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Chamorro Land Trust Commission – FY 2020 Financial Highlights

March 30, 2021

Hagåtña, Guam – The Office of Public Accountability released the Chamorro Land Trust Commission (CLTC) financial statements, report on compliance and internal controls, management letter, and the auditor’s communication with those charged with governance for fiscal year (FY) 2020. CLTC closed FY 2020 with a \$164 thousand (K) increase in fund balance (net income), compared to a \$296K increase in FY 2019. Independent auditors Deloitte and Touche, LLP (Deloitte) issued an unmodified (clean) opinion on CLTC’s FY 2020 financial statements.

Lawsuit and Claims

In January 2017, the U.S. Department of Justice (USDOJ) filed a complaint in federal district court against the Government of Guam (GovGuam), CLTC, and the CLTC Administrative Director. The complaint alleged CLTC and its Administrative Director:

- Denied dwelling to a person or persons because of race or national origin;
- Discriminated in the terms, conditions, or privileges of sale or rental or dwelling, and/or in the provision of services or facilities in connection because of race or national origin; and
- Made statements and advertisements with respect to the rental that indicate a preference, limitation or discrimination based on race or national origin in violation of the Fair Housing Act 42 U.S.C. §§3604 (a), (b), (c) and §3605(a).

In December 2019, the CLTC Board of Commissioners unanimously approved a settlement agreement with USDOJ to settle and avoid going to trial. On June 4, 2020, a settlement agreement was entered into by CLTC with USDOJ and GovGuam. On the same date, a joint motion to dismiss the case was filed and signed pursuant to the agreement. CLTC Management is of the opinion that the case settlement and dismissal have no financial impact on CLTC’s financial statements.

Decreased Revenues, Increased Expenditures

In FY 2020, CLTC total revenues were \$1.2 million (M), a decrease of \$51K from the prior year, primarily due to the decrease in commercial lease rental revenues from increased delinquency in collection from tenants. CLTC saw a decrease in revenues from commercial lease rentals (\$88K), proceeds from sale of land (\$192K), payments in lieu of real property taxes (PILOT) (\$8K), land trust application fees (\$2K), and interest income (\$514).

Total expenditures increased by \$81K, going from \$944K in FY 2019 to \$1.0M in FY 2020. This is mainly due to the increase of CLTC operational costs of re-establishing the CLTC as a separate agency from the Department of Land Management and re-establishing its Administrative Director position.

Land Inventory

CLTC has an updated land inventory of 11,666.88 acres. Of their land inventory, 3,274.98 acres is unregistered property that the law prohibits any leasing and use until the judicial land registration process establishes title of ownership. CLTC leased 3,039.85 acres, which is an increase of 7.07 acres compared to 3,032.78 acres leased in FY 2019. The increase was due to the eight new leases awarded

within the fiscal year. In addition, an opinion issued by the Office of Attorney General deemed 10 of the 102 leases adjudicated to be null and void. CLTC accepted 11,693 applicants for residential and agricultural programs.

Public Law (P.L.) 33-95, Chamorro Land Trust Commercial Rules and Regulations, guides the CLTC Commercial leasing program. As authorized by law, CLTC can award commercial leases and licenses that do not exceed 9% of unassigned property in the CLTC's inventory. In FY 2020, CLTC did not award commercial leases as commercial leased property remained at 607.24 acres.

Home Loan Guarantee Program and PILOT Revenue

The Home Loan Guarantee Program guarantees loans issued by government agencies or lending institutions to Chamorro borrowers holding a lease on Chamorro Homelands. CLTC issued one home loan guarantee that brought the program's contingent liability to \$10.5M as of September 30, 2020. PILOT revenue, which is real property taxes collected from CLTC constituents with the assistance of the Department of Revenue and Taxation, supports the program.

Report on Internal Control and Compliance and Management Letter

Deloitte did not identify any significant deficiencies. However, they did identify a material weakness in their report on internal control and compliance. CLTC recorded coral extraction royalties of \$230K from a construction company for mining activities on CLTC property, in which the revenue had no underlying agreements between parties such as the terms and conditions and rate per cubic yard extracted, and verification of actual coral materials extracted.

In addition, a separate letter to management cited six comments concerning leases, special fund revenues, leases receivable, bank accounts, lease revenues, and office lease. Specifically:

- Commercial leases did not have a formal lease agreement, expired, and did not have appraisals when renewed and extended; two agricultural lessees held two separate leases in separate villages; and a residential lease was transferred without meeting the seven-year requirement per CLTC rules;
- No cash transfers to respective fund bank accounts for \$226K in special fund revenues;
- Of \$1.1M in lease rental receivables, \$543K were delinquent lease rental payments;
- Two CLTC bank accounts are currently held in other entity names;
- CLTC recorded \$48K in lease revenue collections to its Operations Fund instead of the Survey and Infrastructure Fund as required by P.L. 34-142; and
- CLTC office lease did not explicitly disclose terms stipulating the commencement date.

Challenges and Outlook

A continued CLTC challenge is their ability to conduct surveys and utility installations to leased properties due to the lack of sufficient funding sources. Another challenge that is monitored is obtaining timely remittance of CLTC revenues. As of FY 2020, the CLTC reported \$231K due from GovGuam. In response, the CLTC Board of Commissioners and Administrative Director will work with the Administration to pursue and obtain federal grant assistance, and commence the lease award process of residential and agriculture programs.

For more details, refer to Management's Discussion and Analysis in the audit report. These reports may be downloaded at www.opaguam.org.