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

GLH 34-18-1899
Speaker Benjamin J.F. Cruz

MAY 17 2018
Time: 2:46 [ ] AM [ ] PM File No. 34-1945
Received By:

Dear Mr. Speaker:

Transmitted herewith is Bill No. 204-34 (COR), **"AN ACT TO *AMEND* §§ 58D103(l), 58D105, 58D109, AND 58D112; AND TO *REPEAL* § 58D103(m)(2), ALL OF CHAPTER 58D, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO DESIGNATING THE GUAM DEPARTMENT OF EDUCATION (GDOE) AS THE PROCURING ENTITY FOR PURPOSES OF ANY SOLICITATION WITH RESPECT TO THE CONSTRUCTION AND/OR RENOVATION OF SIMON SANCHEZ HIGH SCHOOL UNDER A LONG-TERM LEASE-BACK, AMENDING DEFINITIONS WITH RESPECT TO RESPONSIVENESS, AND AUTHORIZING GDOE TO SOLICIT FOR ARCHITECTURAL AND ENGINEERING SERVICES, CONSTRUCTION MANAGEMENT SERVICES, FINANCING SERVICES, RENOVATION AND CONSTRUCTION SERVICES, COLLATERAL EQUIPMENT, AND RELATED SERVICES,"** which lapsed into law on May 16, 2018, as **Public Law 34-101.**

2018 MAY 17 PM 3:32

Senseramente,

EDDIE BAZA CALVO
Governor of Guam

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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. 204-34 (COR), "AN ACT TO *AMEND* §§ 58D103(l), 58D105, 58D109, AND 58D112; AND TO *REPEAL* § 58D103(m)(2), ALL OF CHAPTER 58D, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO DESIGNATING THE GUAM DEPARTMENT OF EDUCATION (GDOE) AS THE PROCURING ENTITY FOR PURPOSES OF ANY SOLICITATION WITH RESPECT TO THE CONSTRUCTION AND/OR RENOVATION OF SIMON SANCHEZ HIGH SCHOOL UNDER A LONG-TERM LEASE-BACK, AMENDING DEFINITIONS WITH RESPECT TO RESPONSIVENESS, AND AUTHORIZING GDOE TO SOLICIT FOR ARCHITECTURAL AND ENGINEERING SERVICES, CONSTRUCTION MANAGEMENT SERVICES, FINANCING SEVICES, RENOVATION AND CONSTRUCTION SERVICES, COLLATERAL EQUIPMENT, AND RELATED SERVICES,"** 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 2nd day of May, 2018, at 11:50 o'clock A.M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: MAY 16 2018

Public Law No. 34-101

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

Bill No. 204-34 (COR)
As substituted by the Committee on Appropriations and Adjudication; and amended in the Committee of the Whole.

Introduced by:

FRANK B. AGUON, JR.
Joe S. San Agustin
Thomas C. Ada
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.
Michael F.Q. San Nicolas
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *AMEND* §§ 58D103(l), 58D105, 58D109, AND 58D112; AND TO *REPEAL* § 58D103(m)(2), ALL OF CHAPTER 58D, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO DESIGNATING THE GUAM DEPARTMENT OF EDUCATION (GDOE) AS THE PROCURING ENTITY FOR PURPOSES OF ANY SOLICITATION WITH RESPECT TO THE CONSTRUCTION AND/OR RENOVATION OF SIMON SANCHEZ HIGH SCHOOL UNDER A LONG-TERM LEASE-BACK, AMENDING DEFINITIONS WITH RESPECT TO RESPONSIVENESS, AND AUTHORIZING GDOE TO SOLICIT FOR ARCHITECTURAL AND ENGINEERING SERVICES, CONSTRUCTION MANAGEMENT SERVICES, FINANCING SEVICES, RENOVATION AND CONSTRUCTION SERVICES, COLLATERAL EQUIPMENT, AND RELATED SERVICES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. § 58D103(l) of Chapter 58D, Title 5, Guam Code Annotated, is *amended* to read:

"(l) Responsive offer *shall* mean an offer that conforms, at opening of the offers in response to the solicitation, in all material respects to the solicitation."

Section 2. § 58D103(m)(2) of Chapter 58D, Title 5, Guam Code Annotated, is hereby *repealed.*

Section 3. § 58D105 of Chapter 58D, Title 5, Guam Code Annotated, is *amended* to read:

"**§ 58D105. Procurement.**

(a) In addition to availing of the services of the Department of Public Works, the Guam Department of Education may solicit, in compliance with the Guam procurement law, for the services of an Owner's Agent Engineer (OAE) to assist the Guam Department of Education in the procurement of architectural and engineering (A&E) services, construction management (CM) services, financing services, renovation and construction services, collateral equipment, and related services consistent with this Chapter.

(1) The solicitation *shall* specifically state the minimum specifications that will be required for a submitted offer to be considered.

(2) The determination of responsible offerors and responsive offers *shall* be made by an evaluation committee comprised of the Superintendent of the Department of Education, serving as Chairman, and including the Director of the Department of Public Works or Deputy Director, the Director of Land Management or Deputy Director,

and the Administrator of the Guam Economic Development Authority or Deputy Administrator.

(3) The committee *shall* evaluate offerors and offers received based on the requirements set forth in the solicitation. Upon completion of the committee's evaluation, the Superintendent *shall* issue the award, in accordance with the Guam procurement law.

(b) The solicitation for the renovation, construction, or combination thereof for a new fully equipped and functional Simon Sanchez High School as specified in the solicitation, on the existing site, which may include demolition of such portions of the existing facility as necessary, *shall* be issued within forty-five (45) days of completion of the architectural and engineering design for the new Simon Sanchez High School. The award of any lease-back contract *shall* be based upon a responsive offer submitted by a responsible offeror that offers the lowest annual aggregate leaseback payment, inclusive of finance and capital maintenance cost, to the government of Guam for a fixed thirty (30) year term.

(c) Notwithstanding any other provision of law, the solicitation *shall not* be combined with other procurement pursuant to Public Law 32-121 (the repair and maintenance of 35 other schools)."

Section 4. § 58D109 of Chapter 58D, Title 5, Guam Code Annotated, is *amended* to read:

"**§ 58D109. Pledge of Additional Revenue from the Real Property Valuation.**

Rental payments under the lease and the lease-back, as well as funding required to support the activities set forth in § 58D105(a) of this Chapter, may be secured by a pledge or other reservation of revenues received by the government of Guam pursuant to 5 GCA §§ 22425(q)(4) and (6). Any

amounts pledged as provided in this Section are hereby continuously appropriated for the purpose of making lease-back payments, but any amounts only reserved as provided in this Section, and not pledged, *shall* be subject to an annual appropriation for the purpose of funding the activities set forth in § 58D105(a) of this Chapter, and making lease-back payments. Any such pledge or reservation authorized hereunder *shall* be valid and binding from the time the pledge or reservation is made, and *shall* be limited to the sum of Five Million Fifty-one Thousand Nine Hundred Seventy-seven Dollars and Ninety-eight Cents ($5,051,977.98) per year during the pre-development, construction, and lease-back period, as outlined in 5 GCA §§ 22425(q)(4) and (6). The revenues pledged or reserved and thereafter received by the government of Guam or by any trustee, depository or custodian *shall* be deposited in a separate account and *shall* be immediately subject to such reservation or the lien of such pledge without any physical delivery thereof or further act, and such reservation or the lien of such pledge *shall* be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the government of Guam or such trustee, depository or custodian, irrespective of whether the parties have notice thereof. The instrument by which such pledge or reservation is created need not be recorded."

Section 5. The first sentence of the first paragraph of § 58D112 of Chapter 58D, Title 5, Guam Code Annotated, is *amended* to read:

"Prior to undertaking the work of renovating or constructing a new Simon Sanchez High School, the Guam Economic Development Authority, the Guam Department of Education, and the developer or contractor *shall* enter into a binding construction contract to renovate or construct a new

Simon Sanchez High School in accordance with the Guam Building Code (21 GCA Chapter 67), and any other applicable requirements."

Section 6. 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.