

BOARD OF DIRECTORS

Dorothy P. Harris, Chairperson

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Resolution No. 2024-16

**RELATIVE TO AUTHORIZING THE GENERAL MANAGER
TO ISSUE A MULTI-STEP INVITATION FOR BID FOR THE
PROCUREMENT OF STS GANTRY CRANES.**

**BE IT RESOLVED BY BOARD OF DIRECTORS OF THE JOSE D. LEON GUERRERO
COMMERCIAL PORT:**

WHEREAS, after the passage of Public Law 30-57 in September 2009, which approved the 2007 Port Master Plan Update and mandated the Port Authority of Guam (PAG) to acquire two gantry cranes by December 31, 2012, the Port successfully acquired and deployed POLA cranes as mandated. However, since these cranes were purchased used (originally manufactured in 1983-1984), they are nearing the end of their second service life, necessitating urgent replacements to maintain operational capacity and national security; and

WHEREAS, the Board acknowledges the crucial role of the Port's Ship-To-Shore (STS) Gantry Crane infrastructure in maintaining operational efficiency and supporting national security amidst rising geopolitical tensions in the Indo-Pacific region; and

WHEREAS, the procurement of three new STS gantry cranes is critical to enhancing the Port's cargo handling efficiency and operational readiness in Guam's local and regional maritime industry. The Guam DoD Master Plan Part 1B Government of Guam Gap Analysis and Execution Plan (hereafter referred to as the "DoD's Gap Analysis Report") underscores the urgent need for these cranes to support U.S. Department of Defense (DoD) operations, prevent delays in military activities, and address potential bottlenecks as the military buildup continues; and

WHEREAS, the specifications for these new STS gantry cranes will include technical features to meet the Port's operational demands, including Panamax crane capabilities, storm tie-downs, and rail and wharf integration to ensure optimal efficiency and resilience during extreme weather events; and

WHEREAS, given the pressing need for crane replacements, the Board of Directors of the Port Authority of Guam, through the adoption of Board Resolution 2024-01, authorizes the Port to pause its Hotel Wharf construction project to prioritize the procurement of these critical assets, reallocating resources as necessary to ensure the Port remains operationally resilient; and

WHEREAS, while federal funding for domestic crane manufacturing is part of President Biden's long-term infrastructure plan, the Port of Guam's need for new gantry cranes is immediate and cannot wait for the full realization of these initiatives; and

WHEREAS, the Buy American provisions under President Biden's executive orders emphasize sourcing equipment with significant domestic content, promoting the purchase of American-made or trusted-partner-manufactured cranes to support U.S. economic and security interests; and

WHEREAS, although the US Department of Transportation (USDOT) issued a temporary general applicability public interest waiver of the Build America, Buy America (BABA) preferences for iron, steel, manufactured products, equipment, and construction materials for Pacific Island Territories funded by USDOT or Maritime Administration (MARAD) grant programs, the waiver did not apply to purchases of STS gantry cranes; and

WHEREAS, recent U.S. Coast Guard regulations and President Biden's cybersecurity executive orders highlight the vulnerabilities of foreign-manufactured cranes, particularly Chinese-made cranes, due to risks of cyber exploitation. These orders mandate strict cybersecurity controls, including forensic analysis, to ensure that any new cranes meet these enhanced security requirements; and

WHEREAS, the Port has actively collaborated with WSP, the Port's Owner Agent, and its subcontractor Lift Tech, along with personnel from the Equipment Maintenance Division and management, over the past two years to develop specifications for the new gantry cranes, including a detailed tie-down plan in coordination with the Port's CIP/Engineering Division to ensure the cranes meet the operational and environmental demands of the Port; and

WHEREAS, the Port's staff attorneys, Procurement & Supply division, and Planning division, along with General Manager Rory J. Respicio, Governor Lou Leon Guerrero, and Lt. Governor Joshua Tenorio, continue to actively pursue federal funding opportunities, including from the U.S. Department of Defense (DoD), to support the acquisition and infrastructure needs associated with the procurement of new gantry cranes; and



WHEREAS, the DoD's Gap Analysis Report continues to emphasize the urgent need to replace aging gantry cranes at the Port of Guam, identifying these projects as essential to maintaining the Port's operational capacity and preventing delays in DoD activities; and

WHEREAS, the report further emphasizes the importance of overall port readiness and identifies the need for a fourth gantry crane and additional yard space to support increased throughput and avoid bottlenecks as the military buildup continues, highlighting that the Port's infrastructure improvements are essential for both military and commercial operations; and

WHEREAS, ongoing efforts to secure necessary waivers—such as those related to Buy American requirements and restrictions on purchasing from China—from the DoD and other federal partners must continue, as this resolution does not suggest that the Port of Guam is free from these funding and regulatory challenges; and

WHEREAS, the Port is actively coordinating with FEMA and the DoD, while continuing to pursue alternative federal funding options. The financial burden of these critical infrastructure upgrades cannot be placed solely on the Port, and the DoD must take an active role in securing funding. Failure to replace the three STS gantry cranes would have catastrophic consequences for both military and commercial operations, as outlined in the DoD's Gap Analysis Report; and

WHEREAS, to be clear, any representations made by FEMA regarding crane replacement in the aftermath of Typhoon Mawar did not come with any funding, but rather strong advocacy, which was reflected in the DoD's Gap Analysis Report and may have given the DoD the impression that FEMA would be able to provide the funding; a coordinated funding approach is essential; and

WHEREAS, for reporting and documentation purposes, the Port has actively pursued federal funding through various agencies, including the U.S. Department of Transportation's MARAD, the DoD, and the Office of Local Defense Community Cooperation's DCIP program, but has so far faced challenges in securing funds due to non-conformance with Buy American requirements; and

WHEREAS, the Port of Guam plays an essential role in the U.S. military's Indo-Pacific Strategy, serving as a critical logistics hub in the region. The successful replacement of the aging gantry cranes is vital to maintaining Guam's strategic position and ensuring the continued support of military and commercial operations across the Indo-Pacific; and

WHEREAS, the multi-step invitation for bids for the procurement of these cranes shall be structured to include pricing packages for one crane plus shipping, two cranes plus shipping, and three cranes plus shipping. A fourth crane is identified as necessary for increased capacity and future-proofing, as highlighted in the DoD's Gap Analysis Report. This structure will allow the Port to assess how many cranes it can afford based on available funding while ensuring scalability for future needs; and

WHEREAS, it is recognized that the Port may have funding constraints that could limit its ability to purchase more than one crane; should the bid process identify a crane supplied by a manufacturer in the People's Republic of China (PRC) as the most responsive, responsible, and lowest bidder, the Port would need to evaluate such a bid in accordance with applicable statutes and funding requirements; however, if the Department of Defense were to provide the funds for purchasing three gantry cranes, it is anticipated that federal funding restrictions would preclude the Port from acquiring any PRC-made cranes; and

WHEREAS, it would be both reckless and a dereliction of duty not to pursue every possible option to purchase at least three, and potentially four, Ship-To-Shore (STS) gantry cranes at once, as failing to do so would critically undermine the Port's operational resilience and strategic importance, potentially leading to:

- Reduced operational capacity during peak cargo seasons or increased military activity, leading to delays in commercial and military operations.
- Increased maintenance costs from continued reliance on aging cranes, offsetting short-term savings.
- Lost economies of scale, with staggered purchases resulting in higher individual costs for cranes, shipping, and installation.
- Vulnerability to future price fluctuations for materials and manufacturing, potentially increasing costs if cranes are procured later.
- Strategic risk to national security, diminishing the Port's capacity to meet military readiness demands and support the U.S. military's Indo-Pacific Strategy.
- Dependence on a fragile global supply chain, which could delay future crane procurement if disruptions occur.
- Risk of incompatibility in crane make, model, and software systems if not all three cranes are purchased together, complicating maintenance and operations.
- Challenges in ensuring compatibility with the existing gantry rail system, requiring costly adjustments if future cranes are from different manufacturers; and



WHEREAS, the Record of Decision (ROD) for the military buildup in Guam, signed on September 20, 2010, outlines essential infrastructure improvements for the relocation of U.S. Marine Corps forces from Okinawa, highlighting the Port of Guam's strategic importance in supporting military operations in the Indo-Pacific region; and

WHEREAS, in response to this need, the U.S. Department of Defense allocated \$50 million for the Port's terminal expansion and modernization as part of the FY 2010 Supplemental Appropriations Act, with funds transferred to the Maritime Administration (MARAD) for necessary improvements. The Guam Legislature established the Port Enterprise Funds at that time to administer these federal resources; and

WHEREAS, the modernization program is critical for enhancing the Port's operational capacity to meet military readiness and commercial shipping demands; and

WHEREAS, had the military buildup progressed as initially planned, the Port would have been better positioned to support military and commercial operations, as the STS gantry cranes were in better condition 14 years ago; and

WHEREAS, the actions previously taken by the Department of Defense reflect a commitment to the Port's strategic role, and this resolution seeks to replicate similar actions to ensure the ongoing support and investment needed to address current challenges effectively; and

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Port Authority of Guam hereby empowers the General Manager to issue a multi-step invitation for bid for the procurement of Ship-To-Shore (STS) gantry cranes, ensuring compliance with all applicable local and federal procurement regulations. The Buy American requirements shall apply only if the procurement is federally funded, such as through the DoD or other federal agencies, including any necessary waivers from Buy American requirements or prohibitions on purchasing from China; and

BE IT FURTHER RESOLVED, that efforts to secure necessary funding and accompanying waivers—such as those related to Buy American requirements and sourcing restrictions—from the DoD and other federal partners must continue. The financial burden of these critical infrastructure upgrades cannot rest solely on the Port and the people of Guam. A coordinated funding approach, with active support from the DoD, is essential to ensure the timely replacement of the three, and possibly four, STS gantry cranes, as outlined in the DoD's Gap Analysis Report; and

BE IT FURTHER RESOLVED, that the Chairperson certify to, and the Secretary attest to, the adoption hereof; and that the Port Authority Board of Directors respectfully requests that this resolution be transmitted by the Governor of Guam, Honorable Lou Leon Guerrero, and the Lt. Governor, Honorable Joshua Tenorio, to the following: Congressman Hon. James Moylan, Guam's Delegate to Congress, Hon. Alejandro Mayorkas, Secretary of the U.S. Department of Homeland Security, Hon. Lloyd J. Austin III, Secretary of the U.S. Department of Defense (DoD), Rear Admiral Michael B. DeVore, Commander of Joint Region Marianas, Rear Admiral Gregory Huffman, Commander of Joint Task Force - Micronesia, Admiral Samuel Paparo, Commander of U.S. Indo-Pacific Command (USINDOPACOM), Hon. Pete Buttigieg, Secretary of the U.S. Department of Transportation, Admiral Ann Phillips, Administrator of the U.S. Department of Transportation's Maritime Administration (MARAD), Hon. Deanne Criswell, Administrator of the Federal Emergency Management Agency (FEMA), Robert Fenton, Regional Administrator of FEMA, and Janet Yocum, Deputy Regional Administrator of FEMA, to ensure proper coordination and alignment in the efforts to secure the necessary funding and waivers required to support the procurement process for the replacement of the Port's three, 40-year-old STS gantry cranes.

PASSED AND ADOPTED UNANIMOUSLY BY THE BOARD OF DIRECTORS THIS 31st DAY OF OCTOBER, 2024.

DOROTHY P. HARRIS
CHAIRPERSON, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM

FE R. VALENCIA-OVALLES
BOARD SECRETARY, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM

