



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

25 OCT 2007

29-07-0996
Office of the Speaker

MARK FORBES

Date: 10/26/07

Time: 8:35

Rec'd by: [Signature]
Print Name: [Signature]

The Honorable Edward J.B. Calvo
Acting Speaker
Mina' Bente Nuebi Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 165(EC), "AN ACT TO ADD A NEW ARTICLE 4 TO CHAPTER 10 OF TITLE 12 OF THE GUAM CODE ANNOTATED, TO AUTHORIZE THE BOARD OF DIRECTORS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP THROUGH A PERFORMANCE MANAGEMENT CONTRACT FOR THE MANAGEMENT, OPERATION AND MAINTENANCE OF THE PORT CARGO HANDLING EQUIPMENT AND/OR FACILITIES ASSOCIATED WITH SUCH EQUIPMENT AND/OR OTHER ASPECTS OF THE PORT OPERATIONS", which I signed into law on October 24, 2007 as Public Law 29-23.

Sinseru yan Magåhet,

[Signature]

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy of Bill

cc: The Honorable Ray Tenorio
Senator and Legislative Secretary

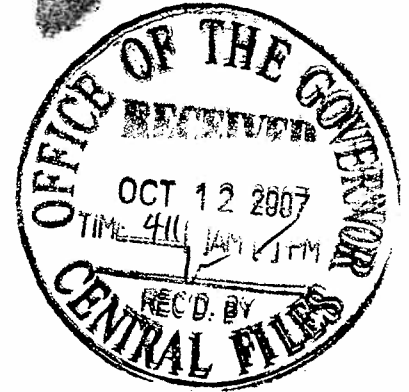


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MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN
TWENTY-NINTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

October 11, 2007



The Honorable Felix P. Camacho
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 34(EC), 59(EC), 133(EC), 165(EC) and Substitute Bill Nos. 110(EC) & 146(EC) which were passed by *I Mina'Bente Nuebi Na Liheslaturan Guåhan* on October 10, 2007.

Sincerely,

RAY TENORIO
Senator and Secretary of the Legislature

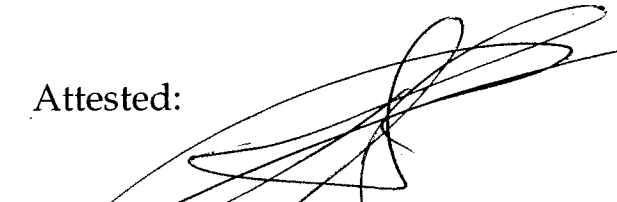
Enclosures (6)

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2007 (FIRST) Regular Session

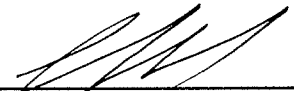
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 165 (EC), "AN ACT TO ADD A NEW ARTICLE 4 TO CHAPTER 10 OF TITLE 12 OF THE GUAM CODE ANNOTATED, TO AUTHORIZE THE BOARD OF DIRECTORS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP THROUGH A PERFORMANCE MANAGEMENT CONTRACT FOR THE MANAGEMENT, OPERATION AND MAINTENANCE OF THE PORT CARGO HANDLING EQUIPMENT AND/OR FACILITIES ASSOCIATED WITH SUCH EQUIPMENT AND/OR OTHER ASPECTS OF THE PORT OPERATIONS," was on the 10th day of October 2007, duly and regularly passed.

Attested:

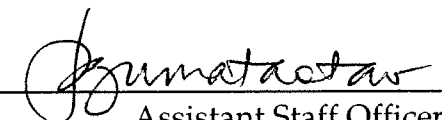


Ray Tenorio
Senator and Secretary of the Legislature



Edward J.B. Calvo
Acting Speaker

This Act was received by I Maga'lahaen Guåhan this 12 day of Oct., 2007, at
4:11 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 24 Oct 2007

Public Law No. 29-23

I MINA'BENTE NUEBI NA LIHESLATURAN GUÁHAN
2007 (FIRST) Regular Session

Bill No. 165 (EC)

As amended by the Committee on Tourism,
Maritime, Military, Veterans and Foreign Affairs.

Introduced by:

A. R. Unpingco
Frank F. Blas, Jr.
Edward J.B. Calvo
James V. Espaldon
Mark Forbes
J. A. Lujan
Judith Paulette Guthertz
Frank T. Ishizaki
Tina Rose Muña Barnes
A. B. Palacios, Sr.
v. c. pangelinan
R. J. Respicio
David L.G. Shimizu
Ray Tenorio
J. T. Won Pat

AN ACT TO *ADD* A NEW ARTICLE 4 TO CHAPTER 10 OF TITLE 12 OF THE GUAM CODE ANNOTATED, TO AUTHORIZE THE BOARD OF DIRECTORS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP THROUGH A PERFORMANCE MANAGEMENT CONTRACT FOR THE MANAGEMENT, OPERATION AND MAINTENANCE OF THE PORT CARGO HANDLING EQUIPMENT AND/OR FACILITIES ASSOCIATED WITH SUCH EQUIPMENT AND/OR OTHER ASPECTS OF THE PORT OPERATIONS.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** A new Article 4 is hereby *added* to Chapter 10 of Title 12
3 Guam Code Annotated to read as follows:

4 **“ARTICLE 4**

5 **PUBLIC-PRIVATE PARTNERSHIP THROUGH**
6 **A PERFORMANCE MANAGEMENT CONTRACT**

7 **§10401. Public-Private Partnership Authorization through a**
8 **Performance Management Contract.** The Board of Directors of the Jose
9 D. Leon Guerrero Commercial Port (Port) is authorized to issue a Request
10 for Proposal (RFP), Multi-Step Bid (MSB), Invitation for Bid (IFB),
11 soliciting bids or proposals from qualified parties for the management,
12 operation and maintenance of its cargo handling equipment through a
13 performance management contract, subject to the procurement laws of
14 Guam. The scope of work required through this RFP, MSB or IFB *shall*
15 include the daily operation and maintenance of its cargo handling
16 equipment; any repairs required, inclusive of all parts and labor;
17 performance monitoring requirements; and preventive maintenance of all
18 equipment and/or facilities directly associated with the equipment,
19 including, *but not limited to*, the acquisition for replacement of such
20 equipment.

21 The RFP, MSB and/or IFB *shall* include performance standards that
22 will provide operating criteria, guidelines and requirements to minimize
23 costly downtime and maximize cargo handling equipment availability and its
24 life span. Parties interested in submitting proposals *shall* have sixty (60)
25 days to prepare and submit a response to the Port. The General Services
26 Agency Chief Procurement Officer *shall* be an observer throughout the RFP,

1 MSB or IFB process as specified in this Section, *shall* receive copies of all
2 documents involved and *shall* be invited to any meetings regarding the
3 public-private partnership process specified in this Section.

4 The Port *shall* award a performance management contract subject to
5 the RFP, MSB or IFB detailed in this Section within one hundred twenty
6 (120) to one hundred fifty (150) days of the date of issuance of the RFP,
7 MSB or IFB; provided, that qualified offerors have submitted proposals in
8 compliance with the procurement laws of Guam and the provisions of this
9 Section.

10 **§10402. Contract Limits.** The awarded contract, which is subject to
11 the provisions of this Act, may be awarded for periods of not less than five
12 (5) years, with options to renew every five (5) years and not to exceed a total
13 of twenty (20) years. The awarded contract, subject to the provisions of
14 this Act, must contain performance reviews at least annually, and provisions
15 for contract termination and penalty based upon such review.

16 **§10403. Conflicts.** No contract awarded subject to the provisions of
17 this Act *shall* be awarded to any party who has a blood or marital
18 relationship to the third (3rd) degree of consanguinity with the General
19 Manager of the Port, a Board Member of the Port, *I Maga'lahen Guåhan* or
20 a Member of *I Liheslaturan Guåhan*.

21 **§10404. Other Public-Private Partnership through Performance**
22 **Management Contract.** Notwithstanding any other provisions of law, the
23 Board of Directors is authorized to enter into a public-private partnership
24 through a performance management contract for other aspects of the Port
25 operations it deems necessary, provided that the processes outlined in the
26 above sections are complied with.

1 **§10405. Termination of Contract for Reasons Unrelated to**
2 **Performance.** Should at some point in the future, a determination be made
3 by *I Liheslaturan Guåhan*, that a broad-scale public-private partnership for
4 the Port operations be advisable, subject to legislative approval, and if any
5 agreements entered into pursuant to this Act are viewed as impeding, such
6 provisions may be included in each contract for the purchase of such
7 contract, except that no contract *shall* be purchased in any circumstance
8 where a Contractor’s performance has been deemed to be unacceptable in
9 accordance with the provisions of this Act.

10 **§10406. Severability.** *If* any provision of this Act or its application
11 to any person or circumstances is found to be invalid or contrary to law, such
12 invalidity shall *not* affect other provisions or applications of this Act which
13 can be given effect without the invalid provisions or applications, and to this
14 end the provisions of this Act are severable.”