co.
Representative:	Representative Director and President Chino, Tasuku
Date of Incorporation:	June/1948
Capital:	6,587,000,000 Yen
Number of Employees:	2,642
Head Office:	Shinjuku Green Tower Building Nishi Shinjuku 6-14-1 Shinjuku-ku, Tokyo 160 Tel: 03 349 7070
Principal Business:	Dining Facilities, Restaurants, Sob
Type of Entity:	Limited Company
Listed or Unlisted:	Listed Company

MAR- 7-89 TUE 7:33

671 477 2689

671 477 2689

Daiichi Kangyo Bank

Mitsui Bhitjuku Branch

Nippon Longterm Credit Bank

Bhitjuku Branch

Mitsubishi Bank

Bhitjuku Bhitoshin Branch

Principal Suppliers:

Itoh Kaw, Zenchiku, Meiji Foods, Aoto, Katochihi

Principal Purchasers:

General Public

Makeup of Shareholders:

Chino, Tasuku	5,164,000	Shares
Yokokawa, Tadashi	6,114,000	Shares
Yokokawa, Kiwamu	6,112,000	Shares
Yokokawa, Norio	6,111,000	Shares
Mitsubishi Trust Bank	2,332,000	Shares

Number of Shareholders: 6,552

Makeup of Directors

Chairman
President
Managing Director
Executive Director
Executive Director
Executive Director
Executive Director
Executive Director
Executive Director

Yokokawa, Tadashi
Chino, Tasuku
Yokokawa, Kiwamu
Yokokawa, Norio
Idemura, Kazuhiko
Kaneko, Junichi
Banda, Yoshikatsu
Matsumoto, Tamotsu
Nagai, Yoshiaki
Chiba, Kiyoshi

Objective of the company:

Restaurants

Number of Operation Offices: 343

If you require more detailed information or should you have any further questions with respect to this matter, please feel free to contact this office.

Yours sincerely,

Paul Lacy

Fiscal Year December 1986
 (000's Yen)

Sales 91,158,000
 Net Profit 4,649,090
 Dividends 20%

Equity Ratio 61%

Balance Sheet Yes

Tax Return
 Filing Period December 1986
 Income 10,220,810

Fiscal Year December 1987
 (000's Yen)

Sales 94,803,000
 Net Profit 4,739,960
 Dividends 24%

Equity Ratio 54%

Balance Sheet Yes

Tax Return
 Filing Period December 1987
 Income 9,795,940

Ranking within the industry by sales:

in Japan 2 from a total of 7,436 companies
 in the Ken 2 from a total of 1,957 companies
 (similar to
 a State)

Teikoku Data Bank
 overall rating from
 a total of 100 74

Teikoku Data Bank reviews this company at least once per year.

Transaction Bank

Fuji Bank	Shinjuku Shintoshin Branch
Norin Chukin	Head office
Sanwa Bank	Shinjuku Shintoshin Branch
Taiyo Kobe Bank	Shinjuku Shintoshin Branch

CARLSMITH, WICHMAN, CASE, MUKAI AND ICHIKI
ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING LAW CORPORATIONS
134 WEST SOLEDAD AVENUE
BANK OF HAWAII BUILDING, SUITE 401
P. O. Box BF
AGANA, GUAM 96910

OFFICES:
HONOLULU, HAWAII
HILO, HAWAII
KAILUA-KONA, HAWAII
WAILUKU, MAUI, HAWAII
LOS ANGELES, CALIFORNIA
SAIPAN, MP

TELEPHONE
(671) 472-6813
CABLE ADDRESS
CWCM GU
TELECOPIER
(671) 477-4375
TELEX
721-6445 CWCM GM

April 12, 1990

CHAIRMAN, COMMITTEE ON TOURISM
AND TRANSPORTATION

RECD BY: *Janet*

DATE: 4/12/90 TIME: 11:25

HAND DELIVER

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

Re: Lease Agreement between International Design
Consortium ("IDC") and the Port Authority of
Guam ("Port") of the Agana Boat Basin

Dear Senator Aguon:

This letter is further to that of Donald Williams dated March 2, 1990 in which he set out the stock ownership of IDC.

Percentage shares of IDC are to be held as follows:
Yugengaisha Taku Enterprise-68.6%; Clifford A. Guzman-15.4%;
Seibun Tanetani-10%; Yasuhiro Kishimoto-3%; Henry M. Simpson,
Jr.-3%.

As you may recall, at the Committee mark-up session on April 5, 1990, Mr. Guzman explained the allocation earlier reported as between Mr. Tanetani and Mr. Kishimoto was the result of a typographical error. Although Mr. Tanetani otherwise uses his western name "Cornell", his formal correct Japanese name is Seibun Tanetani. Yugengaisha Taku Enterprise is a family held corporation of the Chino family, under the de facto control of Mr. Tasuku Chino. This is the same company which, through its wholly-owned local subsidiary, has a majority ownership of the Alupang Beach Club Condominiums. Mr. Tasuku Chino's son, Taku Chino, holds 70% of the corporation.

Honorable Senator John P. Aguon
April 12, 1990
Page 2

Mr. Tasuku Chino's wife, Masako Chino, holds 15% and is the President of the corporation. Their daughter, Chisako Chino, holds the remaining 15%.


The addresses in Japan are as follows:

Yugengaisha Taku Enterprise
25-1-301, Nishi Azabu 3-Chome
Minato-ku, Tokyo 106, Japan

Seibun Tanetani
6-1-401, Minami Azabu 4-Chome
Minato-ku, Tokyo 106, Japan

Yasuhiro Kishimoto
13-10, Kitazawa 5-Chome
Setagaya-ku, Tokyo 155, Japan

Very truly yours,



Philip D. Isaac

PDI:agi
cc: Seibun Cornell Tanetani
032047-1
G9003568



PORT AUTHORITY OF GUAM
ATURIDATI PUETTON GUAHAN
GOVERNMENT OF GUAM
1026 Cabras Highway
Suite 201
Piti, Guam 96925

Telephone: (671) 477-5931/31
(671) 477-2683/85
Telex: (721) 6689 PAGOUM
Facsimile: (671) 477-2689

APR 02 1990

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

Hafa Adai Mr. Chairman:

Thank you for your letter dated March 20, 1990 relative to the Agana Marina lease between the Port Authority of Guam and International Design Consortium (IDC).

As per your request, transmitted herewith is the lease which has been fully executed by the administration and IDC. In the opinion of the Attorney General, the lease conforms with the provisions of Public Law 15-6 relative to commercial land leases.

Several changes have been made to the lease as a result of mark-up meetings conducted by your Committee. It is important to highlight the major changes made so that the Legislature may fully appreciate their impact. We ask that your Committee and the Legislature as a whole review the following comments and address the concerns raised as you see fit.

Section 2. Term: Initially, the Port Authority of Guam and the team formed to negotiate a lease with IDC agreed to a fifty (50) year lease with an option to extend for an additional twenty-five (25) years. The negotiations team realized that a limitation on the term of the lease existed as a result of Public Law 15-6. However, we believed that the project merited a longer term due to the enormous investment to be made and the amortization period to be incurred. We had hoped that the Legislature, based on the information provided, would have agreed with our analysis and amended the law for this particular project.

There was no intent on our part to enter into a lease that was contrary to law. We fully recognized that the lease could not take effect until approved by statute, and any amendments to existing law necessary to make the project viable would be addressed by the Legislature based on our findings and recommendations.

Letter to Senator John P. Aguon
Subject: Agana Marina
Page 2

The importance of securing a lease beyond 50 years is to assure more favorable financing on the project. A shorter term lease would in essence force greater financing costs on the investors because of the increased risk associated with the decreasing value of the project over time. Extending the life of the lease beyond fifty (50) years would minimize the risks and allow investors greater flexibility in securing long-term financing at favorable terms for the project.

As partners in the project, the Port Authority of Guam and the government of Guam should give the project and its investors the maximum opportunity to succeed. We ask the Legislature to re-evaluate the investment to be made as well as other financial information provided and consider a longer term lease for IDC.

We have amended the term at your request to limit the life of the lease to fifty (50) years. Two additional sections were added to allow IDC the opportunity to extend their lease if P.L. 15-6 is amended to allow for longer term leases. IDC is also given the right of first refusal should the government decide to re-lease the property to a private entity at the end of the 50 year term.

Again, we ask your consideration on this matter.

Section 15. Assignment and Sublease: Public Law 15-6 requires that all assignments and subleases be reviewed by the Legislature.

With respect to subleases, this means that all boat slip rentals and all subleases made to concessionaires such as office space and restaurant space must come before the Legislature for review and approval. This is a cumbersome, tedious and inefficient process that would make administering the property impossible.

In the Committee mark-up meeting, you agreed that you do not want the Legislature to scrutinize every sublease and that your Committee would address this matter appropriately. As presented, in order to conform with Public Law 15-6, the lease requires all sub-leases to come before the Legislature for review and approval. We ask that you address this matter accordingly.

In my letter dated March 14, 1990 to you, our concerns on the review of assignments were clearly addressed. In summary, IDC requests that any review and approval of an assignment be left to the Lessor with the approval of the Governor in order for them to be in a position to respond to market conditions that may affect the viability of the project. This seems to be the most practical approach to this issue.

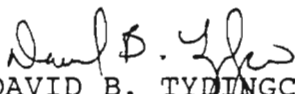
Letter to Senator John P. Aguon
Subject: Agana Marina Lease
Page 3

The lease as presented conforms to the requirements of P.L. 15-6 requiring legislative review and approval of assignments. We again ask for your consideration on this issue and make the appropriate amendment to the statute to allow for assignments of the lease to be reviewed and approved by the Lessor subject to the concurrence of the Governor.

The last issue of concern that must be addressed is the final version of the lease should it pass legislative review. There have been many changes to the lease since it was first presented to the Legislature on October 13, 1989. As you had mentioned to us on several occasions, the lease may in fact be further amended through legislative debate on the session floor. Those unknown amendments may make it impossible for IDC to finance the project. Therefore, IDC requests thirty (30) days to review the lease as approved by the Legislature before accepting its terms and conditions.

I hope that final action on this measure can be taken shortly. We look forward to hearing from you on this matter.

Si Yu'os Ma'ase,


DAVID B. TYDINGCO
General Manager

Enclosure

cc: Governor Joseph F. Ada
Lt. Governor Frank F. Blas
Chairman, Board of Directors
Members, Board of Directors

LEASE AGREEMENT ENTERED INTO

BETWEEN

PORT AUTHORITY OF GUAM

AND

INTERNATIONAL DESIGN CONSORTIUM, INC.

G9001959

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G9001959

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EXHIBIT A TO

LEASE AGREEMENT ENTERED INTO

BETWEEN

PORT AUTHORITY OF GUAM

AND

INTERNATIONAL DESIGN CONSORTIUM, INC.

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(Space Above This Line for Recorder's Use Only)

LEASE AGREEMENT

20 THIS LEASE AGREEMENT is made and entered into this
21 day of _____, 1989, by and between PORT AUTHORITY OF
22 GUAM, a Government agency, whose address is 1026 Cabras
23 Highway, Suite 201, Piti, Guam, ("Lessor"), and INTERNATIONAL
24 DESIGN CONSORTIUM, INC., a Guam corporation, whose address is
25 997 South Marine Drive, Tamuning, Guam 96911, ("Lessee").

R E C I T A L S

26
27 WHEREAS, Lessor administers a parcel of land in the
28 Territory of Guam known as the Agana Boat Basin as more
29 particularly described herein which property could best be
30 developed through the joint efforts of the public and private
31 sectors; and

1 WHEREAS, Lessor has solicited proposals for the
2 utilization and development of the Agana Boat Basin through
3 publication of a Request for Proposal No. 88-001, Management
4 and Development of Agana Marina Boat Basin dated September 16,
5 1988; and

6 WHEREAS, Lessee, after consideration of the responses
7 to Lessor's solicitation, has been selected by Lessor to
8 develop and manage the operation of the Agana Boat Basin; and

9 WHEREAS, Lessee intends to develop the Agana Boat
10 Basin in a manner consistent with Lessee's response to Lessor's
11 Request for Proposal No. 88-001 which will take considerable
12 time and require a substantial investment by Lessee in the
13 Premises; and

14 WHEREAS, the Development of the Agana Boat Basin in a
15 manner which is consistent with the preservation of the public
16 use of the Agana Boat Basin will take considerable time and
17 investment; and

18 NOW, THEREFORE, in consideration of the terms,
19 covenants and conditions contained herein, and other good and
20 valuable consideration, receipt and sufficiency of which is
21 hereby acknowledged, Lessor and Lessee enter into this Lease
22 and agree as follows:

1 Section 1. PREMISES.

2 Section 1.1. Description of Premises. The Lessor, in
3 consideration of the rent payable under this Lease and of
4 the covenants of Lessee under this Lease, does hereby
5 demise and lease unto the Lessee the following, which are
6 collectively referred to as the "Premises": (a) those
7 portions of the Agana Boat Basin comprising a total of
8 approximately 36.8 acres, as more fully shown on the map
9 attached hereto as Exhibit "A" and incorporated herein by
10 reference and made a part hereof; (b) all existing
11 landfill created by Lessor prior to the effective date of
12 this Lease together with all lands created hereafter
13 during the term of this Lease by Lessee or its designees
14 by dredging or any other means within the Agana Boat Basin
15 as set forth in Exhibit A; and (c) all rents, issues and
16 profits of (a) and (b) above.

17 Section 1.2. Condition of Premises.

18 Section 1.2.1. Representations. The Premises are
19 demised to Lessee with no representations or
20 warranties as to its physical condition except as may
21 have been contained in the Request for Proposal No.
22 88-001, Management and Development of Agana Boat
23 Basin dated September 16, 1988.

1 Section 1.2.2. Inspection for Discovery of Defects.
2 Lessee shall have 60 days from the commencement date
3 of this lease to fully and completely inspect the
4 physical condition of the premises. If defects are
5 discovered which are in violation of law, Lessee and
6 Lessor may negotiate reasonable terms for the
7 correction of any violations which may exist. If no
8 agreement regarding the corrections of violations is
9 reached within 90 days of the commencement date of
10 this lease, the Lessee may terminate the lease by
11 giving Lessor 30 days written notice. If no viola-
12 tions of law are discovered within 60 days of the
13 commencement date of the lease or if Lessee does not
14 give notice to terminate the contract as set forth in
15 this paragraph within 90 days of the commencement
16 date of the lease, Lessee shall be fully responsible
17 for the correction of any violations of law which
18 must be made upon the premises.

19 Section 1.2.3. Discovery of Defects During Dredging.
20 If defects which are violations of law are discovered
21 during the dredging and such defects were not
22 otherwise discoverable as provided in Section 1.2.2.,
23 Lessee shall give Lessor notice of such defects

1 within thirty (30) days of such discovery. Lessee
2 and Lessor may negotiate reasonable terms for the
3 correction of any violations which may exist. If no
4 agreement regarding the correction of violations is
5 reached within ninety (90) days of notice to Lessor,
6 Lessee may terminate this Lease by giving Lessor
7 thirty (30) days written notice.

8 Section 2. TERM.

9 Section 2.1. Initial Term. The term of this Lease shall
10 be for a period of fifty (50) years commencing on the ____
11 day of _____, 1989 and expiring on the ____ day
12 of _____, 2039. The actual date of commence-
13 ment shall be on the first day of the month after final
14 approval of this Lease by the Legislature, or issuance of
15 an Army Corps of Engineers permit allowing construction,
16 whichever shall occur last. The actual date will be
17 completed and initialed by the Lessor and Lessee to
18 reflect the actual commencement date. Provided, however,
19 if the Army Corps of Engineers' permit is not received
20 within three (3) years after legislative approval, this
21 Lease shall be null and void.

22 Section 2.2. Extension of Term. Lessee shall have the
23 right to extend the term of the Lease for the maximum term

1 allowed by the Legislature for other leases of government
2 land. Provided, however, Lessee must apply to Lessor and
3 obtain approval of the Legislature as may be required by
4 law.

5 Section 2.3. Right of First Refusal. Provided a valid
6 lease exists at the expiration of the term, Lessee shall
7 have the right of first refusal to a new term should the
8 Lessor decide to re-lease the property to a private entity
9 for management.

10 Section 3. RENT. The rent for the term of this Lease shall
11 be as follows:

12 Section 3.1. Completion of the Marina. No rent shall
13 accrue until completion of the Marina or 24 months from
14 the final approval by the Army Corps of Engineers as
15 provided in Section 20.1.2, whichever shall occur first.

16 Section 3.2. Percentage Rent. Lessee shall pay to
17 Lessor the following percentage rent on the gross
18 operating revenues received by Lessee in connection with
19 Lessee's use of the Premises:

21	First twenty years	1%
22	Second twenty years	1.125%
23	Remaining ten years	1.250%

24
25 Section 3.3. Minimum Rent. Notwithstanding the percen-
26 tage rent provided in Section 3.2, Lessee shall pay to

1 Lessor a minimum rent of \$150,000 per annum in advance.
2 This minimum rent shall be increased by ten percent (10%)
3 every five (5) years after the first full year of rental
4 payments during the term of this lease or any extension
5 thereof. The minimum rent shall be paid quarterly in
6 advance on January 1, April 1, July 1, and October 1, of
7 each year.

8 Section 3.4. Maximum Rent. The maximum rent payable by
9 Lessee to Lessor under the terms of this Lease for the
10 first five years shall be the sum of \$400,000 per annum.
11 The maximum rent for the second five years shall be
12 \$440,000 per annum. After the 10th year of the Lease
13 term, there shall be no maximum rent ceiling.

14 Section 3.5. Gross Operating Revenues. The term "gross
15 operating revenues" as used herein shall be defined to
16 include all annual gross operating revenues derived from
17 business conducted on the Premises from only the following
18 uses or functions in calculating the annual percentage
19 rental due from the Lessee to the Lessor regardless of
20 whether the Lessee or a sublessee, affiliate or other
21 entity related to Lessee operates and controls said use or
22 function:

1 Section 3.5.1. Hotels. All hotel, motel, meeting
2 and convention revenues.
3 Section 3.5.2. Food and Beverage. All food and
4 beverage sales made on the leased premises.
5 Section 3.5.3. Service and Rentals. All services
6 and rentals operated on or from the Premises except
7 revenues produced from the following uses or
8 functions: Telephone fees paid to local and off-
9 island carriers, fuel dock sales and inter-company
10 transfers and sales to the extent any of said sums
11 have been already included in the calculations of the
12 gross operating revenues as provided herein, boat
13 slip revenues, all charter boat revenues, unless such
14 revenues are the result of the operations by Lessee
15 or any affiliate of Lessee and sale of assets,
16 provided, however, if income derived from the asset
17 has been included in the gross operating revenue, the
18 revenue of such asset shall not reduce gross opera-
19 ting revenues under subparagraph 3.5 above.
20 Section 3.6. Payment of Percentage Rent. The percentage
21 rent due pursuant to Section 3.2 shall be paid semi-
22 annually as follows:

1 Section 3.6.1. Initial Annual Payment. The initial
2 annual percentage rental payment for the first six
3 months of each year required by Section 3.2, less the
4 amounts of minimum rental paid the first two quarters
5 as provided in Section 3.3 shall be paid on or before
6 August 1 of each year. At the time of the initial
7 percentage rental payment, Lessee shall submit an
8 itemization of all gross operating revenues for the
9 preceding six months showing the gross operating
10 revenues for each of the classifications set forth in

11 Section 3.6.2. For example:

12		
13	Gross Operating Revenues	
14	for first six months	\$12,607,542
15		
16	Percentage Rent for	
17	first six months at 1%	\$ 126,075
18		
19	Less minimum rent payments	
20	on January and April	\$ 75,000
21		
22	Percentage Rent Due	\$ 51,075
23		

24 Section 3.6.2. Final Annual Payment. The final
25 percentage rental payment for the last six months of
26 each year required by Section 3.2 less the amount of
27 minimum rental paid the last two quarters as provided
28 in Section 3.3. and less the initial annual payment
29 as provided in Section 3.6.1 or the minimum rent for
30 the first two quarters whichever shall be greater

1 shall be made 30 days after the audit in Section
2 3.6.3. For example:
3
4 Gross Operating Revenues for year \$25,215,084
5
6 Total Percentage Rent for year at 1% \$ 252,151
7
8 Less: Minimum payments for year \$150,000
9
10 Percentage Rent paid for
11 the first six months \$ 51,075
12
13 Total deduction for rent \$ 201,075
14 already paid
15
16 Balance of Percentage Rent Due \$ 51,075

17 At the time of the final percentage rental payment,
18 Lessee shall submit an itemization of all gross
19 operating revenues for the preceding six months
20 showing the gross operating revenues for each
21 classification set forth in Section 3.5.

22 Section 3.6.3. Audit and Adjustments. Within ninety
23 (90) days after the end of each lease year, the
24 Lessee shall deliver to the Lessor a certified audit
25 duly signed by a certified public accountant
26 acceptable to Lessor, setting forth an itemization of
27 all gross operating revenues for the preceding lease
28 year, which statement shall further show the gross
29 operating revenues for each of the classifications
30 set forth in Section 3.5. If said audit shows the

1 rent as provided in Sections 3.6.1 and 3.6.2. has
2 been underpaid, Lessee shall make any payments
3 revealed by the audit to be due Lessor. If said
4 audit shows the rent as provided in Sections 3.6.1
5 and 3.6.2 has been overpaid, Lessee shall deduct said
6 amount from the next quarterly minimum rent payments
7 due under Section 3.4.

8 Section 3.7. Records. The Lessee shall also keep and
9 maintain accurate records and complete books and records
10 of accounts indicating all of Lessee's gross operating
11 revenues and sale of assets as described in Sections 3.5
12 and 3.8. Said records and statements of gross operating
13 revenues and sale of assets shall be kept and maintained
14 by the Lessee in accordance with generally accepted
15 accounting principles and shall be available to be
16 examined by the Lessor or its agents, servants, employees
17 or representatives, and said records shall be kept and
18 maintained, or a true and accurate copy thereof, in and
19 upon the Premises. In event that the Lessee has inten-
20 tionally, willfully and with intent to defraud made any
21 reports to the Lessor showing less gross operating
22 revenues or sale of assets than actually received, such
23 conduct and action on the part of the Lessee shall

1 constitute a material breach of the covenants of this
2 lease agreement by the Lessee.

3 Section 3.8. Sale of Assets. Lessee, or any assignee or
4 sublessee of Lessee, or any subsequent assignee or
5 sublessee having any ownership or leasehold interest in
6 all or any portion of the Premises who sells any assets
7 shall pay to the Lessor one percent (1%) of the net
8 proceeds of any sales (gross sales proceeds minus
9 commissions and closing costs). Assets as used here shall
10 mean any fixed asset or improvement (including but not
11 limited to condominiumized spaces) and shall not include
12 personal property). For example, if the retail space
13 should be condominiumized each time a unit is sold, the
14 Seller would pay 1% to Lessor.

15 Section 4. TAXES AND ASSESSMENTS. Except as set forth in
16 this Section, after receipt of written notice, Lessee will pay,
17 not less than sixty (60) days before the same will become
18 delinquent, all property taxes, rates, assessments, impact fees
19 and charges of every nature and kind whatsoever which shall,
20 during the term of this Lease, be lawfully charged, assessed or
21 imposed, become a lien upon, or become due and payable upon or
22 on account of the Premises. This requirement includes all
23 assessments and charges for any permanent benefit or improve-

1 ment of the Premises or any part thereof, and all assessments
2 or charges for sewerage or street improvements or other charges
3 which may be legally imposed upon the Premises or any part
4 thereof, for which the Premises or any part thereof, or the
5 Lessor or Lessee in respect thereof, are now or during the term
6 hereof may become liable. Provided, however, that not-
7 withstanding the foregoing, pursuant to Section 1.2 above,
8 Lessee shall not be required to pay or otherwise discharge any
9 lien which arises out of any violation of law that may exist on
10 the Premises as of the date of this Lease. Real property taxes
11 assessed against the Premises for the initial and terminal
12 years hereof shall be prorated as of the date of commencement
13 and of termination of the term hereof, respectively. Lessee
14 shall have the right to contest any such tax or assessment in
15 good faith, so long as it: (a) commences its action before the
16 tax or assessment becomes delinquent; (b) files a bond or takes
17 all other actions as shall be necessary to stay the collecta-
18 bility of the tax or the assessment of any lien against the
19 Premises; (c) provides Lessor with proof of adequate security
20 to discharge all taxes, assessments, interest or other similar
21 charges; (d) pays on demand any costs or attorneys' fees
22 incurred by the Lessor in any such proceedings; and (e) if all
23 or part of any such tax, rate, assessment, imposition, duty, or

1 charge, the amount or validity of which shall have been so
2 contested, shall be finally determined by any court or other
3 governmental authority of competent jurisdiction to be lawfully
4 charged, assessed, imposed, due or payable, Lessee will
5 promptly pay the same, together with any interest, penalty or
6 fine resulting from any such contest by Lessee. If Lessee
7 shall fail to pay any such taxes, rates, assessments, imposi-
8 tions, duties or charges as herein provided, the Lessor may at
9 any time after the same become due pay the same, together with
10 any interest, penalties, fines and costs accrued thereon or
11 imposed in connection therewith, and Lessee will repay to the
12 Lessor, upon demand, the full amount so paid by the Lessor,
13 together with interest at the rate of twelve percent (12%) per
14 annum. Notwithstanding the foregoing, Lessor shall pay any and
15 all taxes based upon the gross receipts or net income of all
16 amounts payable to Lessor under this Lease.

17 Section 5. QUIET ENJOYMENT. Upon payment by Lessee of the
18 rent as aforesaid and upon the observance and performance of
19 the covenants by Lessee hereinafter contained, Lessee shall
20 peaceably hold and enjoy said Premises for the term hereby
21 demised without hindrance or interruption by Lessor or any
22 other person or persons claiming by, through or under Lessor.

1 Section 6. USE. Lessee will use the Premises for the
2 development of a marina boat harbor, hotel, , retail shops,
3 restaurants, offices and any other lawful purposes related to
4 said uses as approved in writing by Lessor. Nothing contained
5 in this section is intended to limit Lessor's review of
6 Lessee's development of the Premises as provided in Section 7.

7 Section 7. DEVELOPMENT OF PREMISES.

8 Section 7.1. Improvements. The Lessee will construct
9 improvements on the Premises consistent with Lessee's
10 response to Lessor's Request for Proposal No. 88-001,
11 Management and Development of Agana Marina Boat Basin
12 dated September 16, 1988.

13 Section 7.2. Construction. The Premises are subject to
14 development by the Lessee's construction and completion of
15 all necessary improvements, including without limitation
16 all streets, curbs, gutters, drains, sidewalks, street
17 lighting, sewer and water facilities, utilities, filling
18 and grading, piers and bulkheads, and docks and similar
19 facilities, all in general accordance with a master plan
20 to be prepared by Lessee and approved by Lessor as herein
21 provided, subject to amendment in like manner.

22 Section 7.2.1. Preparation of Master Plan. Lessee
23 shall prepare at its sole expense and shall submit to

1 Lessor within ninety (90) days after the commencement
2 of this Lease, a proposed master plan for development
3 of the Premises which shall include a proposed
4 construction time table which will provide the
5 estimated timetables for completion of the construc-
6 tion. Such master plan shall be subject to the
7 approval of Lessor, which approval Lessor covenants
8 shall not be withheld provided the master plan
9 substantially conforms to Lessee's proposal submitted
10 in response to Lessor's Request for Proposal No. 88-
11 001, Management and Development of the Agana Marina
12 Boat Basin dated September 16, 1988.

13 Section 7.2.2. Lessor's Review of Master Plan.

14 Lessor shall promptly review the master plan after
15 submission and shall approve or disapprove such plan
16 within sixty (60) days after the date of submission.
17 In the event of disapproval, Lessor shall specify
18 with particularity what portions of the master plan
19 are disapproved, and the reasons therefore. Unless
20 Lessor shall specifically disapprove in writing the
21 master plan within sixty (60) days after the date of
22 submission, the master plan shall be deemed approved
23 as submitted. In the event Lessor within such

1 sixty (60) day period disapproves a portion of the
2 master plan, those portions which have not been
3 disapproved shall be deemed approved.

4 Section 7.2.3. Preparation of Construction Plans.

5 After approval of the master plan by Lessor, Lessee
6 shall proceed, with reasonable diligence and in
7 accordance with the master plan, with complete
8 construction plans for the Premises prepared by the
9 Lessee at the Lessee's cost, which construction shall
10 be in compliance with the provisions of the master
11 plan.

12 Section 7.2.4. Government Approval of Construction

13 Plans. Final construction plans shall be subject to
14 the approval of the ordinary governmental authorities
15 (such as the Territorial Planning Commission, the
16 Environmental Protection Agency, Public Works and
17 similar such agencies) having normal jurisdiction
18 over construction projects.

19 Section 7.2.5. No Liability to Lessor. The review
20 and approval of Lessor of any Master Plan refers only
21 to the conformity of such plans to the Request for
22 Proposal No. 88-001, Management and Development of
23 the Agana Marina Boat Basin dated September 16, 1988.

1 Such plan is not reviewed and approved for architec-
2 tural, structural, or engineering design, and Lessor,
3 by reviewing and approving such plan assumes no
4 liability or responsibility therefor or for any
5 defect in any structure constructed in compliance
6 with such plan or noncompliance therewith.

7 Section 7.2.6. Completion of Construction. Lessee
8 shall after the approvals in Section 7.2.4, at its
9 cost and in accordance with the master plan (subject
10 to the terms and conditions hereof) proceed with
11 construction and completion on the Premises of
12 buildings and other improvements suitable for the
13 respective use thereof as shown on the master plan in
14 accordance with complete plans, and specifications
15 therefor prepared by the Lessee. Development of the
16 Premises shall be completed not later than five (5)
17 years after approval of the Army Corps of Engineers
18 as provided in Section 2.1 subject to final approval
19 of the Master Plan by Lessor.

20 Section 7.2.7. Construction Delays. If any such
21 development or improvement shall be delayed by war,
22 typhoon, earthquake or other acts of God or force
23 majeure, fire, or other similar disaster, or by

1 general or industry-wide strike in the Territory of
2 Guam, governmental regulation or any other cause
3 beyond the control of the Lessee which without
4 Lessee's fault renders unobtainable any labor,
5 materials or equipment necessary therefor or by
6 failure of Lessor or any third party including
7 without limitation any governmental authority, within
8 a reasonable time after request therefor and without
9 fault of the Lessee to approve or consent to any
10 matter for which such approval or consent is required
11 by any provision hereof or which approval or consent
12 is required in or contemplated by the master plan,
13 the time for completion thereof shall be extended
14 according to the duration and nature of such delay.
15 Section 7.2.8. Non-Material Variances. Lessee in
16 the course of its planning, design, construction and
17 operation of the Premises shall not materially vary
18 from the provisions of the master plan as approved by
19 the Lessor; provided however, in consultation with
20 the General Manager of the Port Authority, Lessee may
21 vary from the terms of the Master plan so long as
22 such variations do not have any material deleterious
23 economic effect as to the rent to be paid by Lessee

1 the Premises. All construction shall be performed in
2 accordance with local building and zoning codes and to the
3 specifications of the master plan submitted to and
4 approved by Lessor.

5 Section 7.4. Existing Structures. The parties acknow-
6 ledge that the development of the Premises in accordance
7 with the plans of Lessee will require demolition of all
8 facilities existing on the Premises at the date of
9 execution of this Lease, which were constructed in the
10 past by governmental agencies. Lessor hereby transfers
11 and quitclaims to Lessee all of its right, title and
12 interest in and to all such facilities which were con-
13 structed on the Premises in the past by governmental
14 agencies. In the event that Lessee elects to destroy any
15 facilities quitclaimed hereby, the Lessor shall have a
16 right to salvage such materials as it may desire from
17 these structures, after Lessee has removed therefrom all
18 materials it will be using as part of the redevelopment of
19 the Premises.

20 Section 7.5. Existing Occupants. With regard to any
21 existing occupants with boats or doing business on the
22 Premises as of the date of execution of this lease
23 ("Occupants"), Lessee agrees to provide the same level of

1 service and provide the same access to marina facilities
2 as in existence at the time of execution of this Lease.
3 From and after the commencement date of this Lease, the
4 Lessee shall have the right to charge rent to all existing
5 Occupants at the rates currently charged by Lessor upon
6 the date of commencement of this Lease. Lessee will not
7 increase the rent or charges to any such individuals until
8 such time as the new marina docks are ready for occupancy
9 or in the case of business currently operating on the land
10 at such time new facilities are ready for occupancy.
11 Provided however, all Occupants shall be on a month to
12 month tenancy upon expiration of any current leases and
13 Lessee reserves the right to relocate any of the occupants
14 during the construction of the Marina. Subject to the
15 foregoing, Lessee will make reasonable efforts not to
16 disrupt the Occupants of the Agana Boat Basin or their use
17 of the Agana Boat Basin during construction. However,
18 during the course of construction of new facilities, it is
19 recognized that there will be increase in the noise level,
20 dust and sediment in the water and nothing contained
21 herein shall give anyone not a party to this agreement any
22 rights they may not otherwise have by law. Occupants
23 shall have the opportunity to rent space in the new marina

1 facilities subject to such rules and regulations as may be
2 adopted by Lessee as approved by Lessor herein for
3 operation of the new marina facilities.

4 Section 7.6. Existing Government Facilities. All
5 present government operations located on the Premises at
6 the time of commencement of this Lease shall remain on the
7 Premises without payment of rent. Upon completion of the
8 Marina, Lessee will make available at no charge to the
9 Government of Guam, or its agencies and instrumentalities,
10 adequate space for the conduct of governmental functions
11 related to the health, safety and welfare of the people of
12 the Territory of Guam as would normally be present at a
13 marina of a similar size and purpose. The amount and
14 nature of such space is set forth in Exhibit B.

15 Section 7.7. Warranty of Lessee. Lessee represents and
16 warrants to Lessor that it has adequate capacity and the
17 technical and business skill and ability to perform all
18 obligations herein imposed upon Lessee to diligently,
19 skillfully and successfully operate the Premises in order
20 that the same may be operated as contemplated under the
21 terms of this Lease.

22 Section 8. MANAGEMENT OF PREMISES.

1 Section 8.1. Interim Period. As an accommodation to
2 Lessor, Lessee will assume management of the Premises upon
3 approval of the Lease by the Legislature as provided in
4 Section 24 under the same rules and regulations of Lessor
5 as in effect on the date of commencement of the Lease,
6 unless otherwise amended as provided in Section 8.2.
7 During this interim period, Lessee shall be responsible at
8 Lessee's cost to maintain and repair the Premises in order
9 to keep the Premises in at least as good a condition as on
10 the date the interim period begins. Lessee shall assume
11 all liability for the Premises during the interim period
12 except as otherwise provided herein. During this interim
13 period, Lessor will, if possible, assist Lessee in
14 maintaining the existing insurance policy on the Premises
15 at sole cost of Lessee.

16 Section 8.2. Completion of Marina. Upon completion of
17 the Marina, Lessee may institute rules and regulations for
18 the use of the Marina as may be consistent with the
19 operation of public marinas of a similar size and nature.
20 Lessee will solicit comments from the public and users of
21 the Premises before implementation or amendment of any
22 rules, regulations or rates for use of the Marina and
23 Lessee agrees to hold a public hearing and to give public

1 notice of its intent to adopt new or amend rules, regula-
2 tions or rates thirty (30) days prior to the date of the
3 public hearing. Any such rules and regulations shall be
4 submitted to Lessor for review and approval or dis-
5 approval. The review and approval by Lessor shall be
6 conducted in accordance with the Administrative Adjudica-
7 tion Law, Government Code of Guam §2400, et. seq. and
8 submitted to the Legislature in accordance with law.
9 Lessor and Lessee agree to use their best efforts to begin
10 the process of promulgation of rules and regulations for
11 the use of the Agana Boat Basin within 120 days of
12 approval of this Lease by the Legislature.

13 Section 8.3. Inspection and Audit.

14 Section 8.3.1. Inspection of Premises. Lessor or
15 its agents shall have the right to enter the leased
16 Premises, buildings and improvements constructed
17 thereon at reasonable hours and upon reasonable
18 notice for the purpose of inspecting the same or for
19 any other purposes not inconsistent with the terms or
20 spirit of this Lease.

21 Section 8.3.2. Inspection of Records. Lessor and
22 its agents are hereby given the right to inspect
23 Lessee's books at all reasonable times in order to

1 ascertain gross operating revenues and sales of
2 assets. Lessee agrees to keep proper and up to date
3 books and records at all times showing the gross
4 operating revenues and sales of assets including the
5 reports that Lessee may be required to furnish to any
6 government agency (except to the extent such reports
7 are confidential by law) which shall at all reasona-
8 ble times be open to inspection of the Lessor or its
9 agents. Lessee agrees to give its reasonable full
10 assistance to Lessor or its agents in the making of
11 any inspection or examination of any such books and
12 records, and Lessor shall have the right to make
13 copies of all such records pertaining to gross
14 operating revenues and sales of assets as Lessor may
15 desire.

16 Section 8.3.3. Audit. Lessor may, at any time,
17 cause an audit of the gross operating revenues and
18 sales of assets to be made by an accountant to be
19 selected by Lessor, and if such audit discloses any
20 statement of gross operating revenues or sales of
21 assets made by Lessee to Lessor understate the actual
22 gross operating revenues or sales of assets reported
23 by any such audit, Lessee shall immediately pay the

1 cost of any such audit as well as any additional rent
2 payable by Lessee to Lessor plus interest at the rate
3 applicable to judgments of the Superior Court of
4 Guam; otherwise, the cost of such audit shall be paid
5 by Lessor. The access to records shall be limited
6 only to those records reasonably necessary to
7 determine the gross operating revenues and sale of
8 assets as defined in Section 3.5 and 3.8.

9 Section 8.4. Maintenance. The Lessee agrees at its own
10 expense to keep and maintain the Premises, including, but
11 not limited to, grounds, buildings, furnishings, fixtures
12 and personal property, in good state of repair and first
13 class condition.

14 Section 8.5. Repairs. The Lessee agrees at its expense
15 to make all repairs to the Premises including, but not
16 limited to, buildings, improvements, including electrical,
17 plumbing, sewer, sewer connections, structural and all
18 other repairs that may be required to be made on the
19 Premises.

20 Section 9. INSURANCE AND BONDS. Lessee will procure at its
21 own expense and keep in force during the entire period of this
22 Lease policies of insurance with respect to said Premises with

1 any insurance company authorized to do business in the
2 Territory of Guam, naming the Lessor as an additional insured.

3 Section 9.1. Improvement Insurance. The Lessee at its
4 expense shall provide fire and extended coverage insurance
5 on the real property herein described and all improvements
6 (building and contents) thereon situated for the benefit
7 of the Lessor and the Lessee. Insurance coverage to be at
8 least 90% of the insurable value of said real property and
9 improvements. Copies of all insurance policies shall be
10 furnished the Lessor.

11 Section 9.2. Personal Property Insurance. The Lessee and
12 any sublessees, at their expense shall provide comprehen-
13 sive insurance (including but not limited to, fire, theft
14 and windstorm) on all personal property situated on the
15 leased premises, and replacement for the benefit of the
16 Lessor and the Lessee and must be in an amount to provide
17 full replacement cost of said personal property.

18 Section 9.3. Liability Insurance. The Lessee at its
19 expense shall provide comprehensive and all-inclusive
20 liability insurance for the benefit of the Lessor and the
21 Lessee in the amounts of \$1,000,000 bodily injury, and
22 \$1,000,000 property damage. The limits of liability as
23 set forth herein shall be reviewed by the parties from

1 time to time and may be adjusted by mutual agreement. If
2 the parties are unable to agree on the adjustment, the
3 matter shall be decided by arbitration as provided in
4 Section 14.

5 Section 9.4. Insurance Proceeds. In the event of
6 destruction or damage of any of the property covered by
7 insurance, the funds payable in pursuance of said policies
8 shall be deposited with a financial institution authorized
9 to conduct business in Guam (or other mutually acceptable
10 financial institution), as a trust fund, and said funds
11 shall be used for the purpose of reconstruction or repair,
12 as the case may be, of any of the buildings, improvements
13 or personal property so damaged or destroyed. Such
14 reconstruction and repair work shall be done in strict
15 conformity with the building codes of Guam. Should the
16 cost of reconstruction or repair exceed the amount of
17 funds available from the proceeds of such insurance
18 policy, then and in such event, such funds shall be used
19 as far as the same will permit in paying costs of said
20 reconstruction or repair, and any difference shall be made
21 up by the Lessee.

22 Section 9.5. Bonds. Lessee shall require any contractor
23 performing improvements on the Premises to furnish bonds

1 covering faithful performance of the construction and
2 payment of all obligations incurred in the course of said
3 construction.

4 Section 10. INDEMNITY.

5 Section 10.1. Lessee's Indemnification. Lessee will
6 indemnify and hold the Lessor harmless from and against
7 all claims and demands for loss or damage, including
8 property damage, personal injury and wrongful death,
9 arising out of or in connection with: the use or occupancy
10 of said Premises by the Lessee or any other person
11 claiming by, through or under the Lessee; or any accident
12 or fire on said Premises or any nuisance made or suffered
13 thereon, or any failure by the Lessee to keep said
14 Premises in a safe condition; or to observe and perform
15 any term covenant or condition herein contained; and will
16 reimburse the Lessor for all its costs and expenses
17 including reasonable attorneys' fees incurred in con-
18 nection with the defense of any such claims, and will hold
19 all goods, materials, fixtures, equipment, machinery and
20 other property on said Premises at the sole risk of the
21 Lessee and hold the Lessor harmless from liability for
22 loss or damage thereto by any cause whatsoever, and will
23 indemnify and hold the Lessor harmless from and against

1 all loss, costs and expenses, including reasonable
2 attorneys' fees with respect to any attachment, judgment,
3 lien, charge or encumbrance whatsoever against said
4 Premises made or suffered by the Lessee or any person
5 claiming by, through or under Lessee. Provided, however,
6 this indemnity shall not apply to any claim, loss or
7 damage resulting from, arising out of or connected with
8 any act or omission of Lessor, the Government of Guam, its
9 officers, employees, agencies or other authorized repre-
10 sentatives performing Government operations on the
11 Premises.

12 Section 10.2. Indemnification of Lessor. Lessor will
13 indemnify and hold Lessee harmless from and against all
14 claims and demands for loss or damage including property
15 damage, personal injury (including reasonable attorneys'
16 fees) and wrongful death arising out of or in connection
17 with: the use or occupancy of the Premises by Lessor or
18 the Government of Guam, its officers, employees, agencies
19 or authorized representatives (the "Government"); or any
20 accident or fire caused by the Government on the Premises
21 or any nuisance made or suffered thereon or any failure by
22 the Government to keep any portion of the Premises
23 occupied by the Government in a safe condition; and will

1 reimburse the Lessee for all its costs and expense
2 including reasonable attorneys' fees incurred in connec-
3 tion with the defense of such claims, and will hold all
4 goods, materials, fixtures, equipment and machinery and
5 other property on any portion of the Premises occupied by
6 the Government at the sole risk of Lessor and hold Lessee
7 harmless from liability or loss or damage thereto as a
8 result of any Government operations on the Premises.

9 Section 11. LIENS. Lessee, except as otherwise provided
10 herein, will not commit or suffer any act or neglect whereby
11 said Premises or any improvement thereon or the interest of
12 Lessor or Lessee therein shall at any time during said term
13 become subject to any attachment, judgment, lien, charge or
14 encumbrance whatsoever, and will indemnify and hold Lessor
15 harmless from all loss, cost and expense with respect thereto;
16 provided, however, that notwithstanding the foregoing, Lessee
17 shall not be required to pay or otherwise discharge any lien
18 which rises out of any violation of law that may exist on the
19 Premises as of the date of this Lease.

20 Section 12. WASTE, HAZARDOUS WASTE AND UNLAWFUL USE. Lessee
21 will not at any time make or suffer any strip or waste or
22 unlawful, improper or offensive use of said Premises or cause
23 or permit any hazardous waste or substances as defined in 42

1 U.S.C. §9601, to be used or stored on the Premises; provided,
2 however, that the provisions of this paragraph shall not: (a)
3 prevent the demolition of any buildings and improvements
4 existing upon the Premises upon the commencement date of this
5 Lease and which Lessee otherwise has a right to demolish; (b)
6 apply to any hazardous waste or hazardous substances located on
7 the Premises as of the date of this Lease which would then
8 handled in accordance with Section 1.2; or (c) apply to any
9 conditions which may exist on the Premises as of the date of
10 execution of this Lease. Subject to the limitations set forth
11 in the proviso in the immediately preceding sentence, Lessee
12 will observe and comply with all laws, ordinances, rules and
13 regulations now or hereafter made by any governmental authority
14 for the time being applicable to or in connection with the
15 Premises or any improvement thereon or the use thereof, and
16 will indemnify the Lessor against all actions, suits, damages
17 and claims by whomsoever brought or made by reason of the
18 nonobservance or nonperformance of such laws, ordinances, rules
19 and regulations or of this covenant. Provided however, Lessor
20 will indemnify Lessee from any liability, claims or damage of
21 any nature whatsoever arising out of or in any way connected
22 with any toxic substances, hazardous waste or unlawful use of
23 the Premises existing at the time of commencement of this

1 Lease. Lessee will provide for the safe and appropriate
2 disposal of sewage, used petroleum products and hazardous
3 substances as per the requirements of the Guam Environmental
4 Protection Agency and other concerned agencies or governmental
5 authorities and, will furthermore cooperate in the design of a
6 contingency plan to effectively address any occurrence of a
7 toxic spill in the harbor as a result of the operation of the
8 Marina.

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

17 In the event of the taking or transfer of only a
18 portion of the Premises leaving the remainder in such location,
19 or in such form, shape, or reduced size as to render the
20 Premises to be not effectively and practicably usable for the
21 purposes provided in this Lease or otherwise impair the
22 economic viability of Lessee's use of the Premises in the sole
23 opinion of Lessee, at Lessee's sole option, this Lease and all

1 right, title and interest thereunder shall cease on the date
2 title of the Premises or the portion thereof so taken or
3 transferred vests in the condemning authority.

4 In the event of such taking or transfer of only a
5 portion of the Premises leaving the remainder in such location
6 and in such form, shape, or size as to be effectively and for
7 the purposes provided in this Lease practicably usable for the
8 purposes in this Lease and which does not impair the economic
9 viability of Lessee's use of the Premises in the sole opinion
10 of Lessee, this Lease shall terminate and end as to the portion
11 of the Premises so taken or transferred as of the date title to
12 such portion vests in the condemning authority, but shall
13 continue in full force and effect as to the portion of the
14 Premises not so taken or transferred. In such an event the
15 rent payable hereunder shall be reduced in proportion to the
16 area of the Premises taken.

17 It is understood and agreed by and between the
18 parties that all compensation and damages awarded for the
19 taking of all buildings and other improvements whatsoever on
20 the Premises or any portion thereof shall belong to and be the
21 property of Lessee; provided, however, Lessor shall be entitled
22 to receive an award and compensation from the condemning
23 authority (not Lessee) for the value of its remainder interest

1 in the Premises. Furthermore, Lessee shall be entitled to the
2 award for and on account of any cost or loss Lessee may sustain
3 in the removal of Lessee's fixtures, equipment and furnishings
4 from the Premises, or as a result of any alterations, modifi-
5 cations, or repairs which may be reasonably required by Lessee
6 in order to place the remaining portion of the Premises not so
7 condemned in a suitable condition for the continuance of
8 Lessee's tenancy, or on account of any diminution in value of
9 its leasehold estate hereunder. All interested parties may
10 independently file separate claims in the condemnation
11 proceedings for the purpose of having the value of their
12 respective claims determined.

13 Section 14. ARBITRATION. All disputes and controversies of
14 every kind and nature between the Lessor and Lessee arising out
15 of or in connection with this Lease, the construction, valid-
16 ity, interpretation or meaning, performance, non-performance,
17 enforcement, operation, breach, continuance, or termination
18 thereof except matters set forth in Sections 17.1.1, 17.1.3 and
19 17.1.4 shall be submitted to arbitration pursuant to the
20 following procedure:

21 Section 14.1. Demand. Either party may demand
22 arbitration in writing within 30 days after the con-
23 troversy arises, which demand shall include the name of

1 the arbitrator appointed by the party demanding arbitra-
2 tion, together with a statement of the matter in con-
3 troversy.

4 Section 14.2. Appointment of Arbitrators. Within 20 days
5 after such demand, the other party shall name its
6 arbitrator, or in default thereof, such arbitrator shall
7 be named forthwith by the Arbitration Committee of the
8 American Arbitration Association, and the two arbitrators
9 so selected shall name a third arbitrator within 15 days
10 or, in lieu of such agreement on a third arbitrator by the
11 two arbitrators so appointed, a third arbitrator shall be
12 appointed by the Arbitration Committee of the American
13 Arbitration Association.

14 Section 14.3. Costs. Each party shall bear his own
15 arbitration costs and expenses.

16 Section 14.4. Hearing. The arbitration hearing shall be
17 held at Agana, Guam or such other place as may be agreed
18 by the parties on 30 days' notice to the parties, the
19 arbitration rules and procedures of the American Arbitra-
20 tion Association shall be incorporated by reference
21 therein, and the Federal Rules of Evidence shall govern
22 the presentation of evidence therein.

1 Section 14.5. Award. The arbitration hearing shall be
2 concluded within three days unless otherwise ordered by
3 the arbitrators and the award thereon shall be made within
4 20 days after the close of the submission of evidence. An
5 award rendered by a majority of the arbitrators appointed
6 pursuant to this agreement shall be final and binding on
7 all parties to the proceeding during the period of this
8 agreement, unless appealed as provided in Section 14.6.

9 Section 14.6. Appeal. Either party may appeal an award
10 of the arbitrators by instituting an action in the
11 Superior Court of Guam within thirty (30) days of the date
12 of the award. The review by the court shall be based on
13 the record before the arbitrators to determine if the
14 award is arbitrary or capricious.

15 Section 14.7. Construction. Nothing herein contained
16 shall be deemed to give the arbitrators any authority,
17 power, or right to alter, change, amend, modify, add to,
18 or subtract from any of the provisions of this Lease.

19 Section 15. ASSIGNMENT AND SUBLEASE.

20 Section 15.1. Assignment. Except as provided under
21 Section 16 below, Lessee shall not assign this Lease
22 without first having obtained the written consent of
23 Lessor. The sale or transfer by the Shareholders of

1 Lessee of at least 51% of the voting stock of Lessee shall
2 be considered transfer of the Lease for the purpose of
3 this Section. Lessor shall have the right to determine
4 the financial stability and moral character of any
5 assignee and such consent shall not be unreasonably
6 withheld. In any event, Lessee may assign this Lease
7 without consent of Lessor to any entity, business or
8 venture in which the Lessee owns at least a 25% interest.
9 The Lessee shall also have the right without the consent
10 of but with consultation of Lessor to assign all or a
11 portion of Lessee's rights under this Lease by way of
12 mortgage under the conditions set forth in Section 16
13 below.

14 Section 15.2. Subleases. Lessee may enter into subleases
15 of portions of the Premises without the necessity of
16 obtaining the consent of Lessor, provided that any
17 sublease is expressly subject to the terms of this Lease.

18 Section 16. MORTGAGE OF THE PREMISES. The Lessee, subject to
19 applicable law, shall have the right, without the necessity of
20 the consent of but in consultation with the Lessor to mortgage
21 Lessee's rights under this Lease provided if the mortgage note
22 is for a sum of more than eighty-five percent (85%) of the
23 value of the premises and the proceeds of any such note shall

1 be used for the improvement and development of the Premises,
2 then Lessor's written approval shall be necessary prior to the
3 execution of any mortgage. If so requested by Lessee and by
4 any Lender, Lessor will execute such document or documents as
5 are customary and reasonably required to provide for the
6 protection of an institutional mortgagee as to the leasehold
7 estate ("Mortgagee Protection Documents"). Such Mortgagee
8 Protection Documents would include but not be limited to the
9 matters set forth in Exhibit "C" attached hereto. Shareholders
10 of Lessee may also, without consent of Lessor, pledge their
11 interest in the stock of Lessee to any bank or other financial
12 institution to secure any loan, the proceeds of which shall be
13 used for the improvement and development of the Premises.

14 Section 17. EVENTS AND CONSEQUENCES OF DEFAULT. Any one or
15 more of the following events shall constitute a default:

16 Section 17.1. Events of Default.

17 Section 17.1.1. Failure to Pay Rent. The Lessee
18 shall fail to pay the rent herein reserved or any
19 part thereof within fifteen (15) days after the same
20 becomes due, whether the same shall or shall not be
21 legally demanded; or

22 Section 17.1.2. Failure to Observe Covenants. The
23 Lessee shall fail to observe or perform any other of

1 the covenants herein contained and on the part of the
2 Lessee to be observed and performed, and such failure
3 shall continue for a period of thirty (30) days after
4 written notice thereof given by Lessor to the Lessee.
5 For the purposes hereof, no event of default shall be
6 deemed to exist under this Lease in respect to the
7 performance of work required to be performed, or of
8 acts to be done, or of conditions to be remedied, if
9 steps shall, in good faith, have been commenced
10 within the time permitted therefor to rectify the
11 same and shall be prosecuted to completion with
12 diligence and continuity; or

13 Section 17.1.3. Abandonment. The Lessee shall
14 abandon the demised Premises; or

15 Section 17.1.4. Bankruptcy. The Lessee shall become
16 bankrupt or insolvent, or seek protection under any
17 provision of the Bankruptcy Act, or if any assignment
18 be made of Lessee's property for the benefit of its
19 creditors, or if the Premises or any part thereof
20 shall be taken upon execution.

21 Section 17.1.5. Fraud. The Lessee shall knowingly
22 with intent to defraud Lessor understate the revenues
23 for the calculation of rent as provided in Section 3.

1 Section 17.2. Remedies. In case of any such event of
2 default the Lessor may, upon the occurrence of such event
3 of default or at any time thereafter during the con-
4 tinuance of such default for a period of thirty (30) days
5 after written notice to Lessee, at its option, terminate
6 this Lease by giving written notice thereof to the Lessee,
7 and upon such termination the Lessor may then or at any
8 time thereafter re-enter the Premises or any part thereof
9 in the name of the whole and thereupon take possession of
10 the said Premises and all improvements thereon and may
11 expel and remove from the Premises the Lessee and those
12 claiming under the Lessee, and the Lessee and its effects,
13 without service of notice or resort to any legal process
14 and without being deemed guilty of any trespass or
15 becoming liable for any loss or damage which may be
16 occasioned thereby, or may then or at any time thereafter
17 bring an action for summary possession of said Premises or
18 any part thereof as provided by law, all without prejudice
19 to any other remedy or right of action which the Lessor
20 may have for arrears of rent or for any preceding or other
21 breach of contract.

22 Section 18. SURRENDER. At the end of the term of this Lease
23 or upon the earlier termination of this Lease, the Lessee will

1 at its expense peaceably deliver up to the Lessor possession of
2 the Premises hereby leased, together with all improvements
3 constructed thereon, free of any encumbrances or obligations
4 and in good state of repair and in good usable condition,
5 ordinary wear and tear excepted. Provided, however, Lessee may
6 remove all furniture, fixtures and equipment from the property.
7 Section 19. FORCE MAJEURE. Lessee's performance is subject
8 to force majeure, and is contingent upon strikes, accidents,
9 acts of God, weather conditions, unavailability of labor in
10 Guam as certified by the Department of Labor , fire regulations
11 or restrictions imposed by any government or governmental
12 agency, or other delays beyond the control of the Lessee.

13 Section 20. GOVERNMENT APPROVALS.

14 Section 20.1. Approvals Necessary. The parties under-
15 stand that the approval of several federal and territorial
16 governmental agencies shall be required before work can be
17 commenced for development of the Premises as follows:

18 Section 20.1.1. Territorial. The Territorial
19 agencies are as follows: Territorial Planning
20 Commission; Territorial Seashore Protection Com-
21 mission; Department of Land Management, Government of
22 Guam-Division of Aquatic and Wildlife Resources;
23 Government of Guam-Department of Parks and Recrea-

1 tion; Guam Environmental Protection Agency; Bureau of
2 Planning, Coastal Zone Management, Federal Consist-
3 ency Determination and Subdivision Development Review
4 Committee.

5 Section 20.1.2. Federal. The Federal agencies are
6 as follows: United States Army Corps of Engineers;
7 United States Environmental Protection Agency; United
8 States Fish and Wildlife Services; National Marine
9 Fisheries; and United States Coast Guard.

10 Section 20.2. Lessee Processing Approvals. Lessee agrees
11 upon or before the commencement date of this Lease to
12 submit appropriate applications to the governmental
13 agencies set forth in Section 20.1.2. plus any other
14 governmental agency claiming jurisdiction over any aspect
15 of the development of the Premises as may be required by
16 such agencies as may be necessary for such agency to
17 complete its review and approval of Lessee's development
18 of the Premises. Lessee agrees to diligently follow
19 through with each agency to obtain the required approvals
20 in a timely manner as may be consistent with each of the
21 above agencies' availability and schedule. However, the
22 timing and sequence of the filing with the agencies set

1 forth in Section 20.1 shall be at the sole discretion of
2 Lessee.

3 Section 20.3. Lessor's Cooperation. It is understood by
4 Lessor that Lessor's cooperation will be necessary in many
5 of the review processes of the agencies set forth in 20.1.
6 and Lessor shall cooperate with Lessee in connection with
7 preparation of any applications, or documents in support
8 of such application and will support such applications in
9 any hearings or review by such agencies.

10 Section 21. CONDITIONS PRECEDENT TO LESSEE'S PERFORMANCE.

11 The parties understand that the development of the Agana Boat
12 Basin will be an expensive and time-consuming project and
13 further, such development will require the approval of several
14 governmental agencies before work can commence.

15 Section 21.1. Government Approvals. The approval of the
16 governmental agencies set forth in Section 20.1 and any
17 other governmental agency asserting jurisdiction over the
18 development of the Premises shall be a condition precedent
19 to Lessee's performance under the terms of this Lease and
20 if such approval is not obtained within a reasonable time
21 frame, the Lessee at its sole option and discretion, may
22 terminate this Lease by giving written notice to Lessor.

1 Section 21.2. Cooperation of Guam Fisherman's Co-Op. It
2 is understood that the land currently occupied by the Guam
3 Fisherman's Co-Op and the services currently provided by
4 the Guam Fisherman's Co-Op are an important aspect of the
5 development of the Marina. In the event Lessee is unable
6 to reach an agreement with the Guam Fisherman's Co-Op for
7 relocation of its facilities or otherwise acquire the land
8 occupied by the Guam Fisherman's Co-Op, Lessee may at its
9 sole option waive the necessity of having the cooperation
10 or land of the Guam Fisherman's Co-Op.

11 Section 22. MISCELLANEOUS PROVISIONS.

12 Section 22.1. Notices. Any notice of demand to Lessor or
13 Lessee provided for or permitted by this Lease may be
14 given sufficiently for all purposes in writing mailed as
15 registered or certified mail, addressed to such party at
16 the post office address herein specified or the last such
17 address designated by such party in writing to the
18 other, or delivered personally to Lessor or Lessee, as the
19 case may be, and shall be deemed conclusively to have been
20 given on the date of such mailing or personal delivery.

21 Section 22.2. Consents. As to any matter herein to which
22 the Lessor's consent is required, such consent shall be
23 made in writing and shall not be unreasonably withheld or

1 delayed, nor shall any compensation be required for such
2 consent. If such consent or denial of consent is not
3 forthcoming within the next two regularly scheduled and
4 held meetings of the Board of Directors of the Port
5 Authority of Guam after receipt by Lessor, the consent to
6 such matters so submitted shall be deemed to have been
7 granted.

8 Section 22.3. Attorneys' Fees. Should either party com-
9 mence any legal action or proceeding against the other
10 based upon this Lease or any provision hereof, including,
11 without limitation, this provision, the prevailing party
12 shall be entitled to an award of attorneys' fees, unless
13 otherwise prohibited by law.

14 Section 22.4. Further Assurances. The parties hereto
15 shall, whether before or after the date hereof, execute
16 and deliver such further instruments and do such further
17 acts and things as may be required to carry out the intent
18 and purposes of this Lease.

19 Section 22.5. Number and Gender. Whenever required by
20 the context hereof, the singular shall include the plural,
21 and vice versa, and the masculine gender shall include the
22 feminine and neuter genders, or vice versa. All terms

1 defined within quotation marks are as defined whenever
2 such terms are used herein.

3 Section 22.6. Captions. Captions at the beginning of
4 each paragraph are for convenience only and shall not be
5 deemed to be a part of any contents of this Lease.

6 Section 22.7. Binding Effect; Inurement to Successor.
7 Except as otherwise provided herein, this Lease and each
8 and every provision hereof shall be binding on and shall
9 inure to the benefit of the parties hereto, their
10 respective personal representatives, successors, heirs,
11 and permitted assigns, and to each and every successor-in-
12 interest of any party hereto.

13 Section 22.8. Severability. This Lease is intended to be
14 performed in accordance with and only to the extent
15 permitted by all applicable laws, ordinances, rules and
16 regulations of the Territory of Guam. If any provision of
17 this Lease or the application thereto to any person or
18 circumstances shall, for any reason and to any extent be
19 invalid or unenforceable, the remainder of this Lease and
20 the application of such provision to the other persons or
21 circumstances shall not be affected thereby, but rather
22 shall be enforced to the greatest extent permitted by law.

1 Section 22.9. Governing Law. This Lease shall be
2 governed by and construed in accordance with the laws of
3 the Territory of Guam.

4 Section 22.10. Entire Agreement. This Lease contains the
5 entire understanding among the parties and supersedes any
6 prior or contemporaneous understandings or agreements
7 between them respecting the matters herein.

8 Section 22.11. Neither Party Deemed Drafter. Lessor and
9 Lessee agree that neither party shall be deemed to be the
10 drafter of this Lease and that in the event that this
11 Lease is ever construed by a court of law, such court
12 shall not construe this Lease or any provision of this
13 Lease against either party as drafter of the Lease.

14 Section 22.12. Amendment. This Lease may only be amended
15 by an instrument in writing signed by each of the parties
16 hereto subject to the approval of the Legislature.

17 Section 22.13. Relationship of Parties. Nothing contained
18 herein shall be construed to constitute Lessee as the
19 agent of Lessor, or otherwise constitute Lessee as an
20 agency of the Government of Guam.

21 Section 23. LESSOR'S RIGHT OF FIRST REFUSAL. Should Lessee,
22 at any time during the term of this Lease or any renewal or
23 extension hereof, receive an acceptable bona fide offer for the

1 purchase of the Lease from any third party, Lessee shall
2 forthwith promptly submit such offer to Lessor and Lessor shall
3 be entitled for a period of ninety (90) days after receipt of
4 the offer within which to elect whether or not Lessor will
5 purchase the Lease on the terms and conditions set forth in the
6 offer. All offers must be bona fide and in writing. Should
7 Lessor elect not to purchase the Lease on the terms and
8 conditions specified in the offer, then Lessee shall be free to
9 sell the Lease, but only on the express terms noticed and
10 offered to Lessor. This provision shall be binding upon all
11 successors and assigns of Lessee, and shall continue in full
12 force and effect throughout the term hereof, as may be
13 extended. This Section shall be construed independent of
14 Section 15 and nothing contained in this Section shall be
15 construed to limit Lessor's rights regarding approval of
16 assignments as set forth in Section 15.

17 Section 24. LEGISLATIVE APPROVAL. It is understood that
18 under applicable law, this Lease must be approved or confirmed
19 by the Guam Legislature and the parties shall cooperate in
20 submitting this Lease for approval and in using their best
21 efforts and good faith to obtain such approval as promptly as
22 reasonably possible. The term of this Lease shall not commence
23 until legislative approval is obtained and the date is provided

1 in Section 2.1. Provided, however, that prior to the date
2 legislative approval is obtained, Lessee may, at its sole risk
3 and sole expense, enter upon and make any investigations and
4 tests it may deem necessary or appropriate for its contemplated
5 development of the Premises and Lessee may, at its option,
6 submit such plans and any other documents which may be required
7 hereunder for Lessor's approval. In the event Lessee chooses
8 to submit such documents, then time periods required for
9 approval hereunder shall commence as of the date of submission
10 of such documents. In the event any required legislative
11 approval is not obtained within a reasonable period not-
12 withstanding the efforts of the parties then Lessee, in its
13 sole discretion and its sole option, may upon not less than
14 ninety (90) days prior written notice to Lessor, elect to
15 cancel this Lease without penalty.

16 IN WITNESS WHEREOF, the parties hereto have executed
17 this Lease as of the date first above written.

18
19 LESSOR:

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22 PORT AUTHORITY OF GUAM

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26 By: David B. Zylow
27
28 Its Duly Authorized
29 Representative

APPROVED:

Joseph F. Ada
JOSEPH F. ADA
Governor of Guam

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LESSEE:
INTERNATIONAL DESIGN
CONSORTIUM, INC.

By: Clifford A. Gump
Its Duly Authorized
Representative

APPROVED AS TO FORM:

E. Barrett Hudson
ATTORNEY GENERAL OF GUAM

ATTEST:

Frank F. Blas
FRANK F. BLAS
Lt. Governor of Guam

DCW:lcs:csn
07-31-89
04-01-90

EXHIBIT C TO

LEASE AGREEMENT ENTERED INTO

BETWEEN

PORT AUTHORITY OF GUAM

AND

INTERNATIONAL DESIGN CONSORTIUM, INC.

PROTECTION OF MORTGAGEE

1. In the event there is a mortgage on the Premises, Lessor will not terminate the Lease because of any default on the part of Lessee to observe or perform any of the covenants or conditions herein contained if the mortgagee or its assigns, within sixty (60) days after the date that the Lessor shall have mailed to the mortgagee or its assigns at the last known address thereof a written notice of Lessor's intention to terminate this Lease for such cause, shall cure such default, if the same can be cured by the payment of money, or, if such is not the case, shall undertake in writing to thereafter pay all rent and other charges as and when due under this Lease and to perform all other covenants of this Lease capable of performance by the mortgagee or its assigns until such time as this Lease shall be sold upon foreclosure of such mortgage commenced promptly and completed with due diligence.

2. Any default (a) consisting of Lessee's failure promptly to discharge any attachment, judgment, lien, charge or encumbrance against the premises junior in priority to such mortgage or (b) which is otherwise not susceptible to cure by mortgagee except upon obtaining possession of the premises or foreclosure, shall be deemed to be duly cured if such mortgage shall be foreclosed by appropriate action instituted within

said 60-day period and thereafter prosecuted in a diligent and timely manner.

3. Lessor agrees that simultaneously with mailing or delivering any notice of default or breach under or with respect to this Lease to Lessee, that it will mail or deliver a copy thereof to the permitted mortgagee(s) of this Lease at their last known address.

4. The name of any mortgagee may be added to any loss payable endorsement of any insurance policies required to be carried by Lessee. Lessor will make all insurance proceeds or condemnation proceeds to which Lessee may otherwise be entitled hereunder available jointly to Lessee and to any mortgagee, and such proceeds may be applied as provided in any mortgage.

5. If Lessee fails to exercise any extension or renewal option provided for in this Lease the Lessor shall send to the mortgagee written notice thereof and if there is a remaining balance due on the mortgage, such mortgagee, within ten (10) days after receipt of such notice, may exercise any such option on behalf of Lessee.

6. There should be no cancellation, mutual termination, surrender or amendment of this Lease without the prior written consent of any mortgagee.

DCW:lcs
11-08-89
02-27-90

1 tion; Guam Environmental Protection Agency; Bureau of
2 Planning, Coastal Zone Management, Federal Consist-
3 ency Determination and Subdivision Development Review
4 Committee.

5 Section 20.1.2. Federal. The Federal agencies are
6 as follows: United States Army Corps of Engineers;
7 United States Environmental Protection Agency; United
8 States Fish and Wildlife Services; National Marine
9 Fisheries; and United States Coast Guard.

10 Section 20.2. Lessee Processing Approvals. Lessee agrees
11 upon or before the commencement date of this Lease to
12 submit appropriate applications to the governmental
13 agencies set forth in Section 20.1.2. plus any other
14 governmental agency claiming jurisdiction over any aspect
15 of the development of the Premises as may be required by
16 such agencies as may be necessary for such agency to
17 complete its review and approval of Lessee's development
18 of the Premises. Lessee agrees to diligently follow
19 through with each agency to obtain the required approvals
20 in a timely manner as may be consistent with each of the
21 above agencies' availability and schedule. However, the
22 timing and sequence of the filing with the agencies set

1 forth in Section 20.1 shall be at the sole discretion of
2 Lessee.

3 Section 20.3. Lessor's Cooperation. It is understood by
4 Lessor that Lessor's cooperation will be necessary in many
5 of the review processes of the agencies set forth in 20.1.
6 and Lessor shall cooperate with Lessee in connection with
7 preparation of any applications, or documents in support
8 of such application and will support such applications in
9 any hearings or review by such agencies.

10 Section 21. CONDITIONS PRECEDENT TO LESSEE'S PERFORMANCE.

11 The parties understand that the development of the Agana Boat
12 Basin will be an expensive and time-consuming project and
13 further, such development will require the approval of several
14 governmental agencies before work can commence.

15 Section 21.1. Government Approvals. The approval of the
16 governmental agencies set forth in Section 20.1 and any
17 other governmental agency asserting jurisdiction over the
18 development of the Premises shall be a condition precedent
19 to Lessee's performance under the terms of this Lease and
20 if such approval is not obtained within a reasonable time
21 frame, the Lessee at its sole option and discretion, may
22 terminate this Lease by giving written notice to Lessor.

1 Section 21.2. Cooperation of Guam Fisherman's Co-Op. It
2 is understood that the land currently occupied by the Guam
3 Fisherman's Co-Op and the services currently provided by
4 the Guam Fisherman's Co-Op are an important aspect of the
5 development of the Marina. In the event Lessee is unable
6 to reach an agreement with the Guam Fisherman's Co-Op for
7 relocation of its facilities or otherwise acquire the land
8 occupied by the Guam Fisherman's Co-Op, Lessee may at its
9 sole option waive the necessity of having the cooperation
10 or land of the Guam Fisherman's Co-Op.

11 Section 22. MISCELLANEOUS PROVISIONS.

12 Section 22.1. Notices. Any notice of demand to Lessor or
13 Lessee provided for or permitted by this Lease may be
14 given sufficiently for all purposes in writing mailed as
15 registered or certified mail, addressed to such party at
16 the post office address herein specified or the last such
17 address designated by such party in writing to the
18 other, or delivered personally to Lessor or Lessee, as the
19 case may be, and shall be deemed conclusively to have been
20 given on the date of such mailing or personal delivery.

21 Section 22.2. Consents. As to any matter herein to which
22 the Lessor's consent is required, such consent shall be
23 made in writing and shall not be unreasonably withheld or

1 delayed, nor shall any compensation be required for such
2 consent. If such consent or denial of consent is not
3 forthcoming within the next two regularly scheduled and
4 held meetings of the Board of Directors of the Port
5 Authority of Guam after receipt by Lessor, the consent to
6 such matters so submitted shall be deemed to have been
7 granted.

8 Section 22.3. Attorneys' Fees. Should either party com-
9 mence any legal action or proceeding against the other
10 based upon this Lease or any provision hereof, including,
11 without limitation, this provision, the prevailing party
12 shall be entitled to an award of attorneys' fees, unless
13 otherwise prohibited by law.

14 Section 22.4. Further Assurances. The parties hereto
15 shall, whether before or after the date hereof, execute
16 and deliver such further instruments and do such further
17 acts and things as may be required to carry out the intent
18 and purposes of this Lease.

19 Section 22.5. Number and Gender. Whenever required by
20 the context hereof, the singular shall include the plural,
21 and vice versa, and the masculine gender shall include the
22 feminine and neuter genders, or vice versa. All terms

1 defined within quotation marks are as defined whenever
2 such terms are used herein.

3 Section 22.6. Captions. Captions at the beginning of
4 each paragraph are for convenience only and shall not be
5 deemed to be a part of any contents of this Lease.

6 Section 22.7. Binding Effect; Inurement to Successor.
7 Except as otherwise provided herein, this Lease and each
8 and every provision hereof shall be binding on and shall
9 inure to the benefit of the parties hereto, their
10 respective personal representatives, successors, heirs,
11 and permitted assigns, and to each and every successor-in-
12 interest of any party hereto.

13 Section 22.8. Severability. This Lease is intended to be
14 performed in accordance with and only to the extent
15 permitted by all applicable laws, ordinances, rules and
16 regulations of the Territory of Guam. If any provision of
17 this Lease or the application thereto to any person or
18 circumstances shall, for any reason and to any extent be
19 invalid or unenforceable, the remainder of this Lease and
20 the application of such provision to the other persons or
21 circumstances shall not be affected thereby, but rather
22 shall be enforced to the greatest extent permitted by law.

1 Section 22.9. Governing Law. This Lease shall be
2 governed by and construed in accordance with the laws of
3 the Territory of Guam.

4 Section 22.10. Entire Agreement. This Lease contains the
5 entire understanding among the parties and supersedes any
6 prior or contemporaneous understandings or agreements
7 between them respecting the matters herein.

8 Section 22.11. Neither Party Deemed Drafter. Lessor and
9 Lessee agree that neither party shall be deemed to be the
10 drafter of this Lease and that in the event that this
11 Lease is ever construed by a court of law, such court
12 shall not construe this Lease or any provision of this
13 Lease against either party as drafter of the Lease.

14 Section 22.12. Amendment. This Lease may only be amended
15 by an instrument in writing signed by each of the parties
16 hereto subject to the approval of the Legislature.

17 Section 22.13. Relationship of Parties. Nothing contained
18 herein shall be construed to constitute Lessee as the
19 agent of Lessor, or otherwise constitute Lessee as an
20 agency of the Government of Guam.

21 Section 23. LESSOR'S RIGHT OF FIRST REFUSAL. Should Lessee,
22 at any time during the term of this Lease or any renewal or
23 extension hereof, receive an acceptable bona fide offer for the

1 purchase of the Lease from any third party, Lessee shall
2 forthwith promptly submit such offer to Lessor and Lessor shall
3 be entitled for a period of ninety (90) days after receipt of
4 the offer within which to elect whether or not Lessor will
5 purchase the Lease on the terms and conditions set forth in the
6 offer. All offers must be bona fide and in writing. Should
7 Lessor elect not to purchase the Lease on the terms and
8 conditions specified in the offer, then Lessee shall be free to
9 sell the Lease, but only on the express terms noticed and
10 offered to Lessor. This provision shall be binding upon all
11 successors and assigns of Lessee, and shall continue in full
12 force and effect throughout the term hereof, as may be
13 extended. This Section shall be construed independent of
14 Section 15 and nothing contained in this Section shall be
15 construed to limit Lessor's rights regarding approval of
16 assignments as set forth in Section 15.

17 Section 24. LEGISLATIVE APPROVAL. It is understood that
18 under applicable law, this Lease must be approved or confirmed
19 by the Guam Legislature and the parties shall cooperate in
20 submitting this Lease for approval and in using their best
21 efforts and good faith to obtain such approval as promptly as
22 reasonably possible. The term of this Lease shall not commence
23 until legislative approval is obtained and the date is provided

1 in Section 2.1. Provided, however, that prior to the date
2 legislative approval is obtained, Lessee may, at its sole risk
3 and sole expense, enter upon and make any investigations and
4 tests it may deem necessary or appropriate for its contemplated
5 development of the Premises and Lessee may, at its option,
6 submit such plans and any other documents which may be required
7 hereunder for Lessor's approval. In the event Lessee chooses
8 to submit such documents, then time periods required for
9 approval hereunder shall commence as of the date of submission
10 of such documents. In the event any required legislative
11 approval is not obtained within a reasonable period not-
12 withstanding the efforts of the parties then Lessee, in its
13 sole discretion and its sole option, may upon not less than
14 ninety (90) days prior written notice to Lessor, elect to
15 cancel this Lease without penalty.

16 IN WITNESS WHEREOF, the parties hereto have executed
17 this Lease as of the date first above written.

18

19 LESSOR:

20

21

22 PORT AUTHORITY OF GUAM

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By: Don B. Zifer
Its Duly Authorized
Representative

APPROVED:

Joseph F. Ada
JOSEPH F. ADA
Governor of Guam

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LESSEE:
INTERNATIONAL DESIGN
CONSORTIUM, INC.

By: *Clifford A. Gump*
Its Duly Authorized
Representative

APPROVED AS TO FORM:

E. Torres-Budoso
ATTORNEY GENERAL OF GUAM

ATTEST:

Frank F. Blas
FRANK F. BLAS
Lt. Governor of Guam

DCW:lcs:csn
07-31-89
04-01-90

EXHIBIT C TO

LEASE AGREEMENT ENTERED INTO

BETWEEN

PORT AUTHORITY OF GUAM

AND

INTERNATIONAL DESIGN CONSORTIUM, INC.

PROTECTION OF MORTGAGEE

1. In the event there is a mortgage on the Premises, Lessor will not terminate the Lease because of any default on the part of Lessee to observe or perform any of the covenants or conditions herein contained if the mortgagee or its assigns, within sixty (60) days after the date that the Lessor shall have mailed to the mortgagee or its assigns at the last known address thereof a written notice of Lessor's intention to terminate this Lease for such cause, shall cure such default, if the same can be cured by the payment of money, or, if such is not the case, shall undertake in writing to thereafter pay all rent and other charges as and when due under this Lease and to perform all other covenants of this Lease capable of performance by the mortgagee or its assigns until such time as this Lease shall be sold upon foreclosure of such mortgage commenced promptly and completed with due diligence.

2. Any default (a) consisting of Lessee's failure promptly to discharge any attachment, judgment, lien, charge or encumbrance against the premises junior in priority to such mortgage or (b) which is otherwise not susceptible to cure by mortgagee except upon obtaining possession of the premises or foreclosure, shall be deemed to be duly cured if such mortgage shall be foreclosed by appropriate action instituted within

said 60-day period and thereafter prosecuted in a diligent and timely manner.

3. Lessor agrees that simultaneously with mailing or delivering any notice of default or breach under or with respect to this Lease to Lessee, that it will mail or deliver a copy thereof to the permitted mortgagee(s) of this Lease at their last known address.

4. The name of any mortgagee may be added to any loss payable endorsement of any insurance policies required to be carried by Lessee. Lessor will make all insurance proceeds or condemnation proceeds to which Lessee may otherwise be entitled hereunder available jointly to Lessee and to any mortgagee, and such proceeds may be applied as provided in any mortgage.

5. If Lessee fails to exercise any extension or renewal option provided for in this Lease the Lessor shall send to the mortgagee written notice thereof and if there is a remaining balance due on the mortgage, such mortgagee, within ten (10) days after receipt of such notice, may exercise any such option on behalf of Lessee.

6. There should be no cancellation, mutual termination, surrender or amendment of this Lease without the prior written consent of any mortgagee.

DCW:lcs
11-08-89
02-27-90

LEASE NO. 3

**AS SUBSTITUTED BY THE COMMITTEES ON
HOUSING & COMMUNITY DEVELOPMENT
AND TOURISM & TRANSPORTATION
(APRIL 13, 1990)**

LEASE AGREEMENT ENTERED INTO

BETWEEN

PORT AUTHORITY OF GUAM

AND

INTERNATIONAL DESIGN CONSORTIUM, INC.

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(Space Above This Line for Recorder's Use Only)

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LEASE AGREEMENT

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21 THIS LEASE AGREEMENT is made and entered into this
22 ___ day of _____, 1990, by and between PORT AUTHORITY
23 OF GUAM, a Government agency, whose address is 1026 Cabras
24 Highway, Suite 201, Piti, Guam, ("Lessor"), and INTERNATIONAL
25 DESIGN CONSORTIUM, INC., a Guam corporation, whose address is
26 997 South Marine Drive, Tamuning, Guam 96911, ("Lessee").

27

R E C I T A L S

28 WHEREAS, Lessor administers a parcel of land in the
29 Territory of Guam known as the Agana Boat Basin as more
30 particularly described herein which property could best be
31 developed through the joint efforts of the public and private
32 sectors; and

33

34 WHEREAS, Lessor has solicited proposals for the
utilization and development of the Agana Boat Basin through

1 publication of a Request for Proposal No. 88-001, Management
2 and Development of Agana Marina Boat Basin dated September 16,
3 1988; and

4 WHEREAS, Lessee, after consideration of the responses
5 to Lessor's solicitation, has been selected by Lessor to
6 develop and manage the operation of the Agana Boat Basin; and

7 WHEREAS, Lessee intends to develop the Agana Boat
8 Basin in a manner consistent with Lessee's response to
9 Lessor's Request for Proposal No. 88-001 which will take
10 considerable time and require a substantial investment by
11 Lessee in the Premises; and

12 WHEREAS, the Development of the Agana Boat Basin in a
13 manner which is consistent with the preservation of the public
14 use of the Agana Boat Basin will take considerable time and
15 investment; and

16 NOW, THEREFORE, in consideration of the terms,
17 covenants and conditions contained herein, and other good and
18 valuable consideration, receipt and sufficiency of which is
19 hereby acknowledged, Lessor and Lessee enter into this Lease
20 and agree as follows:

21 Section 1. PREMISES.

22 Section 1.1. Description of Premises. The Lessor, in
23 consideration of the rent payable under this Lease and of
24 the covenants of Lessee under this Lease, does hereby
25 demise and lease unto the Lessee the following, which are

1 collectively referred to as the "Premises": (a) those
2 portions of the Agana Boat Basin comprising a total of
3 approximately 36.8 acres, as more fully shown on the map
4 attached hereto as Exhibit "A" and incorporated herein by
5 reference and made a part hereof; (b) all existing
6 landfill created by Lessor prior to the effective date of
7 this Lease together with all lands created hereafter
8 during the term of this Lease by Lessee or its designees
9 by dredging or any other means within the Agana Boat
10 Basin as set forth in Exhibit A; and (c) all rents,
11 issues and profits of (a) and (b) above.

12 Section 1.2. Condition of Premises.

13 Section 1.2.1. Representations. The Premises are
14 demised to Lessee with no representations or
15 warranties as to its physical condition except as
16 may have been contained in the Request for Proposal
17 No. 88-001, Management and Development of Agana Boat
18 Basin dated September 16, 1988.

19 Section 1.2.2. Inspection for Discovery of Defects.
20 Lessee shall have 60 days from the commencement date
21 of this lease to fully and completely inspect the
22 physical condition of the premises. If defects are
23 discovered which are in violation of law, Lessee and
24 Lessor may negotiate reasonable terms for the
25 correction of any violations which may exist. If no

1 agreement regarding the corrections of violations is
2 reached within 90 days of the commencement date of
3 this lease, the Lessee may terminate the lease by
4 giving Lessor 30 days written notice. If no
5 violations of law are discovered within 60 days of
6 the commencement date of the lease or if Lessee does
7 not give notice to terminate the contract as set
8 forth in this paragraph within 90 days of the
9 commencement date of the lease, Lessee shall be
10 fully responsible for the correction of any
11 violations of law which must be made upon the
12 premises.

13 Section 1.2.3. Discovery of Defects During Dredging.

14 If defects which are violations of law are
15 discovered during the dredging and such defects were
16 not otherwise discoverable as provided in Section
17 1.2.2., Lessee shall give Lessor notice of such
18 defects within thirty (30) days of such discovery.
19 Lessee and Lessor may negotiate reasonable terms for
20 the correction of any violations which may exist. If
21 no agreement regarding the correction of violations
22 is reached within ninety (90) days of notice to
23 Lessor, Lessee may terminate this Lease by giving
24 Lessor thirty (30) days written notice.

25 Section 2. TERM.

1 Section 2.1. Initial Term. The term of this Lease shall
2 be for a period of fifty (50) years commencing on the
3 ___ day of _____, 1990 and expiring on the
4 ___ day of _____, 2040. The actual date of
5 commencement shall be on the first day of the month after
6 final approval of this Lease by the Legislature, or
7 issuance of an Army Corps of Engineers permit allowing
8 construction, whichever shall occur last. The actual date
9 will be completed and initialed by the Lessor and Lessee
10 to reflect the actual commencement date. Provided,
11 however, if the Army Corps of Engineers' permit is not
12 received within three (3) years after legislative
13 approval, this Lease shall be null and void.

14 Section 2.2. Extension of Term. Lessee shall have the
15 right to extend the term of the Lease for the maximum
16 term allowed by the Legislature for other leases of
17 government land. Provided, however, Lessee must apply to
18 Lessor and obtain approval of the Legislature as may be
19 required by law.

20 Section 2.3. Right of First Refusal. Provided a valid
21 lease exists at the expiration of the term, Lessee shall
22 have the right of first refusal to a new term should the
23 Lessor decide to re-lease the property to a private
24 entity for management.

1 Section 3. RENT. The rent for the term of this Lease shall
2 be as follows:

3 Section 3.1. Completion of the Marina. No rent shall
4 accrue until completion of the Marina or 24 months from
5 the final approval by the Army Corps of Engineers as
6 provided in Section 20.1.2, whichever shall occur first.

7 Section 3.2. Percentage Rent. Lessee shall pay to
8 Lessor the following percentage rent on the gross
9 operating revenues received by Lessee in connection with
10 Lessee's use of the Premises:

11	First twenty years	1%
12	Second twenty years	1.125%
13	Remaining ten years	1.250%

14 Section 3.3. Minimum Rent. Notwithstanding the percen-
15 tage rent provided in Section 3.2, Lessee shall pay to
16 Lessor a minimum rent of \$150,000 per annum in advance.
17 This minimum rent shall be increased by ten percent (10%)
18 every five (5) years after the first full year of rental
19 payments during the term of this lease or any extension
20 thereof. The minimum rent shall be paid quarterly in
21 advance on January 1, April 1, July 1, and October 1, of
22 each year.

23 Section 3.4. Maximum Rent. The maximum rent payable by
24 Lessee to Lessor under the terms of this Lease for the
25 first five years shall be the sum of \$400,000 per annum.

1 The maximum rent for the second five years shall be
2 \$440,000 per annum. After the 10th year of the Lease
3 term, there shall be no maximum rent ceiling.

4 Section 3.5. Gross Operating Revenues. The term "gross
5 operating revenues" as used herein shall be defined to
6 include all annual gross operating revenues derived from
7 business conducted on the Premises from only the
8 following uses or functions in calculating the annual
9 percentage rental due from the Lessee to the Lessor
10 regardless of whether the Lessee or a sublessee,
11 affiliate or other entity related to Lessee operates and
12 controls said use or function:

13 Section 3.5.1. Hotels. All hotel, motel, meeting
14 and convention revenues.

15 Section 3.5.2. Food and Beverage. All food and
16 beverage sales made on the leased premises.

17 Section 3.5.3. Service and Rentals. All services
18 and rentals operated on or from the Premises except
19 revenues produced from the following uses or
20 functions: Telephone fees paid to local and off-
21 island carriers, fuel dock sales and inter-company
22 transfers and sales to the extent any of said sums
23 have been already included in the calculations of
24 the gross operating revenues as provided herein,
25 boat slip revenues, all charter boat revenues,

1 unless such revenues are the result of the
2 operations by Lessee or any affiliate of Lessee and
3 sale of assets, provided, however, if income derived
4 from the asset has been included in the gross
5 operating revenue, the revenue of such asset shall
6 not reduce gross operating revenues under
7 subparagraph 3.5 above.

8 Section 3.6. Payment of Percentage Rent. The percentage
9 rent due pursuant to Section 3.2 shall be paid semi-
10 annually as follows:

11 Section 3.6.1. Initial Annual Payment. The initial
12 annual percentage rental payment for the first six
13 months of each year required by Section 3.2, less
14 the amounts of minimum rental paid the first two
15 quarters as provided in Section 3.3 shall be paid on
16 or before August 1 of each year. At the time of the
17 initial percentage rental payment, Lessee shall
18 submit an itemization of all gross operating
19 revenues for the preceding six months showing the
20 gross operating revenues for each of the
21 classifications set forth in Section 3.6.2. For
22 example:

23 Gross Operating Revenues
24 for first six months \$12,607,542
25 Percentage Rent for

1 first six months at 1% \$ 126,075
2 Less minimum rent payments
3 on January and April \$ 75,000
4 Percentage Rent Due \$ 51,075
5 Section 3.6.2. Final Annual Payment. The final
6 percentage rental payment for the last six months of
7 each year required by Section 3.2 less the amount of
8 minimum rental paid the last two quarters as
9 provided in Section 3.3. and less the initial annual
10 payment as provided in Section 3.6.1 or the minimum
11 rent for the first two quarters whichever shall be
12 greater shall be made 30 days after the audit in
13 Section 3.6.3. For example:
14 Gross Operating Revenues for year \$25,215,084
15 Total Percentage Rent for year at 1% \$ 252,151
16 Less: Minimum payments for year \$150,000
17 Percentage Rent paid for
18 the first six months \$ 51,075
19 Total deduction for rent \$ 201,075
20 already paid
21 Balance of Percentage Rent Due \$ 51,075
22 At the time of the final percentage rental payment,
23 Lessee shall submit an itemization of all gross
24 operating revenues for the preceding six months

1 showing the gross operating revenues for each
2 classification set forth in Section 3.5.
3 Section 3.6.3. Audit and Adjustments. Within ninety
4 (90) days after the end of each lease year, the
5 Lessee shall deliver to the Lessor a certified audit
6 duly signed by a certified public accountant
7 acceptable to Lessor, setting forth an itemization
8 of all gross operating revenues for the preceding
9 lease year, which statement shall further show the
10 gross operating revenues for each of the
11 classifications set forth in Section 3.5. If said
12 audit shows the rent as provided in Sections 3.6.1
13 and 3.6.2. has been underpaid, Lessee shall make any
14 payments revealed by the audit to be due Lessor. If
15 said audit shows the rent as provided in Sections
16 3.6.1 and 3.6.2 has been overpaid, Lessee shall
17 deduct said amount from the next quarterly minimum
18 rent payments due under Section 3.4.

19 Section 3.7. Records. The Lessee shall also keep and
20 maintain accurate records and complete books and records
21 of accounts indicating all of Lessee's gross operating
22 revenues and sale of assets as described in Sections 3.5
23 and 3.8. Said records and statements of gross operating
24 revenues and sale of assets shall be kept and maintained
25 by the Lessee in accordance with generally accepted

1 accounting principles and shall be available to be
2 examined by the Lessor or its agents, servants, employees
3 or representatives, and said records shall be kept and
4 maintained, or a true and accurate copy thereof, in and
5 upon the Premises. In event that the Lessee has inten-
6 tionally, willfully and with intent to defraud made any
7 reports to the Lessor showing less gross operating
8 revenues or sale of assets than actually received, such
9 conduct and action on the part of the Lessee shall
10 constitute a material breach of the covenants of this
11 lease agreement by the Lessee.

12 Section 3.8. Sale of Assets. Lessee, or any assignee or
13 sublessee of Lessee, or any subsequent assignee or
14 sublessee having any ownership or leasehold interest in
15 all or any portion of the Premises who sells any assets
16 shall pay to the Lessor one percent (1%) of the net
17 proceeds of any sales (gross sales proceeds minus
18 commissions and closing costs). Assets as used here shall
19 mean any fixed asset or improvement (including but not
20 limited to condominiumized spaces) and shall not include
21 personal property). For example, if the retail space
22 should be condominiumized each time a unit is sold, the
23 Seller would pay 1% to Lessor.

24 Section 4. TAXES AND ASSESSMENTS. Except as set forth in
25 this Section, after receipt of written notice, Lessee will

1 pay, not less than sixty (60) days before the same will become
2 delinquent, all property taxes, rates, assessments, impact
3 fees and charges of every nature and kind whatsoever which
4 shall, during the term of this Lease, be lawfully charged,
5 assessed or imposed, become a lien upon, or become due and
6 payable upon or on account of the Premises. This requirement
7 includes all assessments and charges for any permanent benefit
8 or improve-ment of the Premises or any part thereof, and all
9 assessments or charges for sewerage or street improvements or
10 other charges which may be legally imposed upon the Premises
11 or any part thereof, for which the Premises or any part
12 thereof, or the Lessor or Lessee in respect thereof, are now
13 or during the term hereof may become liable. Provided,
14 however, that notwithstanding the foregoing, pursuant to
15 Section 1.2 above, Lessee shall not be required to pay or
16 otherwise discharge any lien which arises out of any violation
17 of law that may exist on the Premises as of the date of this
18 Lease. Real property taxes assessed against the Premises for
19 the initial and terminal years hereof shall be prorated as of
20 the date of commencement and of termination of the term
21 hereof, respectively. Lessee shall have the right to contest
22 any such tax or assessment in good faith, so long as it: (a)
23 commences its action before the tax or assessment becomes
24 delinquent; (b) files a bond or takes all other actions as
25 shall be necessary to stay the collecta-bility of the tax or

1 the assessment of any lien against the Premises; (c) provides
2 Lessor with proof of adequate security to discharge all taxes,
3 assessments, interest or other similar charges; (d) pays on
4 demand any costs or attorneys' fees incurred by the Lessor in
5 any such proceedings; and (e) if all or part of any such tax,
6 rate, assessment, imposition, duty, or charge, the amount or
7 validity of which shall have been so contested, shall be
8 finally determined by any court or other governmental
9 authority of competent jurisdiction to be lawfully charged,
10 assessed, imposed, due or payable, Lessee will promptly pay
11 the same, together with any interest, penalty or fine
12 resulting from any such contest by Lessee. If Lessee shall
13 fail to pay any such taxes, rates, assessments, imposi-tions,
14 duties or charges as herein provided, the Lessor may at any
15 time after the same become due pay the same, together with any
16 interest, penalties, fines and costs accrued thereon or
17 imposed in connection therewith, and Lessee will repay to the
18 Lessor, upon demand, the full amount so paid by the Lessor,
19 together with interest at the rate of twelve percent (12%) per
20 annum. Notwithstanding the foregoing, Lessor shall pay any
21 and all taxes based upon the gross receipts or net income of
22 all amounts payable to Lessor under this Lease.

23 Section 5. QUIET ENJOYMENT. Upon payment by Lessee of the
24 rent as aforesaid and upon the observance and performance of
25 the covenants by Lessee hereinafter contained, Lessee shall

1 peaceably hold and enjoy said Premises for the term hereby
2 demised without hindrance or interruption by Lessor or any
3 other person or persons claiming by, through or under Lessor.

4 Section 6. USE. Lessee will use the Premises for the
5 development of a marina boat harbor, hotel, retail shops,
6 restaurants, offices and any other lawful purposes related to
7 said uses as approved in writing by Lessor. Nothing contained
8 in this section is intended to limit Lessor's review of
9 Lessee's development of the Premises as provided in Section 7.

10 Section 7. DEVELOPMENT OF PREMISES.

11 Section 7.1. Improvements. The Lessee will construct
12 improvements on the Premises consistent with Lessee's
13 response to Lessor's Request for Proposal No. 88-001,
14 Management and Development of Agana Marina Boat Basin
15 dated September 16, 1988.

16 Section 7.2. Construction. The Premises are subject to
17 development by the Lessee's construction and completion
18 of all necessary improvements, including without
19 limitation all streets, curbs, gutters, drains,
20 sidewalks, street lighting, sewer and water facilities,
21 utilities, filling and grading, piers and bulkheads, and
22 docks and similar facilities, all in general accordance
23 with a master plan to be prepared by Lessee and approved
24 by Lessor as herein provided, subject to amendment in
25 like manner.

1 Section 7.2.1. Preparation of Master Plan. Lessee
2 shall prepare at its sole expense and shall submit
3 to Lessor within ninety (90) days after the
4 commencement of this Lease, a proposed master plan
5 for development of the Premises which shall include
6 a proposed construction time table which will
7 provide the estimated timetables for completion of
8 the construction. Such master plan shall be subject
9 to the approval of Lessor, which approval Lessor
10 covenants shall not be withheld provided the master
11 plan substantially conforms to Lessee's proposal
12 submitted in response to Lessor's Request for
13 Proposal No. 88-001, Management and Development of
14 the Agana Marina Boat Basin dated September 16,
15 1988.

16 Section 7.2.2. Lessor's Review of Master Plan.
17 Lessor shall promptly review the master plan after
18 submission and shall approve or disapprove such plan
19 within sixty (60) days after the date of submission.
20 In the event of disapproval, Lessor shall specify
21 with particularity what portions of the master plan
22 are disapproved, and the reasons therefore. Unless
23 Lessor shall specifically disapprove in writing the
24 master plan within sixty (60) days after the date of
25 submission, the master plan shall be deemed approved

1 as submitted. In the event Lessor within such sixty
2 (60) day period disapproves a portion of the master
3 plan, those portions which have not been disapproved
4 shall be deemed approved.

5 Section 7.2.3. Preparation of Construction Plans.

6 After approval of the master plan by Lessor, Lessee
7 shall proceed, with reasonable diligence and in
8 accordance with the master plan, with complete
9 construction plans for the Premises prepared by the
10 Lessee at the Lessee's cost, which construction
11 shall be in compliance with the provisions of the
12 master plan.

13 Section 7.2.4. Government Approval of Construction

14 Plans. Final construction plans shall be subject to
15 the approval of the ordinary governmental
16 authorities (such as the Territorial Land Use
17 Commission, the Environmental Protection Agency,
18 Public Works and similar such agencies) having
19 normal jurisdiction over construction projects.

20 Section 7.2.5. No Liability to Lessor. The review

21 and approval of Lessor of any Master Plan refers
22 only to the conformity of such plans to the Request
23 for Proposal No. 88-001, Management and Development
24 of the Agana Marina Boat Basin dated September 16,
25 1988. Such plan is not reviewed and approved for

1 architectural, structural, or engineering design,
2 and Lessor, by reviewing and approving such plan
3 assumes no liability or responsibility therefor or
4 for any defect in any structure constructed in
5 compliance with such plan or noncompliance
6 therewith.

7 Section 7.2.6. Completion of Construction. Lessee
8 shall after the approvals in Section 7.2.4, at its
9 cost and in accordance with the master plan (subject
10 to the terms and conditions hereof) proceed with
11 construction and completion on the Premises of
12 buildings and other improvements suitable for the
13 respective use thereof as shown on the master plan
14 in accordance with complete plans, and
15 specifications therefor prepared by the Lessee.
16 Development of the Premises shall be completed not
17 later than five (5) years after approval of the Army
18 Corps of Engineers as provided in Section 2.1
19 subject to final approval of the Master Plan by
20 Lessor.

21 Section 7.2.7. Construction Delays. If any such
22 development or improvement shall be delayed by war,
23 typhoon, earthquake or other acts of God or force
24 majeure, fire, or other similar disaster, or by
25 general or industry-wide strike in the Territory of

1 Guam, governmental regulation or any other cause
2 beyond the control of the Lessee which without
3 Lessee's fault renders unobtainable any labor,
4 materials or equipment necessary therefor or by
5 failure of Lessor or any third party including
6 without limitation any governmental authority,
7 within a reasonable time after request therefor and
8 without fault of the Lessee to approve or consent to
9 any matter for which such approval or consent is
10 required by any provision hereof or which approval
11 or consent is required in or contemplated by the
12 master plan, the time for completion thereof shall
13 be extended according to the duration and nature of
14 such delay.

15 Section 7.2.8. Non-Material Variances. Lessee in
16 the course of its planning, design, construction and
17 operation of the Premises shall not materially vary
18 from the provisions of the master plan as approved
19 by the Lessor; provided however, in consultation
20 with the General Manager of the Port Authority,
21 Lessee may vary from the terms of the Master plan
22 so long as such variations do not have any material
23 deleterious economic effect as to the rent to be
24 paid by Lessee hereunder or adversely affect the
25 public's or the Government of Guam's access or use

1 of the Premises. The parties may from time to time
2 by mutual agreement formally amend or modify the
3 approved master plan. Lessor agrees not to
4 unreasonably withhold, condition or delay, its
5 consent or agreement to any modifications or changes
6 requested by Lessee so long as such modifications or
7 changes do not adversely affect the public, or
8 Government of Guam's access or use of the Premises
9 or have a deleterious economic affect on the rent to
10 be paid by Lessee. Any change in the time tables as
11 set forth in the Master Plan as approved by Lessor
12 shall be considered a material variance.

13 Section 7.3. Demolition of Improvements. All costs
14 and expenses relating to the demolition of improvements
15 existing on the Premises as of the date of commencement
16 of this Lease, as well as the dredging, filling and
17 construction of any new improvements on the Premises
18 during the term of this Lease shall be borne by Lessee.
19 Lessee shall be responsible for obtaining all necessary
20 governmental land use, building and construction
21 licenses, permits, approvals, and consents for any
22 construction and use of the Premises. All construction
23 shall be performed in accordance with local building and
24 zoning codes and to the specifications of the master plan
25 submitted to and approved by Lessor.

1 Section 7.4. Existing Structures. The parties acknow-
2 ledge that the development of the Premises in accordance
3 with the plans of Lessee will require demolition of all
4 facilities existing on the Premises at the date of
5 execution of this Lease, which were constructed in the
6 past by governmental agencies. Lessor hereby transfers
7 and quitclaims to Lessee all of its right, title and
8 interest in and to all such facilities which were con-
9 structed on the Premises in the past by governmental
10 agencies. In the event that Lessee elects to destroy any
11 facilities quitclaimed hereby, the Lessor shall have a
12 right to salvage such materials as it may desire from
13 these structures, after Lessee has removed therefrom all
14 materials it will be using as part of the redevelopment
15 of the Premises.

16 Section 7.5. Existing Occupants. With regard to any
17 existing occupants with boats or doing business on the
18 Premises as of the date of execution of this lease
19 ("Occupants"), Lessee agrees to provide the same level of
20 service and provide the same access to marina facilities
21 as in existence at the time of execution of this Lease.
22 From and after the commencement date of this Lease, the
23 Lessee shall have the right to charge rent to all
24 existing Occupants at the rates currently charged by
25 Lessor upon the date of commencement of this Lease.

1 Lessee will not increase the rent or charges to any such
2 individuals until such time as the new marina docks are
3 ready for occupancy or in the case of business currently
4 operating on the land at such time new facilities are
5 ready for occupancy. Provided however, all Occupants
6 shall be on a month to month tenancy upon expiration of
7 any current leases and Lessee reserves the right to
8 relocate any of the occupants during the construction of
9 the Marina. Subject to the foregoing, Lessee will make
10 reasonable efforts not to disrupt the Occupants of the
11 Agana Boat Basin or their use of the Agana Boat Basin
12 during construction. However, during the course of
13 construction of new facilities, it is recognized that
14 there will be increase in the noise level, dust and
15 sediment in the water and nothing contained herein shall
16 give anyone not a party to this agreement any rights they
17 may not otherwise have by law. Occupants shall have the
18 opportunity to rent space in the new marina facilities
19 subject to such rules and regulations as may be adopted
20 by Lessee as approved by Lessor herein for operation of
21 the new marina facilities.

22 Section 7.6. Existing Government Facilities. All
23 present government operations located on the Premises at
24 the time of commencement of this Lease shall remain on
25 the Premises without payment of rent. Upon completion of

1 the Marina, Lessee will make available at no charge to
2 the Government of Guam, or its agencies and
3 instrumentalities, adequate space for the conduct of
4 governmental functions related to the health, safety and
5 welfare of the people of the Territory of Guam as would
6 normally be present at a marina of a similar size and
7 purpose. The amount and nature of such space is set
8 forth in Exhibit B.

9 Section 7.7. Warranty of Lessee. Lessee represents and
10 warrants to Lessor that it has adequate capacity and the
11 technical and business skill and ability to perform all
12 obligations herein imposed upon Lessee to diligently,
13 skillfully and successfully operate the Premises in order
14 that the same may be operated as contemplated under the
15 terms of this Lease.

16 Section 8. MANAGEMENT OF PREMISES.

17 Section 8.1. Interim Period. As an accommodation to
18 Lessor, Lessee will assume management of the Premises
19 upon approval of the Lease by the Legislature as provided
20 in Section 24 under the same rules and regulations of
21 Lessor as in effect on the date of commencement of the
22 Lease, unless otherwise amended as provided in Section
23 8.2. During this interim period, Lessee shall be
24 responsible at Lessee's cost to maintain and repair the
25 Premises in order to keep the Premises in at least as

1 good a condition as on the date the interim period
2 begins. Lessee shall assume all liability for the
3 Premises during the interim period except as otherwise
4 provided herein. During this interim period, Lessor
5 will, if possible, assist Lessee in maintaining the
6 existing insurance policy on the Premises at sole cost of
7 Lessee.

8 Section 8.2. Completion of Marina. Upon completion of
9 the Marina, Lessee may institute rules and regulations
10 for the use of the Marina as may be consistent with the
11 operation of public marinas of a similar size and nature,
12 provided such rules and regulations do not adversely
13 affect the public or the Government of Guam's access or
14 use of the Marina. Lessee will solicit comments from the
15 public and users of the Premises before implementation or
16 amendment of any rules, regulations or rates for use of
17 the Marina and Lessee agrees to hold a public hearing and
18 to give public notice of its intent to adopt new or amend
19 rules, regulations or rates thirty (30) days prior to the
20 date of the public hearing. Any such rules and
21 regulations shall be submitted to Lessor for review and
22 approval or disapproval. The review and approval by
23 Lessor shall be conducted in accordance with the Adminis-
24 trative Adjudication Law, Government Code of Guam §2400,
25 et. seq. and submitted to the Legislature in accordance

1 with law. Lessor and Lessee agree to use their best
2 efforts to begin the process of promulgation of rules and
3 regulations for the use of the Agana Boat Basin within
4 120 days of approval of this Lease by the Legislature.

5 Section 8.3. Inspection and Audit.

6 Section 8.3.1. Inspection of Premises. Lessor or
7 its agents shall have the right to enter the leased
8 Premises, buildings and improvements constructed
9 thereon at reasonable hours and upon reasonable
10 notice for the purpose of inspecting the same or for
11 any other purposes not inconsistent with the terms
12 or spirit of this Lease.

13 Section 8.3.2. Inspection of Records. Lessor and
14 its agents are hereby given the right to inspect
15 Lessee's books at all reasonable times in order to
16 ascertain gross operating revenues and sales of
17 assets. Lessee agrees to keep proper and up to date
18 books and records at all times showing the gross
19 operating revenues and sales of assets including the
20 reports that Lessee may be required to furnish to
21 any government agency (except to the extent such
22 reports are confidential by law) which shall at all
23 reasonable times be open to inspection of the Lessor
24 or its agents. Lessee agrees to give its reasonable
25 full assistance to Lessor or its agents in the

1 making of any inspection or examination of any such
2 books and records, and Lessor shall have the right
3 to make copies of all such records pertaining to
4 gross operating revenues and sales of assets as
5 Lessor may desire.

6 Section 8.3.3. Audit. Lessor may, at any time,
7 cause an audit of the gross operating revenues and
8 sales of assets to be made by an accountant to be
9 selected by Lessor, and if such audit discloses any
10 statement of gross operating revenues or sales of
11 assets made by Lessee to Lessor understate the
12 actual gross operating revenues or sales of assets
13 reported by any such audit, Lessee shall immediately
14 pay the cost of any such audit as well as any
15 additional rent payable by Lessee to Lessor plus
16 interest at the rate applicable to judgments of the
17 Superior Court of Guam; otherwise, the cost of such
18 audit shall be paid by Lessor. The access to
19 records shall be limited only to those records
20 reasonably necessary to determine the gross
21 operating revenues and sale of assets as defined in
22 Section 3.5 and 3.8.

23 Section 8.4. Maintenance. The Lessee agrees at its own
24 expense to keep and maintain the Premises, including, but
25 not limited to, grounds, buildings, furnishings, fixtures

1 and personal property, in good state of repair and first
2 class condition.

3 Section 8.5. Repairs. The Lessee agrees at its expense
4 to make all repairs to the Premises including, but not
5 limited to, buildings, improvements, including
6 electrical, plumbing, sewer, sewer connections,
7 structural and all other repairs that may be required to
8 be made on the Premises.

9 Section 9. INSURANCE AND BONDS. Lessee will procure at its
10 own expense and keep in force during the entire period of this
11 Lease policies of insurance with respect to said Premises with
12 any insurance company authorized to do business in the
13 Territory of Guam, naming the Lessor as an additional insured.

14 Section 9.1. Improvement Insurance. The Lessee at its
15 expense shall provide fire and extended coverage
16 insurance on the real property herein described and all
17 improvements (building and contents) thereon situated for
18 the benefit of the Lessor and the Lessee. Insurance
19 coverage to be at least 90% of the insurable value of
20 said real property and improvements. Copies of all
21 insurance policies shall be furnished the Lessor.

22 Section 9.2. Personal Property Insurance. The Lessee and
23 any sublessees, at their expense shall provide comprehen-
24 sive insurance (including but not limited to, fire, theft
25 and windstorm) on all personal property situated on the

1 leased premises, and replacement for the benefit of the
2 Lessor and the Lessee and must be in an amount to provide
3 full replacement cost of said personal property.

4 Section 9.3. Liability Insurance. The Lessee at its
5 expense shall provide comprehensive and all-inclusive
6 liability insurance for the benefit of the Lessor and the
7 Lessee in the amounts of \$1,000,000 bodily injury, and
8 \$1,000,000 property damage. The limits of liability as
9 set forth herein shall be reviewed by the parties from
10 time to time and may be adjusted by mutual agreement. If
11 the parties are unable to agree on the adjustment, the
12 matter shall be decided by arbitration as provided in
13 Section 14.

14 Section 9.4. Insurance Proceeds. In the event of
15 destruction or damage of any of the property covered by
16 insurance, the funds payable in pursuance of said
17 policies shall be deposited with a financial institution
18 authorized to conduct business in Guam (or other mutually
19 acceptable financial institution), as a trust fund, and
20 said funds shall be used for the purpose of
21 reconstruction or repair, as the case may be, of any of
22 the buildings, improvements or personal property so
23 damaged or destroyed. Such reconstruction and repair
24 work shall be done in strict conformity with the building
25 codes of Guam. Should the cost of reconstruction or

1 repair exceed the amount of funds available from the
2 proceeds of such insurance policy, then and in such
3 event, such funds shall be used as far as the same will
4 permit in paying costs of said reconstruction or repair,
5 and any difference shall be made up by the Lessee.

6 Section 9.5. Bonds. Lessee shall require any contractor
7 performing improvements on the Premises to furnish bonds
8 covering faithful performance of the construction and
9 payment of all obligations incurred in the course of said
10 construction.

11 Section 10. INDEMNITY.

12 Section 10.1. Lessee's Indemnification. Lessee will
13 indemnify and hold the Lessor harmless from and against
14 all claims and demands for loss or damage, including
15 property damage, personal injury and wrongful death,
16 arising out of or in connection with: the use or
17 occupancy of said Premises by the Lessee or any other
18 person claiming by, through or under the Lessee; or any
19 accident or fire on said Premises or any nuisance made or
20 suffered thereon, or any failure by the Lessee to keep
21 said Premises in a safe condition; or to observe and
22 perform any term covenant or condition herein contained;
23 and will reimburse the Lessor for all its costs and
24 expenses including reasonable attorneys' fees incurred in
25 connection with the defense of any such claims, and will

1 hold all goods, materials, fixtures, equipment, machinery
2 and other property on said Premises at the sole risk of
3 the Lessee and hold the Lessor harmless from liability
4 for loss or damage thereto by any cause whatsoever, and
5 will indemnify and hold the Lessor harmless from and
6 against all loss, costs and expenses, including
7 reasonable attorneys' fees with respect to any
8 attachment, judgment, lien, charge or encumbrance
9 whatsoever against said Premises made or suffered by the
10 Lessee or any person claiming by, through or under
11 Lessee. Provided, however, this indemnity shall not
12 apply to any claim, loss or damage resulting from,
13 arising out of or connected with any act or omission of
14 Lessor, the Government of Guam, its officers, employees,
15 agencies or other authorized representatives performing
16 Government operations on the Premises.

17 Section 10.2. Indemnification of Lessor. Lessor will
18 indemnify and hold Lessee harmless from and against all
19 claims and demands for loss or damage including property
20 damage, personal injury (including reasonable attorneys'
21 fees) and wrongful death arising out of or in connection
22 with: the use or occupancy of the Premises by Lessor or
23 the Government of Guam, its officers, employees, agencies
24 or authorized representatives (the "Government"); or any
25 accident or fire caused by the Government on the Premises

1 or any nuisance made or suffered thereon or any failure
2 by the Government to keep any portion of the Premises
3 occupied by the Government in a safe condition; and will
4 reimburse the Lessee for all its costs and expense
5 including reasonable attorneys' fees incurred in
6 connection with the defense of such claims, and will hold
7 all goods, materials, fixtures, equipment and machinery
8 and other property on any portion of the Premises
9 occupied by the Government at the sole risk of Lessor and
10 hold Lessee harmless from liability or loss or damage
11 thereto as a result of any Government operations on the
12 Premises.

13 Section 11. LIENS. Lessee, except as otherwise provided
14 herein, will not commit or suffer any act or neglect whereby
15 said Premises or any improvement thereon or the interest of
16 Lessor or Lessee therein shall at any time during said term
17 become subject to any attachment, judgment, lien, charge or
18 encumbrance whatsoever, and will indemnify and hold Lessor
19 harmless from all loss, cost and expense with respect thereto;
20 provided, however, that notwithstanding the foregoing, Lessee
21 shall not be required to pay or otherwise discharge any lien
22 which rises out of any violation of law that may exist on the
23 Premises as of the date of this Lease.

24 Section 12. WASTE, HAZARDOUS WASTE AND UNLAWFUL USE Lessee
25 will not at any time make or suffer any strip or waste or

1 unlawful, improper or offensive use of said Premises or cause
2 or permit any hazardous waste or substances as defined in 42
3 U.S.C. §9601, to be used or stored on the Premises; provided,
4 however, that the provisions of this paragraph shall not: (a)
5 prevent the demolition of any buildings and improvements
6 existing upon the Premises upon the commencement date of this
7 Lease and which Lessee otherwise has a right to demolish; (b)
8 apply to any hazardous waste or hazardous substances located
9 on the Premises as of the date of this Lease which would then
10 handled in accordance with Section 1.2; or (c) apply to any
11 conditions which may exist on the Premises as of the date of
12 execution of this Lease. Subject to the limitations set forth
13 in the proviso in the immediately preceding sentence, Lessee
14 will observe and comply with all laws, ordinances, rules and
15 regulations now or hereafter made by any governmental
16 authority for the time being applicable to or in connection
17 with the Premises or any improvement thereon or the use
18 thereof, and will indemnify the Lessor against all actions,
19 suits, damages and claims by whomsoever brought or made by
20 reason of the nonobservance or nonperformance of such laws,
21 ordinances, rules and regulations or of this covenant.
22 Provided however, Lessor will indemnify Lessee from any
23 liability, claims or damage of any nature whatsoever arising
24 out of or in any way connected with any toxic substances,
25 hazardous waste or unlawful use of the Premises existing at

1 the time of commencement of this Lease. Lessee will provide
2 for the safe and appropriate disposal of sewage, used
3 petroleum products and hazardous substances as per the
4 requirements of the Guam Environmental Protection Agency and
5 other concerned agencies or governmental authorities and, will
6 furthermore cooperate in the design of a contingency plan to
7 effectively address any occurrence of a toxic spill in the
8 harbor as a result of the operation of the Marina.

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

17 In the event of the taking or transfer of only a
18 portion of the Premises leaving the remainder in such
19 location, or in such form, shape, or reduced size as to render
20 the Premises to be not effectively and practicably usable for
21 the purposes provided in this Lease or otherwise impair the
22 economic viability of Lessee's use of the Premises in the sole
23 opinion of Lessee, at Lessee's sole option, this Lease and all
24 right, title and interest thereunder shall cease on the date

1 title of the Premises or the portion thereof so taken or
2 transferred vests in the condemning authority.

3 In the event of such taking or transfer of only a
4 portion of the Premises leaving the remainder in such location
5 and in such form, shape, or size as to be effectively and for
6 the purposes provided in this Lease practicably usable for the
7 purposes in this Lease and which does not impair the economic
8 viability of Lessee's use of the Premises in the sole opinion
9 of Lessee, this Lease shall terminate and end as to the
10 portion of the Premises so taken or transferred as of the date
11 title to such portion vests in the condemning authority, but
12 shall continue in full force and effect as to the portion of
13 the Premises not so taken or transferred. In such an event
14 the rent payable hereunder shall be reduced in proportion to
15 the area of the Premises taken.

16 It is understood and agreed by and between the
17 parties that all compensation and damages awarded for the
18 taking of all buildings and other improvements whatsoever on
19 the Premises or any portion thereof shall belong to and be the
20 property of Lessee; provided, however, Lessor shall be
21 entitled to receive an award and compensation from the
22 condemning authority (not Lessee) for the value of its
23 remainder interest in the Premises. Furthermore, Lessee shall
24 be entitled to the award for and on account of any cost or
25 loss Lessee may sustain in the removal of Lessee's fixtures,

1 equipment and furnishings from the Premises, or as a result of
2 any alterations, modifi-cations, or repairs which may be
3 reasonably required by Lessee in order to place the remaining
4 portion of the Premises not so condemned in a suitable
5 condition for the continuance of Lessee's tenancy, or on
6 account of any diminution in value of its leasehold estate
7 hereunder. All interested parties may independently file
8 separate claims in the condemnation proceedings for the
9 purpose of having the value of their respective claims
10 determined.

11 Section 14. ARBITRATION. All disputes and controversies of
12 every kind and nature between the Lessor and Lessee arising
13 out of or in connection with this Lease, the construction,
14 valid-ity, interpretation or meaning, performance, non-
15 performance, enforcement, operation, breach, continuance, or
16 termination thereof except matters set forth in Sections
17 17.1.1, 17.1.3 and 17.1.4 shall be submitted to arbitration
18 pursuant to the following procedure:

19 Section 14.1. Demand. Either party may demand
20 arbitration in writing within 30 days after the con-
21 troversy arises, which demand shall include the name of
22 the arbitrator appointed by the party demanding arbitra-
23 tion, together with a statement of the matter in con-
24 troversy.

1 Section 14.2. Appointment of Arbitrators. Within 20
2 days after such demand, the other party shall name its
3 arbitrator, or in default thereof, such arbitrator shall
4 be named forthwith by the Arbitration Committee of the
5 American Arbitration Association, and the two arbitrators
6 so selected shall name a third arbitrator within 15 days
7 or, in lieu of such agreement on a third arbitrator by
8 the two arbitrators so appointed, a third arbitrator
9 shall be appointed by the Arbitration Committee of the
10 American Arbitration Association.

11 Section 14.3. Costs. Each party shall bear his own
12 arbitration costs and expenses.

13 Section 14.4. Hearing. The arbitration hearing shall be
14 held at Agana, Guam or such other place as may be agreed
15 by the parties on 30 days' notice to the parties, the
16 arbitration rules and procedures of the American
17 Arbitration Association shall be incorporated by
18 reference therein, and the Federal Rules of Evidence
19 shall govern the presentation of evidence therein.

20 Section 14.5. Award. The arbitration hearing shall be
21 concluded within three days unless otherwise ordered by
22 the arbitrators and the award thereon shall be made
23 within 20 days after the close of the submission of
24 evidence. An award rendered by a majority of the
25 arbitrators appointed pursuant to this agreement shall be

1 final and binding on all parties to the proceeding during
2 the period of this agreement, unless appealed as provided
3 in Section 14.6.

4 Section 14.6. Appeal. Either party may appeal an award
5 of the arbitrators by instituting an action in the
6 Superior Court of Guam within thirty (30) days of the
7 date of the award. The review by the court shall be
8 based on the record before the arbitrators to determine
9 if the award is arbitrary or capricious.

10 Section 14.7. Construction. Nothing herein contained
11 shall be deemed to give the arbitrators any authority,
12 power, or right to alter, change, amend, modify, add to,
13 or subtract from any of the provisions of this Lease.

14 Section 15. ASSIGNMENT AND SUBLEASE.

15 Section 15.1. Assignment. Except as provided under
16 Section 16 below, Lessee shall not assign this Lease
17 without first having obtained the written consent of
18 Lessor and the Governor, which consent shall not
19 unreasonably be withheld. The sale or transfer by the
20 Shareholders of Lessee of at least 51% of the voting
21 stock of Lessee shall be considered transfer of the Lease
22 for the purpose of this Section. Lessor shall have the
23 right to determine the financial stability of any
24 assignee, and to make proper security check whether any
25 assignee has been convicted of a serious felony or crime

1 involving moral turpitude. In any event, Lessee may
2 assign this Lease without consent of Lessor to any
3 entity, business or venture in which the Lessee owns at
4 least a 25% interest. The Lessee shall also have the
5 right without the consent of but with consultation of
6 Lessor to assign all or a portion of Lessee's rights
7 under this Lease by way of mortgage under the conditions
8 set forth in Section 16 below.

9 Section 15.2. Subleases. Except for the main lease of
10 the entire premises between the Lessor and the Lessee,
11 Lessee may enter into subleases of portions of the
12 premises provided consent is obtained from the Lessor and
13 the Governor, which consent shall not unreasonably be
14 withheld, and provided further that any sublease is
15 expressly subject to the terms of the lease.

16 Section 16. MORTGAGE OF THE PREMISES. The Lessee, subject
17 to applicable law, shall have the right, without the necessity
18 of the consent of but in consultation with the Lessor to
19 mortgage Lessee's rights under this Lease provided if the
20 mortgage note is for a sum of more than eighty-five percent
21 (85%) of the value of the premises and the proceeds of any
22 such note shall be used for the improvement and development of
23 the Premises, then Lessor's written approval shall be
24 necessary prior to the execution of any mortgage. If so
25 requested by Lessee and by any Lender, Lessor will execute

1 such document or documents as are customary and reasonably
2 required to provide for the protection of an institutional
3 mortgagee as to the leasehold estate ("Mortgagee Protection
4 Documents"). Such Mortgagee Protection Documents would
5 include but not be limited to the matters set forth in Exhibit
6 "C" attached hereto. Shareholders of Lessee may also, without
7 consent of Lessor, pledge their interest in the stock of
8 Lessee to any bank or other financial institution to secure
9 any loan, the proceeds of which shall be used for the
10 improvement and development of the Premises.

11 Section 17 EVENTS AND CONSEQUENCES OF DEFAULT. Any one or
12 more of the following events shall constitute a default:

13 Section 17.1. Events of Default.

14 Section 17.1.1. Failure to Pay Rent. The Lessee
15 shall fail to pay the rent herein reserved or any
16 part thereof within fifteen (15) days after the same
17 becomes due, whether the same shall or shall not be
18 legally demanded; or

19 Section 17.1.2. Failure to Observe Covenants. The
20 Lessee shall fail to observe or perform any other of
21 the covenants herein contained and on the part of
22 the Lessee to be observed and performed, and such
23 failure shall continue for a period of thirty (30)
24 days after written notice thereof given by Lessor to
25 the Lessee. For the purposes hereof, no event of

1 default shall be deemed to exist under this Lease in
2 respect to the performance of work required to be
3 performed, or of acts to be done, or of conditions
4 to be remedied, if steps shall, in good faith, have
5 been commenced within the time permitted therefor to
6 rectify the same and shall be prosecuted to
7 completion with diligence and continuity; or
8 Section 17.1.3. Abandonment. The Lessee shall
9 abandon the demised Premises; or
10 Section 17.1.4. Bankruptcy. The Lessee shall become
11 bankrupt or insolvent, or seek protection under any
12 provision of the Bankruptcy Act, or if any
13 assignment be made of Lessee's property for the
14 benefit of its creditors, or if the Premises or any
15 part thereof shall be taken upon execution.
16 Section 17.1.5. Fraud. The Lessee shall knowingly
17 with intent to defraud Lessor understate the
18 revenues for the calculation of rent as provided in
19 Section 3.
20 Section 17.2. Remedies. In case of any such event of
21 default the Lessor may, upon the occurrence of such event
22 of default or at any time thereafter during the con-
23 tinuance of such default for a period of thirty (30) days
24 after written notice to Lessee, at its option, terminate
25 this Lease by giving written notice thereof to the

1 Lessee, and upon such termination the Lessor may then or
2 at any time thereafter re-enter the Premises or any part
3 thereof in the name of the whole and thereupon take
4 possession of the said Premises and all improvements
5 thereon and may expel and remove from the Premises the
6 Lessee and those claiming under the Lessee, and the
7 Lessee and its effects, without service of notice or
8 resort to any legal process and without being deemed
9 guilty of any trespass or becoming liable for any loss or
10 damage which may be occasioned thereby, or may then or at
11 any time thereafter bring an action for summary
12 possession of said Premises or any part thereof as
13 provided by law, all without prejudice to any other
14 remedy or right of action which the Lessor may have for
15 arrears of rent or for any preceding or other breach of
16 contract.

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

1 Section 19. FORCE MAJEURE. Lessee's performance is subject
2 to force majeure, and is contingent upon strikes, accidents,
3 acts of God, weather conditions, unavailability of labor in
4 Guam as certified by the Department of Labor , fire
5 regulations or restrictions imposed by any government or
6 governmental agency, or other delays beyond the control of the
7 Lessee.

8 Section 20. GOVERNMENT APPROVALS.

9 Section 20.1. Approvals Necessary. The parties under-
10 stand that the approval of several federal and
11 territorial governmental agencies shall be required
12 before work can be commenced for development of the
13 Premises as follows:

14 Section 20.1.1. Territorial. The Territorial
15 agencies are as follows: Territorial Land Use
16 Commission; Territorial Seashore Protection Com-
17 mission; Department of Land Management, Government
18 of Guam-Division of Aquatic and Wildlife Resources;
19 Government of Guam-Department of Parks and Recrea-
20 tion; Guam Environmental Protection Agency; Bureau
21 of Planning, Coastal Zone Management, Federal
22 Consistency Determination and Subdivision
23 Development Review Committee.

24 Section 20.1.2. Federal. The Federal agencies are
25 as follows: United States Army Corps of Engineers;

1 United States Environmental Protection Agency;
2 United States Fish and Wildlife Services; National
3 Marine Fisheries; and United States Coast Guard.

4 Section 20.2. Lessee Processing Approvals. Lessee agrees
5 upon or before the commencement date of this Lease to
6 submit appropriate applications to the governmental
7 agencies set forth in Section 20.1.2. plus any other
8 governmental agency claiming jurisdiction over any aspect
9 of the development of the Premises as may be required by
10 such agencies as may be necessary for such agency to
11 complete its review and approval of Lessee's development
12 of the Premises. Lessee agrees to diligently follow
13 through with each agency to obtain the required approvals
14 in a timely manner as may be consistent with each of the
15 above agencies' availability and schedule. However, the
16 timing and sequence of the filing with the agencies set
17 forth in Section 20.1 shall be at the sole discretion of
18 Lessee.

19 Section 20.3. Lessor's Cooperation. It is understood by
20 Lessor that Lessor's cooperation will be necessary in
21 many of the review processes of the agencies set forth in
22 20.1. and Lessor shall cooperate with Lessee in
23 connection with preparation of any applications, or
24 documents in support of such application and will support

1 such applications in any hearings or review by such
2 agencies.

3 Section 21. CONDITIONS PRECEDENT TO LESSEE'S PERFORMANCE

4 The parties understand that the development of the Agana Boat
5 Basin will be an expensive and time-consuming project and
6 further, such development will require the approval of several
7 governmental agencies before work can commence.

8 Section 21.1. Government Approvals. The approval of the
9 governmental agencies set forth in Section 20.1 and any
10 other governmental agency asserting jurisdiction over the
11 development of the Premises shall be a condition
12 precedent to Lessee's performance under the terms of this
13 Lease and if such approval is not obtained within a
14 reasonable time frame, the Lessee at its sole option and
15 discretion, may terminate this Lease by giving written
16 notice to Lessor.

17 Section 21.2. Cooperation of Guam Fisherman's Co-Op. It
18 is understood that the land currently occupied by the
19 Guam Fisherman's Co-Op and the services currently
20 provided by the Guam Fisherman's Co-Op are an important
21 aspect of the development of the Marina. In the event
22 Lessee is unable to reach an agreement with the Guam
23 Fisherman's Co-Op for relocation of its facilities or
24 otherwise acquire the land occupied by the Guam
25 Fisherman's Co-Op, Lessee may at its sole option waive

1 the necessity of having the cooperation or land of the
2 Guam Fisherman's Co-Op.

3 Section 22. MISCELLANEOUS PROVISIONS.

4 Section 22.1. Notices. Any notice of demand to Lessor or
5 Lessee provided for or permitted by this Lease may be
6 given sufficiently for all purposes in writing mailed as
7 registered or certified mail, addressed to such party at
8 the post office address herein specified or the last such
9 address designated by such parting in writing to the
10 other, or delivered personally to Lessor or Lessee, as
11 the case may be, and shall be deemed conclusively to have
12 been given on the date of such mailing or personal
13 delivery.

14 Section 22.2. Consents. As to any matter herein to which
15 the Lessor's consent is required, such consent shall be
16 made in writing and shall not be unreasonably withheld or
17 delayed, nor shall any compensation be required for such
18 consent. If such consent or denial of consent is not
19 forthcoming within the next two regularly scheduled and
20 held meetings of the Board of Directors of the Port
21 Authority of Guam after receipt by Lessor, the consent to
22 such matters so submitted shall be deemed to have been
23 granted.

24 Section 22.3. Attorneys' Fees. Should either party com-
25 mence any legal action or proceeding against the other

1 based upon this Lease or any provision hereof, including,
2 without limitation, this provision, the prevailing party
3 shall be entitled to an award of attorneys' fees, unless
4 otherwise prohibited by law.

5 Section 22.4. Further Assurances. The parties hereto
6 shall, whether before or after the date hereof, execute
7 and deliver such further instruments and do such further
8 acts and things as may be required to carry out the
9 intent and purposes of this Lease.

10 Section 22.5. Number and Gender. Whenever required by
11 the context hereof, the singular shall include the
12 plural, and vice versa, and the masculine gender shall
13 include the feminine and neuter genders, or vice versa.
14 All terms defined within quotation marks are as defined
15 whenever such terms are used herein.

16 Section 22.6. Captions. Captions at the beginning of
17 each paragraph are for convenience only and shall not be
18 deemed to be a part of any contents of this Lease.

19 Section 22.7. Binding Effect; Inurement to Successor.
20 Except as otherwise provided herein, this Lease and each
21 and every provision hereof shall be binding on and shall
22 inure to the benefit of the parties hereto, their
23 respective personal representatives, successors, heirs,
24 and permitted assigns, and to each and every successor-
25 in-interest of any party hereto.

1 Section 22.8. Severability. This Lease is intended to
2 be performed in accordance with and only to the extent
3 permitted by all applicable laws, ordinances, rules and
4 regulations of the Territory of Guam. If any provision
5 of this Lease or the application thereto to any person or
6 circumstances shall, for any reason and to any extent be
7 invalid or unenforceable, the remainder of this Lease and
8 the application of such provision to the other persons or
9 circumstances shall not be affected thereby, but rather
10 shall be enforced to the greatest extent permitted by
11 law.

12 Section 22.9. Governing Law. This Lease shall be
13 governed by and construed in accordance with the laws of
14 the Territory of Guam.

15 Section 22.10. Entire Agreement. This Lease contains the
16 entire understanding among the parties and supersedes any
17 prior or contemporaneous understandings or agreements
18 between them respecting the matters herein.

19 Section 22.11. Neither Party Deemed Drafter. Lessor and
20 Lessee agree that neither party shall be deemed to be the
21 drafter of this Lease and that in the event that this
22 Lease is ever construed by a court of law, such court
23 shall not construe this Lease or any provision of this
24 Lease against either party as drafter of the Lease.

1 Section 22.12. Amendment. This Lease may only be amended
2 by an instrument in writing signed by each of the parties
3 hereto subject to the approval of the Governor.
4 Section 22.13. Relationship of Parties. Nothing
5 contained herein shall be construed to constitute Lessee
6 as the agent of Lessor, or otherwise constitute Lessee as
7 an agency of the Government of Guam.
8 Section 23. LESSOR'S RIGHT OF FIRST REFUSAL. Should
9 Lessee, at any time during the term of this Lease or any
10 renewal or extension hereof, receive an acceptable bona fide
11 offer for the purchase of the Lease from any third party,
12 Lessee shall forthwith promptly submit such offer to Lessor
13 and Lessor shall be entitled for a period of ninety (90) days
14 after receipt of the offer within which to elect whether or
15 not Lessor will purchase the Lease on the terms and conditions
16 set forth in the offer. All offers must be bona fide and in
17 writing. Should Lessor elect not to purchase the Lease on
18 the terms and conditions specified in the offer, then Lessee
19 shall be free to sell the Lease, but only on the express terms
20 noticed and offered to Lessor. This provision shall be
21 binding upon all successors and assigns of Lessee, and shall
22 continue in full force and effect throughout the term hereof,
23 as may be extended. This Section shall be construed
24 independent of Section 15 and nothing contained in this

1 Section shall be construed to limit Lessor's rights regarding
2 approval of assignments as set forth in Section 15.
3 Section 24. LEGISLATIVE APPROVAL. It is understood that
4 under applicable law, this Lease must be approved or confirmed
5 by the Guam Legislature and the parties shall cooperate in
6 submitting this Lease for approval and in using their best
7 efforts and good faith to obtain such approval as promptly as
8 reasonably possible. The term of this Lease shall not
9 commence until legislative approval is obtained and the date
10 is provided in Section 2.1. Provided, however, that prior to
11 the date legislative approval is obtained, Lessee may, at its
12 sole risk and sole expense, enter upon and make any
13 investigations and tests it may deem necessary or appropriate
14 for its contemplated development of the Premises and Lessee
15 may, at its option, submit such plans and any other documents
16 which may be required hereunder for Lessor's approval. In the
17 event Lessee chooses to submit such documents, then time
18 periods required for approval hereunder shall commence as of
19 the date of submission of such documents. In the event any
20 required legislative approval is not obtained within a
21 reasonable period notwithstanding the efforts of the parties
22 then Lessee, in its sole discretion and its sole option, may
23 upon not less than ninety (90) days prior written notice to
24 Lessor, elect to cancel this Lease without penalty.

1 IN WITNESS WHEREOF, the parties hereto have executed
2 this Lease as of the date first above written.

3 LESSOR:

4 PORT AUTHORITY OF GUAM

APPROVED:

5

6

7 By: _____

8
9 Its Duly Authorized
10 Representative

JOSEPH F. ADA
Governor of Guam

11

12 LESSEE:

13

14 INTERNATIONAL DESIGN
15 CONSORTIUM, INC.

APPROVED AS TO FORM:

16

17

18 By: _____

19
20 Its Duly Authorized
21 Representative
22

ATTORNEY GENERAL OF GUAM

23

ATTEST:

24

25

26

27

28

FRANK F. BLAS
Lt. Governor of Guam

Introduced

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

DEC 28 '89

Bill No. 1034 (COR)

Introduced by:

Committee on Rules *H. Deikun*
At the request of the Governor

AN ACT AUTHORIZING THE PORT AUTHORITY OF GUAM TO ENTER
LEASE WITH INTERNATIONAL DESIGN CONSORTIUM, INC.

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

2 Section 1. With the written approval of the Governor the Port Authority of Guam
3 is authorized to lease the following property:

4 (a) Those portions of the Agana Boat Basin comprising a total of approximately
5 36.8 acres, as more fully shown on the map attached to the Lease as Exhibit "A";

6 (b) All existing landfill created by Lessor prior to the effective date of this Lease
7 together with all lands created hereafter during the term of the Lease by Lessee or its
8 designees by dredging or any other means within the Agana Boat Basin or other areas
9 approved in accordance with this Lease; and

10 (c) All rents, issues and profits of the Agana Boat Basin, submerged lands, and
11 any landfill, together with all buildings, improvements, rights, easements, privileges
12 and appurtenances thereto.