UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

35GL-19-1121
Speaker Tina Rose Muña Barnes

October 16, 2019

OCT 16 2019
Time 4:23 ( )AM (X)PM
Received By

HONORABLE TINA ROSE MUÑA BARNES
Speaker
I Mina'trentai Singko Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96932

Re: Bill No. 149-35 (COR) – *An Act to Amend Section 4(a) of Public Law 34-70, Relative to the Financing or Refinancing Improvements and Capital Improvements of the Jose D. Leon Guerrero Commercial Port (Port), and Other Related Facilities and Operations of the Port, Through Revenue Bond Proceeds*

Dear Madame Speaker:

I have signed Bill 149-35, *An Act to Amend Section 4(a) of Public Law 34-70, Relative to the Financing or Refinancing Improvements and Capital Improvements of the Jose D. Leon Guerrero Commercial Port (Port), and Other Related Facilities and Operations of the Port, Through Revenue Bond Proceeds*, as **Public Law ("P.L.") 35-44**.

The prudent modernization of the Jose D. Leon Guerrero Commercial Port was identified as a central priority in our transition report for the Port Authority of Guam (PAG). The PAG operates as the only commercial seaport in Guam, and as the primary seaport in Micronesia, serves as a transshipment point for the entire Western Pacific region.

With over 90% of the region's goods and supplies passing through our Port, its impact on the quality of life for residents of the region cannot be overstated. P.L. 35-44 seeks to enhance the Port's revenues and increase efficiency by reprioritizing capital improvement projects. These enhancements are designed to meet the island's growth needs including the military buildup and a growing tourism market. With Bill 149's passage, the Legislature demonstrated a willingness to adjust course when necessary.

2019 OCT 16 PM 4:43

1121

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Through this measure, the Port Authority of Guam is able to direct limited resources where they can achieve long term gains.

Senseremente,

LOURDES A. LEON GUERRERO
Maga'hågan Guåhan
Governor of Guam

Enclosure(s): Bill No. 149-35 *nka* Public Law 35-44

cc via email: *Sigundo Maga'låhen Guåhan*
Compiler of Laws

2019-6262

RCVD AT CENTRAL FILE
OCT 7'19 PM12:46
Jessica Cruz

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

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

This is to certify that **Bill No. 149-35 (COR), "AN ACT TO *AMEND* SECTION 4(a) OF PUBLIC LAW 34-70, RELATIVE TO THE FINANCING OR REFINANCING IMPROVEMENTS AND CAPITAL IMPROVEMENTS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT (PORT), AND OTHER RELATED FACILITIES AND OPERATIONS OF THE PORT, THROUGH REVENUE BOND PROCEEDS,"** was on the 4th day of October 2019, duly and regularly passed.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 7th day of October, 2019, at 12:46 o'clock P.M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 10/10/2019

Public Law No. 35-44

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 149-35 (COR)
As amended by the Committee on Economic Development, Agriculture, Maritime Transportation, Power and Energy Utilities, and Emergency Response.

Introduced by: Clynton E. Ridgell
William M. Castro
Régine Biscoe Lee
Kelly Marsh (Taitano), PhD
James C. Moylan
Louise B. Muña
Tina Rose Muña Barnes
Telena Cruz Nelson
Sabina Flores Perez
Joe S. San Agustin
Amanda L. Shelton
Telo T. Taitague
Jose "Pedo" Terlaje
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *AMEND* SECTION 4(a) OF PUBLIC LAW 34-70, RELATIVE TO THE FINANCING OR REFINANCING IMPROVEMENTS AND CAPITAL IMPROVEMENTS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT (PORT), AND OTHER RELATED FACILITIES AND OPERATIONS OF THE PORT, THROUGH REVENUE BOND PROCEEDS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Jose D. Leon Guerrero Commercial Port's (Port) modernization program is

designed to meet the island's growth, including the military expansion on the island and the growing tourism market, with the key project initiatives as justified to the bond market investors, as follows:

(a) the expansion of wharf space to accommodate larger vessels and increase vessel-handling capacity;

(b) the upgrade to the terminal operating system to allow for automated invoicing, cargo and container tracking, financial management, and maintenance management;

(c) the expansion of existing facilities to support fishing and cruise line industries; and

(d) the replacement of gantry cranes at the end of its useful life to maintain continuous uninterrupted cargo movement.

As part of the modernization program, the Port through Public Law 34-70 obtained Seventy-one Million Four Hundred Forty-five Thousand Dollars (**$71,445,000**) in revenue bonds to finance certain capital improvements and to refinance all or a portion of outstanding loans of the Port Authority.

I Liheslaturan Guåhan finds that on July 20, 2018, Pro Marine Technology submitted its findings in an Underwater Assessment and Inspection Services (F-1, F-3, F-4, F-5, and F-6). The assessment included recommendations for repairs to the waterfront facilities based on the following observations:

(1) F-1: Breasting platform H has severe concrete fracturing around the lower and perimeter of the structure and throughout its entirety. It was observed that the platform's fender has been severely damaged that it does not function as designed. There are piles that have areas above the waterline where epoxy coatings are missing. It was noted that the number of piles and the extent of corrosion have increased significantly since the 2017 inspection. Three (3) pilings underneath Breasting Platform C appear to have shifted.

Concrete fracturing and spalling are occurring underneath the structures with the most significant occurring underneath Platform G and underneath the main pier.

(2) F-3: Damage was observed in a separation of the sheet pile corner transition pieces to F-2 underneath the concrete cap. A large volume of fresh water flows through the 54" vertical gap. The length increased 28" from the 2017 inspection. Two pieces of the sheet pile have been damaged (smashed) from the concrete cap. It was observed that the most significant deficiency is the large hole in the corner of the most damaged pile plus the vertical crack along its outside corner. Because of the corrosion and wear-down, the 1" shackles securing the cylinder fender chains needs to be replaced. There are about 20 to 25% (average) shackles remaining.

(3) F-4: Spalled concrete with exposed rebar at bottom corner of concrete cap. There is a sheet plate repair which is short and ends 11" above the mud line. But there is no sheet piling behind the cover plate. It was noted that concrete was poured in the void behind the plate but there exists significant erosion at the bottom, up behind the plate. Fresh water is leaking through the gap next to an unknown bracket attached to the top side of the repair plate. Bottom of concrete cap fracture (8'-3") from the corner of the newer F-5 concrete cap and rebar is exposed inside the 4' long fracture.

(4) F-5: A significant crack in the overhead transverse beam (east side) just above pile number 21, row C. The exposed rebar inside the crack is rusting causing them to swell and forcing further separation of the spalled concrete. It is their expert opinion that if this continues, the section will eventually fall off and the exposed, rusting rebar process will continue into the beam causing further damage.

(5) F-6: There are 2 short sheet pilings and erosion underneath and behind the sheet pilings bottom ends. A steel plate welded to sheet piles above mud lines is short. Erosion is apparent underneath and behind the repair plate. Material next to the sheet piling has not been excavated.

Moreover, *I Liheslaturan Guåhan* finds that to ensure the uninterrupted flow in the deployment of fuel products which could be obtained in F-1 Fuel Pier or Golf Pier, a connectivity line would need to be installed at F-1 to allow discharged or loaded fuel to be routed to and from other petroleum fuel companies' storage tanks.

To enhance the Port's invoicing to ensure one hundred percent (100%) cost recovery per the established tariffs, the Terminal Operating System and Financial Management System must be integrated, along with an upgrade of the Port's current information technology system for accurate financial data on the expenses rendered to vessel operations and related services versus revenues.

The 2010 Master Plan included a recommendation for the current Port Administration Building to be extended with an annex and a bridge connecting the building to the existing building for compliance with the Americans with Disabilities Act (ADA), but such project was changed in the 2013 Master Plan Update which endorsed that a new large building be constructed and the current administration building be demolished.

I Liheslaturan Guåhan finds that if the Port pursues the 2007 Master Plan recommendation to construct an annex with a bridge connecting to the existing administration building, a portion of the funding originally earmarked for the construction of the new administration building could otherwise be used to address the deficiencies of the Port's revenue-generating waterfront facilities, a connectivity line between Golf Pier and F-1, and improvements needed for the Port's information technology systems.

The Port met with Guam Economic Development Authority (GEDA) representatives to discuss the possibility of reprogramming revenue bond proceeds earmarked for the construction of the new administration building. The Port was informed that under the Tax Certificate of the Authority, Section 1.5 (c), Purpose of Financing, forty percent (40%) or Seven Million Dollars (**$7,000,000**) of the Seventeen Million Four Hundred Forty-five Thousand Dollars (**$17,445,000**) can be reprogrammed without triggering the forty percent (40%) taxable income ratio.

I Liheslaturan Guåhan finds that an amendment to Public Law 34-70 would allow for the reprogramming of such bond proceeds needed to address the deficiencies of the Port's revenue-generating waterfront facilities, a connectivity line between Golf Pier and F-1, and improvements needed for the Port's information technology systems.

I Liheslaturan Guåhan further finds that the reprogramming of revenue bond proceeds would not result in an increase of the terminal tariff.

It is, therefore, the intent of *I Liheslaturan Guåhan* to authorize the reprogramming of the Port Authority revenue bond proceeds and amending the capital improvement projects in Section 4(a) of Public Law 34-70 to amend the plan for a newly-constructed administration building totaling Seventeen Million Four Hundred Forty-five Thousand Dollars (**$17,445,000**) for the repair of the Port's revenue-generating waterfront facilities, a connectivity line between Golf Pier and F-1, and improvements needed for the Port's information technology systems.

Section 2. Section 4(a) of Public Law 34-70 is *amended* to read:

"(a) to finance certain Authority capital improvements, including, but not limited to:

(1) local match for the Transportation Investment Generating Economic Recovery (TIGER) grant program funding for rehabilitation of "H" Wharf and access road in the approximate amount of Thirteen

Million Seven Hundred Seventy-four Thousand Two Hundred Fifty-five Dollars ($13,774,255);

(2) construction of an annex building with the construction of a bridge attached to the current Administration Building and upgrade of infrastructure in the approximate amount of Ten Million Four Hundred Forty-five Thousand Dollars ($10,445,000).

The remaining balance of approximately Seven Million Four Hundred Twenty-five Thousand Seven Hundred Forty-five Dollars ($7,425,745) resulting from this reset to the Port Modernization Plan *shall* be prioritized by the Port's Board of Directors in order to shore up the Port's current related revenue-generating facilities and financial management systems, specifically for repair of F-1 Fuel Pier; repairs of F-3, F-4, F-5, and F-6 of the waterfront facilities; installation of a connectivity fuel line connecting Golf Pier and F-1 Fuel Pier; and an upgrade to the Port's information technology system and integration of the Terminal Operating System and Financial Management System;

(3) replacement and relocation of waterline(s) in the approximate amount of $6,000,000;

(4) repair and expansion of the Equipment Maintenance & Repair Building (EQMR) in the approximate amount of $3,628,800;

(5) repair of Warehouse 1 in the approximate amount of $2,000,000;

(6) the repair of Golf Pier in the approximate amount of $2,000,000; and

(7) all remaining balances, if any, *shall* be allocated to provide for supplemental funding for the procurement of a new gantry crane;"

Section 3. The Port Authority of Guam *shall* continue to be subject to a separate independent review by the Public Utilities Commission (PUC) for each project that exceeds One Million Dollars ($1,000,000).

Section 4. Effective Date. This Act *shall* be effective upon enactment.

Section 5. 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 provision or application, and to this end the provisions of this Act are severable.