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RECEIVED  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS  
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FILE NO OPA-PA: 20-005

6 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**

7 In the Appeal of )  
8 ) DOCKET NO. OPA-PA-20-005  
9 BEACH RESORT LLC dba THE )  
10 HOTEL SANTE FE GUAM, ) APPELLANT'S COMMENT  
11 ) ON  
12 ) AGENCY REPORT  
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BEACH RESORT LLC dba The Hotel Santa Fe ("Santa Fe"), by and through its counsel of record, submits this Comment on General Services Agency's Report.

15 **BACKGROUND**

16 In May 2020, General Services Agency ("GSA") sent out a Request for Quotation for  
17 quarantine facilities the government of Guam will utilize for 14 day mandatory quarantine for  
18 arriving passengers from COVID-19 affected areas. See Appellant's Notice of Appeal ("NTA"),  
19 **Exhibit D**. Attached to the Request for Quotation were "Attachments 1. Specifications 2. Terms  
20 and Conditions" and referenced on page 1 of the RFQ. Id.

21 On or about May 15, 2020 Santa Fe provided a Quotation in response to a Request for  
22 Quotation ("RFQ") to serve as a quarantine facility. See NTA, **Exhibit E**.

23 Santa Fe "was selected based upon meeting the standards required to house" passengers  
24 from COVID-19 affected areas. See NTA, **Exhibit B**.

25 In a letter dated May 27, 2020, GSA informed Santa Fe that Purchase Order Number  
26 P206E00310 was cancelled retroactively to May 23, 2020. See NTA, **Exhibit F** (May 27, 2020)

1 letter from GSA to Santa Fe) (hereinafter “Termination Letter). GSA cancelled the purchase order  
2 due to Santa Fe’s alleged failure to meet the “terms of the agreement.” Id. Emphasis added.

3 Quarantined passengers did not leave Santa Fe until May 24, 2020.

4  
5 On May 29, 2020, Santa Fe protested the cancellation of Purchase Order Number  
6 P206E00310. *See* NTA, attached hereto as **Exhibit G** (May 29, 2020 letter from Santa Fe to GSA).  
7 The grounds for Santa Fe’s protest were 1) the alleged deficiencies listed in GSA’s Termination  
8 Letter were non-existent; and 2) GSA failed to comply with Section IX (A)(iii) of the “agreement”  
9 or “terms and conditions” attached to the RFQ and purchase order.

10 On June 1, 2020, Santa Fe invoked its contractual right to a 10 day cure period, as provided  
11 in Section IX (iii) of the “agreement.” *See* NTA, **Exhibit H** June 1, 2020 letter from Santa Fe to  
12 GSA.

13  
14 On June 9, 2020 Santa Fee sent GSA a follow up letter to its May 29, 2020 protest letter.  
15 *See* NTA, **Exhibit I** (letter dated June 9, 2020 from Santa Fee to GSA.)

16 On June 10, 2020, GSA denied Santa Fe’s protest. *See* NTA, Exhibit E. GSA denied Santa  
17 Fe’s protest as its “review of the purchase order did not indicate that a cure language was provided  
18 for, and as such, there is no right to have one.” Id.

#### 19 COMMENTS ON THE AGENCY RECORD

##### 20 **1. The Procurement Record is incomplete.**

21  
22 In its June 10, 2020 letter to Santa Fe, Agency Report Tab 3, GSA states:

23 Shortly after signing the agreement, a second review was conducted by the National  
24 Guard, who was assigned to the location. Their review indicated that you failed to  
25 meet the basic terms of the agreement...Based upon these facts, we determined that  
26 the purchase order should be cancelled immediately.”

27 The Procurement Record lacks any record of meetings or communications between the National  
28 Guard and GSA or Guam Homeland Security. Where are the notes of the second review of the

1 facilities? Hotel staff witnessed the National Guard personnel taking notes on a daily basis of what  
2 occurred at the Sant Fe. Where are those notes? Furthermore, the government and the National  
3 Guard must have met to discuss the alleged deficiencies at the Santa Fe Hotel. These meetings are  
4 not noted in the Procurement Record.  
5

6 Tab 3 of the Procurement Record includes several emails that reference attachments. The  
7 Record does not contain the referenced attachments. One missing attachment is the "Specification  
8 and Terms Conditions" to the email dated May 15, 2020 from Anita Cruz to the Santa Fe Hotel.  
9 This document is also missing from the Request for Quotation sent to the Hotel Santa Fe but it is  
10 part of all of the Request for Quotations sent to other parties in Tab 3 of the Record. Curiously, the  
11 "Specification and Terms Conditions" document was attached to and part of Santa Fe's proposal  
12 and Purchase Order Number P206E00310 but it is not found attached to that Purchase Order in the  
13 Procurement Record.  
14

15 Also missing from the Procurement Record are numerous emails between Santa Fe and GSA  
16 regarding GSA's Termination Letter.

17 **2. DRAFT letter to Santa Fe.**

18 The Agency Report and Procurement Record include a DRAFT letter to Santa Fe that was  
19 never sent to Santa Fe. See Agency Report, Tab 7, pages 7-8 and Procurement Record, Tab 8, pages  
20 7-8. The details of the alleged deficiencies are more specific than what was provided in the  
21 Termination Letter. Without waiving its arguments that the alleged deficiencies in GSA's  
22 Termination Letter were non-existent or that GSA failed to give Santa Fe notice of the alleged  
23 deficiencies, Santa Fe submits the following comments/responses to the list of deficiencies listed in  
24 the DRAFT letter<sup>1</sup> as further evidence that the noted deficiencies were in fact non-existent:  
25  
26

27 \_\_\_\_\_  
28 <sup>1</sup> Santa Fe will call employees Miki Marks and Frank Chong as witnesses at the hearing on the merits. Their declarations are attached hereto. Santa Fe will also call principal Bartley Jackson as a witness. His declaration is also attached hereto.

- 1 a. Rooms were not fully furnished.
- 2
- 3 i. No phone service provided. GSA was aware at the time of the walk through on May
- 4 15, 2020 that phones in some of the rooms were inoperable and Santa Fe informed
- 5 GSA representatives that cellular phones would be available to the occupants.
- 6 Declaration of Bart Jackson attached hereto (“Jackson Decl.”). Cellular phones were
- 7 provided to all passengers on May 19, 2020 and NOT May 20, 2020 as stated.
- 8 Declaration of Miki Marks attached hereto (“Marks Decl.”). *See also* Jackson Decl.
- 9 Whether guests left their rooms in violation of quarantine protocols is due to no fault
- 10 of Santa Fe. There were two guests who left their rooms to smoke outside the hotel
- 11 which Santa Fe could not control. Declaration of Frank Chong attached hereto
- 12 (“Chong Decl.”). A third guest left the hotel grounds claiming he was an employee of
- 13 the hotel. Chong Decl. Again, Santa Fe had no control over these three guests
- 14 violating quarantine protocol.
- 15
- 16 ii. 24-hour supervision/service was NOT provided. This statement is false. Staff were
- 17 always available 24/7. Marks. Decl. Santa Fe did not have a person sitting at the
- 18 front desk 24/7 as it was not specified in the Terms and Conditions but staff was
- 19 present on the premises at all times and ready to respond to inquiries/requests. Id.
- 20 The hotel had an employee who resided on the premises and was available at all
- 21 times. Chong Decl. This employee responded to calls from passengers for various
- 22 things. Id. At one point this employee was instructed by the National Guard not to go
- 23 into occupied rooms to address issues and instead to let their personnel take care of
- 24 the issues in order to minimize hotel staff contact with quarantined passengers. Id.
- 25 The National Guard also instructed this employee that he should not enter occupied
- 26 rooms until at least after the room had been vacant for twenty four hours. Id.
- 27
- 28

1                   The National Guard took over the Front Desk area from day one. Id. There  
2                   were two to three personnel sitting at the Front Desk at all times. Id. The hotel had  
3                   a land line phone at the Front Desk and the phone number was distributed to all of  
4                   the guests and the National Guard personnel were manning incoming calls. Id.

5  
6                   b. Linen and Towel Service. The parties' contract required Santa Fe provide clean linen  
7                   and towels every seven days just as the CoreTech agreement provided. Marks Decl. *See*  
8                   also CoreTech Quotation, Tab 3. An adequate supply of towels and linen was stored in  
9                   the hotel's business center where it was easily accessible to the National Guard. The  
10                  National Guard instructed hotel staff that its personnel would respond to requests for  
11                  additional linen and towels. Id. If an occupant requested linen and towels outside of the  
12                  seven day window, they were provided. Id.

13  
14                  c. Basic house-keeping supplies. Cleaning supplies were provided to every room as  
15                  required under the parties' contract. Marks Decl.

16                  d. Maintaining and properly address any concerns arising out of the physical facility,  
17                  including but not limited to, air conditioning units, plumbing issues and furniture.  
18                  GSA's representatives were aware that the lobby air conditioning was down prior to  
19                  accepting Santa Fe's proposal. Jackson Decl. It was not clear in the Contract that  
20                  providing air conditioning for the Guam Air National Guard in the lobby area was a  
21                  requirement under the Contract considering it was anticipated National Guard personnel  
22                  would be stationed outside the hotel. Id.

23  
24                  The hotel lobby air conditioning was operating as of June 5, 2020. Marks Decl.

25                  e. Food.

26                  i.           No mechanism was in place to provide meals to incoming passengers. Meals  
27                  were provided to incoming passengers who arrived prior to dinner meals being  
28

1 delivered to Santa Fe. Marks Decl. There was one instance where a family of  
2 four arrived at the hotel at 11 p.m. Id. Three Squares requires a six (6) hour  
3 advance notice of how many meals are to be prepared and delivered. Id. Santa  
4 Fe was not aware the family of four would be arriving hours after dinner had  
5 been provided. Id.

6  
7 ii. No food handling transfer equipment was being used nor temperature-controlled  
8 equipment was being used when meals were delivered. Marks Decl. Santa Fe  
9 staff personally observed the manner in which food was delivered and distributed  
10 to quarantined individuals housed at the Wyndham Hotel prior to Santa Fe taking  
11 in individuals. Id. At the Wyndham the food was not transported to the Santa Fe  
12 in temperature controlled equipment. Id. Instead, food was delivered in a vehicle  
13 in plastic bags which were placed in a Payless shopping cart and were distributed  
14 by either National Guard personnel or hotel staff. Id. The food was never held  
15 in any food handling and transfer equipment. Id.

16  
17 Food was ordered from Three Squares restaurant which is less than a 2 minute  
18 drive away and delivered to the Hotel in hotboxes. Id. The meals were  
19 immediately distributed upon arriving at the hotel. Id.

20  
21 f. Adequate equipment, materials, labor, personnel and supplies.

22 i. Hotel did not provide enough food transport equipment to meet 100+ meals pls water  
23 per meal period for five floors. The National Guard brought their own carts to  
24 distribute food to the passengers. Mark Decl. The National Guard instructed hotel  
25 staff that Guard personnel would handle the distribution of food and not hotel staff as  
26 to minimize contact with quarantined passengers. Id. There was never a request from  
27 either the National Guard, Guam Homeland Security or GSA for additional  
28

1 equipment to distribute the meals. Id. Had a request been made, the equipment  
2 would have been provided. Id.

3  
4 ii. Hotel did not to provide hand sanitation, sanitizer sprays/wipes and gloves to  
5 properly handle food preparation and deliveries. From the onset the National Guard  
6 brought their own sanitation supplies. Marks Decl. The National Guard never requested  
7 said supplies from the hotel. Had a request been made, the supplies would have been  
8 provided. Id. The National Guard brought their own supplies while manning the  
9 Wyndham Hotel. Id.

10 iii. Hotel did not provide personnel to assist food preparation and deliveries. The  
11 hotel offered personnel to assist with food delivery of food prepared by Three  
12 Squares Restaurant but the National Guard insisted its personnel would distribute  
13 the food. Marks Decl. Santa Fe staff observed this same arrangement at the  
14 Wyndham Hotel. Id.

15  
16 iv. Hotel did not provide any food temperature-controlled equipment such as food  
17 warmer and a refrigerator. *See g.ii. above.*

18 v. Hotel did not provide refrigerator in each room for health and medical purposes  
19 such as medication. EACH room had a refrigerator. Marks Decl.

20  
21 vi. Hotel's fire alarm system is inoperable. The statement that the fire alarm system  
22 was inoperative is technically and factually incorrect. Marks Decl.

23 **3. Appellant's Comments on GSA's Protest Response.**

24 **A. The alleged deficiencies listed in GSA's Termination Letter were non-existent.**

25 In its Termination Letter GSA lists basic terms of the agreement Santa Fe allegedly failed to  
26 meet. The first time Santa Fe learned of the specific alleged failures were in the Termination Letter.  
27 Until it received the Termination Letter Santa Fe was not aware that there were concerns as to its  
28

1 compliance with the terms of the purchase order and agreement. Prior to that, all Santa Fe knew  
2 from the media was that passengers quarantined at its hotel were being evacuated to another hotel  
3 and that said passengers were informed of the evacuation via letter.  
4

5 Santa Fe's position is that it was not in breach of any of the terms of the agreement listed in  
6 the Termination Letter. The list of concerns in the Termination Letter were non-existent. In fact,  
7 GSA representatives (Anita Cruz and Claudia Acfalle) along with Guam Homeland Security  
8 Administrator Charles Esteves walked the premises prior to informing Santa Fe that its quotation  
9 was accepted. Jackson Decl. GSA's basis for cancelling the purchase order based on findings by  
10 the Guam National Guard and Homeland Security is a complete surprise.  
11

12 What were these findings based on? As to linen and towels, the terms and conditions  
13 specified in the agreement provide, *inter alia*, Santa Fe "provide regular linen and towel service for  
14 all persons quarantined at the facility..." It is not possible to have an issue with the linen and  
15 towel service when that service is performed weekly and the guests were on the premises for 6 days.  
16 See NTA, **Exhibit H** (Letter dated June 1, 2020 from Santa Fe to GSA).  
17

18 Another alleged deficiency was rooms not being fully furnished as required in the purchase  
19 order. Nowhere in the purchase order or attached agreement is "fully furnished" defined such that  
20 Santa Fe is on notice as to what its rooms lacked rendering them not fully furnished.  
21

22 The National Guard took over the Front Desk area from day one. There were two to three  
23 personnel sitting at the Front Desk at all times. The hotel had a land line phone at the Front Desk  
24 and the phone number was distributed to all of the guests and the National Guard personnel were  
25 manning incoming calls. Despite the National Guard taking control of the situation, Hotel staff  
26 were on standby at all times to respond to passenger inquiries/requests.  
27

28 Santa Fe was already compliant with each of the items listed, with the exception of those  
whose compliance was contingent upon standards that were not provided. Neither the purchase



1 order nor the “agreement” provides any specific requirements as to the items listed in the  
2 Termination Letter that put Santa Fe on notice as to the basic terms it allegedly failed to meet. At a  
3 walkthrough of the facility before any guests arrived, the rooms were deemed fully acceptable as  
4 furnished.  
5

6 GSA cannot read terms or conditions into the “agreement” or the purchase order that are not  
7 specifically included therein. To allow GSA to add terms or conditions would be in violation of the  
8 terms of the Contract as the Contract specifies that “[t]his Agreement...(ii) contains all of the  
9 covenants and Agreements between the parties with respect to each subject matter in any manner  
10 whatsoever. Specifications and Term Conditions, Section XXI.  
11

12 **B. GSA wrongfully cancelled Santa Fe’s Purchase Order.**

13 In its Protest Letter, Santa Fe Hotel informed GSA that it pursuant to Section IX(iii) of the  
14 Contract that any specific concerns or discrepancies were to be communicated to the hotel in  
15 writing and that it be given 10 days to cure any alleged deficiencies. Tab 2.

16 When GSA initially denied Santa Fe’s protest, citing In the Appeal of Basil Industrial Food  
17 Services, OPA Appeal No. OPA-PA 16-006 and OPA-PA-16-008, GSA took the position that “a  
18 review of the purchase order did not indicate that a cure language was provided for, and as such,  
19 there is no right to have one.” Tab 3. But yet in the Agency Report, GSA cites Section IX of the  
20 Contract in support of its contention that “as part of their submittal, [Santa Fe] agreed to the  
21 following terms and conditions... Tab 1. In citing Section IX, GSA cites the exact provision it  
22 argued was not part of Santa Fe’s Contract/Purchase Order. Later in the Agency Report, GSA takes  
23 a contrary position by stating “a review of the purchase order did not indicate that a cure language  
24 was provided for...” And, for the very first time, GSA argues “even if [the cure language] was  
25 provided, the other termination provisions allowed the government to immediately terminate the  
26 purchase order.”  
27  
28

1           The “other termination provisions” which include termination without cause, termination in  
2 the best interests of the Government of Guam, and termination for convenience do NOT apply in  
3 this case. Tab 1. See Basil v GSA, 2019 Guam 29 ¶ 17 quoting Dart Advantage Warehousing, Inc.  
4 v. United States, 52 Fed. Cl. 694, 707 (2002) (“...where a contract provides ‘different and independent  
5 ways to terminate a contract, the two clauses have different purposes and provide different rights and  
6 obligations.’”). If the termination without cause provision applied, GSA is in breach as it failed to give  
7 Santa Fe 30 days’ notice of its intent to cancel its Contract. As to termination in the best interests of the  
8 Government, the Contract provides “OHS.OCD may termination this Agreement based upon a  
9 determination that such termination is in the best interest of the Government.” GSA must show why it  
10 is in the GOVERNMENT’s best interest to cancel Santa Fe’s Contract and move the passengers to a new  
11 hotel. The test is not how it is in the best interests in the passengers. GSA does not and cannot show  
12 that the list of alleged deficiencies warranted the cancellation of Santa Fe’s Contract.  
13

14           The fact that the procurement was done under an emergency declaration by the Governor  
15 does not exempt GSA from abiding by the terms of the Contract and Guam Procurement Law. More  
16 importantly, neither of these “other termination provisions” justify GSA’s cancellation of Santa  
17 Fe’s Contract.  
18

19           In GSA’s Agency Report it again relies on the Basil case. GSA argues that In Basil, Basil  
20 relied on 2 GARR § 6101(8)(a) which provides, in relevant part, that if a contractor commits a  
21 substantial breach of the contract, the procurement officer may notify the contractor in writing of the  
22 delay or non-performance and if not cured in 10 days or any longer time specified in writing by the  
23 Procurement Officer, such officer may terminate the contractor’s right to proceed with the contract  
24 or such part of the contract as which there has been delay or failure to properly perform. Per the  
25 OPA if this regulation was applicable, GSA would have to give Basil 10 days to cure any default  
26 and GSA would have wrongfully terminated Basil’s contract. The OPA held that because the  
27  
28

1 language of the regulation was not included as a provision within Basil's contract it did not apply  
2 and Basil did not have the right to invoke a 10 day cure period. Furthermore, Basil's contract  
3 provided that in the event Basil received a C or lower rating from the Department of Public Health  
4 and Social Services, the procuring agency could immediately terminate its contract.<sup>2</sup>

5  
6 The facts of this case are distinguishable from that of Basil. Unlike Basil's contract, Santa  
7 Fe's Contract does not have a provision authorizing GSA to terminate it without further notice.  
8 In addition, Santa Fe's Contract includes the ten day cure period provided by 2 GARR § 6101(8)(a)  
9 and as argued above, by citing Section IX of the Contract as justification for wrongfully terminating  
10 the Contract, GSA concedes that Santa Fe's Contract included the ten day cure period. Pursuant to  
11 Section IX. A(iii), Termination for Cause Default:

12  
13 If the Hotel refuses or fails to perform any of the provisions of this contract with such  
14 diligence as will ensure its completion within the time specified in this contract, or any  
15 extension therefore, otherwise fails to timely satisfy the contract provisions, or  
16 commits any other substantial breach of this contract, the Procurement Officer may  
17 notify the Hotel in writing of the delay or non-performance and if not cured in ten days  
18 or any longer time specified in writing by the Procurement Officer, such officer may  
19 terminate the Hotel's right to proceed with the contract or such part of the contract to  
20 which there has been delay or failure to properly perform. In the event of termination  
21 in whole or in part the Procurement Officer may procure similar supplies or services  
22 in a manner and upon terms deemed appropriate by the Procurement Officer. The Hotel  
23 shall continue performance of the contract to the extent it is not terminated and shall  
24 be liable for excess costs incurred in procuring similar goods or services.

25  
26 In its Termination Letter GSA informs Santa Fe that it was cancelling the purchase order  
27 because Santa Fe failed to meet the terms of the "agreement." But yet, in denying Santa Fe's protest  
28 GSA takes the position that the "purchase order did not indicate that a cure language was provided

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25 <sup>2</sup> Section 12.9 of the Basil's contract states:

26 In the event the Bidder who is awarded this [Invitation for Bid] for the provision of ENP Nutrition Services is issued a  
27 "C" rating from the Division of Environmental Health, DPHSS or is issued a "Stop Order" by the Guam Fire Department,  
the awarded Vendor may be terminated as the Vendor of the ENP Nutrition Services.

28 Basil Food Indus. Servs. Corp. v. Guam, 2019 Guam 29 ¶ 3.

1 for...”

2 The purchase order which was drafted by GSA includes the following language on page 1 of  
3 the purchase order: “Attachments 1. Specifications 2. Terms and Conditions.”, Exhibit A. The only  
4 document attached to the purchase order is a document that begins with “Statement of Leased  
5 Premises and Services to be Performed” which must be the “agreement” GSA references in the  
6 Termination Letter. This document or “agreement” includes the 10 day cure period which GSA asserts  
7 is not part of the purchase agreement. GSA cannot simply ignore the provisions within the  
8 “agreement” which are adverse to its interest when convenient or read terms that are not included in  
9 the purchase order. *See Basil Food Indus. Servs. Corp. v. Guam*, 2019 Guam 29 ¶ 17 (“In effect, Basil  
10 asks the court to read the application of 2 GAR Div. 4 § 6101 into the terms of Section 12.9 of the  
11 contracts. But that we cannot do.”).

12  
13  
14 GSA failed to comply with Section IX.A(iii) of the Contract on two levels. First, it failed to  
15 put Santa Fe on notice that it failed and refused to remedy any alleged deficiencies. The first time  
16 Santa Fe was provided details as to what the issues were was in the Termination Letter. Second, GSA  
17 failed to provide Santa Fe time to cure any of the alleged deficiencies once it became aware of said  
18 deficiencies. As a result of said failures, GSA wrongfully cancelled the purchase order.  
19

20  
21 In addition, GSA cannot now assert in hindsight that the “other termination provisions” gave  
22 it the basis to terminate the Contract. Even if the OPA allows GSA to make this argument, the  
23 cancellation of Santa Fe’s Contract was not warranted.

24  
25 **Relief Requested**


26 Santa Fe asks that GSA’s termination of its Contract be reversed and that the OPA order  
27 GSA to reinstate Santa Fe’s Contract without further delay, an award for reasonable attorney’s fees  
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1 and costs of this protest and appeal, and for such other relief that may be available.

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Respectfully submitted this 17<sup>th</sup> day of July, 2020.

**BROOKS CONCEPCION LAW, P.C.**

By:   
Georgette Bello Concepcion, Esq.  
Counsel for Appellant Santa Fe

## DECLARATION OF BARTLEY A. JACKSON

I, BARTLEY A. JACKSON, declare the following based on personal information and knowledge:

1. I am above the age of eighteen (18) years of age, am competent to execute this declaration, and will testify as to all of the matters set forth herein if called as a witness in the above-captioned matter.

2. I am a principal of the Santa Fe Hotel.

3. GSA was aware at the time of the walk through on May 15, 2020 that phones in the rooms were inoperable and Santa Fe informed GSA representatives that cellular phones would be available to the occupants.

4. Cellular phones were provided to all passengers on May 19, 2020 and NOT May 20, 2020 as stated.

5. GSA's representatives were aware that the lobby air conditioning was down prior to accepting Santa Fe's proposal. It was not clear in the Contract that providing air conditioning for the Guam Air National Guard in the lobby area was a requirement under the Contract considering it was anticipated National Guard personnel would be stationed outside the hotel.

I make this declaration under penalty of perjury of the laws of Guam and the United States.

Dated this 17th day of July, 2020.

  
\_\_\_\_\_  
**Bartley A. Jackson, Declarant**

## DECLARATION OF SHERI MIKI YOKOZEKI

I, SHERI MIKI YOKOZEKI, declare the following based on personal information and knowledge:

1. I am above the age of eighteen (18) years of age, am competent to execute this declaration, and will testify as to all of the matters set forth herein if called as a witness in the above-captioned matter.
2. I am the Manager at the Santa Fe Hotel.
3. Cellular phones were provided to all passengers on May 19, 2020 and NOT May 20, 2020 as stated.
4. Staff were always available 24/7.
5. Santa Fe did not have a person sitting at the front desk 24/7 as it was not specified in the Terms and Conditions but staff was present on the premises at all times and ready to respond to inquiries/requests.
6. The National Guard took over the Front Desk area from day one. There were two to three personnel sitting at the Front Desk at all times. The hotel had a land line phone at the Front Desk and the phone number was distributed to all of the guests and the National Guard personnel were manning incoming calls.
7. The parties' contract required Santa Fe provide clean linen and towels every seven days just as the CoreTech agreement provided. An adequate supply of towels and linen were stored in the hotel's business center as the National Guard instructed hotel staff that its personnel would respond to requests for additional linen and towels. If an occupant requested linen and towels outside of the seven day window, they were provided.

8. Cleaning supplies were provided to every room as required under the parties' contract.

9. Meals were provided to incoming passengers who arrived prior to dinner meals being delivered to Santa Fe. There was one instance where a family of four arrived at the hotel at 11 p.m. Id. Three Squares requires a six (6) hour advance notice of how many meals are to be prepared and delivered. Santa Fe was not aware the family of four would be arriving hours after dinner had been provided.

10. I personally observed the manner in which food was delivered and distributed to quarantined individuals housed at the Wyndham Hotel prior to Santa Fe taking in individuals. Food was not transported to the Wyndham in temperature controlled equipment. Instead, food was delivered in a vehicle in plastic bags which were placed in a Payless shopping cart and were distributed by either National Guard personnel or hotel staff. The food was never held in any food handling and transfer equipment. Santa Fe ordered food from Three Squares restaurant which is less than a 2 minute drive away and delivered to the Hotel in hotboxes. The meals were immediately distributed upon arriving at the hotel.

11. The National Guard brought their own carts to distribute food to the passengers. The National Guard instructed hotel staff that Guard personnel would handle the distribution of food and not hotel staff as to minimize contact with quarantined passengers. There was never a request from either the National Guard, Guam Homeland Security nor GSA for additional equipment to distribute the meals. Had a request been made, the equipment would have been provided.

12. From the onset the National Guard brought their own sanitation supplies. The National Guard never requested said supplies from the hotel. Had a request been made, the



supplies would have been provided. I personally observed that the National Guard brought their own supplies while manning the Wyndham Hotel.

13. The hotel offered personnel to assist with food delivery of food prepared by Three Squares Restaurant but the National Guard insisted its personnel would distribute the food. I personally observed this same arrangement at the Wyndham Hotel.

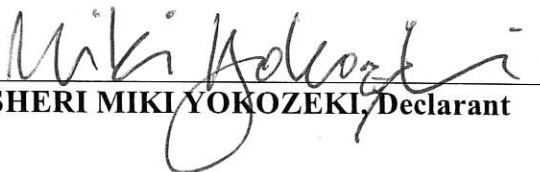
14. EACH room had a refrigerator.

15. The lobby air conditioning was repaired and working on June 5, 2020.

16. Hotel's fire alarm system is inoperable. The statement that the fire alarm system was inoperative is technically and factually incorrect. *See* true and correct copy of Certification attached hereto.

I make this declaration under penalty of perjury of the laws of Guam and the United States.

Dated this 17th day of July, 2020.

  
**SHERI MIKI YOKOZEKI, Declarant**

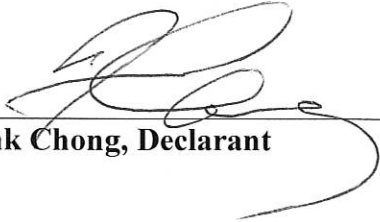
## DECLARATION OF FRANK CHONG

I, FRANK CHONG, declare the following based on personal information and knowledge:

1. I am above the age of eighteen (18) years of age, am competent to execute this declaration, and will testify as to all of the matters set forth herein if called as a witness in the above-captioned matter.
2. I am employed with the Santa Fe Hotel. I also reside on the premises and available at all times.
3. There were two guests who left their rooms to smoke outside the hotel which Santa Fe could not control. A third guest left the hotel grounds claiming he was an employee of the hotel.
4. I responded to calls from passengers for various things. I was instructed by the National Guard not to go into occupied rooms to address issues and instead to let their personnel take care of the issues in order to minimize hotel staff contact with quarantined passengers. The National Guard also instructed me not to enter occupied rooms until at least after the room had been vacant for twenty four hours.

I make this declaration under penalty of perjury of the laws of Guam and the United States.

Dated this 17th day of July, 2020.

  
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**Frank Chong, Declarant**