Chamorro Land Trust Commission

(Kumision Inangokkon Tano' Chamoru)

P.O. Box 2950 Hagåtña, Guåhan 96932 Phone: 649-5263 ext. 651 Fax: 649-5383

Eddie Baza Calvo
Governor of Guåhan

Ray Tenorio
Lieutenant Governor of Guåhan

Commission Members

Michael J.B. Borja
Acting Chairman

David J. Matanane
Vice-Chairman

Amanda L.G. Santos
Commissioner

(Vacant)
Commissioner

(Vacant)
Commissioner

Monte Mafnas
Administrative Director

SPECIAL BOARD MEETING
AGENDA

Department of Land Management Conference Room
3rd Flr. ITC Building, Tamuning
Thursday, December 6, 2012; 1pm

I. CALL TO ORDER

II. ROLL CALL

III. OLD BUSINESS
1. Resolution approving and authorizing the execution of a ground lease and release and the taking of related actions

IV. ADJOURNMENT

Okkodo Expansion

Prepared for
Chamorro Land Trust
Working Session

Agenda

- Background
- Program Goals and Design
- Chamorro Land Trust's Roles and Responsibilities
- Ground Lease
- Next Steps/Timeline

Background

- In 2008 Guam Education Financing Foundation (GEFF) opened four new schools- Liguan, Adacao, Astumbo and Okkodo.
- Construction was completed pursuant to GDOE approved plans on budget and CO's were issued ahead of schedule.
- In 2010 the 31st legislature passed a law allocating $2.9 million of Section 30 revenues to expand Okkodo.
- GEFF undertook an evaluation of Okkodo H.S. on a class-by-class, teacher-by-teacher basis and looked at trends in enrolment to determine the most effective way to increase the capacity and efficacy of Okkodo.
- After meetings with stakeholders and agreeing on Program Goals, we developed a design to provide flexibility to meet GDOE goals.

Project Goals

- Increase student capacity from 1,200 to 2,000.
- Improve safety at Route 3 intersection.
- Alleviate shortage of science labs.
- Improve graduation rates and teach employable skills with a Culinary Academy which will be taught by GCC.
- Provide additional shower and locker facilities.
- Expand cafeteria's capacity.
- Construct an athletic field house with restrooms and resurface track.

Okkodo Expansion

Design Program

- Additional standard class rooms: 24
- Special Ed class rooms: 4
- Drama lab: 1
- Electronics lab 1
- Upper level science lab 4
- Physical science lab 2
- Biology lab 1
- Storage rooms 3
- Teacher work rooms 4
- Administration area 1
- Additional showers and locker rooms for boys and girls
- Culinary arts kitchen and class room
- Expanded cafeteria area.
- Restroom and concession facility at the football field
- Track sports surface
- Signalization of Rt. 3 with North and South bound turn lanes

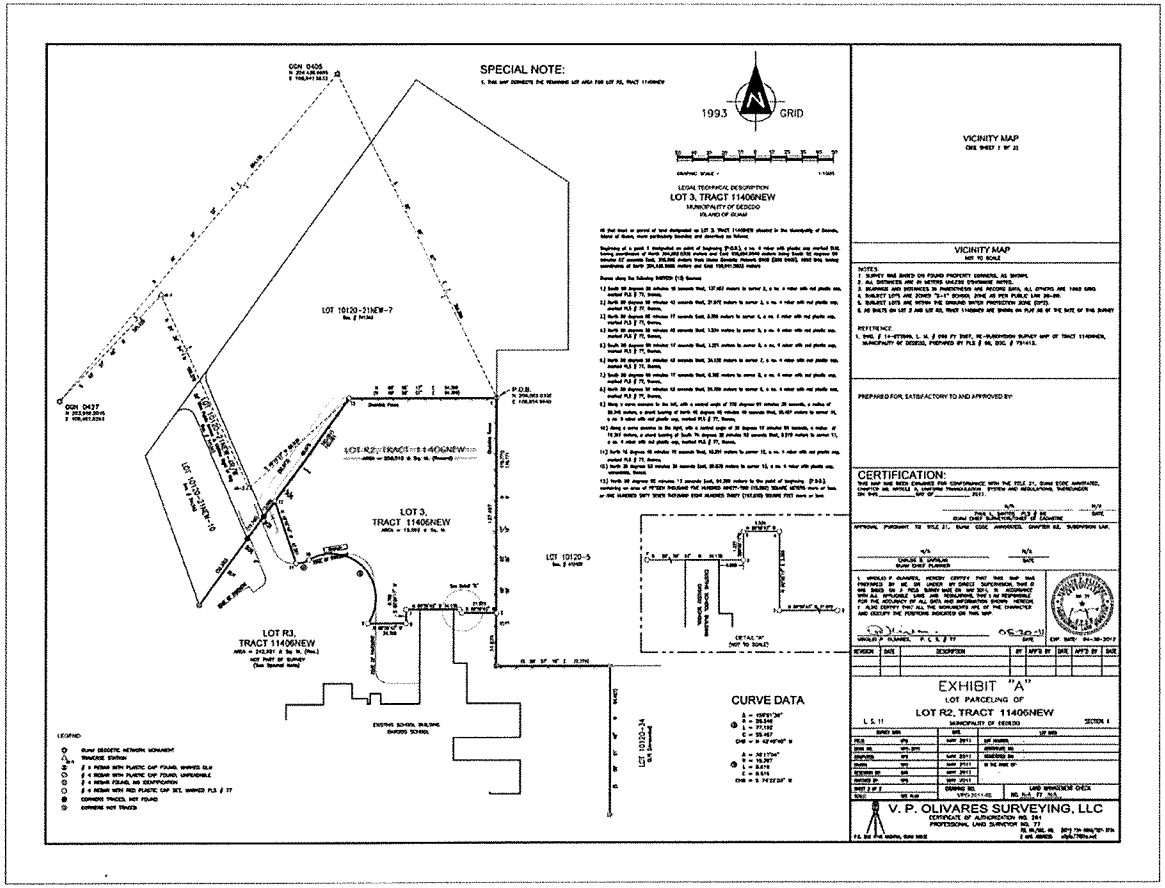
Aerial View

BASE SCHEME
SCHEMATIC DESIGN 12/3/2010
OKKODO HIGH SCHOOL EXPANSION
D E D E D O G U A M
GUAM
AMOR
DESIGN STUDIOS

What We Need From Chamorro Land Trust Commission For Okkodo Expansion

1. GEFF I currently leases the entire Okkodo High School Site from CLT under a long-term lease for $1 a year.
2. The first transaction was funded with tax-exempt bonds and restricts further debt or liens to be placed on the property.
3. We need to separate the expansion site from the overall site to allow us to finance it separately.
4. Therefore GEFF I is assigning the expansion parcel back to CLTC so that CLTC can lease it back to GEFF II, an affiliate of GEFF I, under the same form of lease and terms as which it is currently leased to GEFF I.

Survey


SPECIAL NOTE:
1993
GRID
LEGAL TECHNICAL DESCRIPTION
LOT 3, TRACT 11406NEW
MUNICIPALITY OF DEDEDO
ISLAND OF GUAM
VICINITY MAP
NOT TO SCALE
LOT 10120-31NEW-7
LOT R2, TRACT 11406NEW
LOT 3,
TRACT 11406NEW
LOT 10120-5
LOT R3,
TRACT 11406NEW
CURVE DATA
DETAIL "A"
(NOT TO SCALE)
EXHIBIT "A"
LOT PARCELING OF
LOT R2, TRACT 11406NEW
MUNICIPALITY OF DEDEDO
V. P. OLIVARES SURVEYING, LLC

Ground Lease

- **Parties:**
  - Lessor: Chamoro Land Trust
  - Lessee: GEFF II
- **Term:** From financial closing until all Base Rents of Facility Lease have been paid or 27 years from closing, which ever comes first
- **Rent:** $1.00
- **Use of Site:** As long as the Facility Lease is in force the site may be used solely for the Okkodo Expansion, if the Facility Lease is terminated then GEFF can sublease subject to land use and zoning laws.

Next Steps/Timeline

Task	Responsibility	Target Date
• Complete Documents	Counsel for GEDA	November 2012
• Approve resolutions	GEPB, GEDA and CLT	November 2012
• Financial Closing	GDOE, GEDA, GEFF	December 2012
• Project Permitting	GEFF and DPW	February 2013
• Start Construction	GEFF	February 2013
• Complete Construction	GEFF	April 2013
• New facilities Open	GDOE and GCC	June 2013

CHAMORRO LAND TRUST COMMISSION

RESOLUTION NO. 12-____

RESOLUTION BY THE BOARD OF THE CHAMORRO LAND TRUST COMMISSION
APPROVING AND AUTHORIZING
THE EXECUTION OF A GROUND LEASE AND RELEASE,
AND THE TAKING OF RELATED ACTIONS

WHEREAS, pursuant to Chapter 58B of Title 5 of the Guam Code Annotated, as amended (the "Act"), the Legislature of Guam has authorized the Government of Guam or the Guam Department of Education (collectively, the "Government") to enter into a lease and lease-back (collectively, the "Leases") with a contractor for the purpose of providing for the expansion of Okkodo High School located in Dededo, Guam (collectively, the "Project");

WHEREAS, the land on which the Project will be constructed is unimproved and will be released from the leases entered into with respect to a prior lease-leaseback financing of Okkodo High School pursuant to a Release of Site for Additional Improvements (the "Release of Site");

WHEREAS, the base rental payable by the Government pursuant to the Leases will be assigned to a trustee (the "Trustee") that will in turn issue certificates of participation (the "Certificates") in such base rental payments pursuant to a trust agreement (the "Trust Agreement"), and the proceeds of the Certificates will finance the Project;

WHEREAS, the obligation of the Government to pay rental pursuant to the Leases will be subject to annual appropriation by the Guam Legislature;

WHEREAS, pursuant to Section 50103(k) of Title 12 of the Guam Code Annotated, agencies and instrumentalities of the Government shall issue bonds, certificates of participation and other obligations only by means of and through the agency of the Guam Economic Development Authority ("GEDA"), and the Governor of Guam has requested that GEDA approve the sale of the Certificates;

WHEREAS, it is necessary and desirable for the Chamorro Land Trust Commission (the "Commission"), as owner of the real estate parcel that is the location of the Project (the "Site"), to enter into the Release of Site for the purpose of releasing the Site from the prior leases and a Ground Lease for the purpose of leasing the Site to Guam Education Financing Foundation II, Inc. (the "Ground Lessee"), which will in turn sublease the Site and lease the Project to the Department of Education, Government of Guam (the "Lessee") pursuant to a Facility Lease, substantially final proposed forms of each of which have been presented to this Board of the Chamorro Land Trust Commission (this "Board");

NOW, THEREFORE, BE IT RESOLVED, by the Board of the Chamorro Land Trust Commission as follows:

Section 1. The form of the Ground Lease presented to this meeting to be executed and delivered by the Administrative Director of the Commission or the [identify other authorized officers], or the designee of any of them (each an "Authorized Signatory" and collectively, the "Authorized Signatories"), is hereby approved, with such additions, changes and modifications as this Board may approve upon consultation with legal counsel, such approval to be conclusively evidenced by the execution and delivery of such Ground Lease.

Section 2. The form of the Release presented to this meeting to be executed by any Authorized Signatory is hereby approved, with such additions, changes and modifications as this Board may approve upon consultation with legal counsel, such approval to be conclusively evidenced by the execution and delivery of such Release.

Section 3. The Authorized Signatories, acting individually or collectively, are hereby authorized and directed to do any and all things and to execute and deliver any and all documents, certificates, consents or other instruments which they may deem necessary or advisable in order to consummate the execution and delivery of the Ground Lease and the Release, and otherwise to effectuate the purposes of this resolution, including, but not limited to, the execution and delivery of such related or ancillary documents or certificates as may be necessary or desirable to clarify title to the Site or otherwise consummate the transactions described herein and in the Ground Lease and the Release, upon consultation with legal counsel (approval thereof to be conclusively evidenced by the execution and delivery thereof).

Section 4. All actions heretofore taken by the officers, representatives or agents of the Commission in connection with the Ground Lease or the Release of Site are hereby ratified, confirmed and approved.

Section 5. This resolution shall take effect from and after its adoption.

RESOLVED FURTHER, that the [Acting Chairman] certify and the [Vice-Chairman] attest to the adoption of this resolution.

SO RESOLVED AND DULY AND REGULARLY ADOPTED this ____ day of [_____], 2012.

Certified by:

_____
Michael J.B. Borja
Acting Chairman

Attested by:

_____
David J. Matanane
Vice-Chairman

SECRETARY'S CERTIFICATE

I, _____, Secretary of the Board of the Chamorro Land Trust Commission, hereby certify as follows:

The foregoing is a full, true and correct copy of a resolution duly adopted at a [special][regular] meeting of the members of the Board of the Commission duly and legally held at the regular meeting place thereof on [_____], 2012, of which meeting all of said members had due notice and at which at least a majority thereof were present;

At said meeting said resolution was adopted by the following vote:

Ayes:

Noes:

Absent:

Said original resolution has not been amended, modified or rescinded since the date of its adoption, and the same is now in full force and effect.

Dated: [_____], 2012

_____
[Secretary]

(SEAL)

RELEASE OF SITE FOR ADDITIONAL IMPROVEMENTS

THIS RELEASE OF SITE FOR ADDITIONAL IMPROVEMENTS, dated as of December 1, 2012 (this "Release"), is by and among the CHAMORRO LAND TRUST COMMISSION (the "Original Ground Lessor"), GUAM EDUCATION FINANCING FOUNDATION, INC., a nonprofit corporation organized under the laws of Guam (the "Original Ground Lessee"), the DEPARTMENT OF EDUCATION, GOVERNMENT OF GUAM (the "Original Ground Sublessee" and the "New Ground Sublessee"); WELLS FARGO BANK, N.A., as trustee (the "Original Certificate Trustee") under that certain Trust Indenture, dated as of September 1, 2006 (as amended, the "Original Trust Indenture"), by and between the Original Ground Lessee and the Original Certificate Trustee; and GUAM EDUCATION FINANCING FOUNDATION II, INC., a nonprofit corporation organized under the laws of Guam (the "New Ground Lessee" and "New Ground Sublessor").

W I T N E S S E T H:

WHEREAS, the Original Ground Lessor and the Original Ground Lessee entered into that certain Ground Lease, dated as of September 1, 2006 (the "Original Ground Lease") under which certain real estate parcels located in Guam, including that certain real estate parcel described in Exhibit A attached hereto and by this reference incorporated herein (the "Site"), were leased by the Original Ground Lessor to the Original Ground Lessee;

WHEREAS, the Original Ground Lessee and the Original Ground Sublessee entered into that certain Lease Agreement, dated as of May 25, 2005 and amended as of October 1, 2008 (the "Original Facilities Lease"), under which (i) certain real estate parcels, including the Site, were subleased by the Original Ground Lessee to the Original Ground Sublessee and (ii) the improvements, if any, constructed thereon by the Original Ground Lessee were leased by the Original Ground Lessee to the Original Ground Sublessee;

WHEREAS, certificates representing fractional undivided interests in the obligations of the Original Ground Sublessee to make certain Base Rental payments (the "Original Certificates") were issued to certificateholders (the "Original Certificateholders") pursuant to the Original Trust Indenture;

WHEREAS, to provide additional security for the payment of the amounts represented by the Original Certificates, the Original Ground Sublessor assigned its rights, title and interest under the Original Ground Lease to the Original Certificate Trustee pursuant to the Original Indenture and that certain Assignment and Security Agreement, dated as of September 1, 2006 (the "Original Assignment"), by and between the Original Ground Sublessor and the Original Certificate Trustee;

WHEREAS, no material improvements were constructed on the Site, which is therefore available for the construction of additional improvements;

WHEREAS, ACA Financial Guaranty Corporation (the "Series 2006B Insurer") issued its bond insurance policy insuring the payment of principal and interest on certain of the Original Certificates, as provided therein;

WHEREAS, the New Ground Lessee now desires to lease the Site from the Original Ground Lessor, to construct certain additional improvements thereon and to sublease the Site and lease the additional improvements and certain other facilities and equipment to the New Ground Sublessee pursuant to a new facilities lease (the "New Facilities Lease");

WHEREAS, the New Ground Sublessee desires to grant and assign certain of its rights under the New Facilities Lease to a new certificate trustee (the "New Certificate Trustee") pursuant to a new trust agreement (the "New Trust Agreement") for the benefit of the owners of certificates representing rights to certain payments by the New Ground Sublessee under the New Facilities Lease;

WHEREAS, the release of the Site and its use for purposes of the acquisition, construction and leasing of such additional improvements, consisting of additional classrooms, _____ and _____, are for a public purpose and create a public benefit by further enabling the New Ground Sublessee to meet the educational needs of the population of Guam;

WHEREAS, the Original Ground Lessor, the Original Ground Lessee and the Original Ground Sublessee now desire, subject to the consent of the Original Certificate Trustee and the Original Insurer, to release the Site from the encumbrances represented by the Original Ground Lease, the Original Facilities Lease, the Original Trust Indenture and the Original Assignment, in order to enable the Original Ground Lessor to lease the Site to the New Ground Lessee and enable the New Ground Lessee to sublease the Site and certain improvements to be built thereon (the "New Project") to the New Ground Sublessee pursuant to the New Facilities Lease;

WHEREAS, the Original Certificate Trustee and the Series 2006B Insurer have determined to consent to the release of the Site from the encumbrances represented by the Original Ground Lease, the Original Facilities Lease, the Original Trust Indenture and the Original Assignment, in order to enable the Original Ground Lessor to lease the Site to the New Ground Lessee and enable the New Ground Lessee to sublease the Site and the New Project to the New Ground Sublessee;

WHEREAS, the Original Ground Lessee, the Original Ground Sublessee, the New Ground Lessee and the New Ground Sublessee have determined to grant certain reciprocal rights of access in order to facilitate the efficient use of the original facility and the additional improvements together as an integrated high school facility or as separately leased facilities;

WHEREAS, in addition, the New Ground Lessee has determined to agree to take certain actions in an event of default and termination of the rights of the New Ground Sublessee under the New Facilities Lease;

WHEREAS, pursuant to the New Ground Lease and the New Facilities Lease, certain improvements are to be made that will benefit the Original Ground Lessee and the Original Ground Sublessee;

WHEREAS, Section 6.02 of the Original Trust Indenture provides that the Original Facilities Lease may not be modified or amended without the prior, written consent of the Trustee and each Certificate Insurer and may be modified or amended only for certain purposes, including any purpose that does not materially adversely affect the interests of Owners of the Original Certificates;

WHEREAS, Section 9.01 of the Original Trust Indenture provides that the Original Trust Indenture may be amended only for certain purposes, including any purpose that does not materially adversely affect the interests of Owners of the Original Certificates (considered without regard to any certificate insurance policies), provided, however, that no such change shall be made that adversely affects any Certificate Insurer without such Certificate Insurer's written consent;

WHEREAS, the purpose of releasing and reconveying the Site so that it may be used for the purpose of acquiring and constructing additional improvements to expand Okkodo High School is a purpose that under these circumstances does not materially adversely affect the interests of the Owners of the Original Certificates;

NOW, THEREFORE, for and in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

Section 1. Amendment of Prior Documents.

The property described by each of the exhibits specified in the following table for each of the respective documents specified in the following table is hereby amended to delete therefrom the Site, being the property described in Exhibit A attached hereto, which is hereby released and reconveyed from the encumbrances represented by such documents:

DOCUMENT	REFERENCED EXHIBIT
Original Ground Lease	EXHIBIT A (UKUDO HIGH SCHOOL)
Original Facilities Lease	EXHIBIT A (UKUDO HIGH SCHOOL)
Original Assignment	EXHIBIT A (UKUDO HIGH SCHOOL)

[Amendments to the Forms UCC-1 or UCC-3 or both filed in connection with the Original Assignment shall also be made to reflect the deletion from the Site of the property described in Exhibit A hereto, which this Release releases and reconveys from the encumbrances documented by such Forms UCC-1 or UCC-3 or both.]

Section 2. Reciprocal Rights of Access.

The Original Ground Sublessee, Original Facilities Lessee, New Ground Sublessee and New Facilities Lessee shall grant, convey and confirm to each other, for the use, benefit and enjoyment of each other and their respective successors and assigns with respect to the Original Project and the New Project, and their respective employees, invitees, agents, independent contractors, patrons, customers, guests and members of the public visiting the Original Project and the New Project, rights of entry which shall be irrevocable for the joint term of the Original Ground Lease and the New Ground Lease over, across and under the Original Project and the New Project for the purpose of: (a) ingress, egress, passage or access to and from the Original Project and the New Project by pedestrian or vehicular traffic; (b) installation, maintenance and replacement of utility wires, cables, conduits and pipes; and (c) other purposes and uses necessary or desirable for access to and from and for operation and maintenance of the Original Project and the New Project. The foregoing rights of entry are expressly subject to the implementation and application of appropriate security measures.

Section 3. Separation of Facilities Upon Termination of the New Facilities Lease.

Upon an event of default and termination of the rights of the New Ground Sublessee under the New Facilities Lease, the New Ground Lessee shall, upon the written request of the Original Trustee, take all actions reasonably necessary to enable the New Project and the Original Project, to be physically separated to the extent necessary to be leased to separate lessees and otherwise used as separate facilities. Such actions may include, but are not limited to, establishing physical separation in so far as practicable, establishing and/or confirming common wall arrangements (if necessary), providing for separately metered utilities, and establishing and/or confirming rights of access, ingress, egress and other similar reciprocal arrangements. All such actions shall be taken with the goal of preserving the rental value of the Original Project and at no cost to the "Owners," the "Certificate Insurer" or the "Lessor," as those terms are defined in the Original Trust Indenture. The costs of such actions shall be paid [first with amounts in the Capital Replacement Reserve established under the New Trust Agreement and thereafter with amounts made available for such purpose in the Certificate Debt Service Reserve Fund established under the New Trust Agreement] / [from amounts on deposit in the Project Separation Reserve established under the New Trust Agreement]. Neither the New Trustee nor the New Ground Lessee shall be obligated to expend any moneys other than the amounts made available under the New Trust Agreement for that purpose.

Section 4. Effective Date.

This Release shall take effect on the date of its execution and delivery.

IN WITNESS WHEREOF, the parties hereto have, by their respective duly authorized representatives, executed this Release as of the date first above written.

ORIGINAL GROUND LESSOR:

CHAMORRO LAND TRUST COMMISSION

By:

_____
Administrative Director

ORIGINAL GROUND LESSEE:

GUAM EDUCATION FINANCING FOUNDATION II, INC.

By:

_____
President

ORIGINAL GROUND SUBLESSEE:

DEPARTMENT OF EDUCATION, GOVERNMENT OF GUAM

By:
Nerissa B. Underwood, Ph.D.
Superintendent of Department of Education

APPROVED AS TO FORM AND LEGALITY:

_____
Attorney General of Guam

By:_____
Edward J.B. Calvo
Governor of Guam

CONSENT OF THE TRUSTEE

The undersigned, a duly authorized officer of the Trustee under that certain Trust Indenture, dated as of September 1, 2006 and supplemented as of October 1, 2008 (the "Original Trust Indenture"), by and between the Guam Education Financing Foundation, Inc., and Wells Fargo Bank, N.A., as Trustee, does hereby consent, in accordance with the Original Trust Indenture, to the execution and delivery of the foregoing Release of Site For Additional Improvements.

Dated: _____ __, 2011

ORIGINAL CERTIFICATE TRUSTEE:

WELLS FARGO BANK, N.A.

By:

_____
Authorized Officer

CONSENT OF THE INSURER

The undersigned, a duly authorized officer of ACA Financial Guaranty Corporation, the "Series 2006B Insurer" as defined in that certain Trust Indenture, dated as of September 1, 2006 and supplemented as of October 1, 2008 (the "Original Trust Indenture"), by and between the Guam Education Financing Foundation, Inc., and Wells Fargo Bank, N.A., as Trustee, does hereby consent, in accordance with the Original Trust Indenture, to the execution and delivery of the foregoing Release.

Dated: _____ __, 2011

SERIES 2006B INSURER:

ACA FINANCIAL GUARANTY CORPORATION

By:

_____
Authorized Officer

DRAFT-OH&S
10/28/12

Recording Requested By
and When Recorded Return To:

Orrick, Herrington & Sutcliffe LLP
405 Howard Street
San Francisco, CA 94105
Attention: _____

GROUND LEASE

between

CHAMORRO LAND TRUST COMMISSION,

and

GUAM EDUCATION FINANCING FOUNDATION II, INC.
a nonprofit corporation organized under the laws of Guam,

Dated as of December 1, 2012

GROUND LEASE

THIS GROUND LEASE, dated as of December 1, 2012, by and between the CHAMORRO LAND TRUST COMMISSION (the "Ground Lessor"), and GUAM EDUCATION FINANCING FOUNDATION II, INC., a nonprofit corporation organized under the laws of Guam (the "Ground Lessee");

W I T N E S S E T H:

WHEREAS, the Ground Lessor is the owner in fee of that certain real estate parcel located in Guam and described in Exhibit A (the "Site");

WHEREAS, the Ground Lessor is willing to lease the Site, and the Ground Lessee desires to hire the same from the Ground Lessor, upon the terms and conditions and for the purposes set forth in this lease (the "Ground Lease");

WHEREAS, the Ground Lessee desires to sublease the Site, and lease the expansion to Okkodo High School to be constructed and installed on the Site (collectively, the "Facilities") and certain equipment to be located primarily on the Site (the "Equipment," and, collectively with the Facilities and such subleasehold interest in the Site, the "Project") to the Department of Education, Government of Guam (the "Lessee"), and the Lessee desires to sublease and lease the same from the Ground Lessee, pursuant to and as further described in the Facilities Lease (the "Lease"), dated as of December 1, 2012, by and between the Ground Lessee, as lessor thereunder, and the Lessee, as lessee thereunder;

WHEREAS, the Ground Lessor and Ground Lessee intend that the leasing by the Ground Lessor to the Ground Lessee of the Site shall not effect or result in a merger of the Government of Guam's leasehold estate pursuant to the Lease and the Ground Lessor's fee estate as lessor under this Ground Lease, and the Ground Lessee shall continue to have and hold a leasehold estate in said Site pursuant to this Ground Lease throughout the term hereof and the term of the Lease;

WHEREAS, all capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Lease;

WHEREAS, the Ground Lessor is empowered to enter into this Ground Lease pursuant to applicable law, including particularly Section 58B___ of Title 5 of the Guam Code Annotated;

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED as follows:

SECTION 1. <u>Site.</u>

The Ground Lessor hereby leases to the Ground Lessee and the Ground Lessee hereby hires from the Ground Lessor, on the terms and conditions hereinafter set forth, the real property described in Exhibit A attached hereto and made a part hereof, subject, however, to any conditions, reservations, and easements of record as of the date hereof (herein called the "Site").

SECTION 2. Term.

The term of this Ground Lease shall commence on the Certificate Closing Date or upon the date of recordation of this Ground Lease in the Department of Land Management, whichever is later, and shall end at midnight on March 1, 2031, unless such term is extended or sooner terminated as hereinafter provided.

If on March 1, 2031, the Certificates shall not be fully paid, then the term of this Ground Lease shall be extended until ten (10) days after the Certificates shall be fully paid, except that the term of this Ground Lease shall in no event be extended beyond March 1, 2041. If prior to March 1, 2041, the Certificates shall be fully paid, the term of this Ground Lease shall end ten (10) days after such payment in full or ten (10) days after written notice by the Ground Lessor to the Ground Lessee (if such payment in full has occurred prior to the date of such written notice), whichever is earlier.

SECTION 3. Rental.

The Ground Lessee shall pay to the Ground Lessor as and for rental hereunder the sum of One Dollar ($1.00).

SECTION 4. Use of Site; Reletting of Site by Ground Lessee.

(a) For the term of the Lease, the Ground Lessee shall use the Site solely for the purpose of construction and financing of the Project and the Facilities thereon and leasing the Site, the Project and the Facilities to the Government of Guam pursuant to the Lease and for such purposes as may be incidental thereto.

(b) In the event that the Lease is terminated, the Ground Lessee **[obligations in relation to GEFF site to be copied from final agreed form of Release of Site for Additional Improvements].**

(c) In the event that the Lease is terminated, the right of the Ground Lessee to sublease the Site (including in connection with any sale of the Ground Lessee's interest in the Facility) is subject to the following terms and conditions:

(i) the permitted use of the Site under the sublease shall be limited to purposes allowed by all land use and zoning laws;

(ii) **[sublessee's obligations in relation to GEFF site to be copied from final agreed form of Release of Site for Additional Improvements];**

(iii) the sublessee (including in that term any buyer taking subject to this Ground Lease) shall agree to indemnify and hold harmless the Government of Guam and the Ground Lessor against any and all claims, actions, suits, judgments, damages and liabilities arising out of the sublessee's use of the Site;

(iv) the sublease (including in that term any agreement of sale to a buyer taking subject to this Ground Lease) shall contain provisions requiring the sublessee to pay all taxes, to maintain the Project in good order, condition, and repair and to provide insurance covering such hazards and in such amounts as is commercially reasonable for similar buildings;

(v) the sublease shall contain covenants of the sublessee regarding hazardous materials which are substantially the same as the covenants contained in Section 12.01 of the Lease;

(vi) the sublease shall provide that the Ground Lessee shall have the right to terminate the sublease following a material breach by the sublessee of any of the terms and provisions required pursuant to clauses (i) through (v) above; and

(vii) following a material breach by the sublessee of any of the terms and provisions of the sublease required pursuant to clauses (i) through (v) above, the sublease also shall be subject to termination at the written direction of the Government of Guam.

SECTION 5. Owner in Fee.

The Ground Lessor covenants that it is the owner in fee of the Site, as described in Exhibit A hereto, and that the Site is not subject to any encumbrances that would interfere with the Ground Lessee's or its sublessees' use and quiet enjoyment of the Site. The Ground Lessor further covenants and agrees that if for any reason this covenant proves to be incorrect, the Ground Lessor will either institute eminent domain proceedings to condemn the property or remove any such encumbrances or institute a quiet title action to clarify the Ground Lessor's title or take such action as is necessary to remove any such encumbrances, and will diligently pursue such action to completion.

SECTION 6. Assignments and Subleases.

The Ground Lessee shall not assign its rights under this Ground Lease or sublet the Site, except pursuant to the Trust Agreement, the Assignment Agreement and the Lease, unless either (i) the Ground Lessee shall have obtained the written consent of the Ground Lessor, or (ii) the Government of Guam shall be in default under the Lease or the Lease shall have been terminated pursuant to its provisions. Any assignment or sublease pursuant to clause (ii) of this Section shall be subject to the terms and conditions of Section 4 hereof.

Guam Education Financing Foundation II, Inc., shall have no liability for the Trustee's actions or the exercise by the Trustee of any rights under this Ground Lease. By its execution

below, Ground Lessor expressly approves of the above-referenced Trust Agreement and Assignment Agreement.

SECTION 7. Right of Entry.

The Ground Lessor reserves the right for any of its duly authorized representatives or for the Government of Guam or any of its duly authorized representatives to enter upon the Site at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

SECTION 8. Termination.

The Ground Lessee agrees, upon the termination of this Ground Lease, to quit and surrender the Site in the same good order and condition as the same were in at the time of commencement of the term hereunder, reasonable wear and tear excepted, and agrees that any permanent improvements and structures existing upon the Site at the time of the termination of this Ground Lease, including but not limited to the Project, shall remain thereon, shall be in good working order and condition, reasonable wear and tear excepted and title thereto shall vest in the Ground Lessor.

Upon the exercise of the option to purchase set forth in Section 14.04 of the Lease and upon payment of the Purchase Price required by said section, the term of this Ground Lease shall terminate.

SECTION 9. Default.

In the event the Ground Lessee shall be in default in the performance of any obligation on its part to be performed under the terms of this Ground Lease, which default continues for thirty (30) days following notice and demand for correction thereof to the Ground Lessee, the Ground Lessor may exercise any and all remedies granted by law, except that no merger of this Ground Lease and of the Lease shall be deemed to occur as a result thereof; provided, however, that the Ground Lessor shall have no power to terminate this Ground Lease or the rights of entry granted herein by reason of any default on the part of the Ground Lessee if such termination would affect or impair, other than as provided by Section 4 of this Ground Lease, the exercise of any rights or remedies assigned to the Trustee pursuant to the Assignment Agreement or any assignment or sublease of all or any part of the Site then in effect between the Ground Lessee and any assignee or subtenant of the Ground Lessee; and provided further, that so long as any Certificates are outstanding and unpaid in accordance with the terms of the Trust Agreement, the parties acknowledge and understand that the Rentals or any part thereof payable to the Trustee pursuant to the Trust Agreement (by the terms of the Lease or such other assignment or sublease) shall continue to be paid to the Trustee. So long as any such assignee or subtenant of the Ground Lessee shall duly perform the terms and conditions of this Ground Lease and of its then existing sublease (if any), such assignee or subtenant shall be deemed to be and shall become the tenant of the Ground Lessor hereunder and shall be entitled to all of the rights and privileges granted under any such assignment or sublease; provided further, however, that, so long as any Certificates are outstanding and unpaid in accordance with the terms of the Trust Agreement, the parties acknowledge and understand that the Rentals or any part thereof

payable to the Trustee pursuant to the Trust Agreement (by the terms of such assignment or sublease) shall continue to be paid to the Trustee.

SECTION 10. Quiet Enjoyment.

The Ground Lessee at all times during the term of this Ground Lease, subject to the provisions of Section 9 hereof, shall peaceably and quietly have, hold and enjoy all of the Site.

SECTION 11. Taxes.

The Ground Lessee covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Site (including both land and improvements, including but not limited to the Project), if any.

SECTION 12. Eminent Domain.

In the event the whole or any part of the Site or the Project is taken by eminent domain proceedings, the interest of the Ground Lessee shall be recognized and is hereby determined to be the amount of the then unpaid or outstanding Certificates attributable to all or such part of the Project and shall be paid to the Trustee to be applied as provided in the Lease and in the Trust Agreement.

SECTION 13. Partial Invalidity.

If any one or more of the terms, provisions, covenants or conditions of this Ground Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Ground Lease shall be affected thereby, and each provision of this Ground Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 14. Notices.

All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by (i) United States registered or certified mail, return receipt requested, postage prepaid, or (ii) by overnight courier, addressed as set forth below, or to such other addresses as the respective parties may from time to time designate by notice in writing:

If to the Ground Lessee:

Guam Education Financing Foundation II, Inc.
c/o Mr. Richard B. Inman, Jr.
3060 Peachtree Road
Suite 1700
Atlanta Georgia 30305
Telephone: 404/504-2772

Facsimile: 404/504-2790

with a copy to:
[Address of Ground Lesee's counsel to come]
_____
_____
Telephone: _____
Facsimile: _____

If to the Ground Lessor:

The Chamorro Land Trust Commission
P.O. Box 2950
Hagåtña, Guam 96932
Telephone: 671/475-4292
Facsimile: 671/477-8082

with a copy to:
Government of Guam
Office of the Governor
P.O. Box 2950
Hagatna, Guam 96932
Attention: [_____]

Department of Administration
P.O. Box 884
Hagatna, Guam 96932
Attention: Director
Telephone: (671) 475-1250/1234

Guam Economic Development Authority
590 South Marine Corps Drive
ITC Building, Suite 511
Tamuning, Guam 96913
Attention: Administrator
Telephone: (671) 647-4332
Facsimile: (671) 649-4146

SECTION 15. Section Headings.

All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Ground Lease.

SECTION 16. Applicable Law.

This Ground Lease shall be governed by and construed in accordance with the Organic Act of Guam and laws of Guam.

SECTION 17. Amendments.

This Lease may be amended in writing as may be mutually agreed by Ground Lessor and Ground Lessee, subject to any restrictions contained in the Trust Agreement, and subject to any applicable limitations of Guam law.

SECTION 18. Execution.

This Ground Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same lease. It is also agreed that separate counterparts of this Ground Lease may separately be executed by the Ground Lessor and the Ground Lessee, all with the same force and effect as though the same counterpart had been executed by both the Ground Lessor and the Ground Lessee.

IN WITNESS WHEREOF, the Ground Lessor, by its duly authorized representative, has executed this Ground Lease as of the date first above written.

CHAMORRO LAND TRUST COMMISSION

By

_____
Administrative Director

_____
Notary Public

My Commission Expires:

(NOTARIAL SEAL)

IN WITNESS WHEREOF, the Ground Lessee, by its duly authorized representatives, has executed this Ground Lease as of the date first above written.

GUAM EDUCATION FINANCING
FOUNDATION II, INC.

By:_____

_____
President

By:_____

_____
Secretary

[ACKNOWLEDGMENTS ATTACHED]

EXHIBIT A

Legal Description of Site