EDDIE BAZA CALVO
Governor of Guam
I Maga'Lahen Guahan

RAY TENORIO
Lt. Governor of Guam
I Segundo Na Maga'Lahen Guahan

GUAM ECONOMIC DEVELOPMENT AUTHORITY
Moving Forward
Aturidåd Inadilånton Ikunumihan Guahan

JAY ROJAS
Chief Executive Officer/Administrator
Takhilo' na Ofisiåt Eksekutibu/Adminastradot

Vice Speaker Therese M. Terlaje
34 GL-18-2648
DEC 14 2018
Time: 15:20
Received by:

December 14, 2018

Honorable Therese M. Terlaje
Acting Speaker
I Mina Trentai Kuåttro na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagatna, Guam 96910

RE: Bill 363-34 (COR) – An act to approve Core Tech Captive Insurance Corporation's (CTCIC) Qualifying Certificate (QC) #255

2018 DEC 14 PM 3:31

Dear Acting Speaker Terlaje and members of the 34th Guam Legislature:

Håfa Adai! We are aware that Bill 363-34 has been moved to the voting file at the Guam Legislature, and based on the discussion and amendments adopted by senators during the most recent session, GEDA has the following concerns we would like to bring to your attention:

1. Senators approved an amendment to Bill 363-34 to grant a 100% rebate on corporate income taxes to CTCIC. The QC currently grants a 75% rebate on corporate income taxes due to the fact that CTCIC is a Subchapter S corporation. Section 58131 of the QC law (12 GCA 58) clearly states that Subchapter S corporations are eligible for a *maximum* 75% rebate on corporate income taxes due by its shareholders. As CTCIC is a Subchapter S corporation, §58131 applies.

2. In addition, Senators approved an amendment to grant CTCIC a 100% abatement on Business Privilege Taxes (BPT) for a period of 20 years. The GEDA Board did not recommend the issuance of a BPT benefit due to the recent fiscal policy of the government in the issuance of BPT bonds, as well as the recognition that the newest QC program, the Special Hotel QC, already has a greatly reduced BPT benefit amount.

3. Pursuant to a previous legal opinion, it has been determined that although the governor of Guam is the final executing authority of a QC, the governor cannot approve the QC with changes to the QC. All terms and conditions of a QC stem from the approved recommendation of the GEDA Board of Directors. It would be logical to conclude that the same reality applies to the legislature.

4. Lastly, there currently does not exist any mechanism that permits the Legislature to negotiate QC tax benefits, or even on how the Legislature is to grant its approval of new

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first time QC applications as mandated in PL 34-116:XIII:8. In fact, GEDA, in its initial testimony on Bill 363-34, requested that the Legislature first obtain the opinion of the Attorney General's office regarding this very matter. The ambiguity of PL 34-116 on this matter makes it unclear as to what the next steps will be with regards to Bill 363 and QC#255 if the bill is passed.

As you can see, there are many questions and concerns regarding Bill 363-34. GEDA also urges the Guam Legislature to recognize that the QC approval process is an executive branch function and requests that members of the 34th Guam Legislature allow QC #255 to be moved forward by GEDA to Governor Calvo for his action as originally negotiated and determined by the GEDA Board of Directors. The recommendation of the Board with regards to QC #255 is fair and appropriate to the current conditions of the Government of Guam, and attempts to increase any tax benefits does not take into account GEDA's conservative and fair approach with regards to the review and recommendation of approval of QC applications.

On behalf of the GEDA Board of Directors, we urge you not to pass Bill 363-34 for the reasons stated above, and request that QC #255 be allowed to be moved forward as originally intended. Thank you for your time and attention on this matter.

Si Yu'us Ma'åse,

Jay Rojas
Chief Executive Officer / Administrator