



**OFFICE OF THE GOVERNOR
HAGÁTÑA, GUAHAN 96932
U. S. A.**

EXECUTIVE ORDER NO. 2010 - 23

**RELATIVE TO THE EXECUTION OF CHANGE ORDERS FOR HIGHWAY
PROJECTS AT THE DEPARTMENT OF PUBLIC WORKS**

WHEREAS, the Organic Act of Guahan provides that *I Maga'Låhen Guahan*, Governor of Guahan is tasked with responsibility of overseeing the health and safety of the people of Guahan, and is further charged with overseeing the roads and public transportation needs of Guahan's citizens; and

WHEREAS, the Territorial Highway Program (THP) was created by Section 112 of the Federal-Aid Highway Act of 1970 (U.S. Public Law 91 -605) by adding Section 215 to Title 23 U.S.C.; and

WHEREAS, the THP is a federal program administered locally by the Guahan Department of Public Works (DPW) and which grants federal financial assistance for the construction and improvement of Guahan's roads and highways; and

WHEREAS, pursuant to the Stewardship Agreement entered into between the Governor of Guahan and Federal Highway Administration on May 24, 2007, DPW has been delegated the authority to make final decisions for the Government of Guahan in all matters relating to, and to enter into, contracts and agreements for THP projects; and

WHEREAS, the Procurement Law of Guahan [5 G.C.A. § 5030(b)] and the Procurement Regulations [2 G.A.R. § 1106(2)] further provide that the Director of DPW may issue a written order for the purpose of making changes to a construction contract without the consent of the contractor, although the Director is not precluded from seeking the consent of a Contractor; and

WHEREAS, pursuant to 2 G.A.R. Section 5106(3)(a)-(c), the Government, acting through the Director of the Department of Public Works, at any time and without notice to the sureties, in a signed writing designated or indicated to be a change order, may order: (1) changes in the work within the scope of the contract; and (2) changes in the time for performance of the contract that do not alter the scope of the contract. Change orders for the following items may be unilaterally issued and signed by the Director of the Department of Public Works provided that a change order that causes or will cause an increase in funds in excess of \$5,000 shall not be executed without first having obtained a certification of fund availability from the fiscal officer of the Department of Public Works as required by 5 G.C.A. Section 5307 and 2 G.A.R. Section 5107; and



WHEREAS, in order to minimize costs, expenses, and liabilities associated with delayed construction, it is essential that change orders for highway and road projects be timely processed, particularly where minor changes are involved. "Minor changes" are defined as changes which are

- (1) "No cost" or deductive change orders;
- (2) Change orders whose total value does not exceed ten percent (10%) of the amount of the original contract or \$250,000, whichever is less [29 G.A.R. §1141]; and
- (3) Change orders which increase the time of performance by not more than ninety (90) calendar days.

NOW, THEREFORE, I, FELIX P. CAMACHO, *I Maga'Låhen Guahan*, Governor of Guahan, by virtue of the authority vested in me by the Organic Act of Guahan, as amended, do hereby order that:

1. **Execution of Minor Change Orders.** The Director of the Department of Public Works is authorized to execute on behalf of the Government and the Governor of Guahan written orders for minor changes related to Federal or locally-funded road and highway projects.
2. **Application of Executive Order 87-2.** The provisions of *Executive Order 87-2 (Cost Containment Measures)* requiring that contracts of an executive agency be approved by the Bureau of Budget and Management Research and by the Office of the Attorney General shall not apply to minor change orders approved and executed by the Director of DPW pursuant to this Executive Order.

SIGNED AND PROMULGATED at Hagåtña, Guahan this 23rd day of September, 2010.

FELIX P. CAMACHO
I Maga' låhen Guahan
Governor of Guahan

COUNTERSIGNED:

MICHAEL W. CRUZ, M.D.
I Segundu Maga'lahen Guahan
Lieutenant Governor of Guahan

