

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
153-36 (COR)	Joe S. San Agustin Jose "Pedro" Terlaje Tina Rose Muña Barnes Clynton E. Ridgell James C. Moylan Frank Blas Jr. Amanda L. Shelton V. Anthony Ada Mary Camacho Torres	AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT SHALL BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021."	6/16/21 4:54 p.m.	6/18/21	Committee on General Government Operations, Appropriations, and Housing	7/20/21 9:00 a.m.	8/4/21 9:59 a.m. As amended by the Committee on General Government Operations, Appropriations, and Housing	Request: 6/21/21 7/2/21	



SENATOR JOE S. SAN AGUSTIN

COMMITTEE ON GENERAL GOVERNMENT OPERATIONS, APPROPRIATIONS & HOUSING
I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN

July 28, 2021

The Honorable Therese M. Terlaje
Speaker
I Mina'trentai Sais Na Liheslaturan Guåhan
163 Chalan Santo Papa
Hagåtña, Guam 96910

VIA: The Honorable Amanda L. Shelton 
Acting Chairperson, Committee on Rules

RE: Committee Report on Bill No.153-36 (COR) As amended

Dear Speaker Terlaje:

Transmitted herewith is the Committee Report on **BILL NO. 153-36 (COR)** - As Introduced by Joe S. San Agustin, Jose "Pedro" Terlaje, Tina Rose Muña Barnes, Clynton E. Ridgell, James C. Moylan, Frank Blas Jr., Amanda L. Shelton, V. Anthony Ada, and Mary Camacho Torres. **As Amended by the Committee on General Government Operations, Appropriations and Housing. "AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT SHALL BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021.""**

Committee votes are as follows:

6 TO DO PASS

0 TO NOT PASS

1 TO REPORT OUT ONLY

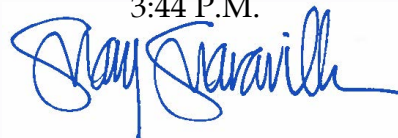
0 TO ABSTAIN

0 TO PLACE IN INACTIVE FILE


COMMITTEE ON RULES

RECEIVED:

July 28, 2021
3:44 P.M.



Respectfully,


Senator Joe S. San Agustin
Chairperson, Committee on Appropriations

Revisions Rec'd:

August 4, 2021 @ 8:00 A.M.



SENATOR JOE S. SANAGUSTIN

I Mina' trentai Sais na Liheslaturan Guåhan

CHAIRMAN, COMMITTEE ON GENERAL GOVERNMENT OPERATIONS, APPROPRIATIONS, AND HOUSING

COMMITTEE REPORT BILL NO. 153-36 (COR)

As Introduced by As Introduced by Joe S. San Agustin, Jose “Pedo” Terlaje, Tina Rose Muña Barnes, Clynton E. Ridgell, James C. Moylan, Frank Blas Jr., Amanda L. Shelton, V. Anthony Ada, and Mary Camacho Torres

As Amended by the Committee on General Government Operations, Appropriations, and Housing.

“AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT *SHALL* BE CALLED THE “DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021”



SENATOR JOE S. SAN AGUSTIN

COMMITTEE ON GENERAL GOVERNMENT OPERATIONS, APPROPRIATIONS & HOUSING
I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN

28 JUL 2021

MEMORANDUM

TO: ALL MEMBERS

Committee on General Government Operations, Appropriations, and Housing

From: Senator Joe S. San Agustin
Committee Chairperson

Subject: Committee Report on Bill No. 153-36 (COR) As Amended

Transmitted herewith is the Committee Report on **BILL NO. 153-36 (COR)** - As Introduced by Joe S. San Agustin, Jose "Pedro" Terlaje, Tina Rose Muña Barnes, Clynton E. Ridgell, James C. Moylan, Frank Blas Jr., Amanda L. Shelton, V. Anthony Ada, and Mary Camacho Torres. **As Amended by the Committee on General Government Operations, Appropriations and Housing. "AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT SHALL BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021.""**

This report includes the following:

- Copy of COR Referral of Bill No. 153-36 (COR)
- Notices of Public Hearing and Other Correspondence
- Copy of Public Hearing Agenda
- Public Hearing Sign-in Sheet
- Submitted Written Testimony and Supporting Documents
- Committee Report Digest
- Copy of Bill No. 153-36 (COR) As Introduced
- Copy of Bill No. 153-36 (COR) As Amended
- Copy of Fiscal Note from Bureau of Budget and Management Research
- Copy of Funding Availability Note from Office of Finance and Budget
- Committee Vote Sheet

Please take the appropriate action on the attached vote sheet, Your Attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Si Yu'os Ma'åse'.


Senator Joe S. San Agustin
Chairman, Committee on Appropriations



Vice Speaker

TINA ROSE MUÑA BARNES

CHAIRPERSON, COMMITTEE ON RULES

I Mina'trentai Sais Na Liheslaturan Guahan

GUAM CONGRESS BUILDING

163 CHALAN SANTO PAPA

HAGATNA, GUAM 96910

TEL 671-472-2461

COR@GUAMLEGISLATURE.ORG

June 18, 2021

MEMO

To: Rennae Meno
Clerk of the Legislature

Attorney Ana Won Pat-Borja
Legislative Legal Counsel

From: Vice Speaker Tina Rose Muña Barnes
Chairperson, Committee on Rules

Re: Referral of Bill No. 153-36 (COR)

Hafa Adai,

As per my authority as Chairperson of the Committee on Rules and subject to §6.01(d)(1), Rule VI of our Standing Rules, I am forwarding the referral of Bill No. 153-36 (COR) – Joe S. San Agustin, Jose "Pedro" Terlaje, Tina Rose Muña Barnes, Clynton E. Ridgell, James C. Moylan, Frank F. Blas Jr., Amanda L. Shelton, V. Anthony Ada, Mary Camacho Torres - "AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT SHALL BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021."

Please ensure that the subject bill is referred to the **Committee on General Government Operations, Appropriations, and Housing**, chaired by Senator Joe S. San Agustin.

I also request that the same be forwarded to the prime sponsor of the subject bill.

If you have any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director at 472-2461.

Thank you for your attention to this important matter.

Respectfully,

Vice Speaker Tina Rose Muña Barnes
Chairperson, Committee on Rules





Joe S. San Agustin <senatorjoessanagustin@gmail.com>

FIRST NOTICE of PUBLIC HEARING on Tuesday, July 20, 2021

1 message

Rose Mesa <rose.senatorsa@gmail.com>

12 July 2021 at 08:55

To: phnotice@guamlegislature.org

Cc: Management Information System <mis@guamlegislature.org>, Tom Unsiog <sgtarms@guamlegislature.org>, Joe San Agustin <protocol@guamlegislature.org>, ed pocaigne <siedpocaigne@gmail.com>

July 12, 2021

To: All Honorable Senators, Stakeholders and Media**From: Senator Joe S. San Agustin, Chairman****Subject: FIRST NOTICE of PUBLIC HEARING on Tuesday, July 20, 2021***Buenas yan Håfa Adai!*

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on General Government Operations, Appropriations and Housing will convene a public hearing on **Tuesday, July 20, 2021 beginning at 9:00 a.m. in I Liheslaturan Guåhan's Public Hearing Room** (Guam Congress Building, Hagåtña).

The Committee will hear and accept testimony on the following:

Bill No. 153-36 (COR) - Joe S. San Agustin / Jose "Pedro" Terlaje / Tina Rose Muña Barnes / Clynton E. Ridgell / James C. Moylan / Frank Blas Jr. / Amanda L. Shelton / V. Anthony Ada / Mary Camacho Torres

AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT SHALL BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021."

The hearing will be broadcast on local television, GTA Channel 21, Docomo Channel 117/112.4 and streamed online via *I Liheslaturan Guåhan's* live feed. A recording of the hearing will be available online via Guam Legislature Media on YouTube after the hearing.

In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Joe S. San Agustin at senatorjoessanagustin@gmail.com.

We look forward to your participation!

*Un Dångkolo Na Si Yu'os Ma'åse'***Very Respectfully,***RoseMarie T. Mesa**Office Manager**I Mina'trentai sais Na Liheslaturan Guåhan
(Thirty-Sixth Guam Legislature)*

Senator Joe S. San Agustin

Committee on General Government Operations, Appropriations, and Housing

Office: 671-989-5445

Email: rose.senatorsa@gmail.com

To unsubscribe from this group and stop receiving emails from it, send an email to phnotice+unsubscribe@guamlegislature.org.

From: Rose Mesa rose.senatorsa@gmail.com
Subject: SECOND NOTICE of PUBLIC HEARING on Tuesday, July 20, 2021
Date: July 16, 2021 at 9:53 AM
To: phnotice@guamlegislature.org
Cc: Management Information System mis@guamlegislature.org, Tom Unsiog sgtarms@guamlegislature.org, Joe San Agustin protocol@guamlegislature.org

July 16, 2021

To: All Honorable Senators, Stakeholders and Media

From: Senator Joe S. San Agustin, Chairman

Subject: SECOND NOTICE of PUBLIC HEARING on Tuesday, July 20, 2021

Buenas yan Håfa Adai!

In accordance with the Open Government Law, relative to notices for public meetings, please be advised that the Committee on General Government Operations, Appropriations and Housing will convene a public hearing on **Tuesday, July 20, 2021 beginning at 9:00 a.m. in I Liheslaturan Guåhan's Public Hearing Room** (Guam Congress Building, Hagåtña).

The Committee will hear and accept testimony on the following:

9:00 a.m.

Bill No. 153-36 (COR) - Joe S. San Agustin / Jose "Pedro" Terlaje / Tina Rose Muña Barnes / Clynton E. Ridgell / James C. Moylan / Frank Blas Jr. / Amanda L. Shelton / V. Anthony Ada / Mary Camacho Torres **AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT SHALL BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021."**

2:00 p.m.

Bill No. 137-36 (COR) - Jose "Pedro" Terlaje Tina Rose Muña Barnes Clynton E. Ridgell Mary Camacho Torres **AN ACT TO APPROPRIATE FUNDS TO THE GOVERNMENT OF GUAM RETIREMENT FUND TO CONDUCT A STUDY RELATIVE TO ENHANCED BENEFITS FOR UNIFORMED PERSONNEL IN THE DEFINED BENEFIT 1.75 RETIREMENT SYSTEM.**

The hearing will be broadcast on local television, GTA Channel 21, Docomo Channel 117/112.4 and streamed online via *I Liheslaturan Guåhan's* live feed. A recording of the hearing will be available online via Guam Legislature Media on YouTube after the hearing.

In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Joe S. San Agustin at senatorjoessanagustin@gmail.com.

We look forward to your participation!

Un Dangkolo Na Si Yu'os Ma'ase'

Very Respectfully,

RoseMarie T. Mesa

Office Manager

I Mina'trentai sais Na Liheslaturan Guåhan

(Thirty-Sixth Guam Legislature)

Senator Joe S. San Agustin

Committee on General Government Operations, Appropriations, and Housing

Office: 671-989-5445

Email: rose.senatorsa@gmail.com

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Office of

SENATOR Joe S. San Agustin

I Mina' trentai Sais na Liheslaturan Guåhan Thirty-Sixth Guam Legislature

PUBLIC HEARING

Tuesday, July 20, 2021

Guam Congress Building Public Hearing Room

AGENDA

9:00 a.m.

Bill No. 153-36 (COR) - Joe S. San Agustin / Jose "Pedro" Terlaje / Tina Rose Muña Barnes / Clynton E. Ridgell / James C. Moylan / Frank Blas Jr. / Amanda L. Shelton / V. Anthony Ada / Mary Camacho Torres

AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT SHALL BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021."

2:00 p.m.

Bill No. 137-36 (COR) - Jose "Pedro" Terlaje / Tina Rose Muña Barnes / Clynton E. Ridgell / Mary Camacho Torres **AN ACT TO APPROPRIATE FUNDS TO THE GOVERNMENT OF GUAM RETIREMENT FUND TO CONDUCT A STUDY RELATIVE TO ENHANCED BENEFITS FOR UNIFORMED PERSONNEL IN THE DEFINED BENEFIT 1.75 RETIREMENT SYSTEM.**

Committee Chairman: General Government Operations, Appropriations, & Housing

Ran - Care Commercial Building, CBU #230, 761 South Marine Corps Dr., Tamuning, Guam 96913
Tel: (671) 989-5445 * Fax: (671) 969-6737 * email: senatorjoessanagustin@gmail.com

July 19, 2021

Office of Senator Joe S. San Agustin
Ran Care Building, 2nd Floor Suite 3 (CBU#203)
761 South Marine Drive
Tamuning, Guam 96931

Subject: GEDA Testimony on Bill No. 153-36 (COR) AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT SHALL BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021."

Häfa Adai Senator San Agustin and members of the Committee on General Government Operations, Appropriations and Housing!

I would like to herein submit this written testimony supporting Bill 153-36 (COR) AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT SHALL BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021".

The Guam Economic Development Authority (GEDA), in its role as the central financial manager and consultant for the Government of Guam, monitors and advises the government on financial options that can best support and achieve certain goals and objectives. We applaud the sponsors of Bill 153-36 on identifying a funding source for a new Guam Department of Corrections facility, long overdue to be replaced, as it can no longer fully support the growing prison population.

The bill proposes a pledge of Five Million Dollars (\$5,000,000.00) as an annual lease payment for the new Guam Department of Corrections (GDOC) for 30 years. The bill further states that the first payment, anticipated in Fiscal Year 2022, will come from the reimbursement of the Earned Income Tax Credit (EITC) with the following years payments to come from the General Fund.

I would like to first state for the record that whenever a capital leaseback financing is contemplated, the first lease payment is normally made after the facility is completed, usually in the second year after the financing which is when the government leasing entity, in this case, GDOC, will have gainful use of the newly constructed facility. So a lease payment will more than likely not become due until FY 2023.

In addition, GEDA would like to provide amendments to Bill 153-36 (COR) based on input and discussion with bond counsel:

- 1) We request that the Legislature include GEDA as an optional issuer of the lease financing bonds as Government issued lease financing bonds are triple tax exempt. To do so, the following amendments are suggested;
- 2) To ensure the financing is not treated as "debt" or as "indebtedness" that is subject to the debt limit;
- 3) To clarify that the Government is the ultimate rightful owner of the property; and
- 4) To clarify the intent of the Legislature as it relates to existing statutes, specifically:
 - a. §50103(k) of Title 12 of the Guam Code Annotated, which authorizes GEDA to issues the GDOC lease financing bonds; and
 - b. The issuance of the GDOC lease financing bonds shall not be subject to the approval of the voters of Guam.

These amendments are marked and attached to this testimony for your easy reference.

Once again, thank you for the opportunity to provide support of Bill 153-36 (COR). Should you have any questions, please contact me at 647-4332 or via email at joann.camacho@investguam.com.

Si Yu'us Ma'åse,


Joann G. Camacho
Acting Administrator

ATTACHEMENT



Jy'w comments
7/15/21

IMINA 'TRENTAISAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. _____-36 ()

Introduced by:

Joe S. San Agustin
Jose "Pedro" Terlaje
Tina Rose Muña Barnes
Clynton E. Ridgell
James C. Moylan
Frank F. Blas Jr.
Amanda L. Shelton
V. Anthony Ada
Mary Camacho Torres

AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90,
TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE
FINANCE, DESIGN, CONSTRUCTION AND
MAINTENANCE OF THE GOVERNMENT OF GUAM
DEPARTMENT OF CORRECTIONS WHICH THE ACT
SHALL BE CALLED THE "DEPARTMENT OF
CORRECTIONS MODERNIZATION ACT OF 2021"

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

2 **Section 1.** A new Article 7 is hereby added to Chapter 90, Title 9 of the Guam
3 Code Annotated to read as follows:

4 "Article 7."

5 THE FINANCE, DESIGN, CONSTRUCTION, AND MAINTENANCE OF THE
6 DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021.

1 §90301. Legislative Findings and Policy.

2 §90302. Definitions.

3 §90303. Authorization to Enter into Long-Term Leases.

4 §90304. Department of Corrections Project Supervision, Reuse Study
5 and Appropriation.

6 §90305. Identification Projects and Procurement.

7 §90306. Responsibility of Developer/Contractor.

8 §90307. Contractual Safeguards.

9 §90308. Assignments.

10 §90309. Pledge of or Reservation Revenues.

11 §90310. Use of Tax-Exempt Bond, Taxable Bond and Other Financing
12 Instruments for Financing.

13 §90311. Prison IT, Building and Security Management System.

14 §90312. Utilities and Routine Maintenance and Repair.

15 §90313. Maintenance Fund.

16 §90314. Rules, Regulations, and Restrictions.

17 §90315. Expedited Permitting Process.

18 §90301. Legislative Findings and Policy. / Liheslaturan Guahan finds that the
19 Department of Corrections (DOC) was established by Public Law 9-208 on July 18,
20 1968 within the Executive branch of the Government of Guam. Before the passing of
21 Public Law 9-208, Department of Corrections was first known as the Guam Penitentiary
22 and through Executive order 68-23, enacted by Governor Manuel F.L Guerrero, the
23 Penitentiary was transferred to Department of Correction, which was effective
24 November 01, 1968.

25 The Department of Corrections is the only prison in Guam and provides services to
26 local and federal agencies. DOC provides custodial care to individuals who are
27 convicted of crimes and for those who are waiting judicial disposition. The environment

1 of the prison must meet federal standards such as the National Prison Standards, Prison
2 Rape Elimination Act (PREA), and the National Commission on Correctional
3 Healthcare Standards (NCCHC), which ensures that the living conditions are decent and
4 humane, but with the issue of overcrowding and structural failures: DOC has been
5 struggling to properly execute their mandates and comply with National standards.
6 DOC is ensuring that they prevent any violations of the Federal Consent Decree, which
7 is an agreement the government of Guam entered that it would improve the living
8 conditions of the inmates following the Civil Rights of Institutionalized Persons Act.

9 The Adult Correctional Facility (ACF) in Mangilao is in its stages of failure due
10 to age and lack of modern technology, which is affecting the operations and personnel
11 of the Correctional agency. ACF was built to hold a maximum three hundred (300)
12 inmates and detainees. Currently, the population of Guam is growing as well as crime
13 rates, which DOC has outgrown its ACF. Overtime other DOC buildings were added to
14 address the overcrowding issues of the Correctional. Buildings used for rehabilitation
15 and offices were re-designed to accommodate the rising population of prisoners. The
16 Adult Correctional Facility is made of fifteen housing units, which holds not only local
17 inmates and detainees, but also immigration and federal detainees. The lack of proper
18 facilities prevents DOC to properly provide rehabilitation to the inmates.

19 The poor condition of the housing units of the prisons are not cost effective or
20 adequate to handle the growing prisoner population. DOC recognized the difficulty to
21 meet their mandates of providing security, health, rehabilitation and welfare to the
22 inmates and detainees under their care without comprising the well-being of their
23 personnel. The main goal of the Department of Corrections is to provide rehabilitation
24 to individuals who have been convicted of crimes and ensure that they become useful
25 members of the community and to themselves.

26 Furthermore, *I Liheslaturan Guåhan* finds that DOC has plans to build a new
27 Department of Corrections with a bed capacity for one thousand (1,000) inmates to

1 replace their current prison if funding was available. The new prison would provide the
2 proper space to meet their mandates and the demands of their growing prisoner
3 population. The Department of Corrections had started to draft an 80-year masterplan in
4 which will provide a phase-to-phase plan to construct a new Department of Corrections
5 that will meet their construction goal of a bed capacity of one thousand (1,000) inmates.
6 The Department of Corrections Master Plan's goal is to ensure that all the issues on
7 structural, technology, and security of the inmates and personnel are covered. The
8 Masterplan also ensures that all federal standards such as the National Prison Standards
9 and PREA standards are met by Department of Corrections.

10 It is the intent of *I Liheslaturan Guåhan* to provide the Department of Corrections
11 proper confinement of offenders in controlled environment prison and community-
12 based facilities that are safe, humane, cost-efficient, and appropriately secure, which
13 also promotes the safety of the people of Guam. *I Liheslaturan Guåhan* has identified
14 funding to construct a new Department of Corrections Adult Correctional Facility
15 through the Earned Income Tax Credits to be reimbursed to Guam at an estimated Sixty
16 Million Dollars (\$60,000,000) annually, which an estimate of no more than Five
17 Million Dollars (\$5,000,000) will be allocated for the payments of the lease-back
18 agreement.

19 In an effort to overcome financing hurdles, and to provide DOC with the proper
20 tools to meet their mandates, *I Liheslaturan Guåhan* desires to authorize the
21 government of Guam to enter into contracts for financing, design, construction, and
22 long-term capital maintenance of a new Department of Corrections Facility with private
23 sector contractors who can provide long-term financing.

24 To facilitate the financing, design, construction, and maintenance of a new
25 Department of Corrections Facility envisioned by this Act, the Government of Guam
26 will be authorized to execute a lease agreement of existing property under its inventory

1 for up to Thirty (30) years on which the new Department of Corrections will be
2 constructed.

3 The lease of the Government of Guam's property will be to the contractor and/or
4 the Guam Economic Development Authority, who will design and construct the new
5 Department of Corrections Facility and provide a funding for the design and
6 construction through appropriation received from the reimbursement of the Earned
7 Income Tax Credit for Fiscal Year 2022 and prospective appropriation from the General
8 Fund, annually. Upon completion of the construction, the facilities and land will be
9 leased back to the Government of Guam for a period not to exceed the initial ground
10 lease to the contractor over which time the Government of Guam will amortize, as lease
11 payments to the contractor, the cost of financing, design, construction, and related
12 expenses of the new Department of Corrections.

13 The contractor will also be responsible for the capital maintenance and repair of
14 the Department of Corrections constructed under this Act, which costs shall be paid by
15 the Government of Guam as provided for under this Act. At the expiration of the lease-
16 back period, the Government of Guam real property and the Department of Corrections
17 constructed on the government of Guam real property will revert to the Government of
18 Guam with no further obligations to the contractor.

19 §90302. Definitions. For purposes of this Chapter and unless otherwise
20 specified, the following words and phrases are defined to mean:

21 (a) 'Act' means Article 7, Title 9, Chapter 90, Guam Code Annotated shall
22 be called "The Department of Corrections Modernization Act of 2021."

23 (b) 'Contract' shall mean the design, construction and financing contract
24 entered by and between the Government of Guam and the Contractor
25 following negotiations on the response to the Request for Proposal.

26 (c) 'Contractor' shall mean the authorized entity which shall be the
27 signatory on the Contract and shall be fully responsible for carrying out

1 the design, construction, financing, and maintenance of the new
2 Department of Corrections. The Contractor may cooperation with
3 another entity or entities in any manner the Contractor deems
4 appropriate to provide for the financing, design and construction of the
5 new Department of Corrections envisioned by this Chapter.

6 (d) 'Department of Corrections Construction Committee' shall be chaired
7 by the Administrator or Deputy Administrator of the Guam Economic
8 Development Authority and include the Director and Deputy Director
9 of the Department of Corrections, the Director or Deputy Director of
10 Department of Public Works, the Director or Deputy Director of
11 Department of Land Management, and the Attorney General of Guam.

12 (e) 'Correctional Agency' shall mean the Department of Corrections.

13 (f) 'Correctional Facility' shall mean the Department of Corrections Adult
14 Correctional Facility.

15 (g) 'Department of Corrections Modernization Act of 2021' as used in this
16 Act shall mean the construction of a new Department of Corrections.

17 (h) 'Lease' shall mean a lease from the Government of Guam itself or
18 through the Department of Corrections to the contractor entered at the
19 time of the contract for the property.

20 (i) 'Lease-back' shall mean the lease from the contractor and/or the Guam
21 Economic Development Authority to the Government of Guam itself or
22 by and through the Department of Corrections of the newly constructed
23 Department of Corrections.

24 (j) 'Property' shall mean any property on which a new Department of
25 Corrections is located.

26 **§90303. Authorization to Enter into Long-Term Leases.**

1 For the purpose of facilitating the financing, design, construction and
2 maintenance of the new Department of Corrections encompassed by this Act, the
3 Government of Guam ~~, through GEDA,~~ is authorized to lease, as required, to the
4 contractor and/or the Guam Economic Development Authority sufficient
5 Government of Guam real property; provided, such property is in the inventory of
6 the Government of Guam.

7 The Government of Guam is also authorized to lease-back from the
8 contractor and/or the Guam Economic Development Authority the property for a
9 period mutually agreed upon between the Government of Guam and the contractor
10 and/or the Guam Economic Development Authority as may be reasonably necessary
11 to amortize the lease-back period of the cost associated with the design,
12 construction, and maintenance of the new Department of Corrections. In no event
13 shall the end of such lease-back period be structured as an annually renewable lease
14 with a provision for automatic renewals to the extent that pledged revenue under
15 §90309 is available. The lease-back shall not be construed as a debt under any
16 applicable debt limitation under the Organic Act of Guam or Guam law.

17 **§90304. Department of Corrections Project Supervision, Reuse Study and**
18 **Appropriation.**

19 (a) The project undertaken under the provisions of this Act shall be in accordance
20 with the plans, specifications, standards and costs approved by GEDA and
21 shall be under the supervision of GEDA. There is hereby appropriated to
22 GEDA an amount not to exceed more than 5% of the total cost of the overall
23 contract for the project supervision which includes covering the cost of a
24 prison development consultant or consultants. The scope of work of said
25 consultant or consultants shall include, but not be limited to, the preparation
26 of procurement-related documents including the Request for Proposal.

1 (b) Additionally, there is hereby appropriated to GEDA One Million Dollars
2 (\$1,000,000) from the General Fund, for the purpose of commissioning a
3 detailed study which compares the feasibility of either converting the existing
4 Department of Correction to a Government of Guam facility or developing a
5 new Government of Guam facility. The study shall also include financing
6 options for the purpose of funding the reuse or development of said new
7 Government of Guam facility by utilizing the savings from annual rent
8 realized by the Government of Guam by moving from commercial spaces to
9 the new facility. Further, the study shall include the estimated costs associated
10 with design, financing, renovation and/or new construction of the central
11 government office complex as described herein.

12 **§90305. Identification Projects and Procurement.** Under the supervision of
13 I Liheslaturan Guåhan, GEDA in consultation with the Director of Department of
14 Corrections shall utilize the program study of the Correctional Agency to identify and
15 prioritize potential projects to be completed. The list of projects shall be included in a
16 Requests for Proposals developed by the Guam Economic Development Authority.
17 Upon receipt of the Program Study, the Guam Economic Development Authority in
18 consultation with the Director of Department of Correction shall solicit Request for
19 Proposal (RFP), in compliance with the Guam Procurement Law, for the financing,
20 design, and construction of the Department of Corrections, according to the needs of
21 the Correctional agency and consistent with this Chapter. The choice of the
22 contractor shall be made by the Department of Corrections Construction Committee.
23 The committee shall assess the prior performance of the contractor on similar
24 projects, and shall be free to disqualify any contractor that does not have a successful
25 record of project completion on Guam or any similar isolated locality.

1 The Committee shall also specifically consider the Contractors ability and
2 performance with regards to financing, development and construction of a
3 Correctional facility on Guam or any similarly isolated locality.

4 The selection of a contractor shall be based upon the proposal that delivers the
5 best value for Guam in meeting the objectives of the Correctional Agency.

6 GEDA shall issue an RFP within thirty (30) days after the conclusion of its
7 Program study in consultation with the Department of Corrections for the design,
8 construction, and maintenance of the Correctional Facilities.

9 **§90306. Responsibility of Developer/Contractor.** The contract shall require that
10 the contractor be responsible for all costs, expenses and fees of any kind or nature,
11 associated with the design, civil improvements, on-site and off-site infrastructure,
12 construction, permits, and financing associated with the completion of the Department
13 of Corrections, to the extent provided by GEDA in consultation with the Department
14 of Corrections in the Request for Proposals. The lease may, for the purposes, provide
15 that its term shall be extended for a period not to exceed the shorter of ten (10) years
16 beyond the original term of the lease-back, or such period of time as is necessary to
17 repay in full any financing arranged pursuant to §84109 of this Chapter. The capital
18 maintenance costs shall be paid by the contractor.

19 **§90307. Contractual Safeguards.** Prior to undertaking the work of finance,
20 design, construction, and maintenance of the new Department of Corrections, the
21 Guam Economic Development Authority in consultation with the Department of
22 Corrections, and the developer or contractor, shall negotiate and enter into a binding
23 construction contract to build the new Department of Corrections in accordance with
24 Guam Building Code under 21 GCA, Chapter 67, Guam Fire Safety Codes and any
25 other applicable requirements. The construction contract shall contain contractual
26 obligations typically found in Government of Guam Construction contracts, including,
27 but not limited to:

- (a) Warranties:
- (b) Liquidated damages:
- (c) Performance and payments bonds:
- (d) Indemnity:
- (e) Insurance:
- (f) Standard specifications:
- (g) Technical specifications:
- (h) Progress schedule:
- (i) Maintenance:
- (j) Compliance with Guam labor regulations:
- (k) Compliance with Guam prevailing wage rates for employment of temporary alien workers (112) on Guam;
- (l) Compliance with Public Law 28-98: restriction against contractors employing convicted sex offenders to work at government of Guam venues.

The contract must be submitted for review and approval to all entities charged by law with the duty to review and approve government contracts, including the Office of the Attorney General.

§90308. Assignments. To facilitate the purpose of this Act and provide security for the holders of any financing instruments issued pursuant to this Act, the contractor may assign, without the need of the consent of the Guam Economic Development Authority, the contract, the lease and the lease-back to any underwriter, trustee or other party as appropriate to facilitate the contractor financing.

§90309. Pledge of or Reservation of Revenues.

- (a) Rental Payments under the lease and the lease-back may be secured by a pledge or other reservation of revenues collected by the government of Guam from the following:

1 (1) The sum of no more than Five Million Dollars (\$5,000,000)
2 from the revenues received pursuant to 11 GCA Chapter 42,
3 Earned Income Tax Credit will be available for Fiscal Year 2022
4 only.

5 (2) The sum of no more than Five Million Dollars (\$5,000,000)
6 from General Fund shall be appropriated annually.

7 ~~Any amounts pledged as provided in this Section are hereby continuously~~
8 ~~appropriated for the purpose of making lease back payments, but any amounts~~
9 ~~only reserved or pledged as provided in this Section, and not pledged, shall be~~
10 subject to annual appropriation for the purpose of making lease-back payments.
11 The revenues pledged or reserved and thereafter received by the Government of
12 Guam or by any trustee, depository or custodian shall be deposited in a separate
13 account and shall be immediately subject to such reservation or the lien of such
14 pledge without any physical delivery thereof or further action, and such
15 reservation or the lien of such pledge shall be valid and binding against all parties
16 having claims of any kind in tort, contract or otherwise against the Government
17 of Guam or such trustee, depository or custodian, irrespective of whether the
18 parties have notice thereof. The instrument by which such pledge or reservation is
19 created need be recorded.

20 **§90310. Use of Tax-Exempt Bond, Taxable Bond and Other Financing**
21 **Instruments for Financing.**

22 (a) To minimize the financing cost to the Government of Guam, financing
23 utilized by the contractor to fund the design, construction, and maintenance of the
24 Department of Corrections shall be through tax-exempt obligations, taxable bond
25 obligation, or other financial instruments provided, such financing is available at
26 interest rates determined by the Guam Economic Development Authority to be
27 reasonable and competitive. The Guam Economic Development Authority shall be

1 the issuer of any financial instruments or obligations, unless the Guam Economic
2 Development Authority waives its right to serve as the issuer of financial instruments
3 or obligations. Alternatively, the contractor may use an alternative method of
4 financing, including, but not limited to, a short-term debt, mortgage, loan, federally
5 guaranteed loan or loan by an instrumentality of the United States of America, if such
6 financing will better serve the needs of the People of Guam. Such alternative financing
7 shall be approved by I Liheslaturan Guahan. The purpose for the requirements of this
8 Section is to assure that the Government of Guam pays the lowest possible interest rate
9 so that the cost of the Government of Guam's financing of the design and construction
10 of the Department of Corrections, amortized through the lease-back payments from
11 Government of Guam to GEDA and/or to the contractor, will be lower than regular
12 commercial rates.

13 (b) I Liheslaturan Guahan, pursuant to §50103(k) of Title 12 of the Guam
14 Code Annotated, hereby authorizes the Guam Economic Development Authority to
15 issue one or more additional series of tax-exempt and/or taxable obligations (in any
16 case, the "bonds") for the purposes of financing Department of Corrections Adult
17 Correctional Facility, in an aggregate principal amount not to exceed
18 Dollars (\$) for the following purposes: (1) to finance the design,
19 construction, and/or maintenance of the Department of Corrections Adult Correctional
20 Facility, (2) to fund a deposit to a debt service reserve fund, (3) to fund capitalized
21 interest with respect to the bonds, and (4) to pay expenses relating to the authorization,
22 sale and issuance of the bonds, including without limitation, printing costs, costs of
23 reproducing documents, credit enhancement fees, underwriting, legal, feasibility,
24 financial advisory and accounting fees and charges, fees paid to banks or other
25 financial institutions providing credit enhancement, costs of credit ratings and other
26 costs, charges and fees in connection with the issuance, sale and delivery of the bonds,
27 subject to the following additional conditions:

1 (i) The terms and conditions of the bonds shall be as determined by the
2 Guam Economic Development Authority by the execution of a certificate, trust
3 agreement or indenture authorizing the issuance of the bonds; provided, however,
4 that such terms and conditions shall be consistent with this Section, that the
5 bonds shall have a final maturity not to exceed thirty (30) years; and an interest
6 rate not to exceed seven (7%) percent.

7 (ii) No bonds authorized by this Section shall be sold until the Board of
8 Directors of Guam Economic Development Authority has approved the sale by
9 resolution, as provided by Chapter 50 of Title 12, Guam Code Annotated.

10 (iii) The issuance of bonds pursuant to this Section shall not be subject to
11 the approval of the voters of Guam.

12
13 **§90311. Prison IT, Building and Security Management System.**

14 (a) For the purpose of ensuring the long serving duration of the
15 Department of Corrections, GEDA shall include in the specifications
16 for the new Correctional Facility, the requirement for a prison
17 information management system, security and surveillance system,
18 and a building management system. These systems identified must
19 be done in consultation with the Department of Corrections and
20 compliant with the federal mandates related to prison records and to
21 foster compliance with the Federal Standards for Prisons and Jails.

22 (b) GEDA, in consultation with the Department of Corrections, shall
23 determine the specifications for such systems based on
24 comprehensive, state-of-the-art technology generally accepted
25 within the United States Prison Industry in connection with the
26 development for a new Department of Corrections. The
27 specifications shall require that all system are designed by the same

1 software developer so as to ensure the delivery of the rehabilitation
2 to the inmates.

3 (c) In order to ensure immediate response to system downtimes or
4 failure, GEDA shall include in the specifications the requirement
5 that the provider of these systems have a local Guam Office and
6 service technicians stationed on Guam.

7 **§90312. Utilities and Routine Maintenance and Repair.** The Contractor shall
8 be responsible for the connection and payment of all utilities, including without
9 limitation, power, water, sewer, telephone, and cable and all maintenance and repair
10 and exterior grounds keeping and landscaping and upkeep of the Department of
11 Corrections.

12 **§90312. Maintenance Fund.** The Contract with the Contractor, and the Lease-
13 Back, shall provide that all capital maintenance and repair of the Department of
14 Corrections be performed by the contractor as determined during the bid process, to be
15 inclusive of the existing Department of Corrections throughout the duration of the
16 construction of the new Department of Corrections. The Contractor shall provide
17 sufficient funding for a separate maintenance fund for this purpose: sufficient funds for
18 this purpose shall be defined as the cost of capital maintenance and repair for the
19 remaining period of the lease agreement with the Government of Guam after the
20 completion of the Department of Corrections. The maintenance fund shall be used
21 exclusively for the purpose of capital maintenance and repair and shall be in an
22 interest-bearing account segregated from other funds held in escrow.

23 **§90313. Rules, Regulations, and Restrictions.** The Administrator of Guam
24 Economic Development Authority with the approval of its Board, in consultation with
25 the Department of Corrections and the consent of the Attorney General of Guam, /
26 Liheslaturan Guahan and / Maga'Hagan Guahan may promulgate rules and

1 regulations pursuant to Guam law necessary to implement the provision of this
2 Chapter.

3 §90314. Expedited Permitting Process. Since time is of the essence relative to
4 the development of the new facilities, notwithstanding any other provision of law, /
5 Maga' Hagan Guåhan shall have the authority to take any and all steps necessary to
6 expedite the issuance of any and all permits required for the development, design and
7 construction of the new facility.

8 Section 2. Repealing Clause. All Laws or parts of any law that is inconsistent with
9 provisions contained in the Department of Corrections Modernization Act of 2021 are
10 hereby repealed or amended accordingly.

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

15 Section 4. Enactment. This act shall become effective upon enactment.



A. LEON GUERRERO
Governor

JOSHUA F. TENORIO
Lieutenant Governor

Department of Corrections
Depattamenton Mangngurihi
Government of Guam

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JOSEPH S. CARBULLI
Director

ROBERT D. CAMAC
Deputy Director

July 19, 2021

Senator Joe S. San Agustin
I Mina'trentai Sais na Liheslaturan Guåhan
Thirty-Sixth Guam Legislature
Ran Care Building CBU 230
761 South Marine Corps Drive
Tamuning, Guam 96931

Buenas yan Hafa Adai!

The Department of Corrections, is in full support of *Bill 153 -36 CORRECTIONS MODERNIZATION ACT*. We believe that this Bill will address many of our numerous decades-long challenges.

The Department of Corrections was originally built for a little more than 300 prisoners. Through the years, we have tried to address an ever-growing prisoner population with band aid solutions. In recent years, we have reached a population of over 700 inmates and detainees. In due time, we will gradually see an increase in the prison population, so we must take action now to address the inevitable.

This new facility will help us in maximizing our security manpower and substantially reduce overtime based on the proposed design in the Prison Master Plan. It will assist us to be in compliant with the Prison Rape Elimination Act (PREA) and to ensure the safety of all inmates and detainees. Additionally, it will help us to maintain federally mandated standards and to keep our prisoners and officers safe and avoid a Federal Consent Decree.

For many years, we have endured many untenable challenges and horrific acts of violence in our agency; such as assaults, suicides, escapes, riots and inmate homicides. We continue to find contraband in our facilities and we are on constant alert to address this situation. In the past years, we have had numerous officers seriously injured due to violent assaults by prisoners. We have also experienced the tragic death of Officer Douglas Mashburn who was slayed by several inmates while working in a high security facility.

We are embarking on a new Correctional Modernization overall plan that not only covers a new facility infrastructure, but also updating policies, introducing modern technology for treatment

and rehabilitation, and a comprehensive educational and vocational program. But, most importantly, the new prison will provide a "safe working environment" for our valued employees and help with morale and job retention which has been a challenge and is a high priority.

An area is slated for the Guam Behavioral Health and Wellness Center (GBHWC) that will address all mental health issues. It will potentially provide a modern medical clinic that will address general medical and dental services.

After several months of research and planning, the Prison Master Plan that will be completed by August 2021, will give you a brief overview of our vision for Department of Corrections. It will address and resolve the long-standing problematic issues at the prison. This will be the first ever comprehensive master plan in the history of Department of Corrections.

In closing, the DOC would like to recommend the following amendments:

- On Page 12, Lines 14-20; §83109. Pledge of Revenues
 - "(3) The Governor of Guam may use federal funds that are made available to the Government of Guam by the United States Federal Government for the financing, development, construction, and maintenance of the new Department of Corrections Facility.
- On Page 16, Lines 17-20; §83114. Rules and Regulations
 - "The Guam Economic Authority, in consultation with the Department of Corrections shall promulgate rules and regulations pursuant to the Administrative Adjudication Law to implement the provisions of this Chapter."

We humbly ask that you support Bill 153-36 as it will keep our community, prisoners, staff and officers safe.

Biba DOC!!

Senseramente,


JOSEPH S. CARBULLIDO

DOC Master Plan – Goals & Expectations

- ❖ Replace the existing prison and add a new state of the art jail facility.
- ❖ High Priority to retain existing property if possible – NIMBY
- ❖ Develop a master plan through 2100 for 80 years
- ❖ Meet the goals of the DOC leadership and overall needs as defined in the SWOT needs analysis
- ❖ Control and reduce long term operating costs
- ❖ Improve inmate vocational skills training
- ❖ Improve behavioral & mental health of inmates
- ❖ Provide medical / dental health care needs at a lower cost
- ❖ Improve public safety for officers, inmates and citizens

DOC Master Plan – Phased Approach

- ❖ Phased approach with 4 initial Phases over 15-20 years
- ❖ Phases 5–10 represent the 80 years master plan – year 2100
- ❖ Phase 1 is ~60% the cost of the first 4 phases since it covers all the required support services of Behavioral Health, Medical, Intake for Jail, Administration, Roads, Parking, Fencing, Training and Development
- ❖ Functional specification directs and guides the architect's efforts and reduces overall costs with fewer “Extras” from contractors
- ❖ Architect bid package should be ready to have last bit of Government of Guam Terms and conditions added starting in 30 days
- ❖ Additional 12 technical documents will help guide the architects development of the Phase 1 through 4 lay out
- ❖ New aspects of the prison place a very high emphasis on skills training and development, behavioral health growth, medical improvement, drug rehabilitation and phased approach to lifestyles improvement

DOC Master Plan – Phased Approach

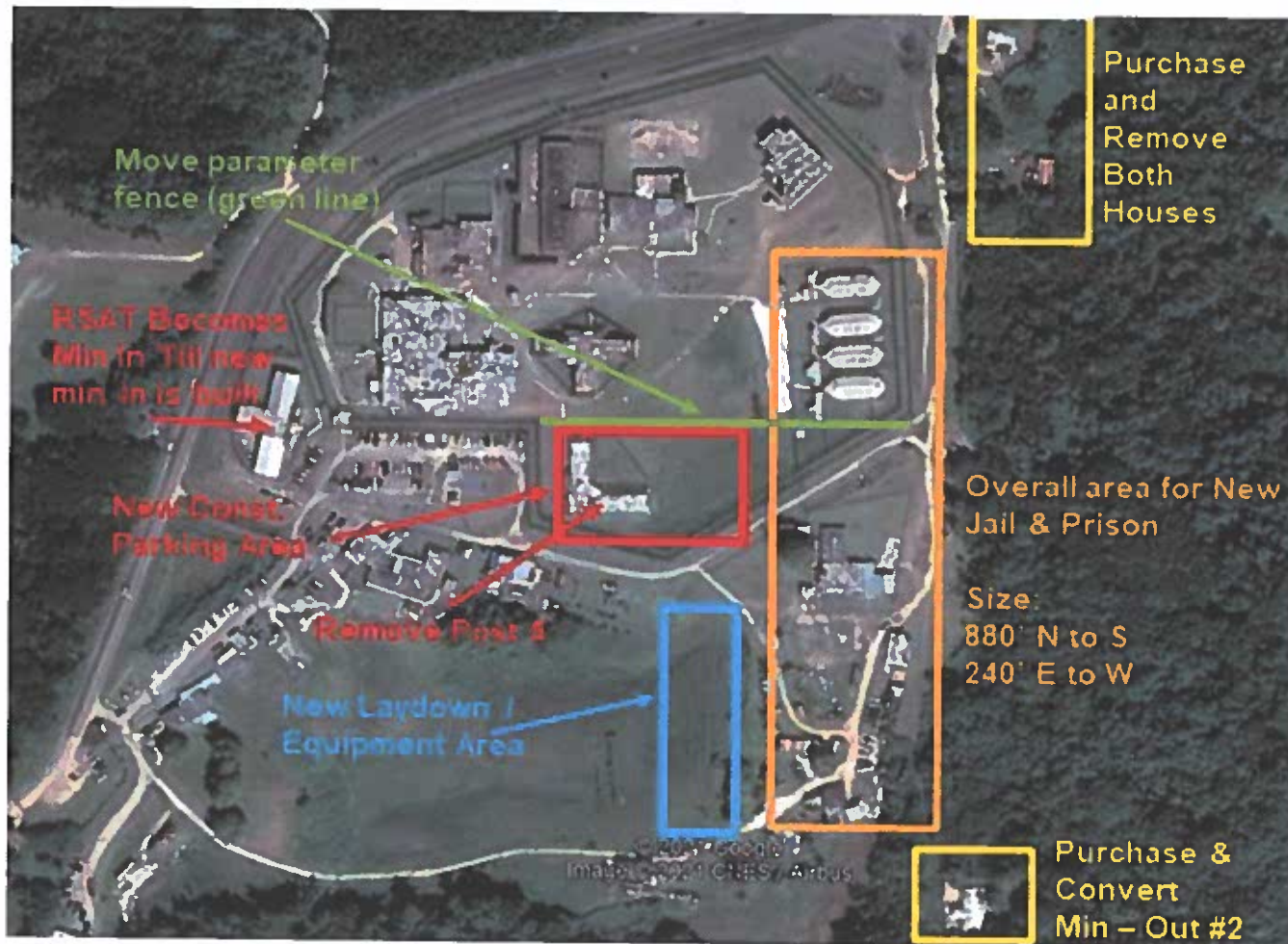
PRISON BED CAPACITY & POST REMOVAL WITH EACH CONSTRUCTION PHASE		
POST DESCRIPTION	CAPACITY # BEDS	NOTES:
POST 2	8	
Clinic	2	
POST 4	14	
POST 5	64	Condemn ASAP / Phase 1 removal
POST 6	48	
POST 7	39	
POST 8/9A	40	
POST 9	15	
POST 16	80	
POST 17	45	
POST 18	60	Condemn ASAP / Phase 2 removal
POST 24	20	Phase 1 removal, needed for Phase 1 const.
POST 28	15	
POST 25, 25A, 29, 29A	140	DOMES: Temporary Tents only / Phase 2 removal
Federal Detention	100	
Guam Detention (JAIL)	30	
TOTAL BED CAPACITY	720	
POPULATION AS OF JUNE 27, 2019 WAS: 691		
NOTE: CURRENT POPULATION IS DOWN DUE TO COVID RESTRICTIONS		
Current Prison Population as of 3/18/2021: 413	277 Prison Inmates	
Current Federal Detention as of 3/18/2021: 83	265 Detainees (Jail)	
Current Guam Detention as of 3/18/2021: 44	542 Total Incarcerated population	

- ❖ Removal of Post 5 is required for contractor parking. Suffers from serious structural deficiencies
- ❖ Removal of Post 24 is required for the new core buildings, move inmates to RSAT building
- ❖ Dome (4 each) removal is required for the start of Phase 2 expansion
- ❖ Post 18 needs to be condemned ASAP due to plumbing, structural and electrical deficiencies
- ❖ Population levels are a moving target but trend is steadily upward

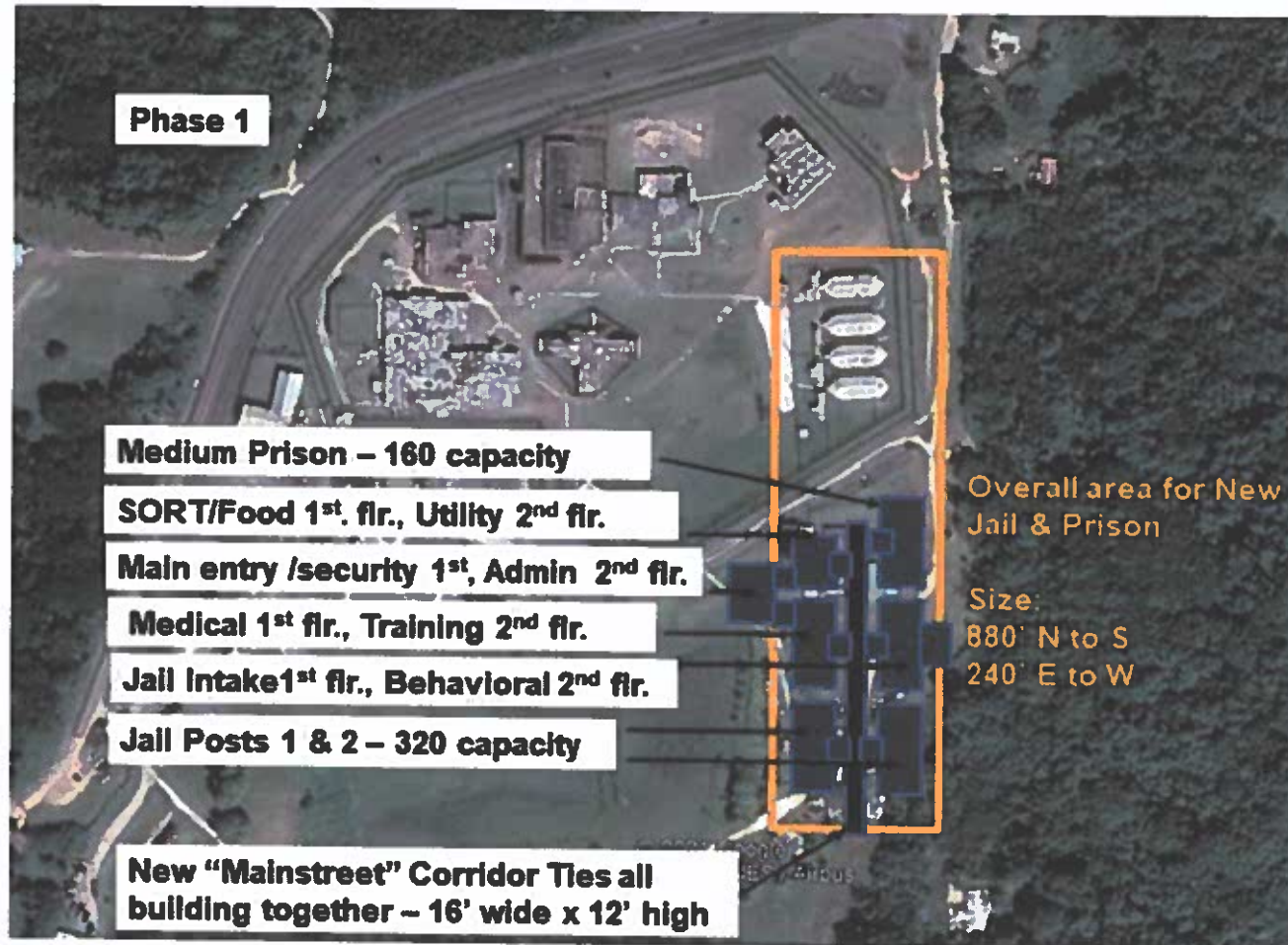
DOC Master Plan – Post Numbers



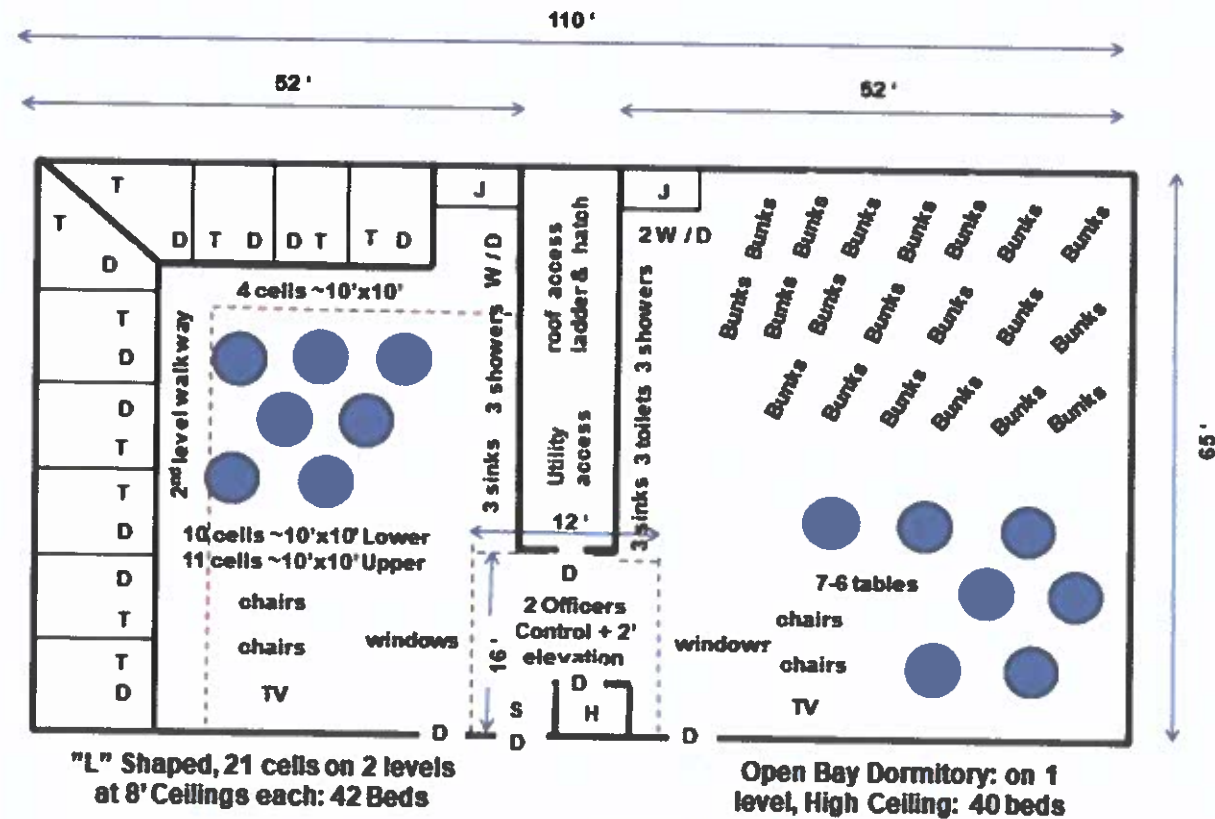
DOC Master Plan – Preconstruction Needs



DOC Master Plan – Phase 1



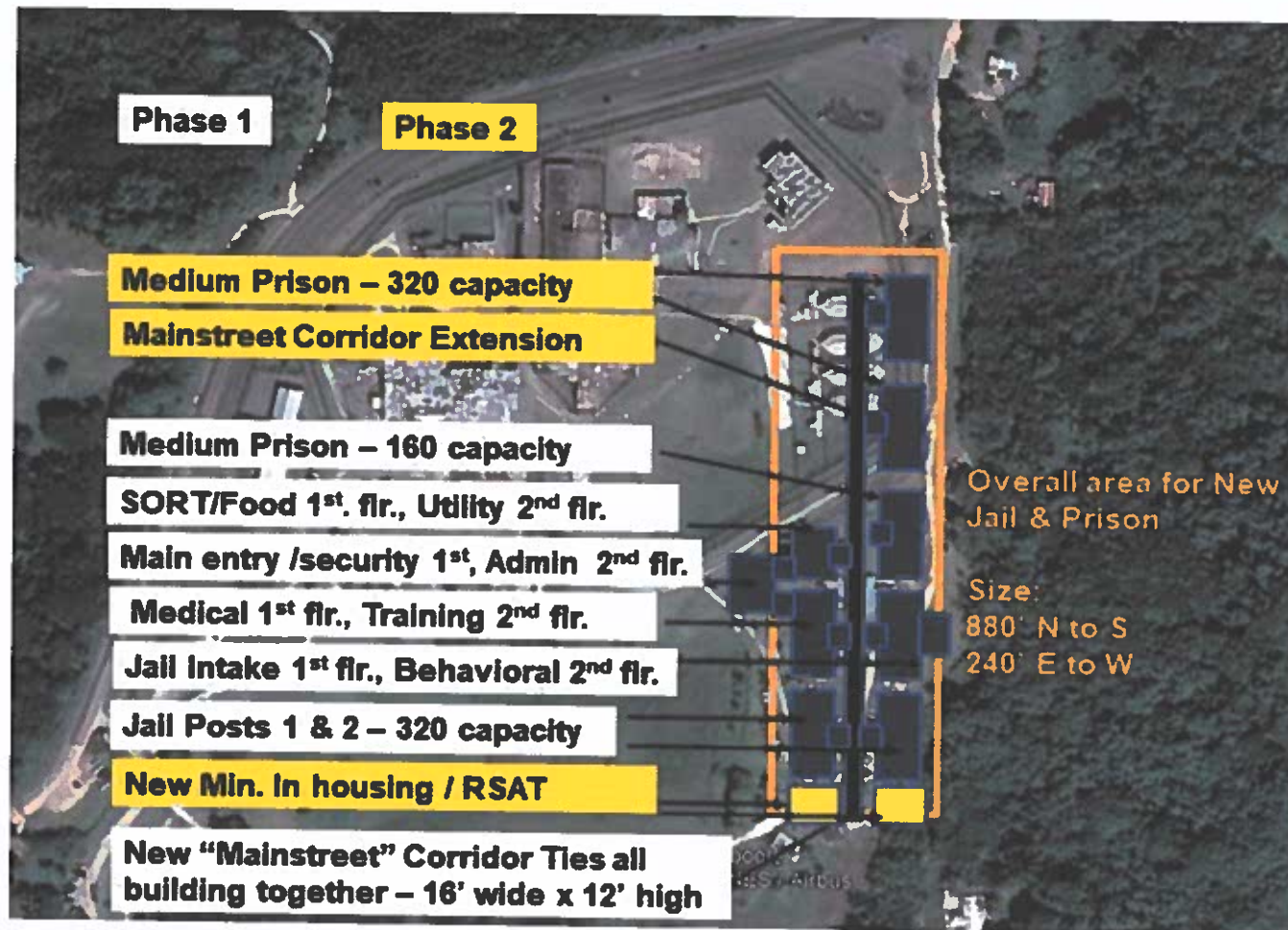
DOC Master Plan – Floor Plan Options



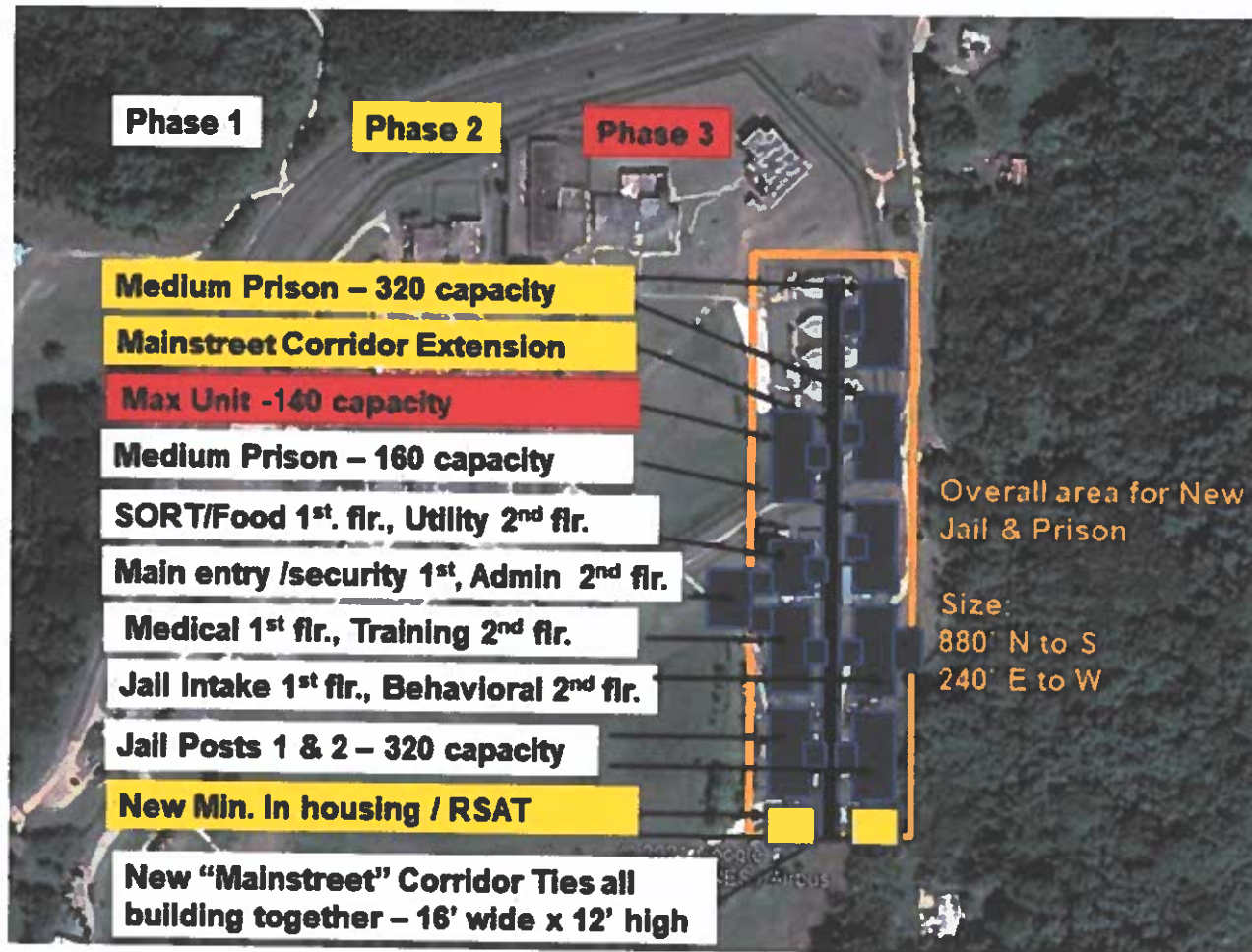
D = Door with Power Locks
T = Toilet with Sink
J = Janitorial Closet with Mop Sink

H = Half Bath for officers
W/D = Washer / Dryers
NOTE: Kitchenet between W/D and Janitorial Room
S = Three step stairway up into the Officers Control

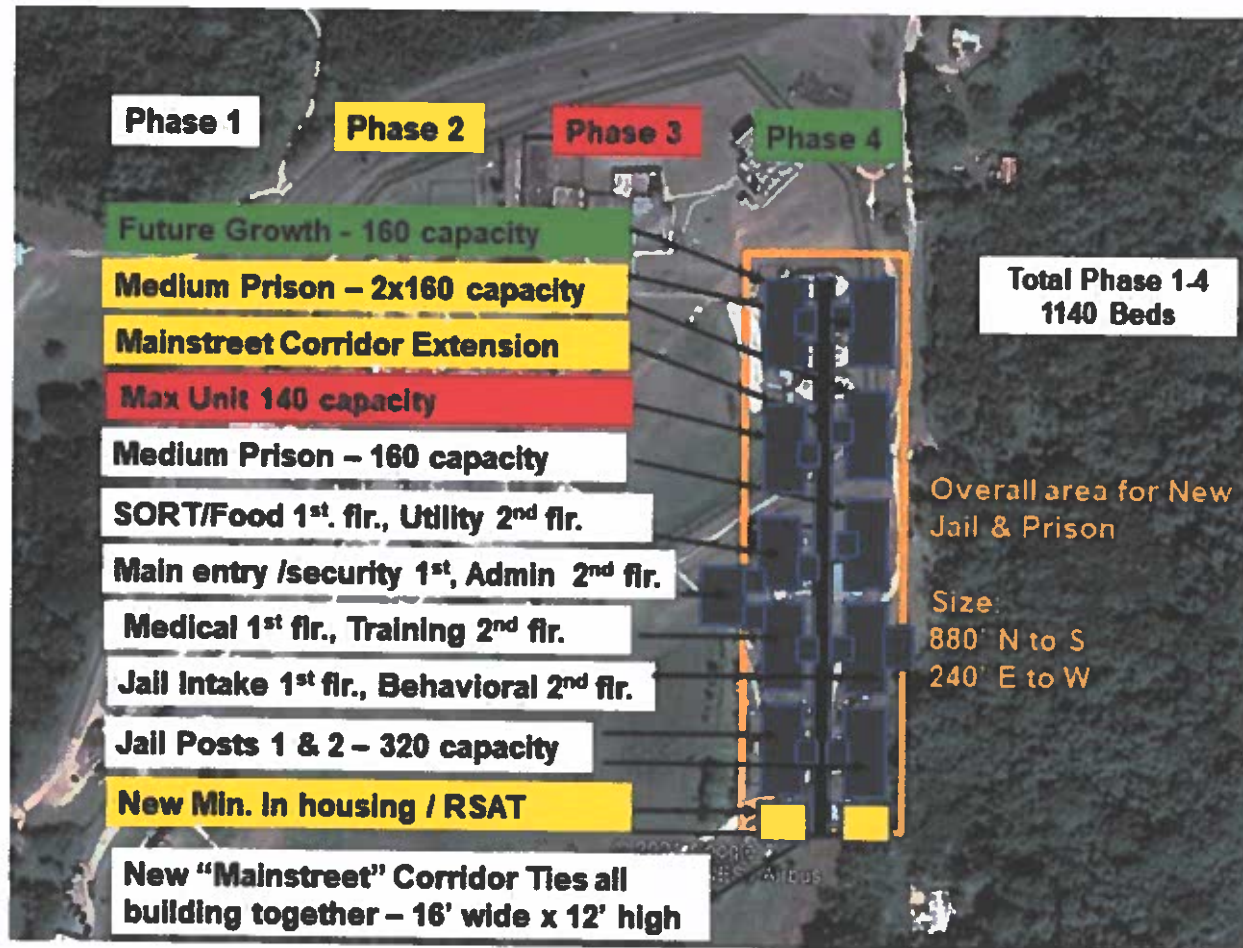
DOC Master Plan – Phase 2



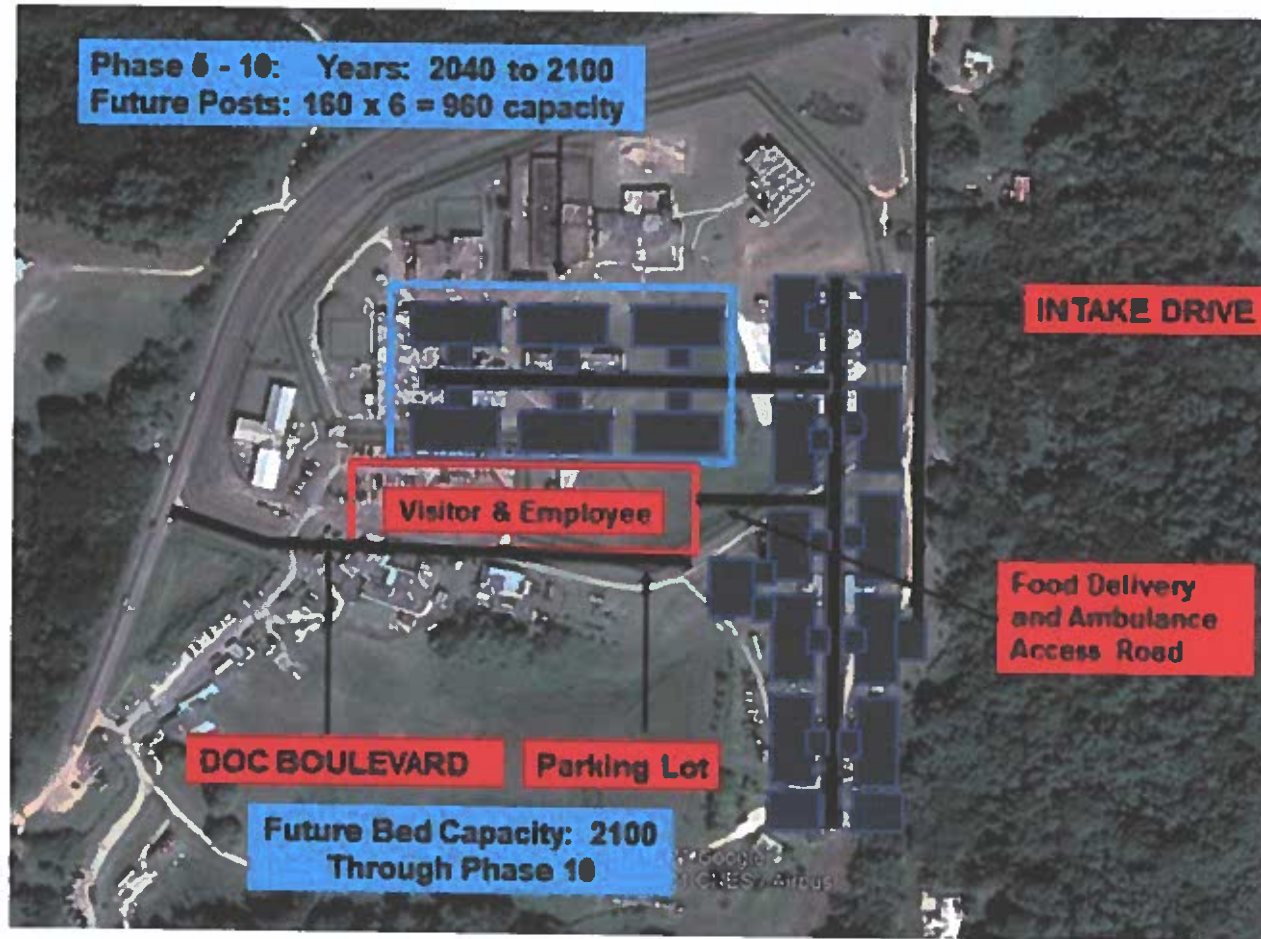
DOC Master Plan – Phase 3



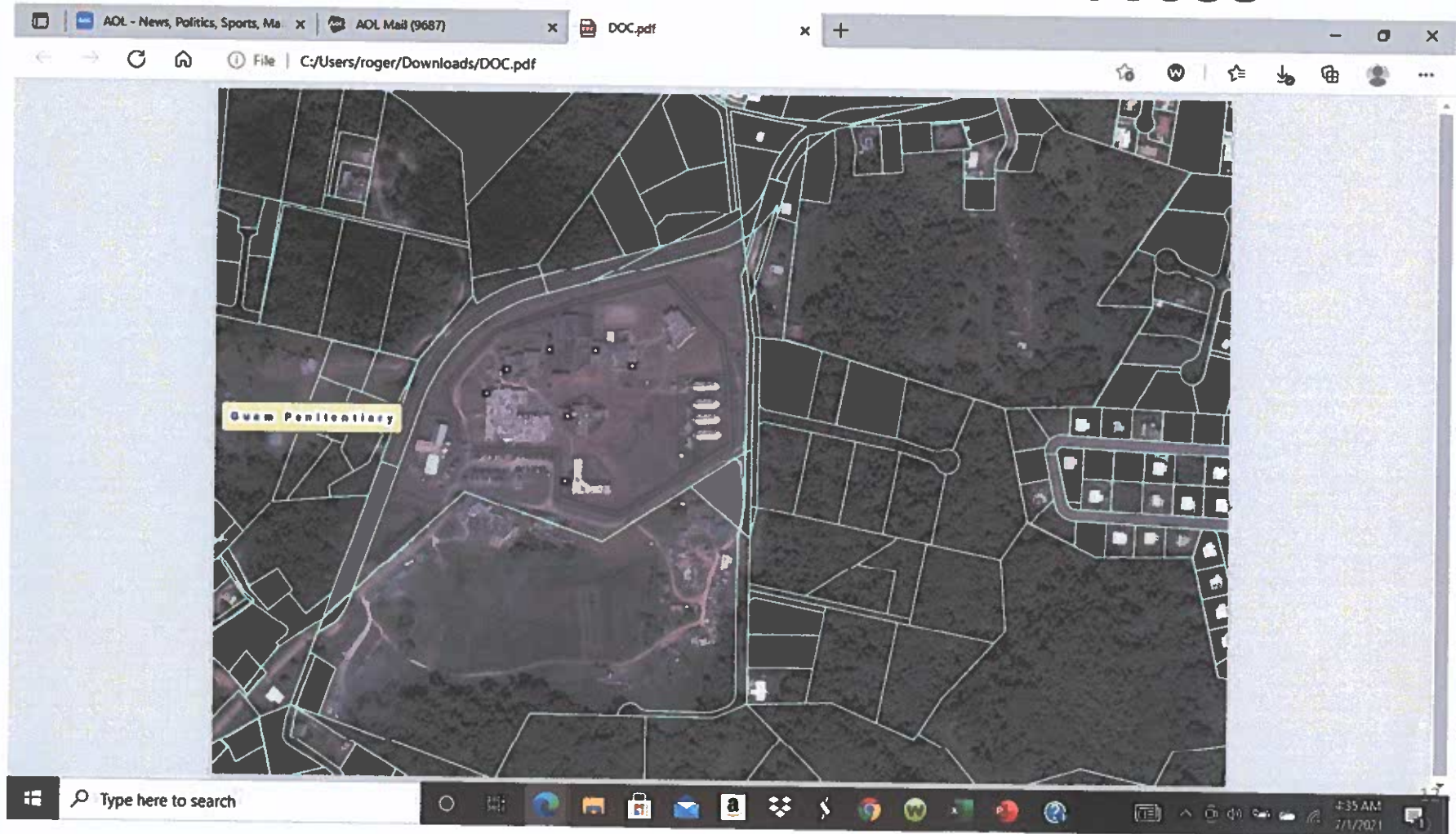
DOC Master Plan – Phase 4



DOC Master Plan – Traffic Flow / Year 2100



DOC Master Plan – Road Access



DOC Master Plan – Next Steps

- ❖ Create and send out RFP out to Architects with Functional specification and 12 technical attachments
- ❖ Set return date and onside review for bidders and review proposals
- ❖ Award contract based on winning proposal and establish time line
- ❖ Finalize funding and cash flow requirements
- ❖ Establish the funding method and not use Private, Public partnerships unless absolutely necessary.
- ❖ Public Private Partnerships in prisons and jails in the nation are under attack and have not lived up to their initial hype:
 - ❖ Most costly long term option since PPP's are for profit and with high discount rates
 - ❖ Long term operating cost escalations are nearly uncontrollable based on contract
 - ❖ Long term quality controls of facilities are dumped off on owner at 30 year mark
 - ❖ Desired features and support functions are not normally a priority with PPP facilities and do not meet changing needs.



SENATOR JOE S. SAN AGUSTIN

COMMITTEE ON GENERAL GOVERNMENT OPERATIONS, APPROPRIATIONS & HOUSING
I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN

COMMITTEE REPORT DIGEST

I. OVERVIEW

Bill No. 153-36 (COR) was introduced on **June 16, 2021**, by Joe S. San Agustin and Jose “Pedro” Terlaje, Tina Rose Muña Barnes, Clynton E. Ridgell, James C. Moylan, Frank Blas Jr., Amanda L. Shelton, V. Anthony Ada, and Mary Camacho Torres. The bill was subsequently referred by *the* Committee on Rules to the Committee on General Government Operations, Appropriations, and Housing on **June 18, 2021**.

The **Committee on General Government Operations, Appropriations, and Housing** convened a public hearing on **Bill No. 153-36 (COR)** on **Tuesday, July 20, 2021, beginning at 9:00 A.M.** utilizing the Guam Congress Building Public Hearing Room.

Public Notice Requirements

Public Hearing notices were disseminated via **e-mail** to all senators and all main media broadcasting outlets on (First Notice), **Monday, July 12, 2021** (5-Day Notice), (Second Notice) **Friday, July 16, 2021** (48-Hour Notice).

Senators Present:

Senator Joe S. San Agustin, Chairman
Senator V. Anthony Ada, Member
Senator Frank F. Blas, Jr., Member
Senator Joanne M. Brown

Appearing before the Committee:

Joseph S. Carbullido, Director, Department of Correction
Robert D. Camacho, Deputy Director, Department of Correction
Antone Aguon, Major, Department of Correction

Written Testimonies Submitted:

Joseph S. Carbullido, Director, Department of Corrections
Joann G. Camacho, Deputy Administrator, Guam Economic Development Authority

II. SUMMARY OF TESTIMONY AND DISCUSSION

The Public Hearing was Called-to-Order at 9:02AM.

Senator Amanda L. Shelton, Chair Vice Person: Good morning, and *Hafa Adai* now **The Committee on General Government Operations, Appropriations, and Housing** is now called to order. For the record today is Tuesday, July 20th and the time now is nine o'clock, 9:02. Notices for this budget hearing was disseminated via email to all senators and all main media broadcasting outlets. First public notice was issued on **Monday, June 28th** followed by **Wednesday, June 30th 2021**.

The committee will hear and accept testimonies on **Bill 153-36 (COR)** Introduced by myself, co-sponsor by Jose "Pedro" Terlaje, Vice Speaker Tina Rose Muña Barnes, Senator Clynton E. Ridgell, Senator James C. Moylan, Senator Frank Blas, Senator Amanda L. Shelton, Senator Tony Ada, Senator Mary Camacho Torres Its **"An Act to Add a new Title 9, Guam Code Annotated relative to the finance, design, construction and maintenance of the Government of Guam Department of Corrections which the act shall be called the "Department of Corrections Modernization Act of 2021."**

The rules of this public hearing shall be Those testifying on behalf of **Bill No. 153-36 (COR)** are invited are Director Joe Carbullido, Deputy Director Robert Camacho, and Superintendent of DOC, you're not the superintendent, not yet, right? Okay Major Antone Aguon.

Written testimonies shall be submitted to the Committee. Please provide my Legislative staff with your written testimony for photocopying. Testimony may be read, and lengthy testimony should be summarized to above five (5) minutes, but you have more then. Those testifying will be allowed to present oral testimony, as may be desired by members of the committee. Question and Testimony shall be confined to the substance or nature of the agenda. Personal Inference as to the character or the motive of any Senator, or any individuals testifying, is not permitted. Any violations of this general rule of conduct will result in removal from the Public Hearing by myself (the Chairman). Proper form/decorum shall be practice by all present in the Public Hearing Room for this proceeding. Individuals who fail to maintain proper form/decorum may be asked to leave or be escorted and removed from the room.

When you speak, please make sure the microphone is "on" and that you speak into the microphone. When you speak, state your name and your title for the record. My opening statement on this bill, the "Department of Corrections Modernization Act of 2021", allows for financing the construction of a new prison which will resolve the lack of rehabilitation programs, overcrowding and personnel issues of the agency. **Bill 153-36 (COR)** aligns with the department's plan to construct a STATE-OF-THE-ART Correctional Facility. The bill together with DOC's plan ensures that all federal standards such as the National Prison Standards and Prison Rape Elimination Act (PREA) standards are met by the agency. DOC's growing population of prisoners and detainees have outgrown the agency's ability to safely house them. The housing units are outdated, dilapidated, and overpopulated. As the agency reached their capacity, rehabilitation of the prisoners has been affected due to the lack of facilities that will provide work, self-improvement, and rehabilitative programs to the prisoners. **Bill 153-36 (COR)** further addresses the overall issues of the agency with a new and modernized infrastructure. I hope my colleagues will support this legislation as our people needs safety and security, *Si Yu'os ma'dse'*.

I will now ask Director, Mr. Carbullido you may begin your testimony in reference to this bill, sir. I know you have a presentation you're going to give but before you present that I'm going to go ahead and read the written support letter of support from the from GEDA and then I'll have your staff or yourself present the slides that you have. This is from GEDA (**SEE WRITTEN TESTIMONY**). Joanne G. Camacho, Acting Administrator, I just wanted to make sure I read that for the record and it will be attached to the bill and the committee report now I'll turn back Mr. Carbullido or Major Anton to do the presentation. Sir, I know you have slides.

Antone Aguon, Major, Department of Corrections: Yes, good morning, slides please, okay, Senator, I want to point out that this presentation again our master plan is ongoing, we're not

expected to have it completed until the mid-part of August so, this overview again is all in draft form for this body's information, okay, so our current master plan again we're looking at replacing our existing correctional facility with a new state-of-the-art jail and as we worked on this project of course we looked at our current land use and we've decided it might be the best option for us to build our new facility within our current footprint within the Mangilao facility and you know we don't want to go out in the community to try to get another piece of land and spend a couple years fighting the community for this.

Our master plan is a 80-year master plan that we're looking at and as part of the mass plan we sat down with the DOC leadership, we talked to the officers and staff to include Guam Behavioral Health and the GMH staff on their overall needs of the future of what they would need in the new facility so that will all be encompassed in our master plan we also, our goal is to control and reduce long-term operating costs over time maintenance costs which currently are as you know, our facility is you know, based on its current design and operation. It does cost a lot to operate of course, one of our goal is to improve the inmate vocational skills by building within our new correctional facility, the training rooms and other areas that will be used for inmate programs okay, also we provide medical and dental improvement, our medical and dental and behavioral for the inmates so all that will be part into our plan and of course improve the safety of the officers and the inmates as testified earlier.

Over the years, we've had some issues with inmate assaults on inmates and staff and by getting the new facility with more modern equipment, we're hoping to improve the safety of both the staff and the inmates, all right, next slide, back one okay, so our approach to this project sir, senators is a four initial phases over the course of 15 to 20 years so, it's not an overnight build, it's not a one-time build this correctional facility under one time, it's going to take several years to get it to where we need to be in the future but at least we have a plan for it. In the future, in the past, we just find space on the land and we put a 80 bed building without really understanding how that building is going to interact with operations and all the support that it needs to operate, for you know for example the medical and the mental health and the dental care that come with increasing the population of a prison that prisoners need.

They have a constitutional right to these requirements, phase one is the biggest part of this project, it's sixty percent of our project, overall project and this will cover the Guam Behavioral, the medical intake for jail also takes care of the land preparation and some other areas that are needed for this project. As we move forward with it in our master plan. We've also identified some functional specifications some things we would like to see within the prison to improve security, locks, attorney visitation and thing and the like that will improve our operation.

Architectural build package, I am working on a current RFP, for architectural services or you know, once we have that ready, hopefully we can identify funding to move forward with architectural service for this project okay, our consultant is working with us on that, that piece of that particular document right now again we want to emphasize the skill training for the inmates is one of our goals to improve the rehabilitation so that when they get out, they have a better chance to be successful than our current system right now where we don't really have much programs going on to address their issues next slide, this one, the next lights are just a deal, it just basically talks about our phase approach

Removing post five and how we're going to start building this project up at our minimum in area also known as our vocational rehabilitation services. Next slide is the okay, that one in our master plan, we also did an evaluation of our current housing units will be detailed in that report from come mid-august, we have some really bad buildings up there that are really in bad condition and you know our new facility will address those issues, next slide, this is just our post our current layout of our facility in Mangilao, as you can see the facility is huge. We have a lot of land that is not being utilized, properly and this particular layout that you're looking at requires a lot of officers to operate and this is one reason why overtime is so high. Over the years like I mentioned earlier, we find a piece of land, we put a building, never really understanding how this will affect operations and not having all the support it's needed, to deal with these inmates that are housed up here for example, medical and behavioral health and dental and training programs, the next slide, again, this is basically where we're going to restart start our project if you see up on the right side, there's a yellow big yellow box there that's where this project will start. That's at our minimum in facility and our (VRS) vocational rehabilitation services area.

So, we're going to start at that end of the facility and we're building it away from the road to prevent contraband as much from being thrown into the facility as it currently you know, currently we get a lot of issues from the free, the highway there, with contraband coming in and next slide, again this particular master plan, phase one, this is where sixty percent of our project will be. The cost of our project so this building here will house our jail. We will have an intake processing for our jail behavioral, Health Medical, our training, our food area and then the other for 160 capacity bed for the prisoners and the other 320 capacity for the jail and of course inmates.

Next, again in our master plan all this is spelled out in more detail this is basically an overlay of our conceptual design of what we're looking at now. You're looking at it in a one-dimensional thing but this is going to be basically like a two-story building so the ones with the bunk bed will be like the second floor and the other one on the side of the sails that's actually the first floor so, you're looking at it first floor and second floor right and each side of these domes will have 40 beds on it again, the reason why we kept the numbers at that around 80 or so is in the event of something occurring within the housing unit, it's more manageable than instead of putting 100 or 200 people in that building at one time. It's you know, we want to be able to control the numbers separate them so that if in the event of a crisis we can properly manage them and again it's you know it may not you know, because it's one dimensional but again this is basically what we're looking at this time, phase two, the next one is basically phase two of our projects, where we again we add on to our facility and we can see up there that we're taking off the domes. We're removing the domes up there and we're just building out phase two, would give us based on this probably almost 700 capacities at this particular point.

In our project again the food service, the medical, the behavioral, all that will be addressed in phase one okay, the next phase the next slide is phase three and this again will take us out even farther out again, giving us a max unit. A maximum, a max unit of 140 capacity and this will bring our population probably about to 900 at that point you know, our capability of about 900 beds at that point and the next one after that is phase four and this will take us out to about eleven hundred and forty beds so again, as you can see this project does not all have to happen at once, overnight, this is over the course of as our, I mentioned earlier 80 years basically of our project of how we envision the facility moving forward using our current footprint.

Okay and then the next one, next slide talks about basically, this brings it all the way out to the year 2021 and brings our capacity even up farther right, bed capacity I believe it says there in the bottom 2100 and so this is again, this will take us long beyond my time at DOC, this is the first time we've ever had anything such a plan as far as how we want our facility to look in the next 80 years and again, this like I mentioned earlier this is still a work in progress right now. We just wanted to share this with the legislature so that at least they see what our current direction, what current direction we're going in and again the final report will come out in August and then we will share that with you.

The last slide there basically is just basically talking about the land, it just we got this from Land Management and it just shows the parcels of land around the DOC and you know just so we have an idea of where we were. Our footprint exists within this project okay so that's basically the brief presentation of our master plan right now, again more detail in August, once we finalize the whole thing, thank you.

Chairman Joe S. San Agustin: Major Aguon, didn't you want to go over the last slides and read that out, just read what's on the slide not necessarily explain it, it's self-explanatory, so, you can just read it out, what the next steps are now the last next step, I'm sorry I didn't even, I, maybe didn't come down, okay, so our next our next step again center, I'm sorry I didn't see that one.

Antone Aguon, Major, Department of Corrections: Okay, so we're working on like I mentioned earlier, we're working on an RFB, for architectural services. We can't put that out for bid unless we identify the funding for that. Okay we're also again funding, we mentioned there a lot of it, it is the funding. Funding for this project, it talks about private partnerships and as we work with our consultants one of the things you know he educated us about, is that these public private partnerships although, in some cases maybe a good way to start the project, it is also known to be the most expensive way to fund a new prison and with that partnership you know there comes a lot of hidden costs or other costs that are social with it so I mean he was recommending a bond or some sort of other financing options available other than just a private partnership but again that we're going to leave that up to GEDA and the legislature and this body to determine what will be the appropriate way to fund this project but like the Director mentioned earlier, we seriously need to start working on this project now and not wait 10 more years, to get this project going. You know on the other hand senator, if we don't do this now, we're going to continue to experience the same problems we're having now with overtime, lack of personnel, infrastructure issues security lawsuits from inmates and you know inmate safety and officer safety concerns. We're still going to have that so now this is the farthest we've ever come in my years as working with DOC that we've actually come this far on this project and I hope, we can continue it once the funding is identified and moved to continue to move this project forward, Thank You.

Chairman Joe S. San Agustin: Thank you, Major Aguon, I'd like to recognize Senator Brown has joined us, this morning, Director Carbullido, or either one Major Camacho Deputy Director Camacho or Major Aguon, did you receive funding to establish a master plan, to start at least coming up with a conceptual plan of what you might need?

Antone Aguon, Major, Department of Corrections: Yes, senator.

Chairman Joe S. San Agustin: You did receive then from DOI, how much money did you receive?

Antone Aguon, Major, Department of Corrections: Okay, so the current master plan project, the grant was two hundred and fifty thousand dollars from DOI that we received, that's what's paying for us to develop this master plan, it was 2016, 2016 we received that funding and we were finally was able to work out through the RFP process and hire the consultant and the grant expires in December of this year. The grant expires but we're hoping to have everything done by August of this year, all right, thank you.

Chairman Joe S. San Agustin: We're also joined by co-sponsor Senator Frank Blas. oh no, I will ask Senator Brown if she has any questions or comments for the panel?

Senator Joanne M. Brown: Thank you, thank you very much Mr. Chairman, if we could pull up the slide, I mean you have a number of them but just the layout of your property maybe the one here that has the adjacent property markers, it's on page but I guess page 12. it's on the back side page 12, can we pull that up, down I think it's the second to the last, this is the one that master plan road access it has the adjacent boundaries and that one right there, I just wanted to ask, I see in the bottom right corner, there's a white building and there's an earlier slide here to indicate you're looking at acquiring that's not part of your, doesn't look like it's part of your existing footprint what is located in that building?

Antone Aguon, Major, Department of Corrections: Yes, senator that is a residence.

Senator Joanne M. Brown: It's a private residence.

Antone Aguon, Major, Department of Corrections: It's a private residence and you know originally again we're still working on our master plan project but originally the idea was you know, consider the government you know maybe acquiring that residence however in working our project again, we decided maybe there's ways we can work around this so that we don't have to you know, bother any of the neighbors or anyone in that area with there you know, their land and their house so you know we've talked to our consultant and you know we figure we have a way to work around that but it's still always an option on the table but again that is a lengthy process and you know, we are cognizant of the fact that land issues on Guam are very delicate and you know we don't want you know to upset anyone or take their property for this prison so.

Senator Joanne M. Brown: What was the reason are you just because it's isolated in that corner, what was the reason of wanting to acquire it?

Antone Aguon, Major, Department of Corrections: Well because of the road the way the way the current easement that's right back there is right it's right on our boundary it's right on our fence line so, we would need to move the project a little bit into the compound, a little bit to ensure that the residents back there have proper access to their thing but it's like I mean it's right there on our boundary so.

Senator Joanne M. Brown: But you could easily do that I mean, you have a sizable piece of property that is unoccupied I mean I know in the past you've used that area for, you've raised pigs there, you've also done conservation farming, is that the intent on your property to keep this open area here for those type of activities in the future on the bottom left side?

Antone Aguon, Major, Department of Corrections: Yes, senator again when we start over the years when we start doing this, we're going to have a vocational building and

some other area things in that area for the inmate training and auto shop and on other workshops you know right now their current facilities is basically a tin shack, yes you know that they're using so we plan on utilizing that to build a proper building as part of our project plus the minimum in housing unit that we're going to replace is going to be in that area right along with the minimum out, the halfway house as you can see, you know the ones that go for education release and community programs so we're going to put them in that end of that building there, that is our plan at this point and that's how we envision moving forward and again by December, senator, when we finally get this plan together. it'll be all more in detail, it's a pretty big, pretty detailed document.

Senator Joanne M. Brown: You know, I appreciate the clarification because I was kind of wondering why there was a square around that particular building on that with you know the best inference of looking at possibly accommodating or acquiring that property you know and I can understand wanting to put a buffer around it but looking at the adjacent lots I mean inevitably in time I'm sure it's only a matter of time before other houses and activity construction activity happened there adjacent to your property, you know I don't have a problem at all with the proposal that you're making. I think it's a very good one I don't know necessarily need to wait 80 years, because wow that's way we will be dust in the wind by then as the song goes but I like the phase approach because I financially, I think it's a responsible thing to do. I don't necessarily know that we can finance all this up front and while there might be some initial money on the table because of the windfall that we're receiving. We don't know where our economy is going in the next few years and building up our tourism industry and then also just concerns about our ability to finance other obligations of the government. I mean I don't I'm not too anxious to be running down and taking so much off the table and doing long-term financing with because this to me is only the tip of the iceberg.

I mean we're talking about Simon Sanchez, they're talking, we want to build a new hospital but there's a lot of old government facilities including schools that are far older than Simon Sanchez that have not been addressed and I just know financially, when you put all that on the table in our debt ceiling. We're just not going to be able to accommodate the needs and of the next 10 15 years if we start segmenting all this money and long-term financing and then we don't have what we need to run the day-to-day obligations of government so I'm very supportive. I know there's a need for it, I mean publicly most people don't think or care about the prison that's the real reality in terms of what's the maintenance of the facility the security aspects of it's only when things happen our problem happens that most people hear about it but certainly for the time that we are taking care of the individuals up there that are incarcerated I mean we do have to meet certain standards to ensure their safety and well-being and even more importantly the safety and well-being of your officers and your other staff that work at the prison so I have no objection I actually like the phased approach as I mentioned I don't think we should have to wait 80 years collectively to complete.

I think once you get the first phase done you can start you know start working on the second phase hopefully by then there's release of more a borrowing capability or cash capability to be able to build and add on to it but I agree there's a need to do it it's been debated for many years; you know there are so many years that the prison was not in compliance and had to meet those federal requirements and so we recognize there's a need to address the upgrades and improvement to a new facility. I like the fact that you are looking at your existing footprint. I know a number of years ago there was a you know public discussion of whether or not the prison should be moved out of its current location to where you know that's debatable and then also just the cost of acquiring additional property.

I think it would be difficult so the fact that you're able to incorporate this into your existing footprint and then also look at your expansion as you phase out of the old facility makes an awful lot of sense and can be done in a very organized fashion so it doesn't upset your your operations and the things you need to do so Mr. Chairman, I do support this phased approach of building the new prison and I certainly commend you guys, I know it's been a long time in coming a lot of talk and a lot of debate over the years but it never really ended up in anything tangible so I'm happy that you guys were able to receive your grant to do your initial design of phasing and we look forward to seeing more detailed plans as you're moving forward because it's definitely a long time in coming, certainly Mr. Chairman, thank you for the opportunity to comment and ask questions with regards to this bill.

Chairman Joe S. San Agustin: Thank you, Senator Brown, we're also joined by Senator Ada and as Senator Frank Blas, our co-sponsor if he likes to make comment or questions to the panel?

Senator Frank F. Blas, Jr: Thank you, Mr. Chair, and gentlemen, good morning, thank you for being here I was just going through the master plan and everything and I have to agree with Senator Brown that, this phase approach is actually more palatable and it seems you know more realistic and as well as something that's very doable. Question that I had is made few years ago I don't, I want to say a couple a dec, couple decades ago, there was I guess some concern with regards to the safety security zone around the facility and I do recall that it was across the main street from where the facilities are at that there were some residents that were over there too that were basically concerned because they were I guess, approached and reminded that they were in the safety security zone but I when I'm looking at your master plan here, it doesn't seem to identify that, has there been a change in that? Maybe because I remember talking to you about this, I think 20 years ago, right? I thought we were talking about this you know you know what I'm familiar with. What I'm referring to that safety?

Antone Aguon, Major, Department of Corrections: Yes, well senator, as we mentioned earlier the plan was to encumber the initially to encumber the residences to the right of that of the facility however through conversations with the planners and also with the governor's Office, we decided that the best approach would be to move the entire project maybe 75 feet to the west and to avoid that situation and also have enough buffer room so that there's no issues regarding security and so that was a workable plan according to the planners and so that again we're going to have a final plan in August that will deter that.

Senator Frank F. Blas, Jr: Okay so you know the concern that was raised by the family though I guess now it is no longer an issue, is it safe to say that now?

Robert D. Camacho, Deputy Director, Department of Correction: We haven't approached the family members at this point, because this, we're not considering at least at this point regarding any kind of like eminent domain issues because I remember there was a discussion there and it was the scary part was that the discussion was the utilization of eminent domain which right well there's two things that also this facility in its plan is going to be compartmentalized so that there is really no interaction outside the it's going to be pretty much secure.

Senator Frank F. Blas, Jr: Okay and so it's not going to be like an open area.

Robert D. Camacho, Deputy Director, Department of Correction: So, there's going to be light of course and all those other things that are considered for you know humane purposes and all that but the facility is going to you know over 30 feet high it's going to be something that it's going to be quite secure. We're not going to; it's going to eliminate dramatically any kind of issues regarding contraband and access into the facility the outside or even trying to escape.

Senator Frank F. Blas, Jr: Okay, I'm going to reference to page number let's go ahead and go with page number 10 of your master plan.

Chairman Joe S. San Agustin: If the MIS asked go ahead and put the slide 10 on the screen, please? Channel 11 phase four. Okay there you go.

Senator Frank F. Blas, Jr: I noticed that in the bottom right-hand side of the area of your bottom right-hand side and recognizing that this is an overlay of what exists today and as far as the properties but is I'm it's going to be very safe to assume that there's going to be brush clearing along the right side, the back side, which is going to be the back side of that facility.

Robert D. Camacho, Deputy Director, Department of Correction: Senator, we are actually working with DPW at this. I mean Land Management at this point and we're going to have it surveyed okay, and to make sure that we are in you know the boundary where the boundaries we're going to reestablish the or I guess relook and mark those boundaries appropriately and of course, we are going to declare the area so that there is a field of view for the security also so yes, we will clear that accordingly.

Senator Frank F. Blas, Jr: Yes, because I'm concerned because in the back side it appears that you've got some

Robert D. Camacho, Deputy Director, Department of Correction: Oh, yes.

Senator Frank F. Blas, Jr: Already you know, the properties that have already been divvied up it looks like there's going to be a proposed subdivision in the back, this is actually a page right it's

Robert D. Camacho, Deputy Director, Department of Correction: Multi, it has a multi ownership.

Senator Frank F. Blas, Jr: Right, yeah, okay so I'm you know, I know I'm just making sure that first off, I applaud you, guys, here you work, you're trying to work within the footprint you've got because you know we have that not in my backyard.

Robert D. Camacho, Deputy Director, Department of Correction: That's right.

Senator Frank F. Blas, Jr: Concern and so, just making sure that and recognizing this is just a conceptual rendition and everything then you're looking at making sure that first off it is within your footprint and secondly that there's enough in that footprint behind it for the security concerns, right? Buffering and everything?

Robert D. Camacho, Deputy Director, Department of Correction: That's right sir.

Senator Frank F. Blas, Jr: Thank you, Mr. Chair, thank you very much, gentlemen, thank you.

Chairman Joe S. San Agustin: Thank you, Senator Blas, Senator Ada, do you have any comments or questions for the panel?

Senator V. Anthony Ada: Thank you, Mr. Chair, yes you know I was listening to my colleague, Senator Brown on the phase plan over 80 years well, I expect to see that that tenth phase and 80 years from now senator so I'll still be around by then hopefully you know, I was looking at the phase approach and I agree with Senator Brown, that you know the phase approaches is a great way but when you look at the first four phases, the phase one to phase four and you're looking 15 to 20 years, is on our initial release of the financing options available, what is DOC's plan are you looking at just going financing phase by phase or are you looking to take out financing for the first four phases and then doing it a phase every four years, five years, every five years because you're going phase one to phase four in 20 years and that comes to about every four years to complete a phase. What's the intent of DOC with the first four phases?

Robert D. Camacho, Deputy Director, Department of Correction: Well sir, our initial our priority would be first phase one and two, if we can do that, in the beginning at least as a top priority that will significantly improve our operations and our overall status as a correctional facility now we are as far as funding, we're looking at multi purposes multi areas of support whether it be through grants bond bonds possibly or through the possibly getting a little bit of money from the recovery act, so.

Senator V. Anthony Ada: What is I mean, I know this is draft and i know you guys are still working on it, Captain again, I believe right was mentioning in August you guys will probably have a final layout of the plan. What are we looking at for cost of the first four phases if that's what you know the important in the immediate near future to five to twenty years from now? What is this? What are you looking at for costs? Sir.

Robert D. Camacho, Deputy Director, Department of Correction: The estimated cost at this point just based on square footage and each phase actually has a different cost because each one has each phase might have just standard buildings others might require maximum electronic devices and so forth but the estimated cost is anywhere from 170 to 200 million dollars for the overall cost for the facility, for the first four phases or the overall master plan, the first four phases i believe so, we're looking at 200 million for the first four phases.

Senator V. Anthony Ada: Right, something wrong around that no.

Robert D. Camacho, Deputy Director, Department of Correction: Right, I'm sorry that's the whole.

Joseph S. Carbullido, Director, Department of Correction: So, 150 minimum to about 200 maximums, that's for the whole, that's for the whole phases, all of the whole project itself and that's based on the square footage. I don't know if you were provided this copy on the square footage.

Senator V. Anthony Ada: If we can get a copy of that.

Joseph S. Carbullido, Director, Department of Correction: We will provide that senator, so the square footage is based on the different needs for each Phase.

Robert D. Camacho, Deputy Director, Department of Correction: And some will require more cameras, more electronic devices and you know some are simpler like you know let's say, a training room area that that would be less costly so the 200 million 100.

Senator V. Anthony Ada: 150 to 200 is that just infrastructure? Does that include the beds the you know all the I mean?

Robert D. Camacho, Deputy Director, Department of Correction: Yes, sir the beds of course in the cells are going to be cement built into the, it's part of the project the build, the doors, the toilet, the showers, all of that's part of the cost estimate of why the prison would cost that much.

Antone Aguon, Major, Department of Corrections: Money you know that much money for the different phases, like they said, we're looking at get us to get us all the way up right now up to about phase two and that includes the land preparation you know clearing the site, the site area, demolishing that housing unit and doing that but 160 million give or take would get us up to basically phase two and just about interface three of the project. The rest again like you said can come over the course of 20 years when it's time to expand the facility and the whole idea of the 80-year plan is so we can map out the land so we know where the next building goes and how it's going to connect with the previous building because as if you know now, we've expanded this prison over 30 years right now but we had no plan on how to do it we just put a building not really connecting it with all the resources, it's needing and so now we're left with our current footprint of 18 different housing units spread out throughout the whole compound and so this way approach it's in phases and it's more manageable and you know the taking consideration staffing needs and other things as we move this prison forward and expanding in the near future

Senator V. Anthony Ada: On the what is the current staffing for doc?

Antone Aguon, Major, Department of Corrections: Currently sir we have about 188 officers.

Senator V. Anthony Ada: And in the next five perhaps maybe 10 years where do we look at staffing to be with the improved, more modernized, more technologically secured facility.

Antone Aguon, Major, Department of Corrections: Sir, right now again, that's part of our analysis and our master plan but you know currently with the 18 housing units that we have for the 560 prisoners that we have, it's spread out, I mean each shift requires almost 30 some officers on duty, just to manage this by bringing all these inmates together in a properly designed building. It's estimated right now that you know I would only probably need 20 to 25 officers per shift to run this number of prisoners again bring in mind that we the buildings are equipped with cameras and the right technology to assist us so I see our staffing needs to dramatically decrease over the years right now senator, if we were to fully staff The Department of Corrections based on a staffing analysis of each housing unit, we would need 350 correction officers to run that place 350. We're doing it right now of 188. Our overtime as you know is quite high every year to make up for that shortfall and we anticipate by getting this new facility bringing everybody in closer in a more modern building. The number of officers to watch these inmates would dramatically decrease thereby cutting down on overtime and you know the continuous need to hire

you know up to two to 200 some officers on board so, again when our master plan is finally finalized, we should be able to sit down and really analyze our staffing, that's part of our project is to do our staffing analysis and so that's still ongoing right now. I hope by August when you finalize everything that you'll be able to give us a clearer picture as to your staffing needs for the facility because I look at here and I see that just Phase one and phase two, we're looking at an increase in capacity at 800. So, you know you'll be able to house 800 inmates just by phase two's time so you know if we're looking at about in 10 years, you'll be able to do eight house, 800 inmates but what the staffing would be at that point in time. I guess we'll be, won't be known until August when we get the final draft of your master plan here but you know I think it's about, it's way past due to improve the facilities of The Department of Corrections.

Senator V. Anthony Ada: I know Senator McCredie back in the 33rd or 32nd legislature was trying to do the same concept as well as in building a new a new facility so let's hope that we get this ball rolling and you guys will be able to let this happen but I hope it's in the first at least the first two phases that it's a shorter period and not 15 to 20 years for the first four phases and you know I mean if we want to improve the morale we want to improve our health and safety of the prison population but also the employees up at DOC and I think we need to think a little bit you know outside the box and let's see how we can make it happen just a little bit quicker than 15 to 20 years down the road that's right that's all the questions I have Mr. Chairman, thank you for this and thank you for allowing me to be a co-sponsor in this bill too.

Chairman Joe S. San Agustin: Thank you Senator Ada, yes, I agree with you it's going to get done a lot faster than 15 to 20 years, I can't see that and I agree with Senator Brown, we go in phases and then with the amendment that was proposed by yourselves and GEDA, is that one of the major things, is to go after grants because the grants can almost could probably get close to paying half of this, I know the federal prisons will probably say if you're going to get fixed, we're going to find a way to help you DOI has helped you now, I can see DOI helping you again the governor's office is in support of this because it's about upgrading The Department Correction and doing what it was intended was to rehabilitate folks that have been, that are confined to that compound other than the folks that's got life but with that I'd like to thank my colleagues for their present today and hopefully the passage of **Bill 153-36** will help The Department Correction to have a modern improved secure facility to provide safety and security to the people of Guam. **Bill 153** is essential as a correction facility is in dire need of a new and modernized facility that ensures adequate housing and service for inmates and detainees but also builds on the safety of our island and our people other than just the inmates. we're also concerned about the staff we'll make sure that everybody's safe okay it is our duty to ensure our people are provided for whether they are liberated or not. It is simply just and right for the department correction to have a modernized infrastructure that a whole security of inmates and detainees as well as the real ability of service to equip them with life and work tools so they made thrive once they are reintegrated into the community, I asked my colleagues for their support and look forward to seeing the modernization the department correction with that the committee will continue to receive testimony and please address your written testimony to the committee on general government operation appropriations housing and submit it via email to senatorjoessanagustin@gmail.com or to my office located at Ran Care building, second floor, Suite three, 761 South Marine Corps Drive, Tamuning, Guam, *Si Yu'os ma'åse'* for attendance, Mr. Carbullido, Mr. Camacho and Major Antone Aguon and for those at home thank you for watching this public hearing on **Bill 153-36** you are is now adjourned it is 9:58, and please have a safe day and happy liberation, thank you

This Public Hearing is adjourned @**9:58AM**.

III. Findings and Recommendations:

The **Committee on General Government Operations, Appropriations, and Housing** hereby reports out on **Bill 153-36 (COR)** As Introduced by Joe S. San Agustin and Jose "Pedro" Terlaje, Tina Rose Muña Barnes, Clynton E. Ridgell, James C. Moylan, Frank Blas Jr., Amanda L. Shelton, V. Anthony Ada, and Mary Camacho Torres. As Amended by the Committee on General Government Operations, Appropriations, and Housing. **"AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT SHALL BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021."** with the recommendation TO DO PASS.

I MINA 'TRENTAIS AIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 153-36 (COR)

Introduced by:

Joe S. San Agustin
Jose "Pedro" Terlaje
Tina Rose Muña Barnes
Clynton E. Ridgell
James C. Moylan
Frank F. Blas Jr.
Amanda L. Shelton
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**AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90,
TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE
FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE
OF THE GOVERNMENT OF GUAM DEPARTMENT OF
CORRECTIONS WHICH THE ACT SHALL BE CALLED THE
"DEPARTMENT OF CORRECTIONS MODERNIZATION
ACT OF 2021"**

BE IT ENACTED BY THE PEOPLE OF GUAM.

Section 1. A new Article 7 is hereby added to Chapter 90, Title 9 of the Guam
Code Annotated to read as follows:

"Article 7."

**THE FINANCE, DESIGN, CONSTRUCTION, AND MAINTENANCE OF THE
DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021.**

§90301. Legislative Findings and Policy.

§90302. Definitions.

§90303. Authorization to Enter into Long-Term Leases.

1 **§90304. Department of Corrections Project Supervision, Reuse Study**
2 **and Appropriation.**

3 **§90305. Identification Projects and Procurement.**

4 **§90306. Responsibility of Developer/Contractor.**

5 **§90307. Contractual Safeguards.**

6 **§90308. Assignments.**

7 **§90309. Pledge of Revenues.**

8 **§90310. Use of Tax-Exempt Bond, Taxable Bond and Other Financing**
9 **Instruments for Financing.**

10 **§90311. Prison IT, Building and Security Management System.**

11 **§90312. Utilities and Routine Maintenance and Repair.**

12 **§90313. Maintenance Fund.**

13 **§90314. Rules, Regulations, and Restrictions.**

14 **§90315. Expedited Permitting Process.**

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16 Department of Corrections (DOC) was established by Public Law 9-208 on July 18, 1968
17 within the Executive branch of the Government of Guam. Before the passing of Public
18 Law 9-208, Department of Corrections was first known as the Guam Penitentiary and
19 through Executive order 68-23, enacted by Governor Manuel F.L. Guerrero, the
20 Penitentiary was transferred to Department of Correction, which was effective November
21 01, 1968.

22 The Department of Corrections is the only prison in Guam and provides services to
23 local and federal agencies. DOC provides custodial care to individuals who are convicted
24 of crimes and for those who are waiting judicial disposition. The environment of the
25 prison must meet federal standards such as the National Prison Standards, Prison Rape
26 Elimination Act (PREA), and the National Commission on Correctional Healthcare
27 Standards (NCCHC), which ensures that the living conditions are decent and humane, but

1 with the issue of overcrowding and structural failures; DOC has been struggling to
2 properly execute their mandates and comply with National standards. DOC is ensuring
3 that they prevent any violations of the Federal Consent Decree, which is an agreement
4 the government of Guam entered that it would improve the living conditions of the
5 inmates following the Civil Rights of Institutionalized Persons Act.

6 The Adult Correctional Facility (ACF) in Mangilao is in its stages of failure due to
7 age and lack of modern technology, which is affecting the operations and personnel of
8 the Correctional agency. ACF was built to hold a maximum three hundred (300) inmates
9 and detainees. Currently, the population of Guam is growing as well as crime rates, which
10 DOC has outgrown its ACF. Overtime other DOC buildings were added to address the
11 overcrowding issues of the Correctional. Buildings used for rehabilitation and offices
12 were re-designed to accommodate the rising population of prisoners. The Adult
13 Correctional Facility is made of fifteen housing units, which holds not only local inmates
14 and detainees, but also immigration and federal detainees. The lack of proper facilities
15 prevents DOC to properly provide rehabilitation to the inmates.

16 The poor condition of the housing units of the prisons are not cost effective or
17 adequate to handle the growing prisoner population. DOC recognized the difficulty to
18 meet their mandates of providing security, health, rehabilitation and welfare to the
19 inmates and detainees under their care without comprising the well-being of their
20 personnel. The main goal of the Department of Corrections is to provide rehabilitation to
21 individuals who have been convicted of crimes and ensure that they become useful
22 members of the community and to themselves.

23 Furthermore, *I Liheslaturan Guåhan* finds that DOC has plans to build a new
24 Department of Corrections with a bed capacity for one thousand (1,000) inmates to
25 replace their current prison if funding was available. The new prison would provide the
26 proper space to meet their mandates and the demands of their growing prisoner
27 population. The Department of Corrections had started to draft an 80-year masterplan in

1 which will provide a phase-to-phase plan to construct a new Department of Corrections
2 that will meet their construction goal of a bed capacity of one thousand (1,000) inmates.
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4 structural, technology, and security of the inmates and personnel are covered. The
5 Masterplan also ensures that all federal standards such as the National Prison Standards
6 and PREA standards are met by Department of Corrections.

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8 proper confinement of offenders in controlled environment prison and community-based
9 facilities that are safe, humane, cost-efficient, and appropriately secure, which also
10 promotes the safety of the people of Guam. *I Liheslaturan Guåhan* has identified funding
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12 Earned Income Tax Credits to be reimbursed to Guam at an estimated Sixty Million
13 Dollars (\$60,000,000) annually, which an estimate of no more than Five Million Dollars
14 (\$5,000,000) will be allocated for the payments of the lease-back agreement.

15 In an effort to overcome financing hurdles, and to provide DOC with the proper
16 tools to meet their mandates, *I Liheslaturan Guåhan* desires to authorize the government
17 of Guam to enter into contracts for financing, design, construction, and long-term capital
18 maintenance of a new Department of Corrections Facility with private sector contractors
19 who can provide long-term financing.

20 To facilitate the financing, design, construction, and maintenance of a new
21 Department of Corrections Facility envisioned by this Act, the Government of Guam will
22 be authorized to execute a lease agreement of existing property under its inventory for up
23 to Thirty (30) years on which the new Department of Corrections will be constructed.

24 The lease of the Government of Guam's property will be to the contractor, who
25 will design and construct the new *Department of Corrections Facility* and provide a
26 funding for the design and construction through appropriation received from the
27 reimbursement of the Earned Income Tax Credit for Fiscal Year 2022 and prospective

1 appropriation from the General Fund, annually. Upon completion of the construction, the
2 facilities and land will be leased back to the Government of Guam for a period *not to*
3 *exceed* the initial ground lease to the contractor over which time the Government of Guam
4 will amortize, as lease payments to the contractor, the cost of financing, design,
5 construction, and related expenses of the new Department of Corrections.

6 The contractor will also be responsible for the capital maintenance and repair of
7 the Department of Corrections constructed under this Act, which costs shall be paid by
8 the Government of Guam as provided for under this Act. At the expiration of the lease-
9 back period, the Government of Guam real property and the Department of Corrections
10 constructed on the government of Guam real property will revert to the Government of
11 Guam with no further obligations to the contractor.

12 **§90302. Definitions.** For purposes of this Chapter and unless otherwise specified,
13 the following words and phrases are defined to mean:

14 (a) 'Act' means Article 7, Title 9, Chapter 90, Guam Code Annotated *shall*
15 be called "The Department of Corrections Modernization Act of 2021."

16 (b) 'Contract' shall mean the design, construction and financing contract
17 entered by and between the Government of Guam and the Contractor
18 following negotiations on the response to the Request for Proposal.

19 (c) 'Contractor' shall mean the authorized entity which *shall* be the
20 signatory on the Contract and *shall* be fully responsible for carrying out
21 the design, construction, financing, and maintenance of the new
22 Department of Corrections. The Contractor may cooperation with
23 another entity or entities in any manner the Contractor deems appropriate
24 to provide for the financing, design and construction of the new
25 Department of Corrections envisioned by this Chapter.

26 (d) 'Department of Corrections Construction Committee' shall be chaired
27 by the Administrator or Deputy Administrator of the Guam Economic

1 Development Authority and include the Director and Deputy Director of
2 the Department of Corrections, the Director or Deputy Director of
3 Department of Public Works, the Director or Deputy Director of
4 Department of Land Management, and the Attorney General of Guam.

5 (e) 'Correctional Agency' shall mean the Department of Corrections.

6 (f) 'Correctional Facility' shall mean the Department of Corrections Adult
7 Correctional Facility.

8 (g) 'Department of Corrections Modernization Act of 2021' as used in this
9 Act shall mean the construction of a new Department of Corrections.

10 (h) 'Lease' shall mean a lease from the Department of Corrections to the
11 contractor entered at the time of the contract for the property.

12 (i) 'Lease-back' shall mean the lease from the contractor to the Department
13 of Corrections of the newly constructed Department of Corrections.

14 (j) 'Property' shall mean any property on which a new Department of
15 Corrections is located.

16 **§90303. Authorization to Enter into Long-Term Leases.**

17 For the purpose of facilitating the financing, design, construction and
18 maintenance of the new Department of Corrections encompassed by this Act, the
19 Government of Guam, through GEDA, is authorized to lease, as required, to the
20 contractor sufficient Government of Guam real property; provided, such property is
21 in the inventory of the Government of Guam.

22 The Government of Guam is also authorized to lease-back from the
23 contractor the property for a period mutually agreed upon between the Government
24 of Guam and the contractor as may be reasonably necessary to amortize the lease-
25 back period of the cost associated with the design, construction, and maintenance of
26 the new Department of Corrections. In no event shall the end of such lease-back
27 period be structured as an annually renewable lease with a provision for automatic

1 renewals to the extent that pledged revenue under §90309 is available. The lease-back
2 shall not be construed as a debt under any applicable debt limitation under the Organic
3 Act of Guam or Guam law.

4 **§90304. Department of Corrections Project Supervision, Reuse Study and**
5 **Appropriation.**

- 6 (a) The project undertaken under the provisions of this Act shall be in accordance
7 with the plans, specifications, standards and costs approved by GEDA and shall
8 be under the supervision of GEDA. There is hereby appropriated to GEDA an
9 amount not to exceed more than 5% of the total cost of the overall contact for
10 the project supervision which includes covering the cost of a prison
11 development consultant or consultants. The scope of work of said consultant or
12 consultants shall include, but not be limited to, the preparation of procurement-
13 related documents including the Request for Proposal.
- 14 (b) Additionally, there is hereby appropriated to GEDA One Million Dollars
15 (\$1,000,000) from the General Fund, for the purpose of commissioning a
16 detailed study which compares the feasibility of either converting the existing
17 Department of Correction to a Government of Guam facility or developing a
18 new Government of Guam facility. The study shall also include financing
19 options for the purpose of funding the reuse or development of said new
20 Government of Guam facility by utilizing the savings from annual rent realized
21 by the Government of Guam by moving from commercial spaces to the new
22 facility. Further, the study shall include the estimated costs associated with
23 design, financing, renovation and/or new construction of the central
24 government office complex as described herein.

25 **§90305. Identification Projects and Procurement.** Under the supervision of /
26 Liheslaturan Guåhan, GEDA in consultation with the Director of Department of
27 Corrections shall utilize the program study of the Correctional Agency to identify and

1 prioritize potential projects to be completed. The list of projects *shall* be included in a
2 Requests for Proposals developed by the Guam Economic Development Authority.
3 Upon receipt of the Program Study, the Guam Economic Development Authority in
4 consultation with the Director of Department of Correction *shall* solicit Request for
5 Proposal (RFP), in compliance with the Guam Procurement Law, for the financing,
6 design, and construction of the Department of Corrections, according to the needs of
7 the Correctional agency and consistent with this Chapter. The choice of the contractor
8 *shall* be made by the Department of Corrections Construction Committee. The
9 committee *shall* assess the prior performance of the contractor on similar projects, and
10 *shall* be free to disqualify any contractor that does not have a successful record of
11 project completion on Guam or any similar isolated locality.

12 The Committee *shall* also specifically consider the Contractors ability and
13 performance with regards to financing, development and construction of a Correctional
14 facility on Guam or any similarly isolated locality.

15 The selection of a contractor *shall* be based upon the proposal that delivers the best
16 value for Guam in meeting the objectives of the Correctional Agency.

17 GEDA *shall* issue an RFP within thirty (30) days after the conclusion of its
18 Program study in consultation with the Department of Corrections for the design,
19 construction, and maintenance of the Correctional Facilities.

20 **§90306. Responsibility of Developer/Contractor.** The contract *shall* require that
21 the contractor be responsible for all costs, expenses and fees of any kind or nature,
22 associated with the design, civil improvements, on-site and off-site infrastructure,
23 construction, permits, and financing associated with the completion of the Department
24 of Corrections, to the extent provided by GEDA in consultation with the Department of
25 Corrections in the Request for Proposals. The lease *may*, for the purposes, provide that
26 its term *shall* be extended for a period not to exceed the shorter of ten (10) years beyond
27 the original term of the lease-back, or such period of time as is necessary to repay in full

1 any financing arranged pursuant to §84109 of this Chapter. The capital maintenance
2 costs shall be paid by the contractor.

3 §90307. Contractual Safeguards. Prior to undertaking the work of finance,
4 design, construction, and maintenance of the new Department of Corrections, the Guam
5 Economic Development Authority in consultation with the Department of Corrections,
6 and the developer or contractor, shall negotiate and enter into a binding construction
7 contract to build the new Department of Corrections in accordance with Guam Building
8 Code under 21 GCA, Chapter 67, Guam Fire Safety Codes and any other applicable
9 requirements. The construction contract shall contain contractual obligations typically
10 found in Government of Guam Construction contracts, including, but not limited to:

11 (a) Warranties;

12 (b) Liquidated damages;

13 (c) Performance and payments bonds;

14 (d) Indemnity;

15 (e) Insurance;

16 (f) Standard specifications;

17 (g) Technical specifications;

18 (h) Progress schedule;

19 (i) Maintenance;

20 (j) Compliance with Guam labor regulations;

21 (k) Compliance with Guam prevailing wage rates for employment of
22 temporary alien workers (H2) on Guam;

23 (l) Compliance with Public Law 28-98: restriction against contractors
24 employing convicted sex offenders to work at government of Guam
25 venues.

1 The contract must be submitted for review and approval to all entities charged by
2 law with the duty to review and approve government contracts, including the Office
3 of the Attorney General.

4 **§90308. Assignments.** To facilitate the purpose of this Act and provide security
5 for the holders of any financing instruments issued pursuant to this Act, the contractor
6 may assign, without the need of the consent of the Guam Economic Development
7 Authority, the contract, the lease and the lease-back to any underwriter, trustee or other
8 party as appropriate to facilitate the contractor financing.

9 **§90309. Pledge of Revenues.**

10 (a) Rental Payments under the lease and the lease-back may be secured by a
11 pledge or other reservation of revenues collected by the government of
12 Guam from the following:

13 (1) The sum of no more than Five Million Dollars (\$5,000,000) from
14 the revenues received pursuant to 11 GCA Chapter 42, Earned
15 Income Tax Credit will be available for Fiscal Year 2022 only.

16 (2) The sum of no more than Five Million Dollars (\$5,000,000) from
17 General Fund shall be appropriated annually.

18 Any amounts pledged as provided in this Section are hereby continuously
19 appropriated for the purpose of making lease-back payments, but any amounts only
20 reserved as provided in this Section, and not pledged, shall be subject to annual
21 appropriation for the purpose of making lease-back payments. The revenues
22 pledged or reserved and thereafter received by the Government of Guam or by any
23 trustee, depository or custodian shall be deposited in a separate account and shall
24 be immediately subject to such reservation or the lien of such pledge without any
25 physical delivery thereof or further action, and such reservation or the lien of such
26 pledge shall be valid and binding against all parties having claims of any kind in
27 tort, contract or otherwise against the Government of Guam or such trustee,

1 depository or custodian, irrespective of whether the parties have notice thereof. The
2 instrument by which such pledge or reservation is created need be recorded.

3 **§90310. Use of Tax-Exempt Bond, Taxable Bond and Other Financing**

4 **Instruments for Financing.** To minimize the financing cost to the Government of
5 Guam, financing utilized by the contractor to fund the design, construction, and
6 maintenance of the Department of Corrections *shall* be through tax-exempt obligations,
7 taxable bond obligation, or other financial instruments provided, such financing is
8 available at interest rates determined by the Guam Economic Development Authority to
9 be reasonable and competitive. Alternatively, the contractor *may* use an alternative
10 method of financing, including, but not limited to, a short-term debt, mortgage, loan,
11 federally guaranteed loan or loan by an instrumentality of the United States of America,
12 if such financing will better serve the needs of the People of Guam. Such alternative
13 financing *shall* be approved by *I Liheslaturan Guåhan*. The purpose for the requirements
14 of this Section is to assure that the Government of Guam pays the lowest possible
15 interest rate so that the cost of the Government of Guam's financing of the design and
16 construction of the Department of Corrections, amortized through the lease-back
17 payments from GEDA to the contractor, will be lower than regular commercial rates.

18 **§90311. Prison IT, Building and Security Management System.**

19 (a) For the purpose of ensuring the long serving duration of the
20 Department of Corrections, GEDA *shall* include in the specifications
21 for the new Correctional Facility, the requirement for a prison
22 information management system, security and surveillance system,
23 and a building management system. These systems identified must be
24 done in consultation with the Department of Corrections and
25 compliant with the federal mandates related to prison records and to
26 foster compliance with the Federal Standards for Prisons and Jails.

1 (b) GEDA, in consultation with the Department of Corrections, shall
2 determine the specifications for such systems based on
3 comprehensive, state-of-the-art technology generally accepted within
4 the United States Prison Industry in connection with the development
5 for a new Department of Corrections. The specifications shall require
6 that all system are designed by the same software developer so as to
7 ensure the delivery of the rehabilitation to the inmates.

8 (c) In order to ensure immediate response to system downtimes or failure,
9 GEDA shall include in the specifications the requirement that the
10 provider of these systems have a local Guam Office and service
11 technicians stationed on Guam.

12 **§90312. Utilities and Routine Maintenance and Repair.** The Contractor shall be
13 responsible for the connection and payment of all utilities, including without limitation,
14 power, water, sewer, telephone, and cable and all maintenance and repair and exterior
15 groundskeeping and landscaping and upkeep of the Department of Corrections.

16 **§90312. Maintenance Fund.** The Contract with the Contractor, and the Lease-
17 Back, shall provide that all capital maintenance and repair of the Department of
18 Corrections be performed by the contractor as determined during the bid process, to be
19 inclusive of the existing Department of Corrections throughout the duration of the
20 construction of the new Department of Corrections. The Contractor shall provide
21 sufficient funding for a separate maintenance fund for this purpose; sufficient funds for
22 this purpose shall be defined as the cost of capital maintenance and repair for the
23 remaining period of the lease agreement with the Government of Guam after the
24 completion of the Department of Corrections. The maintenance fund shall be used
25 exclusively for the purpose of capital maintenance and repair and shall be in an interest-
26 bearing account segregated from other funds held in escrow.

1 **§90313. Rules, Regulations, and Restrictions.** The Administrator of Guam
2 Economic Development Authority with the approval of its Board, in consultation with
3 the Department of Corrections and the consent of the Attorney General of Guam, /
4 *Liheslaturan Guåhan and I Maga'Hågan Guåhan* may promulgate rules and regulations
5 pursuant to Guam law necessary to implement the provision of this Chapter.

6 **§90314. Expedited Permitting Process.** Since time is of the essence relative to
7 the development of the new facilities, notwithstanding any other provision of law, /
8 *Maga' Hagan Guåhan* shall have the authority to take any and all steps necessary to
9 expedite the issuance of any and all permits required for the development, design and
10 construction of the new facility.

11 **Section 2. Repealing Clause.** All Laws or parts of any law that is inconsistent with
12 provisions contained in the Department of Corrections Modernization Act of 2021 are
13 hereby repealed or amended accordingly.

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

18 **Section 4. Enactment.** This act *shall* become effective upon enactment.

I MINA 'TRENTAIS AIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 153-36 (COR)

As amended by the Committee on
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21 Department of Corrections Facility envisioned by this Act, the Government of Guam will
22 be authorized to execute a lease agreement of existing property under its inventory for up
23 to Thirty (30) years on which the new Department of Corrections will be constructed.

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8 repair of the Department of Corrections constructed under this Act, which costs shall be
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12 Government of Guam with no further obligations to the contractor.

13 **§90302. Definitions.** For purposes of this Chapter and unless otherwise specified,
14 the following words and phrases are defined to mean:

15 (a) 'Act' means Article 7, Title 9, Chapter 90, Guam Code Annotated *shall*
16 be called "The Department of Corrections Modernization Act of 2021."

17 (b) 'Contract' shall mean the design, construction and financing contract
18 entered by and between the Government of Guam and the Contractor
19 following negotiations on the response to the Request for Proposal.

20 (c) 'Contractor/Developer' shall mean the authorized entity which *shall* be
21 the signatory on the Contract and *shall* be fully responsible for carrying
22 out the design, construction, financing, and maintenance of the new
23 Department of Corrections. The Contractor/Developer may cooperation
24 with another entity or entities in any manner the Contractor/Developer
25 deems appropriate to provide for the financing, design and construction
26 of the new Department of Corrections envisioned by this Chapter.

1 (d) 'Department of Corrections Construction Committee' shall be chaired
2 by the Administrator or Deputy Administrator of the Guam Economic
3 Development Authority and include the Director and Deputy Director of
4 the Department of Corrections, the Director or Deputy Director of
5 Department of Public Works, the Director or Deputy Director of
6 Department of Land Management, The Director or Deputy Director of
7 Bureau of Statistics and Planning, The Director or Deputy Director of
8 Bureau of Budget Management and Research and the Director or Deputy
9 Director of Administration .

10 (e) 'Correctional Agency' shall mean the Department of Corrections.

11 (f) 'Correctional Facility' shall mean the Department of Corrections Adult
12 Correctional Facility.

13 (g) 'Department of Corrections Modernization Act of 2021' as used in this
14 Act shall mean the construction of a new Department of Corrections.

15 (h) 'Lease' shall mean a lease from the Government of Guam itself or
16 through the Department of Corrections to the Contractor/Developer
17 entered at the time of the contract for the property.

18 (i) 'Lease-back' shall mean the lease from the Guam Economic
19 Development Authority and/or the Contractor/Developer to the
20 Government of Guam itself or by and through the Department of
21 Corrections of the newly constructed Department of Corrections.

22 (j) 'Property' shall mean any property on which a new Department of
23 Corrections is located.

24 **§90303. Authorization to Enter into Long-Term Leases.**

25 For the purpose of facilitating the financing, design, construction and
26 maintenance of the new Department of Corrections encompassed by this Act, the
27 Government of Guam is authorized to lease, as required, to the Contractor/Developer

1 and/or the Guam Economic Development Authority sufficient Government of Guam
2 real property; provided, such property is in the inventory of the Government of Guam.

3 The Government of Guam is also authorized to lease-back from the
4 Contractor/Developer and/or the Guam Economic Development Authority the
5 property for a period mutually agreed upon between the Government of Guam and
6 the Contractor/Developer and/or the Guam Economic Development Authority as *may*
7 be reasonably necessary to amortize the lease-back period of the cost associated with
8 the design, construction, and maintenance of the new Department of Corrections. In
9 no event *shall* the end of such lease-back period be structured as an annually
10 renewable lease with a provision for automatic renewals to the extent that pledged
11 revenue under §90309 is available. The lease-back *shall* not be construed as a debt
12 under any applicable debt limitation under the Organic Act of Guam or Guam law.

13 **§90304. Identification Projects and Procurement.** The Guam Economic
14 Development Authority in consultation with the Director of Department of Corrections
15 *shall* utilize the program study of the Correctional Agency to identify and prioritize
16 potential projects to be completed. The list of projects *shall* be included in a Request
17 for Proposal developed by the Guam Economic Development Authority. Upon receipt
18 of the Program Study, the Guam Economic Development Authority in consultation
19 with the Director of Department of Corrections *shall* solicit Request for Proposal
20 (RFP), in compliance with the Guam Procurement Law, for the financing, design, and
21 construction of the Department of Corrections, according to the needs of the
22 Correctional agency and consistent with this Chapter. The choice of the
23 Contractor/Developer *shall* be made by the Department of Corrections Construction
24 Committee. The committee *shall* assess the prior performance of the
25 Contractor/Developer on similar projects, and *shall* be free to disqualify any
26 Contractor/Developer that does not have a successful record of project completion on
27 Guam or any similar isolated locality.

1 The Committee shall also specifically consider the Contractor/Developers ability
2 and performance with regards to financing, development and construction of a
3 Correctional facility on Guam or any similarly isolated locality.

4 The selection of a Contractor/Developer shall be based upon the proposal that
5 delivers the best value for Guam in meeting the objectives of the Correctional Agency.

6 GEDA shall issue an RFP within thirty (30) days after the conclusion of its
7 Program study in consultation with the Department of Corrections for the design,
8 construction, and maintenance of the Correctional Facilities.

9 **§90305. Responsibility of Contractor/Developer.** The contract shall require that
10 the Contractor/Developer be responsible for all costs, expenses and fees of any kind or
11 nature, associated with the design, civil improvements, on-site and off-site
12 infrastructure, construction, permits, and financing associated with the completion of
13 the Department of Corrections, to the extent provided by GEDA in consultation with the
14 Department of Corrections in the Request for Proposal. The lease may, for the purposes,
15 provide that its term shall be extended for a period not to exceed the shorter of ten (10)
16 years beyond the original term of the lease-back, or such period of time as is necessary
17 to repay in full any financing arranged pursuant to §90308 of this Chapter. The capital
18 maintenance costs shall be paid by the contractor.

19 **§90306. Contractual Safeguards.** Prior to undertaking the work of finance,
20 design, construction, and maintenance of the new Department of Corrections, the Guam
21 Economic Development Authority in consultation with the Department of Corrections,
22 and the Contractor/Developer , shall negotiate and enter into a binding construction
23 contract to build the new Department of Corrections in accordance with Guam Building
24 Code under 21 GCA, Chapter 67, Guam Fire Safety Codes and any other applicable
25 requirements. The construction contract shall contain contractual obligations typically
26 found in Government of Guam Construction contracts, including, but not limited to:

27 (a) Warranties;

- (b) Liquidated damages;
- (c) Performance and payments bonds;
- (d) Indemnity;
- (e) Insurance;
- (f) Standard specifications;
- (g) Technical specifications;
- (h) Progress schedule;
- (i) Maintenance;
- (j) Compliance with Guam labor regulations;
- (k) Compliance with Guam prevailing wage rates for employment of temporary alien workers (H2) on Guam;
- (l) Compliance with Public Law 28-98: restriction against contractors employing convicted sex offenders to work at government of Guam venues.

The contract must be approved as to form and legality by the Attorney General.

§90307. Assignments. To facilitate the purpose of this Act and provide security for the holders of any financing instruments issued pursuant to this Act, the Contractor/Developer *may* assign, without the need of the consent of the Guam Economic Development Authority, the contract, the lease and the lease-back to any underwriter, trustee or other party as appropriate to facilitate the Contractor/Developer financing.

§90308. Pledge or Reservation of Revenues.

- (a) Rental Payments under the lease and the lease-back *may* be secured by a pledge or other reservation of revenues collected by the government of Guam from the following:

- (1) The sum of *no more than* Five Million Dollars (\$5,000,000) from the revenues received pursuant to 11 GCA Chapter 42, Earned Income Tax Credit will be available for Fiscal Year 2022 only.

1 (2) The sum of *no more than* Five Million Dollars (\$5,000,000) from
2 General Fund *shall* be appropriated annually thereafter.

3 (3) The Governor of Guam may use federal funds that are made
4 available to the Government of Guam by the United States Federal
5 Government for the financing, design, construction, and
6 maintenance of the new Department of Corrections Facility.

7 (4) The use of other financing options is authorized for the purpose of
8 this Act, including, but not limited to loans, grants, bond financing,
9 and other alternate funding options.

10 Any amounts reserved or pledged as provided in this Section *shall* be subject
11 to annual appropriation for the purpose of making lease-back payments. The
12 revenues pledged or reserved and thereafter received by the Government of Guam
13 or by any trustee, depository or custodian *shall* be deposited in a separate account
14 and *shall* be immediately subject to such reservation or the lien of such pledge
15 without any physical delivery thereof or further action, and such reservation or the
16 lien of such pledge *shall* be valid and binding against all parties having claims of
17 any kind in tort, contract or otherwise against the Government of Guam or such
18 trustee, depository or custodian, irrespective of whether the parties have notice
19 thereof. The instrument by which such pledge or reservation is created need be
20 recorded.

21 **§90309. Use of Tax-Exempt Bond, Taxable Bond and Other Financing**
22 **Instruments for Financing.**

23 **(a) To minimize the financing cost to the Government of Guam, financing utilized**
24 **by the Contractor/Developer to fund the design, construction, and maintenance**
25 **of the Department of Corrections *shall* be through tax-exempt obligations,**
26 **taxable bond obligation, or other financial instruments provided, such financing**
27 **is available at interest rates determined by the Guam Economic Development**

1 Authority to be reasonable and competitive. The Guam Economic Development
2 Authority shall be the issuer of any financial instruments or obligations unless
3 the Guam Economic Development Authority waives its right to serve as the
4 issuer of financial instruments or obligations. Alternatively, the contractor may
5 use an alternative method of financing, including, but not limited to, a short-
6 term debt, mortgage, loan, federally guaranteed loan or loan by an
7 instrumentality of the United States of America, if such financing will better
8 serve the needs of the People of Guam. Such alternative financing shall be
9 approved by I Liheslaturan Guåhan. The purpose for the requirements of this
10 Section is to assure that the Government of Guam pays the lowest possible
11 interest rate so that the cost of the Government of Guam's financing of the
12 design and construction of the Department of Corrections, amortized through
13 the lease-back payments from the Government of Guam to GEDA and or the
14 Contractor/Developer, will be lower than regular commercial rates.

15 **(b)** I Liheslaturan Guahan, pursuant to §50103(k) of Title 12 of Guam Code
16 Annotated, hereby authorizes the Guam Economic Development Authority to
17 issue one or more additional series of tax-exempt and/or taxable obligations (in
18 any case, the "bonds") for the purpose of financing Department of Corrections
19 Adult Correctional Facility, in an aggregate principal amount not to exceed
20 _____ dollars (\$_____) for the following purposes: (1)
21 to finance the design, construction, and/or the maintenance of the Department
22 of Corrections Adult Correctional Facility, to fund a deposit to a debt service
23 reserve fund, (3) to fund capitalized interest with respect to the bonds, and (4)
24 to pay expenses relating to the authorization, sale, and issuance of the bonds,
25 including without limitation, printing costs, costs of reproducing documents,
26 credit enhancement fees, underwriting, legal, feasibility, financial advisory and
27 accounting fees and charges, fees paid to banks, or other financial institutions

1 providing credit enhancement fees, costs of credit ratings and other costs,
2 charges and fees in connection with the issuance, sale, and delivery of the
3 bonds, subject to the following additional conditions:

- 4 i. The terms and conditions of the bonds shall be as determined by
5 the Guam Economic Development Authority by the execution of a
6 certificate, trust agreement or indenture authorizing the issuance
7 of the bonds; provided, however, that such terms and conditions
8 shall be consistent with this Section, that the bonds shall have a
9 final maturity not to exceed thirty (30) years; and an interest rate
10 not to exceed seven (7%) percent.
- 11 ii. No bonds authorized by this Section shall be sold until the Board
12 of Directors of Guam Economic Development Authority has
13 approved the sale by resolution, as provided by Chapter 50 of Title
14 12, Guam Code Annotated.
- 15 iii. The issuance of bonds pursuant to this Section shall not be subject
16 to the approval of the voters of Guam.

17 **§90310. Prison IT, Building and Security Management System.**

18 (a) For the purpose of ensuring the long serving duration of the
19 Department of Corrections, GEDA shall include in the specifications
20 for the new Correctional Facility, the requirement for a prison
21 information management system, security and surveillance system,
22 and a building management system. These systems identified must be
23 done in consultation with the Department of Corrections and
24 compliant with the federal mandates related to prison records and to
25 foster compliance with the Federal Standards for Prisons and Jails.

26 (b) GEDA, in consultation with the Department of Corrections, shall
27 determine the specifications for such systems based on

1 comprehensive, state-of-the-art technology generally accepted within
2 the United States Prison Industry in connection with the development
3 for a new Department of Corrections. The specifications *shall* require
4 that all system are designed by the same software developer so as to
5 ensure the delivery of the rehabilitation to the inmates.

6 (c) In order to ensure immediate response to system downtimes or failure,
7 GEDA *shall* include in the specifications the requirement that the
8 provider of these systems have a local Guam Office and service
9 technicians stationed on Guam.

10 **§90311. Utilities and Routine Maintenance and Repair.** The Contractor/
11 Developer *shall* be responsible for the connection and payment of all utilities, including
12 without limitation, power, water, sewer, telephone, and cable and all maintenance and
13 repair and exterior groundskeeping and landscaping and upkeep of the Department of
14 Corrections.

15 **§90312. Maintenance Fund.** The Contract with the Contractor/Developer, and the
16 Lease-Back, *shall* provide that all capital maintenance and repair of the Department of
17 Corrections be performed by the Contractor/Developer The Contractor/Developer *shall*
18 provide sufficient funding for a separate maintenance fund for this purpose; sufficient
19 funds for this purpose *shall* be defined as the cost of capital maintenance and repair for
20 the remaining period of the lease agreement with the Government of Guam after the
21 completion of the Department of Corrections. The maintenance fund *shall* be used
22 exclusively for the purpose of capital maintenance and repair and *shall* be in an interest-
23 bearing account segregated from other funds held in escrow.

24 **§90313. Rules, Regulations, and Restrictions.** The Guam Economic
25 Development Authority , in consultation with the Department of Corrections *may*

1 promulgate rules and regulations pursuant to the Administrative Adjudication Law
2 Guam law necessary to implement the provision of this Chapter.

3 **§90314. Expedited Permitting Process.** Since time is of the essence relative to
4 the development of the new facilities, notwithstanding any other provision of law, *I*
5 *Maga' Hagan Guåhan* shall have the authority to take any and all steps necessary to
6 expedite the issuance of any and all permits required for the development, design and
7 construction of the new facility.

8 **Section 2. Repealing Clause.** All Laws or parts of any law that is inconsistent with
9 provisions contained in the Department of Corrections Modernization Act of 2021 are
10 hereby repealed or amended accordingly.

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

15 **Section 4. Enactment.** This act *shall* become effective upon enactment.



Vice Speaker

TINA ROSE MUÑA BARNES

CHAIRPERSON, COMMITTEE ON RULES

I Mina'trentai Sais Na Liheslaturan Guåhan

GUAM CONGRESS BUILDING
163 CHALAN SANTO PAPA
HAGÅTÑA, GUAM 96910
TEL 671-472-2461
COR@GUAMLEGISLATURE.ORG

July 2, 2021

MEMO

To: Rennae Meno
Clerk of the Legislature

From: Vice Speaker Tina Rose Muña Barnes
Chairperson, Committee on Rules

Re: Fiscal Note

Buenas yan Håfa adai.

Attached, please find the fiscal note for the following bill:

Bill No. 153-36 (COR)

Please forward the same to Management Information Services (MIS) for posting on our website.

If you have any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director at 472-2461.

Thank you for your attention to this important matter.



Bureau of Budget & Management Research
Fiscal Note of Bill No. 153-36 (COR)

AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT SHALL BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021".

Department/Agency Appropriation Information

Dept./Agency Affected: Department of Corrections	Dept./Agency Head: Joseph Carbullido, Director
Department's General Fund (GF) appropriation(s) to date:	\$25,980,623
Department's Other Fund (Specify) appropriation(s) to date: DOC Inmates Revolving Fund & Safe Streets Fund	\$971,341
Total Department/Agency Appropriation(s) to date:	\$26,951,964

Fund Source Information of Proposed Appropriation

	General Fund:	(Specify Special Fund):	Total:
FY 2020 Unreserved Fund Balance		\$0	\$0
FY 2021 Adopted Revenues	\$0	\$0	\$0
FY 2021 Appro. (P.L. 35-99 thru)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2021 (if applicable)	FY 2022	FY 2023	FY 2024	FY 2025
General Fund	1/	\$0	\$0	\$0	\$0	\$0
Special Fund	\$0	\$0	\$0	\$0	\$0	\$0
Total	1/	\$0	\$0	\$0	\$0	\$0

- | | | |
|---|---------------------------------|--------------------------------|
| 1. Does the bill contain "revenue generating" provisions?
If Yes, see attachment | / / Yes | / X / No |
| 2. Is amount appropriated adequate to fund the intent of the appropriation?
If no, what is the additional amount required? \$ _____ | / X / N/A
/ X / N/A | / / Yes
/ / No |
| 3. Does the Bill establish a new program/agency?
If yes, will the program duplicate existing programs/agencies?
Is there a federal mandate to establish the program/agency? | / X / Yes
/ / N/A
/ / Yes | / / No
/ X / No
/ X / No |
| 4. Will the enactment of this Bill require new physical facilities? | / / Yes | / X / No |
| 5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason:
/ X / Requested agency comments not received by due date | / X / Yes
/ / Other: | / / No |

Analyst: <u>Jason Baza</u> Date: <u>7/1/21</u>	Director: <u>Lester E. Carlson, Jr.</u> Date: <u>JUL 02 2021</u>
Jason Baza, BMA Supervisor	Lester E. Carlson, Jr., Director

Notes:
 1/ See attached comments.

BUREAU OF BUDGET AND MANAGEMENT RESEARCH
COMMENTS ON BILL NO. 153-36 (COR)

The proposed legislation intends to do the following:

- Authorize the Government of Guam to enter into contracts for financing, design, construction, and long-term capital maintenance of a new Department of Corrections (DOC) facility with private sector contractors who can provide long-term financing.
- Authorize the Government of Guam to execute a lease agreement of existing property under its inventory for up to thirty (30) years on which the new DOC facility will be constructed.
- Designate the contractor as the lessor of Government of Guam's property, who will design and construct the new DOC facility.
- Fund the lease agreement through appropriations from annual Earned Income Tax Credit (EITC) reimbursements and General Fund revenues.
- Revert the Government of Guam property and constructed DOC facility back to the Government of Guam at the expiration of the lease-back period.
- Appropriate General Fund revenues to the Guam Economic Development Authority (GEDA) for the purpose of commissioning a detailed study comparing the feasibility of either converting DOC's existing facility or developing a new facility.

§90309 of the proposed legislation pledges no more than Five Million Dollars (\$5M) from EITC reimbursements in FY 2022, and Five Million Dollars (\$5M) from General Fund revenues in FY 2022 and prospectively to finance the lease-back agreement. Per comments from the Department of Revenue & Taxation on Bill No. 148-36 (LS), the average EITC payments to taxpayers since 2017 amounts to \$53M. The Bureau notes that there are other proposed legislations appropriating funds from FY 2022 EITC reimbursements: Bill No. 121-36 (COR) - \$35,000,000 (Guam Memorial Hospital); and Bill No. 148-36 (LS) - \$14,971,882 (University of Guam and Guam Community College). The total appropriations proposed from FY 2022 EITC reimbursements, inclusive of this proposed legislation, amounts to \$54,971,882.

Should the proposed legislation pass, direct appropriations from General Fund revenues would need to be accounted for in corresponding fiscal year budget acts as well as Executive Budget Requests. The Bureau notes that the impact of such appropriation will be dependent on the General Fund collections. Per the May 2021 Consolidated Revenue & Expenditure Report, the General Fund is tracking to collect approximately \$6.4M above the adopted level for FY 2021. Conversely, there are several Special Fund categories that are experiencing shortfalls (i.e Guam Highway Fund, Territorial Educational Facilities Fund, Customs & Quarantine Inspection Fund, etc.), in which the General Fund would be required to cover any expenditures that exceed revenues collected. The Bureau is optimistic that the gradual return of normal economic tourism activity experienced prior to the pandemic will assist in revenue collections. However, if the General Fund is required to continue covering shortfalls in funds dependent on economic tourism activity, adding an additional annual obligation of \$5M may affect the ability of the General Fund to cover other Government of Guam services.



July 2, 2021

MEMORANDUM

To: Senator Joe S. San Agustin
Chairman, Committee on General Government Operations, Appropriations and Housing

From: Stephen J. Guerrero
Director, Office of Finance and Budget

Re: Funding Availability Note: Bill No. 153-36 (COR)

Hafa Adai Senator San Agustin!

Pursuant to the Standing Rules of the 36th Guam Legislature, the Committee on Appropriations and/or the Office of Finance and Budget (OFB) shall determine in writing if the funding source cited in Appropriation or Authorization for Appropriations bills are sufficient.

The Office has received Bill No. 153-36 (COR), AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT SHALL BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021."

The proposed Bill No. 153-36 (COR) facilitates the financing, design, construction, and maintenance of a new Department of Corrections (DOC) Facility. The bill further authorizes the Government of Guam (GovGuam) to execute a lease agreement of existing property under its inventory for up to 30 years on which the new DOC will be constructed. The lease of the GovGuam property will be to the contractor, who will design and construct the new DOC Facility and provide funding for the design, construction, and capital maintenance and repair through \$5 million (M) appropriated, a portion of the reimbursement of the Earned Income Tax Credit (EITC) (estimated at \$60M annually), for Fiscal Year 2022 and prospective appropriation from the General Fund, annually.

The Guam Economic Development Authority (GEDA) must approve plans, specifications, standards, and costs, as well as supervise the project. Therefore, GEDA will also be appropriated an amount not to exceed more than 5% of the total cost of the overall contract for the project supervision to include the cost of a prison development consultant(s). Additionally, GEDA will be appropriated \$1M from the General Fund to commission a detailed study comparing the feasibility of either converting the existing DOC or developing a new GovGuam Facility.

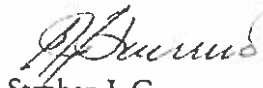
The bill further establishes that upon completion of the construction of the DOC Facility, the facilities and land will be leased back to GovGuam for a period not to exceed the initial ground lease to the contractor over which

time GovGuam will amortize as lease payments to the contractor. GovGuam benefits greatly in a leaseback by shifting the risk and volatility of owning

an asset to the lessor and later being given ability to owning the asset upon completion. Other specific information stated in the bill addresses responsibility of maintenance costs and utilities to fall under the contractor, and the ability for GovGuam to finance through means of benefiting from the lowest possible interest rates.

The Bill will have a significant financial impact on the General Fund of \$5M annually, and an additional \$1M appropriated to GEDA for the feasibility study which is not included in the \$5M annual appropriation from the EITC estimated revenue. Although there is a need for a cost-effective prison to accommodate for the rising population of prisoners and identification of a viable funding source for the project itself, other options of funding sources should be considered should the bill's proposed funding source not be available.

Respectfully,



Stephen J. Guerrero




Office of
SENATOR Joe S. San Agustin

I Mina' trentai Sais na Liheslaturan Guåhan Thirty-Sixth Guam Legislature

COMMITTEE VOTE SHEET

BILL NO. 153-36 (COR) - As Introduced by Joe S. San Agustin, Jose "Pedo" Terlaje, Tina Rose Muña Barnes, Clynton E. Ridgell, James C. Moylan, Frank Blas Jr., Amanda L. Shelton, V. Anthony Ada, and Mary Camacho Torres. **As Amended by the Committee on General Government Operations, Appropriations and Housing. "AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT SHALL BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021.""**

Committee Members	Signature	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
Senator Joe S. San Agustin <i>Chairman</i> 7.28.21		✓				
Senator Amanda L. Shelton <i>Vice Chairperson (Gen Govt Operations, Appr & Housing)</i>	E-vote 07/28/2021			✓		
Senator Clynton E. Ridgell <i>Vice Chairman (Appropriations) Member</i>						
Speaker Therese M. Terlaje <i>Member</i>						
Vice-Speaker Tina Rose Muña Barnes <i>Member</i>	E-vote 07/28/2021	✓				
Senator V. Anthony Ada <i>Member.</i>	E-vote 07/28/2021	✓				
Senator Frank F. Blas Jr. <i>Member</i>	E-vote 07/28/21	✓				
Senator Jose "Pedo" Terlaje <i>Member</i>	E-vote 07/28/21	✓				
Senator Mary Camacho Torres <i>Member</i>	E-vote 07/28/21	✓				

Committee Chairman: General Government Operations, Appropriations, and Housing

Ran - Care Commercial Building, CBU #230, 761 South Marine Corps Dr., Tamuning, Guam 96913

Tel: (671) 989-5445 * Fax: (671) 969-6737 * email: senatorjoessanagustin@gmail.com



Michaela Celorio <msacelorio.senatorsa@gmail.com>

Request for E-votes: Bill 153-36 (COR) As Amended by Committee

14 messages

Michaela Celorio <msacelorio.senatorsa@gmail.com>

Wed, Jul 28, 2021 at 1:35 PM

To: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, Clynt Ridgell <clyntridgell@guamlegislature.org>, Senator Therese Terlaje <senatorterlajeguam@gmail.com>, Vice Speaker Tina Rose Muña Barnes <senatormunabarnes@guamlegislature.org>, Senator Tony Ada <senatorvanthonyada@gmail.com>, "Frank Blas, Jr." <frank.blasjr@gmail.com>, Senator Pedro Terlaje <senatorpedo@senatorjpterlaje.com>, "Senator Mary C. Torres" <senatormary@guamlegislature.org>

Cc: "Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, Joseph Mesngon <joe.senatorsa@gmail.com>, Catherine Leon Guerrero <cathy.senatorsa@gmail.com>, Rose Mesa <rose.senatorsa@gmail.com>

Hafa Adai Committee Members,

Please see attached Committee Report on Bill 153-36 (COR) **AN ACT TO ADD A NEW ARTICLE 7 TO CHAPTER 90, TITLE 9, GUAM CODE ANNOTATED RELATIVE TO THE FINANCE, DESIGN, CONSTRUCTION AND MAINTENANCE OF THE GOVERNMENT OF GUAM DEPARTMENT OF CORRECTIONS WHICH THE ACT *SHALL* BE CALLED THE "DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021"** Joe S. San Agustin, Jose "Pedro" Terlaje, Tina Rose Muña Barnes, Clynton E. Ridgell, James C. Moylan, Frank Blas Jr., Amanda L. Shelton, V. Anthony Ada, and Mary Camacho Torres. As Amended by the Committee on General Government Operations, Appropriations and Housing.

Please indicate your preferred actions from the following;

- ☐ TO DO PASS
- ☐ TO DO NOT PASS
- ☐ TO REPORT OUT ONLY
- ☐ TO ABSTAIN
- ☐ TO PLACE IN INACTIVE FILE

Please submit your response ASAP as it will be filed with the Committee on Rules.

Should you have any questions or concerns, please do not hesitate to contact our office.

Thank you.

Best,

Michaela Celorio

Research Policy Analyst

Office of Senator Joe S. San Agustin

I Mina Trentai Sais Na Liheslaturan Guahan

36th Guam Legislature

Chairman, Committee on General Government Operations, Appropriations & Housing

Office of Finance and Budget

Email: msacelorio.senatorsa@gmail.com

Tel: (671) 989-5445



Bill 153-36 (COR) As amended.pdf

3410K

Senator Tony Ada <senatorvanthonyada@gmail.com>

Wed, Jul 28, 2021 at 2:09 PM

To: Michaela Celorio <msacelorio.senatorsa@gmail.com>

Cc: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, Clynt Ridgell <clyntridgell@guamlegislature.org>, Senator Therese Terlaje <senatorterlajeguam@gmail.com>, Vice Speaker Tina Rose Muña Barnes <senatormunabarnes@guamlegislature.org>, "Frank Blas, Jr." <frank.blasjr@gmail.com>, Senator Pedro Terlaje <senatorpedo@senatorjpterlaje.com>, "Senator Mary C. Torres" <senatormary@guamlegislature.org>, "Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, Joseph Mesngon <joe.senatorsa@gmail.com>, Catherine Leon Guerrero <cathy.senatorsa@gmail.com>, Rose Mesa <rose.senatorsa@gmail.com>

To do pass

Tony

On Jul 28, 2021, at 1:36 PM, Michaela Celorio <msacelorio.senatorsa@gmail.com> wrote:

[Quoted text hidden]

<Bill 153-36 (COR) As amended.pdf>

Vice Speaker Tina Rose Muña Barnes <senatormunabarnes@guamlegislature.org>

Wed, Jul 28, 2021 at 2:15 PM

To: Michaela Celorio <msacelorio.senatorsa@gmail.com>

Cc: Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, Clynt Ridgell <clyntridgell@guamlegislature.org>, Senator Therese Terlaje <senatorterlajeguam@gmail.com>, Senator Tony Ada <senatorvanthonyada@gmail.com>, "Frank Blas, Jr." <frank.blasjr@gmail.com>, Senator Pedro Terlaje <senatorpedo@senatorjpterlaje.com>, "Senator Mary C. Torres" <senatormary@guamlegislature.org>, "Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, Joseph Mesngon <joe.senatorsa@gmail.com>, Catherine Leon Guerrero <cathy.senatorsa@gmail.com>, Rose Mesa <rose.senatorsa@gmail.com>

To do pass.



Sinseru yan Minagåhet,

Office of the Vice Speaker • Tina Rose Muña Barnes

Committee on Rules

Committee on Public Accountability, Human Resource, Guam Buildup, Hagåtña Revitalization, Regional Affairs, Public Library, Telecommunications, and Technology

36th Guam Legislature

I Mina'trentai Sais na Liheslaturan Guåhan

Guam Congress Building | 163 Chalan Santo Papa | Hagåtña, GU 96910

senatormunabarnes@guamlegislature.org

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Gumai pribilehu yan konfedensia este siha na mensáhi. Solo espesiátmente para hágu ma entensioña pat ma aturisa para unisibi. Sen prubidu kumu ti un ma aturisa para manribisa, na'setbe, pat mandespátcha. Yanggen lachi rinisibu-mu nu este na mensáhi, put fabot ago' guatu gi I numa'huyong gi as senatormunabarnes@guamlegislature.org yan despues destrosa todú siha I kopian mensáhi. Si Yu'os ma'áse'.

[Quoted text hidden]

Michaela Celorio <msacelorio.senatorsa@gmail.com>

Wed, Jul 28, 2021 at 2:17 PM

To: Senator Tony Ada <senatorvanthonyada@gmail.com>

Hafa Adai Sen.

Received with thanks.

Best,
Michaela Celorio
Research Policy Analyst
Office of Senator Joe S. San Agustin
I Mina'Trentai Sais Na Liheslaturan Guahan
36th Guam Legislature
Chairman, Committee on General Government Operations, Appropriations & Housing
Office of Finance and Budget
Email: msacelorio.senatorsa@gmail.com
Tel: (671) 989-5445

[Quoted text hidden]

Michaela Celorio <msacelorio.senatorsa@gmail.com>
To: Vice Speaker Tina Rose Muña Barnes <senatormunabarnes@guamlegislature.org>

Wed, Jul 28, 2021 at 2:17 PM

Hafa Adai Vice Speaker,

Received with thanks.

Best,
Michaela Celorio
Research Policy Analyst
Office of Senator Joe S. San Agustin
I Mina'Trentai Sais Na Liheslaturan Guahan
36th Guam Legislature
Chairman, Committee on General Government Operations, Appropriations & Housing
Office of Finance and Budget
Email: msacelorio.senatorsa@gmail.com
Tel: (671) 989-5445

[Quoted text hidden]

Senator Mary C. Torres <senatormary@guamlegislature.org>
To: Michaela Celorio <msacelorio.senatorsa@gmail.com>

Wed, Jul 28, 2021 at 2:29 PM

To do pass.

--

Office of Senator Mary Camacho Torres

Suite 807, DNA Building
238 Archbishop Flores St.
Hagatna, Guam 96910
T: 475-6279 E:senatormary@guamlegislature.org

On Wed, Jul 28, 2021 at 1:36 PM Michaela Celorio <msacelorio.senatorsa@gmail.com> wrote:

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Michaela Celorio <msacelorio.senatorsa@gmail.com>

Wed, Jul 28, 2021 at 2:33 PM

To: "Office of Senator Frank Blas, Jr." <office@senatorfrankblas.com>

Hafa Adai Senator Blas,

Please see attached E-vote Request.

Thank you.

Best,

Michaela Celorio

Research Policy Analyst

Office of Senator Joe S. San Agustin

I Mina'Trentai Sais Na Liheslaturan Guahan

36th Guam Legislature

Chairman, Committee on General Government Operations, Appropriations & Housing

Office of Finance and Budget

Email: msacelorio.senatorsa@gmail.com

Tel: (671) 989-5445

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Bill 153-36 (COR) As amended.pdf

3410K

Michaela Celorio <msacelorio.senatorsa@gmail.com>

Wed, Jul 28, 2021 at 2:35 PM

To: "Senator Mary C. Torres" <senatormary@guamlegislature.org>

Hafa Adai Sen. Torres,

Received with thanks.

Best,

Michaela Celorio

Research Policy Analyst

Office of Senator Joe S. San Agustin

I Mina'Trentai Sais Na Liheslaturan Guahan

36th Guam Legislature

Chairman, Committee on General Government Operations, Appropriations & Housing

Office of Finance and Budget

Email: msacelorio.senatorsa@gmail.com

Tel: (671) 989-5445

[Quoted text hidden]

Senator Pedro Terlaje <senatorpedo@senatorjpterlaje.com>

Wed, Jul 28, 2021 at 2:49 PM

To: Vice Speaker Tina Rose Muña Barnes <senatormunabarnes@guamlegislature.org>

Cc: Catherine Leon Guerrero <cathy.senatorsa@gmail.com>, Clynt Ridgell <clyntridgell@guamlegislature.org>, "Frank Blas, Jr." <frank.blasjr@gmail.com>, "Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, Joseph Mesngon

<joe.senatorsa@gmail.com>, Michaela Celorio <msacelorio.senatorsa@gmail.com>, Office of Senator Shelton Guam Legislature <officeofsenatorshelton@guamlegislature.org>, Rose Mesa <rose.senatorsa@gmail.com>, "Senator Mary C. Torres" <senatormary@guamlegislature.org>, Senator Therese Terlaje <senatorterlajeguam@gmail.com>, Senator Tony Ada <senatorvanthonyada@gmail.com>

To do pass.

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--

The Office of Senator Jose "Pedro" Terlaje

Committee on Public Safety, Emergency Response,
Military and Veterans Affairs, Mayors' Council, and Public Transit

36th Guam Legislature

I Mina'trentai Sais na Liheslaturan Guåhan

777 Route 4, MVP Center - Units 101/ 102, Sinajana, GU 96910

Tel: (671) 989-5301/ 3218

Email: senatorpedo@senatorjpterlaje.com

Office of Senator Frank Blas, Jr. <office@senatorfrankblas.com>
To: Michaela Celorio <msacelorio.senatorsa@gmail.com>

Wed, Jul 28, 2021 at 2:51 PM

To Do Pass

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Very respectfully,

Office of Senator Frank F. Blas, Jr.

Minority Whip

I Mina'trentai Sais na Liheslaturan Guåhan

36th Guam Legislature

Suite 502, DNA Building Hagatna GU 96932

(671)969-6456

office@senatorfrankblas.com



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Office of Senator Amanda L. Shelton <officeofsenatorshelton@guamlegislature.org>
To: Michaela Celorio <msacelorio.senatorsa@gmail.com>

Wed, Jul 28, 2021 at 2:54 PM

To report out only.

Respectfully,



Senator Amanda L. Shelton

Legislative Secretary

*Chairwoman, Committee on Air Transportation, Parks,
Tourism, Higher Education, and the Advancement of
Women, Youth, and Senior Citizens*

Office of the People • Senator Amanda L. Shelton

36th Guam Legislature

I Mina'trentai Sais na Liheslaturan Guåhan

T +1 (671) 969-2574 • (671) 989-2572
E officeofsenatorshelton@guamlegislature.org



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Michaela Celorio <msacelorio.senatorsa@gmail.com>
To: Senator Pedro Terlaje <senatorpedo@senatorjpterlaje.com>

Wed, Jul 28, 2021 at 3:25 PM

Hafa Adai Senator Pedro,

Received with thanks.

Best,

Michaela Celorio

Research Policy Analyst

Office of Senator Joe S. San Agustin

I Mina'Trentai Sais Na Liheslaturan Guahan

36th Guam Legislature

Chairman, Committee on General Government Operations, Appropriations & Housing

Office of Finance and Budget

Email: msacelorio.senatorsa@gmail.com

Tel: (671) 989-5445

[Quoted text hidden]

Michaela Celorio <msacelorio.senatorsa@gmail.com>
To: "Office of Senator Frank Blas, Jr." <office@senatorfrankblas.com>

Wed, Jul 28, 2021 at 3:25 PM

Hafa Adai Senator Blas,

Received with thanks.

Best,

Michaela Celorio

Research Policy Analyst

Office of Senator Joe S. San Agustin

I Mina'Trentai Sais Na Liheslaturan Guahan

36th Guam Legislature

Chairman, Committee on General Government Operations, Appropriations & Housing

Office of Finance and Budget

Email: msacelorio.senatorsa@gmail.com

Tel: (671) 989-5445

[Quoted text hidden]

Michaela Celorio <msacelorio.senatorsa@gmail.com>
To: "Office of Senator Amanda L. Shelton" <officeofsenatorshelton@guamlegislature.org>

Wed, Jul 28, 2021 at 3:26 PM

Hafa Adai Senator Shelton,

Received with thanks.

Best,

Michaela Celorio

Research Policy Analyst

Office of Senator Joe S. San Agustin

I Mina'Trentai Sais Na Liheslaturan Guahan

36th Guam Legislature

Chairman, Committee on General Government Operations, Appropriations & Housing

Office of Finance and Budget

Email: msacelorio.senatorsa@gmail.com

Tel: (671) 989-5445

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