

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 179-37 (COR)

As Substituted on the Floor

Introduced by:

Joe S. San Agustin
Roy A. B. Quinata
Dwayne T. D. San Nicolas
William A. Parkinson

**AN ACT TO AMEND THE CHAMORRO LAND TRUST
LEASE AGREEMENT WITH THE GUAM
INTERNATIONAL COUNTRY CLUB, INCORPORATED.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that Lot Number 10122-12, Mogfog, Municipality of Dededo is a trust property that is the subject of that certain commercial lease agreement by and between the Chamorro Land Trust Commission, as lessor, and Guam International Country Club, Inc., (GICC) as lessee, dated April 1, 2014, and recorded at the Department of Land Management, Government of Guam, on April 4, 2014, under Document Number 863522. This commercial lease, currently with a 10% escalation clause every five years, is estimated to produce \$5,041,082 in rental income to the Chamorro Land Trust over the remaining term of its lease which ends on January 31, 2039.

I Liheslaturan Guåhan further finds that the lessee, GICC, will be able to and has agreed to both accelerate the payment of rent and to increase the escalation rate provided that the lease is amended to incorporate an accelerated rent schedule, an increased escalation rate for the purpose of determining the present value of all future

1 rent, an extension of the lease term, that the permitted use of the property be amended
2 to include the generation, storage and transmission of renewable solar power and
3 provided that the property is actually so used. In the event the property is so used,
4 GICC has also agreed that the building currently being used as a clubhouse will be
5 made available for the exclusive use of the Chamorro Land Trust Commission,
6 Department of Land Management and Guam Ancestral lands Commission thereby
7 giving these agencies a permanent home so that they will no longer have to pay rent
8 to commercial landlords. Allowing for the use of the clubhouse will save CLTC,
9 Department of Land Management, and Guam Ancestral Land Commission
10 approximately \$870,000 annually in rental costs allocated to the agencies from the
11 General Fund.

12 *I Liheslaturan Guahan* further finds that the Chamorro Land Trust
13 Commission has passed an unanimous resolution in favor of the amendment of the
14 lease as the accelerated rent collected will provide much needed funding to support
15 its mission while also giving it the option of investing portions of the accelerated
16 rent to provide it additional income GICC is seeking approval from *I Liheslaturan*
17 *Guahan* to approve the amendments to their lease with the Chamorro Land Trust
18 Commission.

19 It is, therefore, the intent of *I Liheslaturan Guahan* to authorize the Chamorro
20 Land Trust Commission to approve the lease amendments with the GICC.

21 **Section 2. Amendments to Lease.** Notwithstanding 21 GCA §60115, 21
22 GCA §75A122, 21 GCA §75A103 and any other provision of law, *I Liheslaturan*
23 *Guahan* hereby authorizes, approves and directs the Chamorro Land Trust to make
24 the following amendments to the subject lease agreement:

25 (1) the generation, storage and transmission of renewable solar power is
26 hereby added as a permitted use of Lot Number 10122-12, Mogfog, Municipality of
27 Dededo. The permitted commercial uses of the property stated in the lease agreement

1 shall include the generation, storage and transmission of renewable solar power;

2 (2) the lease term shall be extended through January 31, 2055 and shall
3 provide an option to extend the lease term by an additional two (2) years in the event
4 this extension is necessary on account of regulatory requirements, construction
5 schedules and the requirements of the Guam Power Authority;

6 (3) in the event the property is used for the generation, storage and
7 transmission of renewable solar power, for the purpose of determining the net
8 present value of future rent, the current rental escalation rate of 10% every five years
9 shall be increased to an escalation rate of 12% every five years;

10 (4) in the event the property is used for the generation, storage and
11 transmission of renewable solar power, the lessee shall pay all rents due under the
12 lease in advance at its net present value, to be determined by a Member of the
13 Appraisal Institute (MAI) certified and licensed real estate appraiser selected by the
14 Chamorro Land Trust, and shall be paid for by the Guam International Country Club,
15 Inc., utilizing a market based discount rate and will in no event be less than Seven
16 Million Dollars (\$7,000,000) or more than Nine Million Dollars (\$9,000,000), with
17 10% paid within 30 days of the date a power purchase agreement is entered into with
18 the Guam Power Authority that will utilize the property for the generation, storage
19 and transmission of renewable solar power and the remaining 90% paid within 30
20 days of the date solar power is first transmitted to the Guam Power Authority under
21 the power purchase agreement;

22 (5) in the event the property is used for the generation, storage and
23 transmission of renewable solar power, lessee will not be required to use the property
24 for the operation of a golf course;

25 (6) The designation of approximately five (5) acres of Lot Number 10122-12
26 in Mogfog, Municipality of Dededo surrounding the area of the GICC Club House
27 and the Maintenance/Storage Building, along with its surrounding property of one

1 acre, for the use of the Chamorro Land Trust Commission (CLTC), is open to
2 negotiations. The GICC Club House along with its surrounding property of at least
3 five (5) acres, shall be exclusively designated for the use of the CLTC, Guam
4 Ancestral Lands Commission (GALC), and the Department of Land Management
5 (DLM);

6 (7) The Lessee shall cooperate with the CLTC with respect to the
7 reconfiguration of the GICC Club House to accommodate office space for the
8 CLTC, GALC, and DLM. GICC and the CLTC shall survey and parcel out from the
9 leased property the land on which the GICC Club House is situated and the
10 surrounding five (5) acres of land so that the parcelled out land is a separate and
11 distinct lot that would be suitable to support any credit facility that the CLTC may
12 seek for the purpose of renovating the GICC Club House;

13 (8) All components of the solar panels used for the solar farm must be free of
14 per- and polyfluoroalkyl substances (PFAS). Additionally, the Lessee shall be
15 required to remove the components associated with the solar farm at the end of the
16 lease agreement. The removal shall be recycled and shall not be disposed of in
17 Guam's landfill;

18 (9) The Lessee shall be required to provide a monetary guarantee, such as a
19 cash deposit or performance bond, to ensure the financial security of the Lessor and
20 the proper removal of the components associated with the solar farm at the end of
21 the lease agreement and the timely payment of rent. The Lessee shall be required to
22 provide an assessment of the potential costs associated with the removal of
23 components and any potential site restoration, in order to determine amount of
24 monetary guarantee. The assessment will serve as a basis for determining the
25 amount, taking into account factors such as equipment removal, land remediation,
26 any necessary repairs and the value of rent payments;

27 (10) The CLTC shall be responsible for the overhead maintenance costs of the

1 facilities and ground of the GICC Club House. In the event, the Maintenance/Storage
2 Building is also dedicated for CLTC use, CLTC shall also be responsible for the
3 overhead maintenance costs of the facilities and ground of the Maintenance/Storage
4 Building. This overhead maintenance will include the upkeep and maintenance of
5 the buildings as well as the surrounding grounds;

6 (11)The Lessee shall be required to comply with applicable building codes,
7 environmental regulations, and federal rules and regulations related to building
8 construction and environmental protection, including but not limited to the
9 International Building Code (IBC), Americans with Disabilities Act (ADA), Clean
10 Water Act (CWA), Clean Air Act (CAA), National Environmental Policy Act
11 (NEPA), and Resource Conservation and Recovery Act (RCRA), as enforced by
12 Guam and the United States, throughout the lease agreement;

13 (12) until such time the net present value of the accelerated rent is paid in full,
14 lessee shall continue to pay monthly rent in accordance with the lease agreement.
15 The amended lease shall be subject to execution by *I Maga'haga* (the Governor), the
16 Chairman of the Chamorro Land Trust Commission, attestation by *I Segundu Na*
17 *Maga'lahi* (the Lieutenant Governor), and approval as to form by the Attorney
18 General of Guam, pursuant to Title 21 GCA §60114(C) and;

19 (13) in the event the property is not used for the generation, storage and
20 transmission of renewable solar power the provisions of section 2 of this act shall be
21 null and void.

22 **Section 3. Ratification of Lease.** Notwithstanding 21 GCA §60115, 21 GCA
23 §75A122, 21 GCA §75A103 and any other provision of law, *I Liheslaturan Guåhan*
24 hereby ratifies the lease agreement by and between the Chamorro Land Trust and
25 Guam International Country Club, Inc. dated April 1, 2014, affecting Lot Number
26 10122-12, Mogfog, Municipality of Dededo and all amendments thereto that are
27 made in accordance with this Act.

1 **Section 4. Severability.** If any provision of this Act or its application to any
2 person or circumstance is found to be invalid or contrary to law, such invalidity shall
3 not affect other provisions or applications of this Act that can be given effect without
4 the invalid provision or application, and to this end the provisions of this Act are
5 severable.

6 **Section 5. Effective Date.** This Act shall be effective upon enactment. All
7 provisions of this Act shall become null and void should the GICC fail to settle
8 arrears payments within thirty (30) calendar days upon the passage of this Act to
9 include the enactment into law by *I Maga'hågan Guåhan*.