

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT ("Agreement") is made and entered into on the date indicated below by and between Ken Yoshida ("Employee") and **PORT AUTHORITY OF GUAM** ("Management") whereby both parties release and discharge all rights, claims and demands upon the terms and conditions provided herein.

RECITALS

WHEREAS, Employee filed an adverse action appeal of his termination from employment with the Port Authority of Guam titled *Ken Yoshida vs. Port Authority of Guam*, Civil Service Commission Case No. 14-AA32T; and,

WHEREAS, Employee and Management desire to amicably resolve the adverse action appeal through this Agreement, and any and all claims related thereto, whether filed or unfiled, asserted or unasserted, threatened or not, known or unknown to exist without any admission of wrongdoing by any party; and,

WHEREAS, Employee and Management agree that the terms of this Settlement Agreement are a personnel matter and privacy hereof is required to be preserved such that this Settlement Agreement shall be confidential and only disclosed by the parties as law or lawful order may require or as necessary to enforce the rights of either party hereunder; and,


WHEREAS, the Staff Attorney of the Port Authority of Guam has been authorized to offer settlement terms to Employee, and the General Manager of the Port Authority of Guam is authorized to execute this Agreement following its execution by Employee;

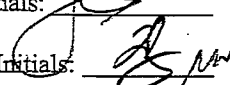
NOW, THEREFORE, Employee and Management agree to end and terminate the Litigation upon the following terms and conditions:

TERMS AND CONDITIONS OF AGREEMENT

1. Employee and Management shall enter into a Stipulated Judgment to be entered by the Civil Service Commission of the Government of Guam, by which Employee's appeal of the adverse action taken against Employee by Management shall be fully resolved, without disclosure of the terms of this Settlement Agreement, unless and until such time as either party may determine in good faith that it is necessary to enforce the terms of this Settlement Agreement or if required by law or lawful order. Employee and Management agree that the Civil Service Commission shall retain jurisdiction

CONFIDENTIAL SETTLEMENT AGREEMENT between
KEN YOSHIDA and PORT AUTHORITY OF GUAM

Employee's Initials: 

Management's Initials: 

to enforce the Stipulated Judgment.

2. Management agrees to rescind the adverse action taken against Employee and reinstate Employee to the position of Equipment Operator II, at the Transportation Division, earning \$21.75 per hour, and with all benefits, rights, privileges, obligations, duties and responsibilities related to such employment within the government of Guam according to the laws of Guam, and the Personnel Rules and Regulations of the Port Authority of Guam. Employee shall be reinstated effective March 16, 2020 or soonest practicable thereafter.

3. Management and Employee agree that Employee shall be compensated for 3 years' salary together with that Employee would have earned had the adverse action not been taken against Employee (hereinafter referred to as "Back Wages"). As of the date of this Agreement, Back Wages are calculated to be \$115,233.60. Management shall deduct from Back Wages and make payment to the government of Guam Retirement Fund for Employee's share of retirement fund contributions in amounts that restore Employee to what Employee would have contributed or paid had Employee remained in employment at the Port Authority of Guam (along with Management's matching contribution); Medicare; and all applicable taxes and withholdings. Employee's Back Wages shall be payable in three installments: \$38,027.09 on or around March 16, 2020; \$38,027.09 on or before June 30, 2020, and \$39,179.42 on or before February 7, 2021. Management agrees that any payment deferred hereunder shall become immediately due and payable to Employee upon termination of Employee or resignation by Employee, should such event occur before the date that any payment provided hereunder is due.

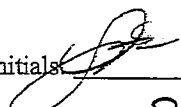
4. Management shall restore to Employee credit for 5 years' annual leave that Employee would have accrued, had he remained in employment at the Port Authority of Guam.

5. Management shall restore Employee credit for 5 years' sick leave, that Employee would have accrued, had Employee remained in employment at the Port Authority of Guam.

6. Management agrees to expunge Employee's record of his termination and the adverse action upon which it is based pertaining to the Litigation.

7. It is stipulated and acknowledged that each party hereto has read and understands the meaning of each term of this Settlement Agreement, that this Settlement Agreement is made without duress or undue influence of any kind, and that each Employee and Management are aware of their respective rights, and each has had a full and fair opportunity, to consult with their or its own legal counsel or representative or seek legal advice in negotiating, executing and understanding the

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legal effect of this Release and this Agreement.

8. It is intended by the parties, each of them, that this Settlement Agreement is complete and shall not be subject to any claim of mistake of fact or law. This Agreement has been carefully reviewed by all parties, each of whom has had an opportunity to participate in its drafting by making changes, additions, or deletions. This Agreement expresses a full and complete settlement of liability claimed and denied as against the one party may assert against the other party. Other than what is specifically stated in this Agreement, no other promises of any kind have been made by any party to this Agreement, and regardless of the adequacy or inadequacy of the consideration exchanged, this Agreement are intended to avoid litigation and to be final and complete in full.

9. Upon execution of this Agreement, the Port and Employee, on behalf of themselves and of any and all natural and non-natural persons or governmental instrumentality who may succeed in respective interest of the Port or of Employee (all such parties are hereinafter collectively referred to as "Releasers") hereby mutually release any and all claims and forever discharge one another, together with each of their respective employees, agents, spouses, heirs, executors, administrators, directors, officers, insurers, successors and assigns as well as all other persons or entities (collectively "Releasees") of and from any and all legal liability, claims, obligations, demands, damages, actions and causes of action of every kind, arising out of or in any way connected with their employment relationship to date, including without limitation, those claims which were raised or might have been raised in the Litigation, whether currently known or unknown, and whether knowable or unknowable.

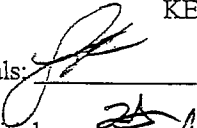
Further to this Paragraph 9, both Employee and Management, hereby waive any and all rights under Title 18 Guam Code Annotated Section 82602, which has been fully explained to the party by the party's own attorney or representative, which states as follows:


Section 82602. Certain claims unaffected by general release. A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor. [Source: 18 Guam Code Annotated § 82602.]

10. The RECITALS stated herein are part and parcel of this Release and Agreement; and they accurately express the claims and intentions of the Parties.

11. It is agreed and stipulated by the Parties that the consideration for this Release and Agreement is a fair and reasonable settlement, and that this Release and this Agreement are made in good faith.

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Employee's Initials: 

Management's Initials: 

12. Should either party bring suit in court to enforce any of the terms of this Release or this Agreement, it is agreed that the prevailing party will be entitled to reasonable attorney fees and costs.

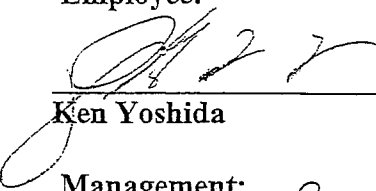
13. Any Party who has to enforce this Agreement may disclose only such parts of it as are necessary to enforce its terms.

14. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

The undersigned are hereinafter bound to this Release and this Agreement under the terms and conditions stated herein:

Employee:

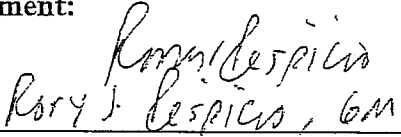
Dated: Feb 20, 2020



Ken Yoshida


Management:

Dated: Feb. 24, 2020



**GENERAL MANAGER FOR PORT
AUTHORITY OF GUAM**

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KEN YOSHIDA and PORT AUTHORITY OF GUAM

Employee's Initials: 

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Management's Initials: 

ACKNOWLEDGEMENTS

_____))
CITY OF _____) ss:

On this _____ day of January 2020 before me, a Notary Public in and for Guam, personally appeared Employee KEN YOSHIDA, known to me to be the person whose name is subscribed to the foregoing **SETTLEMENT AGREEMENT** and acknowledged to me that he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above-written.

) S E A L (

NOTARY PUBLIC

gmmml
ELIZABETH D. CENA
NOTARY PUBLIC
In and for Guam, U.S.A.
My Commission Expires: DEC. 12, 2021
P.O. Box 24805 Barrigada Guam 96921

TERRITORY OF GUAM)
VILLAGE OF HAGATNA) ss:

On this 24th day of January 2020, before me, a Notary Public in and for Guam, personally appeared A DULY AUTHORIZED REPRESENTATIVE FOR THE PORT AUTHORITY OF GUAM, whose name is subscribed to the foregoing **SETTLEMENT AGREEMENT** and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above-written.

) S E A L (

[Signature]

NOTARY PUBLIC

CONFIDENTIAL SETTLEMENT AGREEMENT between
KEN YOSHIDA and PORT AUTHORITY OF GUAM

Employee's Initials: *[Signature]*
Management's Initials: *[Signature]*

SONIA SILIANG
NOTARY PUBLIC
In and for Guam, U.S.A.
My Commission Expires: JULY 11, 2020
PMB 949, 1270 N Marine Corps Dr. Sta. 101 Tamuning, Guam 96913