EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

MAY 17 2018

The Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåttro Na
Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

GL#34-18-1897
Speaker Benjamin J.F. Cruz

MAY 17 2018
Time: 2:46 [ ] AM [ ] PM File No. 34-1943
Received By:

Dear Mr. Speaker:

Transmitted herewith is Bill No. 34-34 (COR), **"AN ACT TO *AMEND* § 5127 OF SUBARTICLE C, ARTICLE 2, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO LIMITING THE PERIOD OF VALIDITY OF DETERMINATION OF NEED AND THE REQUIREMENT FOR LEGISLATIVE APPROVAL OF EXCEPTIONAL TERM CONTRACTS,"** which lapsed into law on May 16, 2018, as **Public Law 34-99.**

Senseramente,

EDDIE BAZA CALVO
Governor of Guam

2018 MAY 17 PM 3:32

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that **Substitute Bill No. 34-34 (COR), "AN ACT TO *AMEND* § 5127 OF SUBARTICLE C, ARTICLE 2, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO LIMITING THE PERIOD OF VALIDITY OF DETERMINATION OF NEED AND THE REQUIREMENT FOR LEGISLATIVE APPROVAL OF EXCEPTIONAL TERM CONTRACTS,"** was on the 1st day of May 2018, duly and regularly passed.

Benjamin J.F. Cruz
Speaker

Attested:

Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 3rd day of May, 2018, at 11:50 o'clock AM.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan
MAY 16 2018
Date:

Public Law No. 34-99

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. 34-34 (COR)
As amended by the Committee on Environment, Land, Agriculture and Procurement Reform; and substituted and further amended on the Floor.

Introduced by: Thomas C. Ada
FRANK B. AGUON, JR.
William M. Castro
B. J.F. Cruz
James V. Espaldon
Fernando Barcinas Esteves
Régine Biscoe Lee
Tommy Morrison
Louise B. Muña
Telena Cruz Nelson
Dennis G. Rodriguez, Jr.
Joe S. San Agustin
Michael F.Q. San Nicolas
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *AMEND* § 5127 OF SUBARTICLE C, ARTICLE 2, CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO LIMITING THE PERIOD OF VALIDITY OF DETERMINATION OF NEED AND THE REQUIREMENT FOR LEGISLATIVE APPROVAL OF EXCEPTIONAL TERM CONTRACTS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. § 5127 of Subarticle C, Article 2, Chapter 5, Title 5, Guam Code Annotated, is hereby *amended* to read as follows:

"**§ 5127. Commercial Leasing of Public Real Property and Related**

Facilities.

(a) Public Real Property and Related Facilities. From the effective date of this law, and notwithstanding any other provision of this Chapter, no commercial contract, lease, permit, or license for use of public real property, and related facilities by any non-governmental person or entity, shall be solicited, negotiated, entered into, or made for a term in excess of five (5) years, inclusive of any extension, option, or renewal. Any contract, lease, permit or license made, renewed or extended in violation of this law *shall* become void upon the fifth (5th) anniversary of the making of such contract, lease, permit, or license. This limitation *shall not* apply to residential and agricultural leases to beneficiaries under the *Chamorro* Land Trust. Any such contract, lease, permit, or license *shall* mean a "lease of real property" and not the lease of supplies as that term is used in § 5030(u) of this Chapter.

(b) Exceptional Term Contracts. The Chief Procurement Officer, the Director of Public Works, or the head of a purchasing agency, as authority may exist therefore, may solicit a contract for a term longer than otherwise allowed by this Section (an "Exceptional Term Contract"). Prior to soliciting any Exceptional Term Contract, *I Maga'låhi* (the Governor) or, in the case of an autonomous agency, the Board of Directors, *shall* make a written Determination of Need justifying by a quantifiable sum an Exceptional Term Contract, and specifying the full term, inclusive of extensions, options and renewals, for such contract, and provide a copy of such Determination of Need to the Speaker of *I Liheslaturan Guåhan.* No Exceptional Term Contract shall be solicited *unless* a Determination of Need is obtained from *I Maga'låhi* (the Governor) or, in the case of an autonomous agency, the Board of Directors. A written Determination of Need *shall* be valid for two (2) years or until an Exceptional Term Contract is executed to fill the stated need, whichever

comes first.

(c) Subsequent to transmitting a Determination of Need to the Speaker of *I Liheslaturan Guåhan,* a notice of solicitation *shall* be published as provided in § 5211(c) of Subarticle B of Article 3 of this Chapter, such notice to conspicuously note the solicitation is for an Exceptional Term Contract, and specifying the term thereof, as well as the date of the proper Determination of Need. Any Exceptional Term Contract made in violation of this Section *shall* be void.

(d) Legislative Approval Required for Exceptional Term Contracts. Subsequent to satisfying the requirements of this § 5127, the commercial contract, lease, permit, or license for use of public real property and related facilities *shall* be transmitted to *I Liheslaturan Guåhan* for approval or disapproval, in whole. *I Liheslaturan Guåhan shall* take action to approve or disapprove the commercial contract, lease, permit, or license within sixty (60) calendar days from the date of filing with the Speaker. A public hearing *shall* be conducted by the Chairperson of the Legislative Committee having oversight jurisdiction during the sixty (60)-day review period, and said Committee *shall* report its findings and recommendations to *I Liheslaturan Guåhan*. The sixty (60) day period allowed for *I Liheslaturan Guåhan* to approve or disapprove the contract, lease, permit, or license *shall* be tolled from the time that a public hearing is noticed and until a Committee Report is completed. Legislative approval *shall* be by enactment into law.

(e) The solicitation and award of any such contract, lease, permit, or license *shall* be conducted as provided in this Chapter, and the Determination of Need *shall* be a part of such record and subject to § 5251 of this Chapter, along with any modification, amendment, exercise of option or renewal, or extension of such contract, lease, permit, or license."

Section 3. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this Act that can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.