

(H. B. 2114)

**(No. 237-2014)**

(Approved December 19, 2014)

## **AN ACT**

To amend subsection (b), add new subsections (f), (t) and (x), and designate current subsections (f) through (r) as subsections (g) through (s), and subsections (s) through (u) as subsections (u) through (w), respectively, of Section 2; add new subsections (d) and (e) to Section 5; amend subsections (a)(vi) and (a)(viii) of Section 6; amend Section 7; amend subsection (a), add new subsections (b) and (c), and designate current subsection (b) as subsection (d) of Section 8; amend subsections (b)(ii), (g)(iv), and (g)(vi) of Section 9; and amend Section 17 of Act No. 29-2009, as amended, known as the “Public-Private Partnership Act,” in order to define what constitutes a Small Scale Project; provide for the creation of a Small Scale Project Subdivision as a division of the Public-Private Partnership Authority; establish the powers of the Executive Director of the Public-Private Partnership Authority; provide for the collection of a fee for services rendered by the Public-Private Partnership Authority; establish the composition of the Committee on Small Scale Partnerships; provide the manner in which the operating expenses of the Small Scale Projects Subdivision shall be defrayed; provide for certain exceptions to process Small Scale Projects; establish the process and requirements to submit unsolicited proposals; and for other related purposes.

### **STATEMENT OF MOTIVES**

The Public-Private Partnership Authority (hereinafter, the “Authority”) is a public corporation created by virtue of Act No. 29-2009, as amended, attached to the Government Development Bank for Puerto Rico. The Authority has the responsibility of implementing and supervising the execution of the public policy relating to the establishment of Public Private Partnerships. Thus, it is the public entity charged with fostering the development, construction, and maintenance of

infrastructure that promotes economic development, provides public services that effectively address the needs of our people, and ensures the ongoing development of new facilities and services of public interest.

The People of Puerto Rico have employed the Public-Private Partnership mechanism in large-scale projects whose capital investment and need for financing has been significant. Act No. 29-2009, however, did not contemplate that the mechanisms thereunder could be too burdensome for the establishment of small scale projects. These types of projects could represent a contribution to our municipalities and citizens and, in turn, promote economic growth. We deem it necessary to amend Act No. 29-2009 to enable the use thereof in small scale projects.

For all of the foregoing, and as an essential part of the public policy directed to promote the use of the Public-Private Partnership mechanism, we deem it necessary and convenient to establish within the Authority a special subdivision in charge of Small Scale Projects. Said subdivision shall be responsible for promoting this type of project, whose cost, including a reasonable item for possible change orders, does not exceed fifty-five million dollars (\$55,000,000.00). In addition, it shall establish initiatives that facilitate the involvement of proponents in said process, thus promoting the use of capital and the growth of local business in new activity areas. This initiative strengthens small- and medium-size businesses (SMBs) through business opportunities aimed at incentivizing entrepreneurial development focused on job creation.

Furthermore, we deem it necessary to enable proponents to submit proposals for the development of Small Scale Projects. This mechanism shall be known as unsolicited or voluntary proposals. This amendment is consistent with the provisions of Section 9(b)(ii) of the Act, which allows the Authority to negotiate Partnership Contracts without the need to follow the request for proposals process in certain limited situations.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.– Subsection (b) is hereby amended and new subsections (f), (t), and (x) are hereby added, and current subsections (f) through (r) are hereby redesignated as subsections (g) through (s), and subsections (s) through (u) as subsections (u) through (w), respectively, of Section 2 of Act No. 29-2009, as amended, to read as follows:

“Section 2. – Definitions

The following words or terms shall have the meanings stated hereinbelow, except when the context clearly indicates otherwise, and the words used in the singular form shall include the plural form and vice versa:

(a) ...

(b) Public-private Partnership or Partnership. – Any agreement, including an agreement to carry out a Small Scale Project, between a Government Entity and one (1) or more persons, subject to the public policy set forth in this Act, the terms of which are provided under a Partnership Contract, to delegate operations, functions, services, or responsibilities of any Government Entity, as well as to design, develop, finance, maintain, or operate one or more facilities, or any combination thereof.

...

(f) Standing Committee on Small Scale Partnerships. – A committee established under this Act to evaluate Small Scale Projects, qualify persons that may participate in the process, select the Proponents of a Partnership, and establish the terms and conditions it may deem appropriate for the corresponding Partnership Contract.

(g) ...

(h) ...

(i) ...

(j) ...

(k) ...

(l) ...

(m) ...

(n) ...

(o) ...

(p) ...

(q) ...

(r) ...

(s) ...

(t) **Small Scale Project.** – A project submitted by a Government Entity or a Proponent for the development of a Facility, or to provide a Service or Function, whose estimated cost, at the time the proposal is submitted to the Authority, including a reasonable item for possible change orders in the execution of the project, does not exceed fifty-five million dollars (\$55,000,000).

(u) ...

(v) ...

(w) ...

(x) **Small Scale Project Subdivision.** – A division of the Authority responsible for coordinating the process of receiving, processing, and evaluating Proposals for Small Scale Projects.

Section 2. – New Subsections (d) and (e) are hereby added to Section 5 of Act No. 29-2009, as amended, to read as follows:

“Section 5. – Authority – Creation

(a) ...

...

(d) Executive Director of the Authority. – The Executive Director shall be the chief executive officer of the Authority who shall, in addition to directing the operational and administrative aspects of the Authority, manage the budget of the Authority and supervise all assets and employees, including the Small Scale Project Subdivision; implement the public policy set forth in this Act; and carry out all those duties, functions, obligations, and powers delegated to him by the Board. The Executive Director shall be appointed by the Board exclusively based on merit, to be determined taking into account the education, experience, and other qualities that specifically qualify him for achieving the purposes of the Authority. The Board shall establish the compensation of the Executive Director, which compensation shall facilitate the recruitment and retention of highly-qualified professionals.

(e) Other Officers. – The Board may create and establish other executive officer positions according to the needs of the Authority. Once a position is created, the Executive Director shall evaluate candidates to hold the same and make recommendations to the Board. The Board shall appoint an officer from among the candidates recommended by the Executive Director. Every officer created and appointed as provided in this subsection (e) shall report to the Executive Director and shall carry out the duties and obligations of his office, as well as any other duties established by the Board.”

Section 3. – Subsections (a)(vi) and (a)(viii) of Section 6 of Act No. 29-2009, as amended, are hereby amended to read as follows:

“Section 6. – Authorities and Powers of the Authority.

(a) ...

...

(vi) To collect fees for the services it shall render as part of the process of establishing Partnerships, including fees charged to Partnering Government Entities or Voluntary Proponents, as provided in Section 9 of this Act,

to defray the development of the project, and to prospective Proponents for their participation in any qualification or award process, or in both; provided, that, at the discretion of the Board, service fees shall be established: (a) on a percentage basis, which may range from point five percent (0.5%) to three percent (3%) of the total estimated cost of the project, in the aggregate; or (b) on a reimbursement basis of the costs incurred by the Authority in relation to the project, including costs incurred in project consultants and direct administrative costs related to the project, plus, a fixed charge ranging from five percent (5%) to fifteen percent (15%) on the costs incurred in project consultants, to be established depending on the complexity of the project. These service fees shall be payable to the Authority whether or not the project is completed; provided, that, should the project process be canceled before the completion thereof, the service fee collected based on the total estimated cost of the project in the aggregate shall be adjusted according to the percentage of project completion as of the cancellation date;

...

(viii) To negotiate and execute with any person, including any federal or Commonwealth government agency, any kind of contract, including, without it being understood as a limitation, administrative grant contracts and any kind of Partnership Contract pursuant to the provisions of this Act, as well as all instruments and agreements as are necessary and convenient to exercise the powers and discharge the functions conferred onto the Authority under this Act, and agreements with the Bank and other Government Entities in connection with Authority expenses, fees for services rendered, and refunds as pertinent, to be entered into by and between the former and the latter in connection with the procedures to establish Partnerships. Likewise, the Authority may take money on loan from the Bank to cover its operating expenses and to accomplish the purposes of this Act. To those ends, the Bank is hereby authorized to grant a revolving credit line of up to a

maximum of twenty million dollars (\$20,000,000), for which the source of repayment shall be the funds received on account of services rendered and fees imposed by the Authority. Furthermore, it is hereby provided a Special Appropriation from the General Expense Budget for Fiscal Year 2014-2015 in the amount of one million dollars (\$1,000,000), and a Special Appropriation from the General Expense Budget for Fiscal Year 2015-2016 in the amount of two million dollars (\$2,000,000) to enable the Authority to establish a special and separate fund to defray costs related to the evaluation and establishment of Partnerships through Small Scale Projects. Future service fees collected by the Authority from Small Scale Projects shall be deposited exclusively in said special fund to be available for such purposes; thus, the appropriation of additional funds from the Central Government shall not be necessary.

...”

Section 4. – Section 7 of Act No. 29-2009, as amended, is hereby amended to read as follows:

“Section 7. – Project Inventory; Desirability and Convenience of a Partnership

(a) Project Inventory. – All Government Entities are hereby directed to submit to the Authority within a term not to exceed ninety (90) days as of the beginning of each calendar year, any proposal for partnership projects in connection with any Function, Service or Facility for which the same is responsible under the provisions of its Enabling Act or any applicable special laws. Whenever possible, the Authority shall publish these proposals for Partnership projects, including those chosen for said Small Scale Projects, on its webpage and in a newspaper of general circulation. The list of proposals for Partnership projects submitted by the Government Entity shall be part of an inventory of proposals for Partnership projects that may be used by the Authority to prepare studies on desirability and convenience. Except as provided below, the Authority shall be required to conduct studies on

desirability or convenience in order to commence procedures for the establishment of Partnerships in connection with any one or all proposals received through this mechanism. The Authority may conduct studies on desirability and convenience regarding other Functions, Services or Facilities not submitted as part of the inventory process established herein, which studies shall be considered by the corresponding Government Entity. The Authority may commence procedures to establish a Partnership under such study, once the Government Entity includes such partnership in its project inventory.

Notwithstanding the foregoing, a Government Entity may submit proposals for Partnerships or Small Scale Projects, from time to time, for the Authority's evaluation, even if such proposals have not been included as part of the annual project inventory provided for in the preceding paragraph.

(b) Study on Desirability and Convenience. – Before commencing the procedures to enter into a Partnership, the Authority, with the assistance of the Bank, shall conduct a study on desirability and convenience to determine whether establishing such Partnership is advisable. The scope of such study shall depend on the kind of project or Function, Service or Facility under consideration for a Partnership. The Authority shall consider, and insofar as applicable, shall include, as part of the study on desirability and convenience, the following points:

(i) ...

...

(xi) Feasibility for businesses with local capital, nonprofit entities and cooperative unions to be able to participate in the procedures to establish a public-private partnership intended for building, operating or maintaining a Facility or Service under the Partnership. Such study shall identify areas with the greatest potential for local entities, the measures that Government entities shall take, the function to be discharged by nongovernmental organizations in fostering the



competitiveness of the entities comprising this sector, and any other actions that may further promote this participation without impairing the laws or the rules that regulate and guarantee the open market.

In the case of Small Scale Projects, at the discretion of the Standing Committee on Small Scale Projects and without the need for the Board's approval at this stage, the Authority may accept the study or studies conducted by a Government Entity or Proponent in connection with said project; provided, that the scope and depth of said studies meet the requirements of this Act and are adequate to allow the Standing Committee on Small Scale Projects[sic] to determine whether or not it is advisable to establish such project as a Partnership.

(c) Publication. – Studies on desirability and convenience for a potential Partnership, including those chosen for said Small Scale Projects, shall be published on the webpage of the Authority and such publication shall be notified in a newspaper of general circulation, prior to commencing the request for proposals process.”

Section 5. – Subsection (a) is hereby amended, new subsections (b) and (c) are hereby added, and current subsection (b) is redesignated as subsection (d) of Section 8 of Act No. 29-2009, as amended, to read as follows:

“Section 8. – Partnership Committee. –

(a) Creation of Partnerships. – The Authority shall create a Partnership Committee for each Partnership which the former has determined to be appropriate; however, in the case of Small Scale Projects, the provisions of subsection (b) of this Section shall apply. The Committee shall be constituted by (i) the President of the Bank or his delegate; (ii) the officer of the Partnering Government Entity directly concerned with the project or his delegate; (iii) one (1) member of the Board of Directors of the Partnering Government Entity or, in the case of Government Entities with no Board of Directors, the Secretary of the Department to which such

Partnering Government Entity is attached, or his delegate or an official thereof with specialized knowledge in the kind of project object of the selected for Partnership by the Board of the Authority; and (iv) two (2) officials from any Government Entity chosen by the Board of Directors of the Authority for their knowledge and experience in the kind of project object of the Partnership under consideration. The total number of members of the Partnership Committee shall constitute a quorum for all purposes, and the decisions of the Committee shall be made by an extraordinary majority of its members. Partnership Committee members may not be affiliated with or have a direct or indirect financial interest in any Proponent or Contractor. Members of the Board of Directors may not be affiliated to or have a direct or indirect financial interest with any Contractor. This prohibition shall be extended to all members of the Board of the Authority for a period of five (5) years after having ceased functions. This prohibition shall be extended to all employees of the Authority and apply to Partnership Committee members for a period of two (2) years. If within the term established above, any member of the Board of the Authority who has resigned from office wishes to obtain a dispensation from the restriction established herein, such member shall request such dispensation from the office-holding members of the Board of the Authority, who shall evaluate such request and may only grant it unanimously, upon evaluation and a positive recommendation from the Government Ethics Office of Puerto Rico. In the event of a conflict of interest, the Partnership Committee member thus affected shall strictly abide by the provisions of Section 4.5 of Act No. 1-2012, known as the 'Puerto Rico Government Ethics Act of 2011,' entitled 'Duty to Report Situations Involving Potential Unethical Actions or Conflicts of Interest.' If the Government Ethics Office were to conclude that the self-disqualification mechanism is available for the situation consulted, the member thus affected shall be substituted while such conflict persists by a member of the Board of Directors of the Authority or of the Partnering

Government Entity or by another official of the Bank or of the Partnering Government Entity, as designated by the Board of Directors of the Authority.

(b) Standing Committee on Small Scale Projects. – A Standing Committee on Small Scale Projects shall be appointed to handle all Small Scale Projects, as well as to determine priority projects for which the establishment of a Partnership is advisable. Said Committee shall be composed of five (5) members, to wit, the Secretary of the Department of Economic Development and Commerce or his representative, the Secretary of the Department of Transportation and Public Works or his representative, the Executive Director of the Infrastructure Financing Authority or his representative; the Commissioner of Municipal Affairs or his representative, and the chief executive of the Partnering Government Entity directly concerned with said project or his representative. Members of the Standing Committee on Small Scale Partnerships shall constitute a quorum by a simple majority for all purposes, including decision making. As provided in Section 9(g) of this Act, Small Scale Projects shall not require the final approval of the Governor, except when the approval of the Governor is required by constitutional mandate, and once approved as priority projects shall only return to the Board for final approval. Except as provided in this Section, all other provisions of this Act or the applicable regulations regarding the Partnership Committee, its functions, and powers shall equally apply to the Standing Committee on Small Scale Projects, and any reference to the Partnership Committee in other sections of this Act or the applicable regulations, except as otherwise expressly provided, shall be deemed to be a reference to the Standing Committee on Small Scale Projects; provided; further, that the Authority may approve regulations in connection with the operation, administration, and functioning of the Standing Committee on Small Scale Projects.

(c) In the event a Project proposal, other than for the delegation of the existing operations, functions, services or responsibilities of any Government Entity, whose estimated cost, at the time the proposal is submitted to the Authority, including a reasonable item for potential change orders in the execution of a project, exceeds fifty-five million dollars (\$55,000,000) but does not exceed one hundred million dollars (\$100,000,000), the Board of Directors of the Authority may carry out a preliminary evaluation of the Project and determine whether a Partnership Committee would be created in accordance with subsection (a) of this Section, or the project shall be submitted to the Standing Committee on Small Scale Projects in accordance with subsection (b) of this Section. The decision of the Board of Directors to such effect shall be duly grounded in writing.

(d) ...”

Section 6. – Subsections (b)(ii), (g)(iv), and (g)(vi) of Section 9 of Act No. 29-2009, as amended, are hereby amended to read as follows:

“Section 9. – Procedure for the Selection of Proponents and Award of Partnerships.

(a) ...

(b) Procedure for Selection and Award. –

(i) ...

(ii) Without this being construed as a limitation to the provisions in subsection (b)(i) above, the Authority may negotiate Partnership Contracts without abiding by the procedures for requests for proposals in the following cases: (A) when there is only one source capable of providing the service required, such as services that require the use of intellectual property, trade secrets or other licenses or rights which only certain persons own or hold exclusively; and (B) when a call to any pre-qualification procedure or any request for proposals conducted pursuant to the provisions of Section 6(b)(i) has been issued and there has been no participation or

response, or the proposals submitted have failed substantially to meet the evaluation requirements provided for in the request for proposals, and if, in the judgment of the Authority, issuing a new request for qualification and for proposals would cause such a delay that it would render the possibility of selecting a Proponent and executing a Partnership Contract within the timeframe required, highly unlikely. In the cases mentioned in subparagraphs (A) and (B) of this Section, before executing a Partnership Contract, notice must be given to the Joint Committee on Public-Private Partnerships of the Legislative Assembly, created in this Act, for the appropriate action.

Without limiting the generality of the provisions of the preceding paragraph of this subsection (b)(ii), in the case of Small Scale Projects, the Authority shall also be authorized to receive and consider unsolicited or voluntary proposals. An unsolicited or voluntary proposal shall include, at least: (1) an outline or summary of the proposal; (2) a description of how the proposal satisfies a government need; (3) the particular aspects of the proposal that differentiate it from other proposals or the traditional way of developing the proposed project; (4) the support required from the public sector and the direct and indirect costs of the project, including the cost of capital; (5) the financial viability, including but not limited to, the financial capacity of the proponent, the identified or suggested financing mechanisms, the sources of repayment or income related to the proposed function, service or facility object of the proposal; (6) the commercial aspects of the project; (7) the anticipated benefits for the public sector, including why the proposal is in the public's best interest; (8) the proposed method for developing the project; and (9) the intellectual property, if any. An unsolicited or voluntary proposal must be accompanied by a non-refundable evaluation fee of five thousand dollars (\$5,000) payable to the Authority; provided, that, to the extent said proposal results in the development of the proposed project, the Board may, in its sole discretion, credit

said amounts to any payment required from the Proponent or may return to the Proponent fifty percent (50%) of said amounts if the Proponent is not selected to develop the project.

The Authority shall receive all unsolicited or voluntary proposals and refer them to the Standing Committee on Small Scale Projects. The Standing Committee on Small Scale Projects shall preliminarily evaluate Unsolicited or Voluntary Proposals within a term of sixty (60) days, which term may be extended for an additional sixty (60) days.

Once the evaluation period has concluded, within a term not to exceed ten (10) business days, the Authority shall, acting in accordance with the determination of the Standing Committee on Small Scale Projects, inform the voluntary Proponent whether the proposed project is considered as potentially beneficial to the public interest. If the project is considered as potentially beneficial to the public interest, the Authority shall instruct the voluntary Proponent to submit, to the extent not already submitted, as much information as may be reasonably obtained regarding the proposed project, to allow the Standing Committee on Small Scale Projects to fully evaluate the qualifications of the voluntary Proponent and the technical and economic feasibility of said project, as well as determine whether the project may be successfully implemented. Said additional information may include any technical and economic feasibility studies, environmental studies or information regarding the concept or technology contemplated in the proposal. When considering a voluntary proposal, the Authority and the Standing Committee on Small Scale Projects must observe the confidentiality of any intellectual property, trade secrets, and any exclusive rights, that arise from, or are referred to, in the voluntary proposal. The Standing Committee on Small Scale Projects shall not use the information submitted by or on behalf of the voluntary Proponent relating to, or as a part of its voluntary proposal, for purposes other than the evaluation and study

of said proposal, unless the Proponent consents to other uses. In addition, unless the parties agree otherwise, the Standing Committee on Small Scale Projects shall return to the voluntary Proponent the original and the copies of any documents furnished as part of the submitted Proposal if said proposal is rejected by the Standing Committee on Small Scale Projects.

If the Standing Committee on Small Scale Projects decides to promote and implement the project received by means of an unsolicited proposal, the Authority may initiate a selection process in accordance with Section 9(b)(i), if: (1) it determines that the project may be completed without using intellectual property, trade secrets or proprietary or exclusive rights or licenses held by the voluntary Proponent, or (2) the proposed technology or concept is not innovative. The voluntary Proponent shall be invited to participate in the competitive selection process initiated, and shall be given advantage or other benefit in the selection process, as stated by the Standing Committee on Small Scale Projects in the request for proposals, in consideration of its development and submittal of the initial voluntary proposal. If the Standing Committee on Small Scale Projects determines that the conditions specified in clauses (1) and (2) of the preceding sentence are not present and/or there are reasons that justify such action, as determined by the Authority's Board, the Standing Committee on Small Scale Projects shall not be required to carry out a selection process under Section 9(b)(i), but must gather information to have all the elements necessary to evaluate the voluntary proposal in accordance with Section 9(c). In said cases, the Standing Committee on Small Scale Projects shall also informally verify whether other parties are interested in presenting similar or comparable proposals. To such effect, the Authority shall publish on its webpage a description of the essential elements of the voluntary proposal along with a request to other interested parties to submit informal proposals within the timeframe established therein by the Standing Committee on Small Scale Projects,

and shall publish a notice in a newspaper of general circulation notifying said publication. If the Committee on Small Scale Projects does not receive additional proposals within the timeframe established in the notice of request for proposals, it may initiate negotiations with the original voluntary proponent directly in accordance with the parameters previously established by the Standing Committee on Small Scale Projects. If the Standing Committee on Small Scale Projects receives proposals as a result of the request referred to in this paragraph, the Authority shall request the voluntary Proponent, as well as those parties that answered the notice and meet the standards and criteria specified in said notice, to submit proposals pursuant to Section 9(b)(i), subject to any incentive or other benefit granted to the voluntary Proponent for its development and submittal of the initial voluntary proposal, in accordance with the parameters established by the Standing Committee on Small Scale Projects.

(iii) ...

(g) Approval of the Partnership Contract; Preparation of the Report.—

(i) ...

(ii) ...

(iii) ...

(iv) Upon approval of the report and the Partnership Contract by both Boards of Directors (or the Secretary or head of agency), the report and the Partnership Contract shall be submitted to the Governor or the executive officer to whom he delegates for approval. The report submitted for the approval of the Governor or the executive officer to whom he delegates shall include the recommendation of the Bank on the use of funds derived from the Partnership Contract pursuant to the provisions of Section 17 of this Act, if any. The Governor may delegate the power to approve the Partnership Contract to an executive officer by means of an Executive Order, but shall not delegate the power to approve the use



of funds. The Governor or the person to whom he delegates and who shall never be a member of the Board of Directors of the Authority or of the Partnership Committee that intervened in the Contract, shall have full discretion to approve the report of the Partnership Committee and the Partnership Contract. In the case of Small Scale Projects, upon approval of the report and the Partnership Contract by both Boards of Directors (or the Secretary or head of agency), the contract shall be deemed to be ready to be executed by the parties thereto, unless said contract requires the approval of the Governor, by constitutional mandate, in which case, the process established above for all other Partnership Contracts shall be followed.

(v) ...

(vi) After the Governor or the executive officer to whom he delegates has approved the Partnership Contract, or in the case of Small Scale Projects that do not require the approval of the Governor, once the report and the Partnership Contract are approved by both Boards of Directors (or the Secretary or head of agency), the Authority shall give written notice to all other Proponents of the fact that their proposals have not been accepted, shall disclose the identity of the Proponent thus selected and indicate to the Proponents that they shall have access to the Authority record that pertains to the selection procedure and the award of the Partnership Contract. The Authority shall make available to the Proponents who so request a copy of their official record to be examined at the facilities of the Authority. Proponents that were not selected may request judicial review of said determination, subject to the conditions and procedures provided in Section 20 of this Act.

(vii) ...”.

Section 7. – Section 17 of Act No. 29-2009, as amended, is hereby amended to read as follows:

“Section 17. – Use of Initial or Periodic Payments of a Partnership. In the event that a Partnership Contract, after having defrayed the costs incurred by the Authority, the Partnering Government Entity or the Bank as part of the process of evaluating, selecting, negotiating, and executing such Partnership Contract, generates an initial payment or periodic payments to the Partnering Government Entity or the Commonwealth of Puerto Rico by the Contractor under the Partnership Contract, such payments may only be employed for any of the following uses: (a) to pay debts of any kind, even operational debts, of the Partnering Government Entity; (b) to pay debts of any kind, even operational debts, of the Commonwealth of Puerto Rico; (c) to create a capital investment fund for the capital improvement program of the Partnering Government Entity or the Commonwealth of Puerto Rico, in which case, such payment shall be remitted by such Partnering Government Entity to the Bank, which shall deposit such money into an account created for such purpose; (d) to create a fund whose purpose shall be to repay the line of credit granted by the Bank to the Authority to cover its operating expenses and to accomplish the purposes of this Act, pursuant to the provisions of paragraph (viii) of Section 6 thereof, and to refund or compensate the amounts expended, paid, or advanced by the Bank to meet the obligations incurred by any Partnering Government Entity under a Partnership Contract. The Bank shall consult with the Office of Management and Budget and submit to the Governor its recommendations together with those of the Office of Management and Budget concerning the best use of the initial payment or the periodic payments arising out of the Partnership Contract. Such payment shall be used as finally approved by the Governor. In the case of a Small Scale Project that generates an initial payment or periodic payments, said payment shall be used as provided in this Section, but said use need only be recommended by the Bank and

approved by the Board of the Authority and the Partnering Government Agency. The use of the funds corresponding to the General Fund must be authorized by the Legislative Assembly.”

Section 8. – Severability Clause.

If any article, clause, provision, subsection, paragraph, subparagraph, section, or part of this Act were held to be null or unconstitutional, said holding shall not affect, impair, or invalidate the remaining provisions of this Act. The effect of said holding shall be limited to the article, clause, provision, subsection, paragraph, subparagraph, section, or part thereof thus held to be null or unconstitutional.

Section 9. – Effectiveness.

This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 237-2014 (H. B. 2114)** of the **4<sup>th</sup> Regular Session** of the **17<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to amend subsection (b), add new subsections (f), (t) and (x), and designate current subsections (f) through (r) as subsections (g) through (s), and subsections (s) through (u) as subsections (u) through (w), respectively, of Section 2; add new subsections (d) and (e) to Section 5; amend subsections (a)(vi) and (a)(viii) of Section 6; amend Section 7; amend subsection (a), add new subsections (b) and (c), and designate current subsection (b) as subsection (d) of Section 8; amend subsections (b)(ii), (g)(iv), and (g)(vi) of Section 9; and amend Section 17 of Act No. 29-2009, as amended, known as the "Public-Private Partnership Act," in order to define what constitutes a Small Scale Project; provide for the creation of a Small Scale Project Subdivision as a division of the Public-Private Partnership Authority; establish the powers of the Executive Director of the Public-Private Partnership Authority; etc.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 30<sup>th</sup> day of January, 2017.

Roger J. Iglesias-Sepúlveda  
Director