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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF GUAM

UNITED STATES OF AMERICA

Plaintiff,

v.

GOVERNMENT OF GUAM,
Defendant.

CIVIL CASE NO. 02-00022

**SPECIAL REPORT RE:
STATUS OF COMPENSATION
TO FORMER LANDOWNERS OF
ORDOT PROPERTY AND
RESOLUTION OF GOVERNMENT
CLAIM**

This Special Report is filed to advise the Court of a proposed settlement in two separate matters. A proposed settlement has been reached for the taking of Lot Number 3434, a parcel of land in the Municipality of Ordot-Chalan Pago in the Territory of Guam (“Lot 3434”) for the amount of \$870,000 payable to the Estate of Antonio Camacho Bautista. A stipulated judgment delineating the settlement amount will be prepared and be subject to the Superior Court’s approval.

As we previously reported to this Court, the Superior Court of Guam dismissed the eminent domain proceeding regarding Lot 3434 without prejudice and found that a land registration proceeding was the better forum to determine size and ownership of Lot 3434. We further reported that legal counsel was preparing to initiate the land registration proceeding as directed by the Superior Court. However, in subsequent discussion with the Attorney General of Guam, the Office of the Attorney General did not recommend the filing of a land registration action for Lot #3434. We were also advised by the Attorney General that the Department of Land

1 Management has confirmed that the Government of Guam does not own Lot #3434. Given these
2 developments and with the Receiver's concurrence, the Attorney General proceeded with
3 settlement discussions based on the 2013 valuation.

4 It was necessary to acquire Lot 3434 for the closure of Ordot Dump. Under Guam law,
5 just compensation in a partial taking case includes the fair market value of the land taken, plus
6 damages to the remainder, plus compounded interest on any amount awarded over and above the
7 estimated just compensation deposited in court upon the filing of the declaration of taking. The
8 date of taking was July 8, 2013, and the appraised value of Lot 3434 based on an area of 135,005
9 square meters was \$870,000.00 (or \$6.44 per square meter) at the date of take. Given the
10 appraised value and the full support of the settlement amount by the Government of Guam, the
11 Receiver believes the settlement amount stated to be a fair and reasonable amount.

12 A proposed settlement has also been reached in Superior Court case captioned *Maeda*
13 *Pacific Corporation vs. Guam Solid Waste Authority*, Guam Superior Court Case No. CV0225-
14 16 ("Government Claim") for liquidated damages against Maeda Pacific Corporation of
15 \$298,091.39 for the construction of the Harmon Household Hazardous Waste Facility. A
16 stipulated judgment delineating the settlement terms will be prepared and be subject to the
17 Superior Court's approval.

18 As previously reported, the Receiver sought to enforce contractual liquidated damages
19 against Maeda Pacific Corporation for delays in substantial completion. Under Guam law, the
20 liquidated damages are enforceable when it would be difficult for the parties to estimate or for
21 the nonbreaching party to prove, and the sum agreed upon is designed to compensate the non-
22 breacher for the other party's failure to perform. Guam courts have also upheld liquidated
23 damages in the construction context, but acknowledged that liquidated damages should stop
24 accruing upon substantial completion. Given the delay in substantial completion and Guam law
25 on liquidated damages, the Receiver believes liquidated damages of \$298,091.39 is reasonable.

26 Respectfully submitted this 9th day of March, 2018.

27
28 /s/ Vanessa L. Williams
VANESSA L. WILLIAMS, ESQ.