

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE
GUAM ECONOMIC DEVELOPMENT AUTHORITY

July 25, 2013

Call to Order

§1. The regular meeting of the Board of Directors of the **Guam Economic Development Authority** (referred to as “GEDA” or the “Authority”) was held July 25, 2013 at the hour of 1:30 p.m. at the Guam Economic Development Authority Conference Room, Fifth Floor Suite 511, ITC Building, Tamuning Guam. The meeting was called to order to consider several items on the agenda.

Attendance and Quorum

§2. Roll Call. As determined by the roll call, the following directors were present:

Directors:

Edward J. Calvo
Arlene P. Bordallo
George Chiu
David J. John
Monte Mesa

Offices or Positions:

Chairman
Secretary
Director
Director
Director

Absent and excused:

None

Also present were:

GEDA Officials:

Henry J. Taitano
Mana S. Taijeron
Janalynn Damian

Administrator
Deputy Administrator
GEDA Legal Counsel
(Calvo, Fisher & Jacob, LLP)

Diego Mendiola
Rachel Leon Guerrero
Mike Cruz
Carl Quinata

Real Property Assistant Manager
Loan Management Officer
Project Director
Industry Development Specialist

Christina D. Garcia

Acting Deputy Administrator /
Business Development Manager
Assistant Manager
Executive Assistant
Administrative Assistant
Real Property Manager
Accountant II

JoyJean Mantanona

Therese Santos

Larry Toves

Nico Fujikawa

Approval of Agenda

§3. The first item considered was approval of the agenda. On motion duly made by Director Chiu and seconded by Director Mesa, the agenda was unanimously approved.

Approval of Minutes

§4. The next item on the agenda was approval of the minutes of the June 5, 2013 special board meeting, June 13, 2013 regular board meeting and the correction to April 18, 2013 regular board meeting. Director Mesa inquired what the correction was for the April 18, 2013 board meeting. Mr. Lester Carlson explained that Greg Sablan was erroneously identified as the presenter for the Tereas loan, and it should be Lester Carlson.

On motion duly made by Director Mesa and seconded by Director Chiu, the to the minutes for the June 5, 2013 special meeting and June 13 regular meeting and correction to the April 18 regular meeting minutes were unanimously approved.

Communications

§5. The next item on the agenda was Communications. Administrator Taitano informed the board of Governor Calvo's June 26, 2013 letter appointing Director Edward J. Calvo as the Chairman of the Guam Economic Development Authority, pursuant to §50105 Chapter 50, 12 GCA.

On motion duly made by Director Mesa and seconded by Director John, the following resolution was unanimously approved:

Resolution No: 13-37

RESOLVED, that the Board ratifies Governor Calvo's appointment of Director Edward J. Calvo as Chairman of the Guam Economic Development Authority.

Next, the Board considered the vacancy of Vice Chairman position in light of Director Calvo's appointment as Chairman. On motion by Director Chiu to appoint Director David John as Vice Chairman of the Guam Economic Development Authority, seconded by Director Mesa, the following resolution was unanimously approved:

Resolution 13-38

RESOLVED, that the Board elects Director David John to serve as Vice Chairman of the Guam Economic Development Authority.

Old Business

§6. The next item on the agenda was Old Business. The item for discussion was the Lease of Former Tropical Color Building as presented by Larry Toves, Real Property Division Manager.

GEDA issued a Request for Proposals 13-001 (the "RFP") on December 6, 2012 to obtain a tenant for the former Tropical Color building. There were three (3) proposals submitted in response to the RFP by the closing date of December 28, 2012. Subsequent to ranking the proposals, GEDA staff prepared to negotiate with the first ranked offeror however, the offeror withdrew its proposal due to extenuating circumstances. GEDA staff then proceeded to negotiations with the second ranked offeror Thirty Nine, LLC ("39"). During the May and June Board meetings, the Board instructed GEDA staff to work with 39 in addressing and refining those concerns the Board had with regard to the type of Lease, Lease Term, escalation, use, and other items.

In an effort to address the Board's concerns, further negotiations between GEDA and Thirty Nine, LLC have led to the following:

- Tenant understands that this lease will be a Land Lease which includes the 3,648 square meter lot and 6,080 square foot building and will pay \$1.84/sm/month (\$6,712.32/month) for the property. A January 2013 appraisal indicates that current Fair Market Rental Value for the property is \$1.43/sm.
- For the first year of the lease Tenant will pay half of this rent to allow time to complete its renovations and obtain permits in order to begin operations. However, Tenant will also pay full rent upon commencement of operations if such occurs within the first year. Tenant's total initial investment into the property is approximately \$1.8M.
- The term of the lease is for a ten (10) year initial term with five (5) five-year options to extend.

- Rent escalation will be based on an appraisal using a 10% capitalization of the fair market value every 10 years. In addition to this, rent will never decrease below the rent for the prior term and will not increase more than 50% higher than the rent charged for the prior term.
- The Premises are to be used primarily for medical offices, an ancillary café, office space, retail business, and for all purposes that are permitted within an M-1 zone.
- Tenant agrees to pay to Landlord fifteen percent (15%) of the gross subrent of any sublease of the existing building.

Based upon the above, GEDA will be able to generate \$6,712.32 per month or \$80,547.84 per year.

GEDA staff recommends that the Board of Directors approve the selection of Thirty Nine, LLC as the tenant for the former Tropical Color building and authorize the Administrator to execute the lease agreement subject to final legal counsel review. For the Board's information, signatures from the Director of Land Management, the Attorney General and the Governor of Guam are required after GEDA approval to effectuate the ground lease.

After discussion, on motion duly made by Director Mesa and seconded by Vice Chairman John the following resolution was unanimously approved:

Resolution 13-39

RESOLVED, that the Board authorizes the Administrator to enter into a lease agreement with Thirty Nine, LLC for the former Tropical Color Building, subject to final legal counsel review. The lease shall include the following terms: Term will be for an initial term of ten (10) years with seven (7) five year options for a total of 45 years with all options exercised. Rent escalation will be based on an appraisal using a 10% capitalization of the fair market value (FMV) after the first 10 years and every five years thereafter upon execution of each lease option. In addition to this, rent will never decrease below the rent for the prior term and will not increase more than 50% higher than the rent charged for the prior term.

New Business

§7. The next item on the agenda was New Business. Mrs. Christina Garcia, Business Development Manager, submitted a request for an amendment to the marketing fund budget. Ms. Garcia explained that the request does not involve any budget increases. The purpose of the amendment

is to reallocate funds to support the Hong Kong Food Expo. On motion duly made by Director Mesa and seconded by Vice Chairman John, the following resolution was unanimously approved:

Resolution 13-040

RESOLVED, that the Board approves the amendment to the Authority's Marketing Budget as follows:

Hong Kong Food Expo – increase by \$10,000

Contingency Fund – increase by \$2,000

Korea Trade Mission – decrease by \$12,000.

Reports

§8. The next item on the agenda is Division Reports. Mrs. Claire Cruz, Programs and Compliance Manager, informed the Board that no action was needed on the Core Tech Affordable Housing QC issues, as the issue has been resolved.

Mr. Larry Toves, Real Property Division Manager, provided an update on the HOT Bonds projects. First for item for discussion was the MOU with the Guam Preservation Trust for additional funding in support of rehabilitation/reconstruction activities at Plaza de Espana (the "Plaza").

GEDA and Southeastern Archaeological Research ("SEARCH") executed Task Order No. 2 (\$10K) in November 2012 for SEARCH to provide archaeological consultation services during design and construction work at the Plaza.

The services provided by SEARCH under Task Order 2 at the Plaza have consisted of: 1) consultation with the Guam State Historic Preservation Office ("SHPO") to define the project's area of effect and specific archaeological methods to be applied during rehabilitation/reconstruction work; 2) preparation, submittal, and finalization of a detailed research design (work plan); 3) consultation with SHPO and RWA regarding post-permit revisions to site electrical layouts; and 4) archaeological monitoring of subsurface disturbance related to rehabilitation/reconstruction activities.

The SHPO reviewed and approved the overall project design plans in late 2012, and also received for review in early 2013 the aforementioned archaeological research design (work plan) prepared by SEARCH. Reliable Builders ("Reliable") commenced actual rehabilitation/reconstruction activities in January 2013. During SHPO's review of the Underground Clearance Permit

Application in April 2013, design revisions were requested involving the site electrical layout. Complying with the request will result in additional design costs. SHPO has further requested an expansion of the archaeological monitoring and data recovery efforts at the site. These expanded efforts are in addition to the protocols in the previously approved Research Design (Work Plan) and relate to any area at the project site that is subjected to subsurface disturbance including locations of: drainage trenches, electrical trenches, light post installations, and structural foundation repair. Expanded archaeological effort to comply with SHPO will also include controlled “pre-excitation” treatment that is typically done by hand and in measured dimensions. SHPO’s final request relates to the full removal of a large tree adjacent to one of the site’s historic structures, the Garden House. Full removal of the tree is required due to structural impacts from its root system and the threat posed to the structure from its extensive overhead canopy.

Rehabilitation/reconstruction activities by Reliable have been underway for multiple months. Work sequencing has progressed to the stage wherein electrical installation must commence; therefore the electrical redesign must commence and conclude immediately. Subsurface excavation work – associated with both the site electrical distribution and other subsurface repairs and construction – requires expanded archeological support be available immediately. Lastly, removal of the tree adjacent to the Garden House is also on a critical schedule path as work on the Garden House roof has been delayed due to the overhead tree canopy.

The additional and unbudgeted cost to complete these three activities is as follows: (1) Electrical Engineering Re-design (\$10,000); (2) Expanded Archaeological Support (\$55,000); and (3) Tree Removal (\$40,000). RWA and Reliable have negotiated the fee to complete the electrical engineering re-design and the fee to cut and remove the target tree. Similarly, RWA and SEARCH have negotiated the time and materials (not to exceed) fee for the expanded archaeological services which will include scheduled and on-call field monitoring, controlled pre-excavations of specific site areas, and data recovery of archaeological artifacts of potential significance.

To address the total \$105,000 fee impact to the project, RWA and GEDA staff has entered into discussions with the Guam Preservation Trust (“GPT”) whereby project assistance will be requested by GEDA from GPT. Assistance from GPT will be memorialized through a Memorandum of Understanding (“MOU”) between the two organizations if the request is approved by GPT. It is anticipated that formal GPT consideration of this request would occur at the upcoming August 2013 GPT Board meeting. Notwithstanding GPT’s potential consideration in August, construction scheduling dictates that continued archaeological field support be available in the interim time period. Accordingly, \$20,000 funding currently allocated for construction management

services at the Plaza has been identified as a sum available for reallocation to archaeology expenses, in advance of GPT action.

As advised by RWA, GEDA staff recommends that the Board authorize the Administrator to execute an MOU with the GPT in which GPT will provide up to \$105K to supplement HOT Bond funding for the Plaza project, subject to final review of the MOU by legal counsel. In addition, Staff further recommends that the Board of Directors: (1) authorize the Administrator to execute a First Amendment to the Construction Contract with Reliable in the amount \$50,000 for electrical re-design and tree removal activities and (2) authorize the Administrator to execute a First Amendment to Task Order No. 2 with SEARCH in the amount of \$55,000 for archaeological support activities. Should GPT funding assistance be delayed preventing the Administrator's execution of Task Order 2 with SEARCH, the Board authorizes the Administrator to utilize \$20K in HOT Bond funding for archaeological services. Documentation of the foregoing amendments shall be subject to final review by legal counsel. Thereafter, BBMR, AG and Governor approvals will be obtained as necessary.

After discussion, on motion duly made by Director Mesa and seconded Director Chiu the following resolution was unanimously approved:

Resolution 13-041

RESOLVED, that the Administrator is authorized to enter into a Memorandum of Understanding with the Guam Preservation Trust (GPT) under which GPT will provide up to \$105,000 to supplement HOT bond funding for the Plaza project, subject to final review of the MOU by legal counsel. In addition the Administrator is authorized to execute a First Amendment to the Construction Contract with Reliable Builders in the amount \$50,000 for electrical re-design and tree removal activities and authorized to execute a First Amendment to Task Order No. 2 with SEARCH in the amount of \$55,000 for archaeological support activities.

Should GPT funding assistance be delayed preventing the Administrator's execution of Task Order 2 with SEARCH, the Administrator is authorized to utilize \$20,000 in HOT Bond funding for archaeological services. Documentation of the foregoing amendments shall be subject to final review by legal counsel.

The second item for discussion was Task Order No. 5 – Archaeological Survey Investigation and Archaeological Monitoring Services for the Guam Farmer's Cooperative Association (GFCA) Facility and Relocation of the Dededo Flea Market (the "Project").

As approved by the Board, GEDA and Southeastern Archaeological Research, Inc. (SEARCH) entered into a contract on September 10, 2012 to provide archaeological services for the HOT Bond projects. As a condition for issuing a building permit for the Project, the Guam State Historic Preservation Office ("SHPO") requires that an Archaeological Survey Investigation be performed to identify the potential presence of archaeological assets at the Project site. Further, the SHPO requires on-site monitoring of site preparation and construction activities that disturb the subsurface if the archaeological survey investigation identifies potential artifacts at the Project site. Previous Board-approved Task Orders 1 – 4 were for the GCEF, Plaza de Espana, and Inarajan Community Center projects.

Under the contract with Architects Laguana, LLC, Project design activities are underway and rapidly progressing. However, completion of the engineering design for the foundations of the GFCA facility and all paved surfaces at the site requires a geotechnical investigation, and site clearing must be performed to provide access for the geotechnical equipment. SHPO authorization of the site clearing is contingent upon SEARCH's completed Archaeological Survey Investigation. Thus, the Archaeological Survey Investigation is on a critical schedule path if the total design is to be completed in September 2013, as currently planned.

To obtain archaeological services during design and construction, GEDA has budgeted \$39,000. RWA and SEARCH have negotiated a fixed fee of \$15,286 to conduct the Archaeological Survey Investigation. SEARCH has also provided a not-to-exceed hourly rate for on-site, on-call field archaeological monitoring services; this rate is consistent with the September 10, 2012 contract. On-call monitoring services will be performed only if necessary and not without prior GEDA authorization. It is therefore estimated that the budgeted amount of \$39,000 will adequately fund the required investigation study and potential monitoring services during construction. Fees for additional archaeological work that may be required by SHPO, should significant archaeological remains be uncovered during the field phases of work, are not included in the above estimate.

As advised by RWA, GEDA staff recommends that the Board approve Task Order No. 5 in the amount of \$39,000 for SEARCH to conduct the Archaeological Survey Investigation and on-call field monitoring services for the Project. Staff also recommends that the Board authorize the Administrator to execute the Task Order upon final review by legal counsel. Thereafter, BBMR, AG and Governor approvals are required.

After discussion, on motion duly made by Director Chiu and seconded by Director Mesa, the following resolution was unanimously approved:

Resolution 13-042

RESOLVED, that the Board approves Task Order No. 5 in the amount of \$39,000 for SEARCH, Inc. to conduct the Archaeological Survey Investigation and on-call field monitoring services for the Guam Farmer's Cooperative Association and Dededo Flea Market project, and authorizes the Administrator to execute the Task Order upon final review by legal counsel.

There was further discussion by the Board on protocol for Board approval of task orders and change orders that are within budget. The Board discussed that it was unnecessary for staff to seek Board approval for task orders and change orders that are within budget.

After further discussion, on motion duly made by Director Chiu and seconded by Director Mesa, the following resolution was unanimously approved:

Resolution 13-043

RESOLVED, that the Board authorizes the Administrator to approve Task Orders and Change Orders for the various HOT Bond projects so long as said Task Orders and Change Orders are within the project budget as presented to the Board. Any Task Orders or Change Orders that exceed budgeted amounts must be brought to back to the Board for approval.

Next on the agenda is the Administrator's Report. Mr. Taitano requested that the Board approve changes to the Authority's organizational chart. Administrator Taitano explained that the change reflects the absorption of the loan division into the compliance division. The Authority is not adding a new division just enhancing the powers of some division and flexibility.

After discussion, on motion duly made by Director Chiu and seconded Vice Chairman John, the following resolution was unanimously approved:

Resolution 13-044

RESOLVED, that the Board approves the Authority's new Organizational Chart as presented during the meeting and attached hereto as Attachment A.

Public Comments

§9. The next item on the agenda is public comments. There were none.

Adjournment

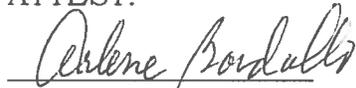
§10. There being no further business to address before the Board, on motion duly made by Director Mesa and seconded by Director Chiu at 2:46pm the Board unanimously voted to adjourn the meeting.

Dated this 24th day of September, 2013



Edward J. Calvo
Chairman

ATTEST:



Arlene P. Bordallo
Secretary