

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



COMMONWEALTH REGISTER

**VOLUME 42
NUMBER 06
JUNE 28, 2020**

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COMMONWEALTH REGISTER

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NUMBER 06
JUNE 28, 2020

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Commonwealth Casino Commission **043710**



Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF RULES AND REGULATIONS OF THE COMMONWEALTH HEALTHCARE CORPORATION

**PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED RULES AND REGULATIONS
Volume 42, Number 04, pp. 043515-043526, of April 28, 2020**

AMENDMENTS TO THE CHCC CHARGEMASTER FOR COVID-19 AND OTHER FEES

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, COMMONWEALTH HEALTHCARE CORPORATION ("CHCC"), HEREBY ADOPTS AS PERMANENT regulations the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The CHCC announced that it intended to adopt them as permanent, and now does so. (Id.) A true copy is attached. I also certify by signature below that:

as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted as published.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS: Adoption as Amendments to the Chargemaster.

AUTHORITY: The Corporation is empowered by the Legislature to adopt these rules and regulations pursuant to 3 CMC Section 2826(c).

EFFECTIVE DATE: Pursuant to the APA, 1 CMC sec. 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the Corporation has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the Corporation, if requested to do

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201 FAX: (670) 233-8756

so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e)

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



Esther L. Muna
CHCC Chief Executive Officer

06/09/20
Date

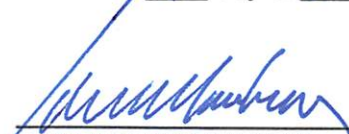


Lauri Ogumoro
Board Chair

06/09/2020
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 9 day of June, 2020.



EDWARD MANIBUSAN
Attorney General

Filed and
Recorded by:



ESTHER SN. NESBITT
Commonwealth Registrar

06-25-2020
Date

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201 FAX: (670) 233-8756

Fee Schedule Edits - April 2020

Please note that the charges have been added or corrected to reflect the following: 3X MCR PFS Rate, 2X APC Rate, 2X Anesthesia, or 3X LFS Rate

CPT	MOD	Description	Price	COVID Related?
87635		SARS-COV-2 COVID-19 AMP PRB	\$ 153.93	Y
U0003		SARS-COV-2 COVID-19 AMP PRB HTT	\$ 300.00	Y
U0004		SARS-COV-2 COVID-19 AMP PRB HTT, NON CDC	\$ 300.00	Y
G2023		SPECIMEN COLLECT COVID-19	\$ 70.38	Y
G2024		SPEC COLL SNF/LAB COVID-19	\$ 76.38	Y
99441		PHONE E/M BY PHYS 5-10 MIN	\$ 66.15	Y
99453	26	REM MNTR PHYSIOL PARAM SETUP	\$ 63.87	Y
99454	26	REM MNTR PHYSIOL PARAM DEV	\$ 213.75	Y
99457	26	REM PHYSIOL MNTR 1ST 20 MIN	\$ 100.89	Y
99458	26	REM PHYSIOL MNTR EA ADDL 20	\$ 100.89	Y
99473	26	SELF-MEAS BP PT EDUCAJ/TRAIN	\$ 37.86	Y
99474	26	SELF-MEAS BP 2 READG BID 30D	\$ 27.72	Y
G0508	26	CRIT CARE TELEHEA CONSULT 60	\$ 658.65	Y
G0509	26	CRIT CARE TELEHEA CONSULT 50	\$ 604.29	Y
G0406		INPT/TELE FOLLOW UP 15	\$ 122.19	Y
G0459		TELEHEALTH INPT PHARM MGMT	\$ 129.24	Y
G0425		INPT/ED TELECONSULT30	\$ 313.56	Y
G0426		INPT/ED TELECONSULT50	\$ 426.72	Y
G0427		INPT/ED TELECONSULT70	\$ 632.31	Y
U0001		2019-NCOV DIAGNOSTIC PANEL	\$ 107.73	Y
U0002		COVID-19 LAB TEST NON-CDC	\$ 153.93	Y
G2012		BRIEF CHECK IN BY MD/QHP	\$ 41.01	Y
G2010		REMOT IMAGE SUBMIT BY PT	\$ 28.98	Y
99421		ONLINE DIGITAL E/M SVC EST PT <7 D 5-10	\$ 41.01	Y
99422		ONLINE DIGITAL E/M SVC EST PT <7 D 11-20	\$ 83.97	Y
99423		ONLINE DIGITAL E/M SVC EST PT <7 D 21+	\$ 133.59	Y
G2061		QUAL NONMD EST PT 5-10M	\$ 37.83	Y
G2062		QUAL NONMD EST PT 11-20M	\$ 66.66	Y
G2063		QUAL NONMD EST PT 21>MIN	\$ 103.26	Y
81240		F2 GENE ANALYSIS 20210G >A VARIANT	\$ 197.07	N
81241		F5 COAGULATION FACTOR V ANAL LEIDEN	\$ 220.11	N
67912		CORRECT EYELID W IMPLANT	\$ 5,805.60	N
67912	26	CORRECT EYELID W IMPLANT	\$ 1,578.21	N
67900		REPAIR OF BROW PTOSIS	\$ 5,805.60	N
67900	26	REPAIR OF BROW PTOSIS	\$ 1,646.73	N
58572	TC	TLH UTERUS OVER 250 G	\$ 16,826.22	N
58573	TC	TLH W/T/O UTERUS OVER 250 G	\$ 16,826.22	N
96413		CHEMO IV INFUSION 1 HR	\$ 2,305.00	N
96416		CHEMO PROLONG 8+ HRS INFUSE W/PUMP	\$ 2,200.00	N



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS



**NOTICE OF PROPOSED AMENDMENT OF REGULATIONS FOR THE
DEPARTMENT OF PUBLIC LANDS**

INTENDED ACTION: TO AMEND REGULATIONS AFTER CONSIDERING PUBLIC COMMENT:

The Commonwealth of the Northern Mariana Islands, Department of Public Lands ("the Department") intends to amend its regulations in accordance to the attached proposed amendments, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The amendments would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The Department has the inherent authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Article XI of the Commonwealth Constitution and 1 CMC §2801 et. seq.

THE TERMS AND SUBSTANCE: The attached regulation amendment proposes to change the administrative processing fee for public land lease applicants.

THE SUBJECTS AND ISSUES INVOLVED: The amendment to §145-70-110 Lease Agreement Requirements includes the following:

1. To increase the administrative processing deposit fee for lease applicants from the greater of \$2,500 or 0.25% of the estimated value of the subject property to the greater of \$5,000 or 0.5%.


DIRECTIONS FOR FILING AND PUBLICATION: These proposed amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and this notice shall be posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1)).


TO PROVIDE COMMENTS: Send or deliver your comments to the Department of Public Lands Attn: Secretary, at the address below, fax or email address. Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)).

The Department of Public Lands approved the attached Regulations on the date listed below.

Submitted by: 
Marianne Concepcion-Teregeyo
Secretary, Department of Public Lands


29 MAY 2020
Date

Received and Filed by:  06/24/2020
Mathilda A. Rosario Date
Special Assistant for Administration

Received and Filed by:  06.25.2020
Esther SN. Nesbitt Date
Commonwealth Registrar

Pursuant to I CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and I CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, I CMC § 2153(f) (publication of rules and regulations.)

Dated the 24 day of June, 2020


Hon. Edward Manibusan
Attorney General



Commonwealth Gi Sangkattan Na Islas Mariãnas
Ofisinan Gubietnu
DIPÀTTAMNETUN TANU' PUPBLIKU



**NUTISIA PUT I MANMAPROPONI NA AMENDA NA REGULASION SIHA
PARA I DIPÀTTAMENTU TANU' PUPBLIKU**

I AKSION NI MA'INTENTSIONA: PARA U MA'AMENDA I REGULASION SIHA DISPUES DI MAKUNSIDERA I UPIÑON I PUPBLIKU: I Commonwealth gi Sangkattan na Islas Mariãnas, Dipàttamentun Tanu' Pupbliku ("I Dipàttamentu") ha intensiona para u amenda i Regulasion-ñiha gi sigun mañechettun manmapropo ni na amenda siha, sigun para i maneran i Àkton Atministrasion Procedure, I CMC §9104(a). I amenda siha para u ifektibu gi halum dies (10) dihas dispues di adàptasion yan publikasion gi halum i Rehistran Commonwealth. (I CMC § 9105(b))

ATURIDÀT: I Dipàttamentu gai aturidat para u adàpta i areklamentu yan regulasion siha ni para u kunsigi mo'na i obligasion yan responsabilidat-ñiha siha sigun i Attikulu IX giya i Commonwealth Konstitusion yan I CMC §2801 et. seq.

I TEMA YAN SUSTÁNISAN I PALÁBRA SIHA: I mañechettun na amenda na regulasion prinipopo ni para u tulaika i maneran ápas "administrative" para i atkilon tanu' pupbliku kandidatu.


I SUHETU NI MASUMÁRIA YAN ASUNTU NI TINEKKA: I amenda gi §145-70-110 Nisisidat Kuntratan Atkilon inklusu i mantinattiyi:

1. Para u aomenta i "processing deposit fee" i "administrative" para i atkilon kandidatu siha ginin lámudung nu \$2,500 pat 0.25% nu i báln ma'estima i suhetu na propiedat para lámudung nu \$5,000 pat 0.5%.

DIREKSION PARA I PINE'LU YAN I PUPBLIKASION: Esti i Manmapropo ni na amenda siha debi na u mapupblika gi halum i Rehistran Commonwealth gi halum i mapropo ni na seksiona yan mananuebu na ma'adapta na regulasion (I CMC § 9102(a)(1)), ya u mapega esti na nutisia gi halum kumbinenti na lugat siha giya i civic center yan gi halum ufisinan gubietnu gi kada distritun senatorial, parehu Inglis yan i dos na lingguáhin natibu, (I CMC § 9104(a)(1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hálum pat intrega i upiñon-mu siha para i Dipàttamentun Tanu' Pupbliku Attn: Sekretaria, gi sanpapa' na address, fax pat email address. I upiñon siha debi na u fanhálum gi halum trenta (30) dihas ginin esti na nutisian publikasion. Putfabot na'hálum iyo'-mu data, views pat atgmentu siha. (I CMC § 9104(a)(2)).

I Dipàttamentun Tanu' Pupbliku ha aprueba i mañechettun na Regulasion siha gi fetcha ni malista gi sanpapa'.

Nina'halum as: 
Marianne Concepcion-Teregeyo
Sekretaria, Dipàttamentun Tanu' Pupbliku

29 MAY 2020
Date

Rinisibi yan pine'lu as:



Mathilda A. Rosario
Ispisiât na Ayudânti para i Atministration

06/24/2020

Date

Pine'lu yan Ninota as:



Esther SN. Nesbitt
Rehistran Commonwealth

06-25-2020

Date

kumu fotma) yan i 1 CMC § 9104(a)(3) (hentan inapueban Abugâdu Henerât) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'apueba kumu fotma yan sufisienti ligât ginen i CNMI Abugâdu Henerât yan debi na u mapublika, 1 CMC § 2153(f) (publikasion areklamentu yan regulasion siha).

Mafetcha gi diha 24, gi June 2020



Hon. Edward Manibusan
Henerât Abugâdu



Commonwealth Téel Falúw Kka Efáng Ilól Marianas
Bwulasiyol Soumááng
Bwulasiyol Ammwelil Faluweer Toulap



ARONGORONGOL POMMWOL LIWELIL MWÓGHUTUGHUT NGÁLI
BWUALSIYOL AMMWELIL FALUWEER TOULAP

MÁNGEMÁNGIL MWÓGHUT: REEL LIWELIL MWÓGHUTUGHUT MWIRIL AAL RÁGHIIY KKAPAS SÁNGI TOULAP: Commonwealth Téel Falúw kka Efáng Ilól Marianas (“Bwulasiyo we”) re mángemángil rebwe liiweli mwóghutughut Ilól abwungubwung ngáli pommwol liiwel ikka e appasch, sángi mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a). Ebwe bwunguló liiwel kkal seigh ráál mwiril aal adóptááli me akkatééwowul me Ilól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Eyoor bwángil Bwulasiyo reel ebwe adóptááli allégh me mwóghutughut reel igha ebwe téeló mmwal reel angaang me lemelem sángi Article XI reel Alléghúl Commonwealth me 1 CMC §2801 et. seq.

KKAPASAL ME AWEEWEL: Pommwol mwóghutughutúl liiwel iye e appasch e lo reel ebwe siiweli “administrative processing fee” ngáli “public land lease applicants”.

KKAPASAL ME ÓUTOL: Liiwel ngáli § 145-70-110 “Lease Agreement Requirements” ebwal schuulong milikka e amwirimwiritiw:

1. Ebwe lapaló “administrative processing deposit fee” ngáli “lease applicants” sángi “\$2,500” ngare “0.25%” reel “estimated value” reel “subject property” ngáli iye e lapaló reel “\$5,000” ngare “0.5%”.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Pommwol liiwel kkal ebwe akkatééwowul me Ilól Commonwealth Register Ilól tálil pommwol me ffél mwóghutughut ikka ra adóptáánil (1 CMC § 9102(a)(1)) me ebwe appaschetá arongorong yeel Ilól civic center me bwal Ilól bwulasiyol gobetnameento Ilól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104(a)(1)).

REEL ISIISILONGOL KKAPAS: Afanga ngáre bwughiló yóómw ischhil kkapas ngáli Bwulasiyol Ammwelil Faluweer Toulap Attn: Sekkretóoriya, reel félfél iye e lo faal, fax ngare email address. Ebwe toolong ischil kkapas Ilól eliigh ráál sángi aal akkatééwow arongorong yeel. Isiisilong yóómw data, views ngare angiingi. (1 CMC § 9104(a)(2)).

Bwulasiyol Ammwelil Faluweer Toulap re átirowa Mwóghutughut ikka e appasch wóól ráál iye e lo faal.

Isáliyalong: 
Marianne Concepcion-Teregeyo
Sekkretóoriya, Bwulasiyol Ammwelil Faluweer Toulap


29 MAY 2020
Ráál

Bwughiyal:  06/24/2020
Mathilda A. Rosario
Special Assistant ngali Administration
Ráál

Ammwelil:  06-25-2020
Esther SN. Nesbitt
Commonwealth Registrar
Ráál

Sáangi 1 CMC § 2153(e) (sáangi átirowal AG reel mwóghutughut bwe aa ffil reel fféerúl) me 1 CMC § 9104(a)(3) (sáangi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiiy me átirow bwe aa ffil reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalalap CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (arongowowul allégh me mwóghutughut.)

Aghikkilátiw wóol 24 ráálil June, 2020


Hon. Edward Manibusan
Soulemelemil Allégh Lapalalap

§ 145-70-110 Lease Agreement Requirements

DPL shall include in lease agreements provisions typical of commercial practices. All public land leases are on a “triple net” basis “as is where is”. All leases shall conform to the following provisions:

- (a) Legal Description of the property (ies) subjected to the lease.
- (b) Purpose – a detailed description of the intended development and operations.
- (c) Term – the effective date and duration of the lease shall not exceed 40 years. Note: Upon expiration of the term, the property including all improvements shall revert to DPL for renewal, extension, or re-leasing to the highest best bidder as determined by these regulations in accordance with CNMI law.
- (d) Fees, Security Deposit, Costs.
 - (1) Prior to the preparation of any lease or supporting document, the Applicant shall deposit an administrative processing fee equal to the greater of ~~\$2,500~~ \$5,000, or ~~0.25%~~ 0.50% of the estimated value of the subject property, not to exceed \$100,000.
 - (2) Prior to any lease approval, lessee must deposit at least 5% of the total cost of the proposed project to which the lease pertains. These funds will be held by the DPL to secure construction start up, and remediation costs. However, for large projects that certified engineers estimate will require more than two years to construct and will be constructed in phases, lessee shall deposit 5% of each phase, or an amount mutually agreeable to both parties prior to construction commencement (for clarity, 5% prior to the commencement of each subsequent phase). Provided, however, that each phase is constructed in a manner that allows for the facility within each phase to be operatable independent of other phases. DPL may seek the assistance of the Department of Public Works to certify each phase complete.
 - (3) The security deposit requirement shall also apply to lease extensions or renewals where one or more key factors for approval is lessee’s proposal to further develop the property it currently occupies.
 - (4) Upon execution of a lease for public lands, lessee shall deposit as security \$250,000 that shall be maintained for the duration of the lease term. Funds remaining on account with the DPL after the completion of the proposed development in excess of \$250,000 shall be released to lessee upon completion of the project development. Remaining funds shall be retained as security, and Lessee shall be obligated to maintain a constant balance for the term of the lease.
 - (5) Funds shall forfeit to DPL should the project be cancelled or start date delayed more than one year from the execution of the lease. Mere ceremonious commencement (i.e. groundbreaking or ribbon cutting without materially beginning and continuing construction) will not avoid forfeiture.
 - (6) All costs related to the lease including underwriting, leasehold fee simples, surveys, topographical surveys consolidations, excavation, studies, recordings, etc shall be borne by Applicant or Lessee. In the event of Lessee’s failure to perform any obligation under a lease, DPL may (but shall not be obligated to) expend funds held in Lessee’s account (including security deposits) to satisfy such obligation to the extent feasible (e.g. To procure surveys, appraisals, or insurance).
- (e) Rental Rates.



PUBLIC NOTICE

OF PROPOSED AMENDMENTS TO THE DEVELOPMENT CORPORATION DIVISION (DCD) RULES AND REGULATIONS OF THE COMMONWEALTH DEVELOPMENT AUTHORITY (CDA)

INTENDED ACTION TO ADOPT THE PROPOSED AMENDMENTS TO THE DCD RULES AND REGULATIONS: The Board of Directors of the Commonwealth Development Authority (“CDA”) and the Development Corporation Division (“DCD”) of the Commonwealth Development Authority intend to adopt the attached amendments to the DCD Rules and Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Amendments to the DCD Rules and Regulations would become effective 10 days after compliance with 1 CMC §§ 9102, 9104(a), and 9105(b).

AUTHORITY: The DCD Board of Directors thru its Chairman and the CDA Board of Directors of the Commonwealth Development Authority thru its Chairman are authorized to promulgate the DCD Rules and Regulations pursuant to 4 CMC §10203(a)(2) and (a)(30).

THE TERMS AND SUBSTANCE: The proposed amendments to the DCD Rules and Regulations were formulated to restate, enhance and clarify the existing regulations and are necessary to effectively carry out the intent of the Development Corporation Division of the Commonwealth Development Authority.

THE SUBJECTS AND ISSUES INVOLVED: The DCD Rules and Regulations are amended, as follows:

- 1) To encourage borrowers to first avail of financial assistance from other established banks and financial institutions;
- 2) To remove restrictions on types of vehicles to be used for farm, ranch, and fishing loans;
- 3) To provide for a condition that applicants may be required to submit to DCD evidence of a reasonable investment of equity or in-kind of not less than 20% of the total project cost;
- 4) To remove the required declination letters from banks and other financial institutions;
- 5) To ease the required documents in submitting loan applications;
- 6) To allow the DCD Board to waive construction requirements with justification of a borrower’s resources and experience, sufficient collateral to support the loan request, and with controlled disbursements, based on percentage of project completion;
- 7) To increase the allowable percentages for all loans secured by a fee-simple, first mortgage or deed of trust interest in real estate and improvements;

- 8) To allow the DCD Board to determine whether an appraisal report and title insurance are necessary for any real or personal property offered as security for the loan whether or not it should be required;
- 9) To allow the DCD Board to determine whether Property & Casualty Insurance, Surety Bonds and Life Insurance are necessary coverages for the loan and whether or not it should be required;
- 10) To clarify that loan proceeds disbursements for purchase of equipment and materials shall be made only upon submission of satisfactory invoices or receipts or other types of evidences of the impending purchase of equipment and materials;
- 11) To allow the DCD Board to determine whether borrowers are required to submit monthly reports to show exactly how the loan proceeds are being spent;
- 12) To remove the required systematic procedure in keeping track policies and insurance coverages;
- 13) To allow the Executive Director to order an investigation or audit of the financial condition of the borrower upon written notice to the borrower, if the borrower fails to submit a requested financial or status report.
- 14) To allow the DCD Board to determine the loan term for loans secured by a chattel mortgage;
- 15) To reduce the loan revision fee from one quarter of one percent (1/4 or .25) of the outstanding balance of the loan plus any applicable legal fees but not less than \$125.00. The Executive Director is given the discretion to waive a loan revision fee with justifications.
- 16) To add judgment debtors to the list of borrowers who qualify for reliefs in interest and penalties when the U.S. President declares a state of emergency for all or part of the CNMI; and
- 17) To ease phone contact procedure in contacting borrowers during default.

CITATION OF RELATED AND/OR AFFECTED STATUTES, RULES AND REGULATIONS: Administrative Code Title 25: Commonwealth Development Authority, Chapter 25-10 Development Corporation Division Rules & Regulations:

- 1) § 25-10-401 Eligibility Policy
- 2) § 25-10-425 Farm & Ranch Loans & § 25-10-430 Fishing Loans
- 3) § 25-10-505(d) Requirements and Criteria
- 4) § 25-10-515(a) Additional Restrictions
- 5) § 25-10-605 Application Documents
- 6) § 25-10-701(k) Construction Requirements
- 7) § 25-10-905 First Mortgage on Real Estate
- 8) § 25-10-930 Appraisals & § 25-10-935 Title Insurance
- 9) § 25-10-1015 P&C, Surety and Life Insurance Companies
- 10) § 25-10-1120 Purchase of Equipment and Materials
- 11) § 25-10-1405 Monthly Reports
- 12) § 25-10-1410(e) Loan Quality Assurance & Control
- 13) § 25-10-1415 Failure to Submit Reports
- 14) § 25-10-1501 Term of Loan
- 15) § 25-10-1605 Loan Revision Fee
- 16) § 25-10-1615 State of Emergency Relief
- 17) § 25-10-1705 Fifteen Day Phone Call


DIRECTIONS FOR FILING AND PUBLICATION: The proposed amendments to the DCD Rules and Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1))


TO PROVIDE COMMENTS: Send or deliver your comments to Manuel A. Sablan, CDA Executive Director, to the following address, fax or email address, with the subject line "Proposed Amendments to DCD Rules & Regulations".

Commonwealth Development Authority
P.O. Box 502149 • CDA Building, Beach Road • Oleai
Saipan, MP 96950
Tel. No.: 234-7145/7146/6293/6245 ext. 311 • Fax No.: 235-7147
Email address: e.borja@developcnmi.com

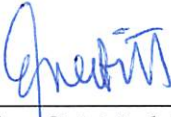
Comments are due within 30 days from the date of publication of this notice. Please submit your data, views and arguments. (1 CMC § 9104(a)(2))

These proposed amendments to DCD Rules and Regulations were approved by the Board of Directors of DCD on June 3, 2019 & Board of Directors of CDA on June 20, 2019.

Submitted by: 
Frank Lee SN. Borja, Chairman
DCD Board of Directors
Date: 6/25/20



Ignacio L. Perez, Chairman
CDA Board of Directors
Date: 6/25/20

Received by: 
Mathilda A. Rosario
Special Assistant for Administration
Date: 06/25/2020

Filed and Recorded by: 
Esther SN. Nesbitt
Commonwealth Register
Date: 06.25.2020

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed amendments to the DCD Rules & Regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 25 day of June 2020



EDWARD MANIBUSAN
Attorney General



NUTISIAN PUPBLIKU

PUT I MANMAPROPONI NA AMENDA PARA I AREKLAMENTU YAN REGULASION I "DEVELOPMENT CORPORATION DIVISION (DCD)" GI "COMMONWEALTH DEVELOPMENT AUTHORITY (CDA)"

I AKSION NI MA'INTENSIONA PARA U ADAPTA I MANMAPROPONI NA AREKLAMENTU YAN REGULASION PERSONNEL SIHA: I Kuetpun Direktot siha gi Commonwealth Development Authority ("CDA") yan i Development Corporation Division ("DCD") nu i Commonwealth Development Authority ha intensiona para u adapta i mañechettun na amenda na Areklamentu yan Regulasion i DCD, sigun para i manera gi Aktun i Administrative Procedure, 1 CMC § 9104(a). I Amenda para i Areklamentu yan Regulasion i DCD umifektibu gi halum dies (10) dihas dispues di "compliance" yan i 1 CMC §§ 9102, 9104(a), yan 9105(b).

ATURIDÁT: I Kabesiyun-niha i Kuetpun Direktot i DCD yan i CDA gi Commonwealth Development Authority manma'aturisa para u macho'gui i Areklamentu yan Regulasion i DCD sigun para 4 CMC §10203(a)(2) yan (a)(30).

I TEMA YAN SUSTANSIAN I PALÁBRA SIHA: I maproponi na amenda gi Areklamentu yan Regulasion DCD mafa'tinas para u "restate, enhance and clarify" i maneksisti na regulasion siha yan nisisáriu para u na ifektibu kumátga huyung i intensiona i Development Corporation Division gi Commonwealth Development Authority.

I SUHETU NI MASUMÁRIA YAN ASUNTU NI TINEKKA: I Areklamentu yan Regulasion DCD manma'amenda, komu mantinattiyi siha:

- 1) Para u masu'on i "borrowers" para u ma'usa fine'ne'na i asistensian fainansiát ginin otru na ma'istapblesi na banku yan institusion fainansiát siha;
- 2) Para u manasuha restriksion gi na'klâsin nu kareta ni para u ma'usa gi gualu', lanchu, yan i "loan" etoktcha siha;
- 3) Para u mapribeni para kundision na i aplikánti siha siña madimânda para u na'hålum para i DCD ebidensia nu rasonâpbli na "investment" nu "equity" pat "in-kind" ni ti menus ki benti putsientu (20%) gi put todun na gâstun i "project";
- 4) Para u manasuha i madimânda na kâttan "declination" ginin i banku yan otru na institusion siha;
- 5) Para u manamenus dididi' i madimânda na dokumentu ni para u manahålum i aplikasion i "loan";

- 6) Para u masedi i kuetpun DCD para u marenunsia i dimândan kunstruksion yan i "justification" nu i "resources" yan ekspirensia i "borrowers", sufisienti "collateral" para u supotta i rekuestan i "loan", yan i "controlled disbursement" siha, ni mapega gi putsientu nu kinumpli'i i "project";
- 7) Para u ma'aomenta i manmasedi na putsientu siha para todû i "loans" ni maprutehi ginin i "fee-simple," fine'ne'na na "mortgage" pat i "deed" nu intires i "trust" gi halum "real estate" yan progresu siha;
- 8) Para u masedi i kuetpun DCD para u maditetmina kâo mannisisâriu i ripot "appraisal" yan i titulun "insurance" para maseha "real" pat propiedât petsonât ma'ofresi komu sikuridât para i "loan" maseha pat ti madimânda;
- 9) Para u masedi i kuetpun DCD para u maditetmina kâo i "Property & Casualty Insurance, Surety Bonds" yan "Life Insurance" mannisisâriu na "coverages" para i "loan" yan maseha pat ti madimânda;
- 10) Para u mana'klâru na i "loan proceeds disbursements" para i finahan nu ramienta yan matiriât siha debi na u mafa'tinas ha gi inintrega nu "satisfactory invoices" pat resibu pat otrû siha na klâsin ebidensian i manmamaila' na finâhan nu ramienta yan matiriât siha;
- 11) Para u masedi i kuetpun DCD para u maditetmina kâo madimânda i "borrowers" para u ma'intrega hâlum gi kada mes i ripot para u mana'annuk eksatu taimanu i "loan proceeds" manmagâgâsta;
- 12) Para u manasuha i madimânda na "systematic procedure" ni ha tattitiyi i areklamentu yan "insurance coverages";
- 13) Para u masedi i Direktot Eksakatibu para u otdin i imbestigasion pat "audit" i kundision fainansiât i "borrowers" annai makattâyi ni nutisia, yanggin i "borrowers" ti makumpli' manahâlum i marikuesta na fainansiât pat ripot i "status".
- 14) Para u masedi i kuetpun DCD para u maditetmina i teman i "loans" ni maprutehi ni "chattel mortgage";
- 15) Para u maribâha i ribisan âpas i "loan" ginin "one quarter" nu un putsientu (1/4 pat .25) gi "outstanding balance" i "loan" yan kuatkuet na aplikâpbli na âpas ligât lão ti menus ki \$125.00. I Direktot Eksakatibu manâ'i "discretion" para u renunsia i ribisan âpas i "loan" yan ebidensia siha.
- 16) Para u manahâlum "judgement debtors" gi listan nu "borrowers" ni mankualifika para alibiû gi intires yan pena annai i Presidentin i U.S. ha diklâra "state of emergency" para todû pat pâtti nu i CNMI; yan
- 17) Para u manamenu dididi' i maneran "phone contact" annai ma'a'agang i "borrowers" gi durântin "default".

SITASION NI MANA'ACHULI' YAN/PAT INAFEKTA I ISTATUA,

AREKLAMENTU YAN I REGULASION SIHA. Administrative Code Title 25:

Commonwealth Development Authority, Chapter 25-10 Areklamentu yan Regulasion siha gi Development Corporation Division:

- 1) § 25-10-401 Areklamentun Kuâlifikasion
- 2) § 25-10-425 "Loans" Guâlû' & Lanchu & § 25-10-430 "Loans" Etoktcha
- 3) § 25-10-505(d) Dimânda yan "Criteria"
- 4) § 25-10-515(a) Dinanña Mâs na Restrictions
- 5) § 25-10-605 Dukumentun Aplikasion siha
- 6) § 25-10-701(k) Dimândan Kunstruksion siha

- 7) § 25-10-905 Fine'ne'na na "Mortgage" gi "Real Estate"
- 8) § 25-10-930 "Appraisals" & § 25-10-935 Titulu "Insurance"
- 9) § 25-10-1015 "P&C, Surety and Life Insurance Companies"
- 10) § 25-10-1120 Finâhan nu Ramienta yan Matiriât siha
- 11) § 25-10-1405 Ripot Kada Mes Siha
- 12) § 25-10-1410(e) "Loan Quality Assurance & Control"
- 13) § 25-10-1415 Ti Ma'akumpli' Manahâlum na Ripot
- 14) § 25-10-1501 Teman i "Loan"
- 15) § 25-10-1605 Ribisan Âpas i "Loan"
- 16) § 25-10-1615 "State of Emergency Relief"
- 17) § 25-10-1705 Diha Kinsi Ma'âgang Tilifon

DIREKSION NI PARA U MAPO'LU YAN U MAPUPBLIKA: I Manmaproponi na amenda siha gi Areklamentu yan Regulasion DCD debi na u mapupblika gi halum Rehistran Commonwealth gi halum seksiona ni Manmaproponi yan i mannuebu na ma'adâpta na regulasion siha (1 CMC § 9102(a)(1) ya u mapega gi kumbinienti na lugât gi halum civic center yan gi halum ufisinan gubietnamentu gi kada distritun senadot, parehu Inglis yan prinsipât na lingguâhin natibu. (1 CMC § 9104(a)(1))

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hanao pat intrega hâlum i upiñon-mu guatu as Manuel A. Sablan, Direktot Eksakatibun CDA, para i tinattiyi na address, fax pat email address, yan i suhetu na râya "I Manmaproponi na Amenda para Areklamentu yan Regulasion DCD".

Commonwealth Development Authority
 P.O. Box 502149 • CDA Building, Beach Road • Oleai
 Saipan, MP 96950
 Tel. No.: 234-7145/7146/6293/6245 ext. 311 • Fax No.: 235-7147
 Email address: e.borja@developcnmi.com

I Upiñon siha debi na u manahâlum gi halum trenta dihas ginin i fetchan publikasion nu esti na nutisia. Put fabot na'hâlum imfotmasion yan agumentu siha. (1 CMC § 9104(a)(2))

Esti i manmaproponi na amenda siha para Areklamentu yan Regulasion DCD manma'aprueba ginin i Kuetpun Direktot nu DCD gi Huniu 3, 2019 yan i Kuetpun Direktot nu CDA gi Huniu 20, 2019.

Nina'hâlum as:

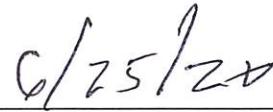
 Frank Lee SN. Borja, Kabesiyu
 Kuetpun Direktot i DCD

6/25/20

 Fetcha



Ignacio L. Perez, Chairman
Kuetspun Direktot i CDA



Fetcha

Rinisibi as:



Mathilda A. Rosario
Ispisiât Na Ayudânti Para I Atministrasion



Fetcha

Pine'lu yan
Ninota as:



Esther SN. Nesbitt
Rehistran Commonwealth



Fetcha

Sigun i 1 CMC § 2153(e) (I Abugâdu Hinerât ma'aprueba i regulasion siha na para u macho'gui kumu fotma) yan i 1 CMC § 9104(a)(3) (hentan inaprueban Abugâdu Hinerât) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligât ginin i CNMI Abugâdu Hinerât yan debi na u mapupblika, 1 CMC § 2153(f) (pupplikasion areklamentu yan regulasion siha).

Mafetcha guini gi diha 25, gi June 20~~17~~²⁰.



EDWARD MANIBUSAN
Abugâdu Henerât



ARONGORONG TOULAP

REEL POMMWOL LIIWEL NGÁLI DEVELOPMENT CORPORATION DIVISION (DCD) ALLEGH ME MWÓGHUTUGHUTÚL COMMONWEALTH DEVELOPMENT AUTHORITY (CDA)

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁALI POMMWOL LIIWEL NGÁLI ALLÉGHÚL ME MWÓGHUTUGHUTÚL DCD: Board-il Directors me Commonwealth Development Authority (“CDA”) me Development Corporation Division (“DCD”) me reel Commonwealth Development Authority re mángemángil rebwe adóptáali liiwel ikka e appasch ngáli Allégh me Mwóghutughutúl DCD, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a). Ebwe bwunguló Liiwel ngáli Alléghúl me Mwóghutughutúl DCD llól seigh ráal mwiril aal angúungú fengál me 1 CMC §§ 9102, 9104(a), me 9105(b).

BWÁNGIL: DCD Board-il Directors reel layúr Chairman me CDA Board-il Directors me Commonwealth Development Authority reel layúr Chairman eyoor bwángiir reel rebwe arongawow reel Alléghúl me Mwóghutughutúl DCD sáangi 4 CMC § 10203(a)(2) me (a)(30).

KKAPASAL ME AWEEWEL: Re ayoorá pommwol liiwel ngáli Alléghúl me Mwóghutughutúl DCD reel ebwe apiyouta, aghatchúwló me ebwe ffat mwóghutughut ikka e lo me e ffil mwóghutughutúl igha ebwe toowow reel mángemángiir Development Corporation Division me Commonwealth Development Authority.

KKAPASAL ME ÓUTOL: Alléghúl me Mwóghutughutúl DCD aa liiwel, iye e amwirimwiritiw:

- 1) Abwuraar schóól yááyá ngáre “borrowers” rebwe yááli “financial assistance” sáangi akkááw bwóngko ikka e “established” me “financial institutions”;
- 2) Siiweli pil wóól tappal ghareeta ikka rebwe yááyá ngáli leemaat, laalaso, me “gishing loans”;
- 3) Ayoorá “condition” ngáli applicants ikka rebwe bwal ayoorailong ghikkilil DCD evidence iye ffil aal “investment” reel “equity” ngáre “in-kind” iye ese ghitighit sáangi 20% reel alongal óbwóssul project’
- 4) Siiweli “required declination letters” me reel bwóngko me akkááw “financial institutions”;
- 5) Ebwe yoor afal me mwaay reel isiisilongol “required documents” llól “submitting loan documents”;
- 6) Rebwe lighiti ngáliir DCD Board reel rebwe “waive” li “construction requirements” fengál me bwulul reel aal schóól yááyá “resources” me “experience”, “sufficient collateral to support the loan request”, fengál me “controlled disbursements”, “based on percentage of project completion”.

- 8) Lighiti ngáliir DCD Board reel rebwe itittiw ngáre “appraisal report” me “title insurance” e ffil ngáli mille e ellet ngáre “personal property” iye re téréyágh bwe “security” ngáli loan ngáre e ffil ebwe toolong;
- 9) Lighiti ngáliir DCD Board reel rebwe itittiw ngáre “Property & Casualty Insurance”, “Surety Bonds” me “Life Insurance” e ffil bwe “coverage” ngáli loan me ngáre e ffil ngáre ese ffil ebwe toolong;
- 10) Ebwe ffat bwe “loan proceeds disbursements” ngáli améémél “equipment” me ebwe fféer peiráágh ngáre schagh eyoor isiisilongol “invoice” ngáre “receipts” ikka e lo bwe “satisfactory” akkaaw tappal ghikkil reel milikka e lo bwe “impending purchase of equipment and materials”;
- 11) Lighiti ngáliir DCD Board reel rebwe itittiw ngáre schóól yááyá ngáre “borrowerws” rebwe isiisilong repoot ghal maram rebwe ebwe bwáá efaisúl mwóghutughutúl loan.
- 12) Siiweli “required systematic procedure” llól mwóghutughutúl igha re áffááli me “insurance coverages”;
- 13) Lighiti ngáli Executive Director bwe ebwe atiiwligh reel “investigation” ngáre “audit” reel mwóghutughutúl schóól yááyá ngáre “borrower” atol “written notice” ngáli schóól yááyá, ngáre schóól yááyá ese isiisilong “financia;” ngáre “status report” igha re tingór.
- 14) Lighiti ngáliir DCD Board reel rebwe itittiw reel “loan term” ngáli loan ikka e “secure” sángi “chattel mortgage”;
- 15) Ebwe ghitighiitiló “loan revision fee” sángi eew quarter reel eew percent (1/4 ngáre .25) reel “outstanding balance” reel loan ebeal schuulong “applicable legal fees” nge essóbw ghitighiit sángi \$125.00. Eyoor aal “discretion” Executive Director bwe ebwe waive-li mille “loan revision fee” fengál bwe eyoor “justifications”.
- 16) Aschuulong “judgment debtors” ngáli list-al schóól yááyá ikka re ffil ngáli “relief” llól “interest” me óbwóss ngáre e totto bwe U.S. President e aronga bwe “state of emergency” ngáli alongaló wóól CNMI ngáre eghus; me
- 17) Mmwaayu ngáli “phone contract procedure” llól igha u faingi schóól yááyá atol “default”.

CITATION REEL IKKA E SCHUU ME/NGÁRE AFFECTED STATUTES, ALLÉGH ME MWÓGHUTUGHUT: Administrative Code Title 25: Commonwealth Development Authority, Chapter 2-10 Alléghúl me Mwóghutughutúl Development Corporation Division:

- 1) § 25-10-401 Eligibility Policy
- 2) § 25-10-425 Farm & Ranch Loans & § 25-10-430 Fishing Loans
- 3) § 25-10-505(d) Requirements me Criteria
- 4) § 25-10-515(a) Additional Restrictions
- 5) § 25-10-605 Application Requirements
- 6) § 25-10-701(k) Construction Requirements
- 7) § 25-10-905 First Mortgage wóól Real Estate
- 8) § 25-10-930 Appraisals & § 25-10-935 Title Insurance
- 9) § 25-10-1015 P&C, Surety me Life Insurance Companies
- 10) § 25-10-1120 Purchase of Equipment me Materials
- 11) § 25-10-1405 Monthly Reports
- 12) § 25-10-1410(e) Loan Quality Assurance & Control

- 13) § 25-10-1415 Failure to Submit Reports
- 14) § 25-10-1501 Term of Loan
- 15) § 25-10-1605 Loan Revision Fee
- 16) § 25-10-1615 State of Emergency Relief
- 17) § 25-10-1705 Fifteen Day Phone Call

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Pommwol liiwel ngáli Alléghúl me Mwóghutughutúl DCD ebwe akkatééwow me llól Commonwealth Register llól tánil pommwol me ffél mwóghutughut ikka ra adóptáánil (1 CMC § 9102(a)(1) me ebwe appaschetá llól civic center llól bwulasiyool gobetnameento llól senatorial district, fengál reel English me mwaliyaasch. (1 CMC § 9104(a)(1))

REEL ISIISILONGOL KKPAS: Afanga ngáre bwughiló yóómw ischil mángemáng ngáli Manuel A. Sablan, CDA Executive Director, ngáli féféfé iye e amwirimwiritiw, fax ngáre email, ebwe lo wóól subject line bwe “Proposed Amendments to DCD Rules & Regulations”.

Commonwealth Development Authority
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 Email address: e.borja@developcnmi.com


Ebwe toolong kkapas llól eliigh ráál mwiril aal akkatééwow rongorongo yeel. Isiisilong yóómw data, views, me angiingi. (1 CMC § 9104(a)(2))

Aa átirow pommwol liiwel ngáli Alléghúl me Mwóghutughutúl DCD sáangi Board-il Directors me DCD wóól Alimaté 20, 2019.

Isáliyalong: _____
 Frank Lee SN. Borja, Chairman
 DCD Board-il Directors


6/25/20

 Ráál

_____ 
 Ignacio L. Perez, Chairman
 CDA Board-il Directors

6/25/20

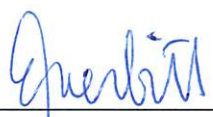
 Ráál

Bwughiyal: _____ 
 Mathilda A. Rosario
 Special Assistant ngáli Administration

06/25/2020

 Ráál

Ammwelil:


Esther SN. Nesbitt
Commonwealth Register ^{ran}

06-25-2020

Ráál

Sáangi 1 CMC § 2153(e) (sáangi átirowal AG reel mwóghutughut bwe aa ffil reel fféerúl) me 1 CMC § 9104(a)(3) (bwughi átirowal AG) reel pommwol liiwel ngáli Alléghúl me Mwóghutughutúl DCD & Mwóghutughut ikka e appasch igha bwe ra takkal amwuri fischiiy me átirowa bwe aa ffil reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalap CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).

Aghikkilátjw wóól

25

ráálil

June 2020



ÉDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

TITLE 25: COMMONWEALTH DEVELOPMENT AUTHORITY

CHAPTER 25-10 DEVELOPMENT CORPORATION DIVISION RULES AND REGULATIONS

PART 001 - GENERAL PROVISIONS

§ 25-10-001 Scope

These rules and regulations govern the administration of the Development Corporation Division (“DCD”) of the Commonwealth Development Authority (“CDA”), subject to any limitations set forth in the CDA Act (*i.e.*, 4 CMC § 10101, *et seq.*). These rules and regulations apply to all the activities in which DCD is engaged and supersede and replace any and all previously issued or amended rules and regulations of DCD.

§ 25-10-005 Powers

As a mandated division of CDA, DCD is hereby invested with those powers reasonably necessary and incidental to the fulfillment of its purposes, which purposes are as outlined in 4 CMC § 10102(b). The powers of DCD include, but are not limited to, those powers set forth in 4 CMC § 10203 and are subject only to any limitations set forth in the CDA Act.

§ 25-10-010 Authority

These Rules and Regulations are prescribed by virtue of the authority given CDA under 4 CMC § 10203(a)(2) and (a)(30); and are duly published and adopted in accordance with those procedures set forth in the Administrative Procedure Act (1 CMC § 9101, *et seq.*).

§ 25-10-015 Amendments

These Rules and Regulations may be amended from time to time upon recommendation of the Board of Directors and adoption by the CDA Board.

§ 25-10-020 Effective Date

The effective date of these Rules and Regulations shall be as set forth in 1 CMC § 9105(b).

Unless the context otherwise requires, in these Rules and Regulations:

- (a) "Agriculture." "Agriculture" means the science, art, and business of cultivating the soil producing crops and raising livestock.
- (b) "Aquiculture." "Aquiculture" means freshwater farming or hydroponics, the cultivation of plants and the production of crops in water rather than in soil.
- (c) "Board of Directors." "Board of Directors" means the board of directors of DCD.
- (d) "Chairman." "Chairman" means the chairman of the Board of Directors.
- (e) "Commonwealth." "Commonwealth" means the Commonwealth of the Northern Mariana Islands.
- (f) "EDLF." "EDLF" means the Economic Development Loan Fund.
- (g) "Executive Director." "Executive Director" means the Executive Director of CDA.
- (h) "Farmer." "Farmer" means a farm operator, owner or worker who cultivates or produces a crop in water or soil as an Occupation.
- (i) "Fisherman." "Fisherman" means one who fishes as an Occupation.
- (j) "Governor." "Governor" means the Governor of the Commonwealth.
- (k) "Loan." "Loan" means the delivery by DCD to, and the receipt by a Loan Applicant of, a sum of money upon agreement by that Loan Applicant to repay it to DCD with interest.
- (l) "Loan Applicant." "Loan Applicant" means a person, partnership, association, or corporation seeking a loan or guaranty from CDA.
- (m) "Loan Guaranty." "Loan Guaranty" means a promise by DCD to answer for repayment of a debt or performance of an obligation of an Applicant, if that Applicant is primarily liable to a financial institution other than CDA and fails to make payment or perform the obligation.
- (n) "Mariculture." "Mariculture" means seawater farming or the cultivation of marine organisms and crops in their natural habitat.
- (o) "Occupation." "Occupation" means the principal or regular employment or activity in which one engages.

- (p) "Public Auditor." "Public Auditor" means the Public Auditor of the Commonwealth.
- (q) "Rancher." "Rancher" means an owner or manager of a ranch who raises livestock as an Occupation.
- (r) "Renewable Energy." "Renewable Energy" means any energy resource that is naturally regenerated over a short time scale and derived directly from the sun (such as thermal, photochemical and photoelectric), indirectly from the sun (such as wind, hydropower, and photosynthetic energy stored in biomass), or from other natural movements and mechanisms of the environment (such as geothermal and tidal energy). Renewable energy does not include energy resources derived from fossil fuels, waste products from fossil sources, or waste products from inorganic sources.

PART 100 - BOARD OF DIRECTORS

§ 25-10-101 Composition of the Board

The affairs of DCD shall be governed and controlled by the Board of Directors, which shall be composed of the seven (7) members of the CDA Board of Directors; members of the Board of Directors shall serve until their terms of office with the CDA Board expire.

§ 25-10-105 Quorum, Manner of Acting

Five (5) members of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. The act of the majority of the members present at a meeting at which a quorum is present shall be the act of the Board of Directors. A member who is unable to attend a particular meeting may authorize in writing another member in attendance to cast the absent member's vote upon any item of business properly noticed. This proxy representation may not be used for more than three consecutive meetings and may not be used to establish a quorum.

§ 25-10-110 Board Leadership

At the first meeting of each year, the Board of Directors shall elect a Chairman and Vice Chairman from amongst their members as the first item of business at that meeting. A member elected shall serve a one (1) year term or until his or her term as a member of the Board of Directors ends, whichever is less. A member may be elected for successive terms. Any vacancies in leadership created by resignation, removal or death shall be filled by election at the next regular or special meeting called for that purpose.

§ 25-10-115 Chairman

The Chairman shall preside over the meetings of the Board of Directors. He or she shall also have such powers and shall perform such duties as may from time to time be specified in resolutions or other directives of the Board of Directors. In the absence of such specifications, he or she shall have the necessary powers and authority and shall perform and discharge the duties normally associated with chairmen of similar public corporations.

§25-10-120 Vice Chairman

The Vice Chairman shall assume the duties and responsibilities of the Chairman in his or her absence; and shall also have such powers and shall perform such duties as may from time to time be specified in resolutions or other directives of the Board of Directors.

§ 25-10-125 Resignation

A member may resign at any time by delivering written notice of his or her resignation to the Chairman of the Board of Directors. Written notice must also be provided the Governor if he or she is also resigning from the CDA Board. The acceptance of such resignation shall not be necessary to make it effective and shall take effect at the time specified therein. Upon resignation, the member shall cease to sit on the Board of Directors and shall not be included in any quorum count.

§ 25-10-130 Removal

A member may only be removed before the expiration of his or her term by the Governor and on grounds of gross neglect or dereliction of duty, breach of fiduciary duty, conviction of a felony or mental or physical incapacity. Upon removal, the member shall cease to sit on the Board of Directors and shall not be included in any quorum count.

§ 25-10-135 Quarterly Meetings

The Board of Directors shall meet at least once each quarter at a time and place designated by the Chairman. An agenda for and notice of the meeting shall be delivered to each member at least fourteen (14) days prior to the meeting.

§ 25-10-140 Special Meetings

The Chairman may convene other or special meetings of the Board of Directors on forty-eight (48) hours written notice to each member, which notice shall include the proposed agenda and the time and place for the meeting.

§ 25-10-145 Open and Closed Meetings

All meetings of the Board of Directors shall be open to the public during discussion of policies, procedures, and administrative and other non-confidential matters; and shall be closed to the public during discussion of personnel, financial, credit confidences, or any other privileged information related to or concerning Loan Applicants, projects and other matters of a confidential nature.

§ 25-10-150 Action Without Meeting

For urgent or in emergency situations, any action required or permitted to be taken at a meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed and approved by at least five (5) members. Such consent shall have the same force and effect as shall be as binding as if the same had been acted upon or consented to at a meeting of the Board of Directors duly convened and held.

§ 25-10-155 Minutes of Meeting

The Board of Directors shall cause to be kept written minutes of the proceedings of each of its meetings. The Board of Directors shall designate a secretary to keep its minutes and records who may or may not be a member of the Board of Directors.

§ 25-10-160 Compensation

The members of the Board of Directors shall be compensated pursuant to 1 CMC § 8247 and may be reimbursed in accordance with the Commonwealth law for any reasonable and necessary expenses incurred in the performance of their duties.

§ 25-10-165 Disclosure of Conflict

Any member who is directly or indirectly interested in any arrangement, transaction or business matter entered into, proposed or under consideration by the Board of Directors shall, as soon as possible after the relevant facts have come to his or her attention, disclose the nature of the interest to the Board of Directors. Any disclosure shall be recorded in the minutes of the meeting and, except as otherwise provided by a resolution, the conflicted member shall not take part after the disclosure in any deliberation or decision relating thereto, but may be counted as present for the purpose of forming a quorum for any such deliberation or decision. A willful failure to disclose a conflict of interest shall be a breach of duty and cause for immediate removal of the member from the Board of Directors.

§ 25-10-170 Contracting Authority

The Executive Director and the Chairman, or the Vice Chairman if the Chairman is absent, shall have the contracting authority for all matters pertaining to the operations of DCD, including, but

not limited to, the execution of loan documents, guarantees and other necessary agreements, contracts and checks. In the absence of the Chairman and Vice Chairman, the Chairman or Vice Chairman of the CDA Board of Directors is authorized to act in his or her stead. At all times, the contracting officers shall comply with applicable procurement regulations.

PART 200 - DUTIES OF THE BOARD

§ 25-10-201 Oversight Authority

The Board of Directors shall oversee the administration of all Loans and other fund allocations to ensure that there is compliance with all Loan agreement provisions and fulfillment of the statutory purposes of DCD and those duties set forth in these Rules and Regulations.

§ 25-10-205 Loan Decisions and Approval

Pursuant to 4 CMC § 10306(a)(4) and delegation by the CDA Board, the Executive Director may review, reject, approve and make all decisions concerning Loan or Loan Guaranty applications of up to \$25,000 per Loan Applicant. A report of all Loans so handled shall be included by the Executive Director in his or her quarterly reports to the Board of Directors. *See* §25-10-1410. All Loan or Loan Guaranty applications of more than \$25,000 per Loan Applicant shall be reviewed by the Executive Director and then shall be submitted to the Board of Directors for all necessary approvals, disapproval or decisions relating thereto.

§ 25-10-210 Annual Reports

The Board of Directors shall prepare a report of its activities at the end of each fiscal year and shall submit the same to the CDA Board of Directors for incorporation into the CDA Annual Report to be forwarded to the Governor and Legislature.

§ 25-10-215 Operating Budget

The Board of Directors shall prepare an annual operating budget for DCD and shall submit such budget for approval by the CDA Board of Directors.

§ 25-10-220 Policies

As it deems it necessary, the Board of Directors may by resolution make policies regarding all DCD matters including, but not limited to, matters discussed in these Rules and Regulations, Loan applications, documents, forms, fees and administration, the form and manner of accepting and making payments; and the manner in which specific documents and notices are served and received by DCD.

PART 300 - OFFICERS

§ 25-10-301 CDA Officers.

The Executive Director and Comptroller of CDA shall also serve as the officers of DCD and shall exercise those duties and powers given to them under 4 CMC § 10306 for the benefit of DCD. The Executive Director shall be the officer primarily responsible to oversee, monitor and administer the DCD loans, subject to consultation with the Loan Manager and the DCD Board as directed by these regulations and in accordance with established policy and procedure.

§ 25-10-305 Delegation of Duties

The Board of Directors may from time to time delegate to an officer or its officers any of its power or authority given under these Rules and Regulations. Any officer to whom any powers or authority is so delegated may exercise the same in the same manner and with the same effect as if they had been conferred on him or her directly by these Rules and Regulations.

PART 400 - LOAN ELIGIBILITY AND AVAILABILITY

§ 25-10-401 Eligibility Policy

It is the policy of DCD that it shall not compete with any private banks or other financial institutions in the funding of private economic projects. ~~It is, therefore, recommended that borrowers first seek~~ Borrowers are encouraged to avail of financial assistance from established banks and other financial institutions before submitting a Loan application to DCD.

§ 25-10-405 Persons

Eligible Loan Applicants who are persons must be United States citizens or nationals and must have been domiciled in the Commonwealth for at least two (2) continuous years immediately preceding the submission of their Loan application.

§ 25-10-410 Partnerships and Associations

Eligible Loan Applicants who are partnerships or associations must be wholly owned by United States citizens or nationals who have been domiciled in the Commonwealth for at least two (2) continuous years immediately preceding the submission of the Loan application.

§ 25-10-415 Corporations

Eligible Loan Applicants who are corporations: must be organized under the laws of the Commonwealth and at least fifty-one percent (51%) of their capital stock issued, outstanding and entitled to vote must be owned and held by United States citizens or nationals who have been

domiciled in the Commonwealth for at least two (2) continuous years immediately preceding the submission of the Loan application; and must distribute profits to its stockholders in direct proportion to the number of shares held by each stockholder.

§ 25-10-417 Limited Liability Companies

Eligible Loan Applicants who are limited liability companies (LLCs) must be wholly owned by United States citizens or nationals who have been domiciled in the Commonwealth for at least two (2) continuous years immediately preceding the submission of the loan application.

§ 25-10-420 Farmer, Rancher, Fisherman

Eligible Loan Applicants who are Farmers, Ranchers or Fishermen must be, by definition and Occupation, Farmers, Ranchers or Fishermen.

§ 25-10-425 Farm and Ranch Loans

A Farm or Ranch Loan is a Loan that uses funds reserved for farmers, fishermen, agricultural and marine cooperatives in Covenant § 702(c), and that is made for the purpose of: purchasing farm and ranch equipment such as tractors, plows and other attachments for tractors, tillers, hand tools, related shop tools, repair parts, seeds, plants, fertilizers, farm chemicals, planters, livestock and poultry or specialized equipment and fixtures designed solely for the raising of crops, livestock, poultry or egg production, building shelters for farm machinery, livestock or poultry; or providing reasonable, one-time, start-up operating funds. The foregoing is not to be interpreted as an all comprehensive list and is subject to expansion by the Board of Directors. A Farm or Ranch Loan may or may not be made for the purpose of mariculture or aquiculture activities. Over the road vehicles such as trucks and pick-ups may be included in a Farm or Ranch Loan; however, such vehicles must be used at least sixty percent (60%) of the time (in hours) for actual farming and ranching activities. ~~Sedans and other enclosed motor vehicles, such as extra cab pick-ups, shall not be included.~~

§ 25-10-430 Fishing Loans

A Fishing Loan is a Loan that uses funds reserved for farmers, fishermen, agricultural and marine cooperatives in Covenant § 702(c), and that is made for the purpose of: purchasing boats, boat trailers, ships, fishing gear, safety equipment, ship-to-shore radios, cooler boxes and other directly related fishing equipment, or providing reasonable, one-time, start-up operating funds. Fishing loans are limited to commercial fishing ventures, sport fishing does not qualify. Over the road vehicles such as trucks and pickups may be included in a Fishing Loan; however, such vehicles must be used at least sixty percent (60%) of the time (in hours) for actual fishing activities, such as the launching or dry storage of fishing boats. ~~Sedans and other enclosed motor vehicles, such as extra cab pick-ups, shall not be included.~~

§ 25-10-435 Commercial Loans

All Loans that are not considered Farm, Ranch or Fishing Loans are considered Commercial Loans.

§ 25-10-440 All Loans Callable

The repayment terms for all Loans shall not be more than thirty (30) years and shall be callable every five (5) years, but the repayment terms must be fully amortized over the total period given. Upon the 1st five years maturity and for term continuance on the remainder of the given period, the Loan Manager and the Executive Director must determine that there is sufficient cash flow for debt service requirement and that the Loan is not subject to any adverse financial condition before allowing said Loan to continue until again callable five (5) years hence.

§ 25-10-445 Percentage of Available. Cash, Direct Loan

DCD shall not make any direct Loan if, at the time for approval, such Loan would exceed twenty-five percent (25%) of the total uncommitted cash then available to Loan Applicants under the particular category of Loans for which the Loan Applicant applied.

§ 25-10-450 Percentage of Available Cash, Loan Guaranty

DCD shall not guarantee any bank loan or participate in any Loan Guaranty if, at the time for approval, such Loan Guaranty would exceed twenty-five percent (25%) of total uncommitted cash then available to Loan Applicants under the particular category of Loans for which the Loan Applicant applied.

§ 25-10-455 Percentage of Available Cash, Exceptional Cases

In exceptional cases meriting special consideration, the limits set forth in Sections 6.10 and 6.11 may be exceeded provided the Loan or Loan Guaranty is of high economic benefit to the Commonwealth (as determined by a statement on economic priorities issued by CDA) and the Loan is fully and sufficiently secured. In such exceptional cases, DCD may enter into a syndicated financial arrangement in an effort to limit the exposure of DCD to only twenty-five percent (25%) of its then uncommitted cash.

§ 25-10-460 Ancillary Services

DCD may provide ancillary services to a borrower, in connection with a Loan or other financing activities by DCD, when it would not be practical for such services to be provided by another financing institution.

PART 500 - CREDITWORTHINESS AND RESTRICTIONS

§ 25-10-501 Determination of Creditworthiness

In all cases, the Board of Directors shall be responsible for determining the creditworthiness of each Loan Applicant.

§ 25-10-505 Requirements and Criteria

In making its determination, the Board of Directors must evaluate the Loan application based on the following general credit requirements and credit underwriting criteria:

- (a) The Loan Applicant must be of good financial and moral character;
- (b) Evidence pertaining to the credit worthiness of the Loan Applicant obtained under the Fair Credit Reporting Act (15 U.S.C. § 1681) or other applicable laws;
- (c) The Loan Applicant must demonstrate an ability to operate a successful business;
- (d) The Loan Applicant ~~must be willing~~ may be required to provide DCD with evidence of a reasonable investment of equity in cash or in-kind of not less than twenty percent (20%) of the total project cost to ensure that the Loan Applicant has an appropriate stake in the venture;
- (e) The Loan Applicant must show that the proposed loan is of sound business and economic potential to the respective community in which it will operate; and
- (f) The Loan Applicant must show that the past earnings, if any, and future prospects and potential earnings of the business or project indicates the ability to repay the Loan and other fixed debt, if any, out of earnings.

§ 25-10-510 Restrictions

No Loan Applicant shall be qualified or granted a Loan if:

- (a) The Loan Applicant was a controlling shareholder or a manager of an association or a corporation that, at any time during the three (3) years immediately preceding the filing of the Loan application and during the period of control or management by the Loan Applicant, had been adjudicated bankrupt, filed for bankruptcy or been placed under receivership;
- (b) The Loan Applicant is in default of any debt, loan or any financial obligation at the time of filing the Loan application or if the Loan Applicant has a record of defaulting on previous loans or other credit extensions without justification;

- (c) Within three (3) years of the date of the Loan application, any property of the Loan Applicant was actually foreclosed upon, or taken and sold at foreclosure sale to satisfy any debt owed to a creditor by the Loan Applicant;
- (d) The Loan proceeds are to be used for a hobby, personal entertainment or personal pleasure; or
- (e) The Loan is not fully secured by sufficient securities or collateral.

§ 25-10-515 Additional Restrictions

In addition to the above restrictions, the Board of Directors shall not make or approve a Loan or Loan Guaranty:

- (a) If funds are otherwise available on reasonable terms from other sources, including but not limited to personal resources, commercial banks, savings and loan associations and credit unions. ~~Evidence that such funds are not available shall be in the form of at least three declination letters from three other sources, each stating that the applicant was denied a loan for reasons other than: (i) an incomplete application, (ii) insufficient security, (iii) insufficient documentation, or (iv) bad credit.~~
- (b) If Loan proceeds are to be used for illegal and/or immoral activities;
- (c) For the purpose of refinancing a debt not connected with the Loan;
- (d) For the purpose of providing short term financing, except as necessary in connection with medium or long-term assistance by DCD.

PART 600 - LOAN APPLICATION REQUIREMENTS AND REVIEW

§ 25-10-601 Application Review

Loan applications shall be considered and reviewed only after they are complete. A Loan application shall not be considered complete until all necessary documents, including, but not limited to, security and collateral documents and government permits, have been obtained and received and all applicable fees have been paid.

§ 25-10-605 Application Documents

For all Loans and the continuance of all Loans, the Loan Manager and the Executive Director ~~shall ensure that~~ may request for the following loan documents, as applicable, are obtained:

- (a) A certification letter from the Loan Manager to the Executive Director that he/she has inspected the individual business establishment and has determined that the business is still in

engaged in the same operation mode and that there **is are** no adverse financial conditions preventing recommendation of the new loan, renewal or continuance.

(b) Interim and last three years Financial Statements (Income Statement & Balance Sheet) and last three years Audited Financial Statement with supporting schedules for loans over \$250,000.00.

(c) Personal Financial Statements for current year of owner or major stockholders and Individual Tax Returns (filed) with all schedules for the last **three two** years.

(d) Current year and last two years Business Gross Receipts Tax (BGRT) & last three years Corporate Income Tax Returns (Form 1120CM) with all schedules.

(e) Inventory Aging List, Accounts Receivables, Payables Aging Lists, Rent Rolls & Tenant Lists, & Rental/Lease Agreement.

(f) Hazard (fire/typhoon & earthquake) & liability insurance & life insurance policy.

(g) Most recent filed Business documents (*e.g.*, Business License(s), Articles of Incorporation or Organization, By-Laws, Certificate of Incorporation & Annual Report.

(h) Business Plan/Profile.

(i) Corporate Resolution to Borrow.

(j) Sketch Map of Business property.

(k) Recorded Warranty Deed, Deed of Gift or Certificate of Title & Land Management Approved Survey Property Map.

§ 25-10-610 Application Fee

DCD may, when the Loan application is made, charge each Loan Applicant an application fee not to exceed \$100.00. The application fee shall be credited to the closing costs if the Loan is made. If the Loan application is not approved, or the borrower cancels the Loan application prior to approval, the deposit fee will not be returned to the Loan Applicant.

§ 25-10-615 Incomplete Application

A pending Loan application shall be deemed to have been removed from consideration if incomplete and if the Loan Applicant has been notified in writing of such defect and has not corrected the defect within thirty (30) days of such notification.

§ 25-10-620 Loan Approval

No Loan Applicant shall be deemed to have been granted a Loan unless and until the Executive Director, or his or her designee, so notifies the Loan Applicant in writing and the Loan Applicant indicates his acceptance in writing. Notice by any other DCD employee or member of the Board of Directors, verbally or otherwise, shall be invalid and have no effect and may subject said person to disciplinary action.

§ 25-10-625 Rejection of Application

The Executive Director and the Chairman are authorized to cancel a conditionally approved Loan if the conditions set out in the approval letter are not fulfilled within ninety (90) days after the receipt of such letter by the Loan Applicant.

§ 25-10-630 Loan Interest Rates

DCD shall review and from time to time recommend to the CDA Board of Directors the rates of interest to be assessed its borrowers or any particular borrower. A recommended rate may not exceed the rate authorized by law; and in recommending interest rates DCD shall consider the costs of capitalization, its own administrative expenses in relation to its Loans, overall prevailing market rates, and other economic indicators. DCD may also recommend special interest rates for projects and other undertakings which serve particular socio-economic needs, but with due regard for the overall need of DCD to recover its costs.

§ 25-10-635 Loan Fees

Loan Applicants shall pay all fees necessary or incidental to their Loans. Such fees may include, but are not limited to, recording fees, notary fees, returned check fees, appraisal fees, certified public accounting fees in the event such is required by the Board of Directors and any legal fees incurred by DCD for the drafting of documents necessary for the Loan. In the case of direct Loans and at the request of the Loan Applicant, loan fees may be included in the total Loan amount; in the case of a Loan Guaranty, the Loan Applicant shall be required to remit all Loan Fees to DCD prior to the execution of the Guaranty agreement.

§ 25-10-640 Loan Closing Service Charge

In addition to any Loan Fees, DCD shall assess each Loan Applicant a processing service charge equal to one-half (2) of one percent (1%) of the total amount of the Loan plus all applicable legal fees but not less than \$125.00. In the case of direct Loans and at the request of the Loan Applicant, the service charge may be included in the total Loan amount; in the case of a Loan Guaranty, the Loan Applicant shall be required to remit the service charge to DCD prior to the execution of the Guaranty agreement.

§ 25-10-645 Posting and Revision of Fees

All fees and charges may be reviewed and revised by the Board of Directors. The fees set forth in these Rules and Regulations shall continue in force and effect until reviewed and revised by the Board of Directors. Publication of any revised fees or new fees shall be by posting a schedule of revised fees in the offices of CDA. No amendment of these Rules and Regulations or further publication in the CNMI Register of any revised or new fees shall be required.

§ 25-10-650 Borrower Records

The Board of Directors may, as deemed necessary, require its borrowers to keep records and accounts in accordance with sound and generally accepted business practices, and may require them to furnish necessary information regarding their business operations and accounts. DCD retains the right to inspect its borrowers' finances, as well their operations, records, and books of accounts. The Board of Directors is further authorized to retain an independent accounting firm to perform the compilation and preparation of financial reports of a borrower, with the costs incurred being borne by the borrower.

§ 25-10-655 Renewable Energy Preference

Business plans and loan applications that incorporate Renewable Energy into their structures, utility and business models, and that make green energy part of their business approach, may be given loan approval preference over those business plans and loan applications that fail to incorporate Renewable Energy into their businesses.

PART 700 - CONSTRUCTION LOAN REQUIREMENTS

§ 25-10-701 Construction Requirements.

In addition to all other submission requirements, a Loan Applicant seeking to construct a building with Loan proceeds is required to submit the following documents:

- (a) Complete plans and specifications of the building or improvements to be constructed approved by a certified professional engineer;
- (b) A schematic drawing of the building and its proposed location;
- (c) A certification from the Commonwealth Utility Corporation that adequate water service and electricity are available on the premise where the project will be situated;
- (d) A certification from other appropriate government agencies that the proposed project will not have a negative impact to the existing community and environment including the effect of any applicable zoning laws;

- (e) A signed copy of the construction contract between the builder and the owner showing, among other things, that DCD is not subject to any liability before, during or after construction is completed;
- (f) An original copy of the performance and payment bond covering the total amount contracted;
- (g) An original copy of the workmen's compensation insurance policy;
- (h) A signed copy of the construction management contract between the construction manager and the owner. The manager must be licensed to do business in the Commonwealth and must possess a thorough knowledge in construction management. A provision in the construction management contract should provide that the manager must ensure that the project is thoroughly inspected by qualified inspectors and conforms to approved plans and specifications. In addition, the contract shall contain a provision imposing personal liability on the manager for non-performance under the management contract;
- (i) Cost breakdown for description of materials; and
- (j) Builder's Risk Insurance should be obtained with CDA as loss payee; and

(k) The DCD Board may waive any of the above requirements with adequate justification of a borrower's resources and experience, sufficient collateral to support the loan request, and with controlled disbursements, based on percentage of project completion. Most especially since the Northern Mariana Islands has smaller communities and limited access and higher costs associated with those type of services and professionals on their respective islands, which are sometimes exacerbated by extenuating circumstances beyond control.

§ 25-10-705 Construction Loan Disbursement

Disbursements will be done based on stages of construction completion pursuant to a request for payment, certified by the contractor, borrower and the bonding company, with a certification letter from the construction manager as to the status of project. Of the amount requested, ten percent (10%) will be retained until completion of the project and expiration of any mechanic's lien period. Upon completion of the project, borrower shall submit: a completion certification, a release of mechanic's lien, an affidavit that all liens have been paid, a contractor's warranty, a certificate of occupancy, an insurance policy on building with CDA as loss payee, and proper government agency approval of any septic tank, if applicable.

PART 800 - LOAN GUARANTY AND PARTICIPATION

§ 25-10-801 Loan Guaranty

DCD may guarantee up to ninety percent (90%) of the principal amount of a loan extended to a qualified Loan Applicant by a lender other than DCD. DCD must approve of the lender's administration and default policies before agreeing to guarantee any loan. DCD shall set aside as a reserve not less than twenty-five percent (25%) of the amount of a guaranteed loan. A Loan Guaranty must meet and satisfy the same criteria as a direct Loan including, but not limited to, the disbursement requirements of Section 13.2 and the requirements and restrictions of Part 500, exclusive of § 25-10-515(a).

§ 25-10-805 One Percent Interest Rate

The lender shall impose a one percent (1%) per annum interest rate, which shall be collected by the lender for DCD. This interest rate shall be in addition to the interest rate to be charged by the lender under the terms and provisions of its loan, and shall be assessed and collected first, before the interest rate to be charged by the lender. The lender shall collect and remit the one percent (1%) per annum interest rate to DCD on a quarterly basis.

§ 25-10-810 Loan Guaranty Documents

The Board of Directors shall approve and adopt a standard Guaranty agreement for use with all participating lenders. The Guaranty agreement shall include terms and conditions deemed reasonable and necessary for the protection and purposes of DCD including, but not limited to: (a) a maximum term of five (5) years; (b) language prohibiting amendments or addendums to a CDA Guaranty; (c) language prohibiting the subordination of any of CDA's rights under its guaranty; and (d) with any 90% guaranty, language requiring the lender to complete the foreclosure process before calling the guaranty.

§ 25-10-815 Examination of Account

Upon its request and at all reasonable times, DCD shall be entitled to examine and audit the borrower's account with lender and copies of any security instruments or loan documents held by lender which relate to disbursements or advances made, or to be made, under the Loan Guaranty.

§ 25-10-820 Loan Participation Program

The Board of Directors may jointly participate with banks or other financial institutions in financing a loan to an eligible Loan Applicant. The terms and conditions of the financial participation must be approved by the Board of Directors. DCD and the bank or lending institution shall share the collateral interest on any security for the loan in direct proportion to their loan exposure. The period of repayment may not be more than the period authorized by these Rules and Regulations.

§ 25-10-825 Private Projects

The Board of Directors may elect to participate in an ongoing or new private sector project or undertaking to further the purpose of DCD. In determining whether or not to participate, the following shall be considered:

- (a) Whether there are any other private sector lending institutions in the Commonwealth which may participate;
- (b) To what extent DCD is committing its financial and technical resources for the particular project;
- (c) If the project is new to the Commonwealth, or an island in the Commonwealth, would such participation protect the future participation of Commonwealth citizens; and
- (d) Is it in the best interest of the Commonwealth for DCD to participate. If a determination is made to participate, the Board of Directors shall ensure that DCD's interests are fully secured and that the total amount of funding made available for any given private project is determined solely by the Board of Directors.

PART 900 - SECURITY

§ 25-10-901 Security Policy

DCD shall secure its Loans and Loan Guaranties in accordance with sound lending practices, provided that in doing so, DCD shall have due regard for its purposes to promote economic development in the Commonwealth.

§ 25-10-905 First Mortgage on Real Estate

Wherever possible, all Loans shall be secured by a fee-simple, first mortgage or deed of trust interest in real estate and improvements. First position of any mortgage shall be proven by the submission of a preliminary title report (PTR) from a CNMI licensed title insurance company. The allowable Loan to be secured by any fee simple real estate first mortgage on unimproved bare land shall not exceed ~~forty~~ ~~sixty~~ percent (~~50%~~ ~~60%~~) of the appraised value of the land. The allowable Loan to be secured by any fee simple real estate first mortgage on improved land shall not exceed ~~sixty~~ ~~seventy~~ percent (~~60%~~ ~~70%~~) of the appraised value of the land, including improvements and proposed improvements.

§ 25-10-910 Second Mortgage on Real Estate

Secondary mortgages are discouraged, but may be allowed if a Loan application has a strong economic feasibility and potential for success, the Loan Applicant has a good credit rating and excellent repayment ability, and the total outstanding principal debt of the holder of the first security interest and the proposed second mortgage shall not exceed more than thirty percent (30%) of the appraised value of the land for unimproved bare land or forty percent (40%) of the appraised value of the land for improved land and proposed improvements. Third mortgages shall not be accepted.

§ 25-10-915 Leasehold Mortgage

The total loan allowable on the first leasehold mortgage interest given as security shall not exceed fifty percent (50%) of the appraised leasehold value (existing as well as proposed leasehold improvements), but excluding the underlying value of the fee simple land. No loan secured only by a leasehold mortgage shall have a repayment term that is greater than the remaining term of the mortgaged lease. Prior to accepting a mortgage on a lease, the borrower shall obtain for DCD an estoppel certificate from the fee simple landowner certifying that the lease is in full force and effect and consenting to the mortgage of the leasehold interest.

§ 25-10-920 Chattel Mortgage and Inventories

Loans may further be secured by a chattel mortgage or a security interest on personal and/or business properties provided that such Loan amounts shall not exceed forty percent (40%) of the value of such personal and/or business properties, or of the purchase price thereof, whichever is lower, and provided that DCD receives a first lien on the chattel mortgage or security interest. Crops or agricultural products such as livestock, poultry and fish may not be used as security for any Loan due to their perishable nature.

§ 25-10-925 Additional Security

In addition to any one or combination of the above securities, the Board of Directors shall require individual guaranties from the shareholders of a corporation, the partners in an association or partnership and the owners and members of an LLC. The Board of Directors may also require individual guaranties from directors of a corporation and other managers of the loan applicant and may require an assignment of receivables and/or assignment of life or mortgage insurance from each Loan Applicant. All guarantors, endorsers or other cosigners are subject to the same credit underwriting standards as the principal loan applicant.

§ 25-10-930 Appraisals

The Board of Directors in determining the sufficiency of any real or personal property offered as security shall use the current market value of the property, and **shall may** require a complete appraisal report for all Loans greater than \$25,000 or a letter of appraisal (*i.e.*, curbstone

appraisal) for all Loans less than \$25,000, subject to the discretion of the Executive Director. All appraisals shall be by an appraiser approved and engaged by DCD. DCD shall contact the appraiser and order the appraisal; however, the cost of, and any expenses associated with, the appraisal shall be paid by and be the obligation of the Loan Applicant. The Board of Directors shall only approve and engage qualified appraisers who are U.S. educated, and who are licensed and authorized under applicable CNMI law to conduct business and to appraise commercial and residential property in the CNMI.

§ 25-10-935 Title Insurance

All Loans having real estate as security ~~should~~ may be required to have title insurance policies naming CDA as the loss payee. All title insurance and title reports submitted to CDA must be from a CNMI licensed title insurance company. The expense of title insurance, casualty insurance and title opinions shall be paid solely by the Loan Applicant.

PART 1000 - INSURANCE

§ 25-10-1001 Property & Casualty Insurance (“P&C”)

All Loans having real estate improvements as security shall have the necessary insurance policies insuring the improvements against any damage due to earthquake, fire, typhoon, and any other casualty and liability up to the full insurable value of the improvements. Such insurance shall be obtained from a company on the list of insurance companies approved by DCD and licensed to do business in the CNMI.

§ 25-10-1005 Surety

With respect to construction Loans, a Loan Applicant shall be required to produce a performance and a payment bond each covering the full value of the project, the improvements and the construction cost.

§ 25-10-1010 Life Insurance

All fishing, farming and agricultural borrowers are required to maintain adequate life insurance in an amount equal to or greater than the outstanding balance of their Loan principal, interest and fees. This requirement of life insurance may only be waived upon a showing of three (3) declination letters from three (3) DCD approved life insurance companies. Depending on the planned use of the Loan proceeds and/or the risks involved with the business ventures, DCD may also require general commercial Loan borrowers to maintain life insurance in amounts DCD deems sufficient to adequately cover the Loan proceeds and/or risks involved. On all life insurance policies covering Loans, DCD shall be named as the first or primary beneficiary. Upon approval of a Loan application, DCD shall inform the Loan Applicant of any life insurance requirement. In the event the Loan Applicant has an existing life insurance policy, with

coverage in excess of the Loan amount, the borrower may assign the benefits of the existing policy to DCD to satisfy the life insurance requirement. Unless the borrower has first obtained an acceptable waiver, no loan proceeds shall be disbursed to any borrower, until the requisite life insurance has been obtained and the first year premium has been paid in full.

§ 25-10-1015 P&C, Surety and Life Insurance Companies

Loan Applicants ~~shall~~ may be required to purchase all required insurance and bonds from any one of the several companies approved by DCD. DCD shall keep a list of such approved P&C, surety and life insurance companies for easy reference and the following shall apply:

- (a) Upon approval of the Loan Applicant's insurance application by the insurance firm, initial premiums may be paid, at the time of closing of the Loan, out of the first disbursement of loan proceeds;
- (b) Subsequent premiums shall be paid by the borrower in accordance with the insurance policies terms and conditions;
- (c) Should a borrower fail to pay any of the subsequent premiums, DCD may pay such premium on behalf of the borrower;
- (d) Should DCD pay such premium on behalf of the borrower, then the borrower's Loan shall be restructured to include the premium payment by DCD, and any related fees, in the principal amount owed. In the event a loan is restructured, the borrower shall be advised by DCD of the new monthly payment amounts.
- (e) Borrowers may, at any time during the term of their Loans, select a different insurance firm, as long as the newly selected insurance firm can satisfactorily meet the insurance requirements of DCD and is on the DCD approved list of companies; and
- (f) The insurance firm and the borrower are required to notify DCD, in a timely manner, when an insurance policy is in danger of expiring due to unpaid premiums; and when an insurance policy lapses due to nonpayment.
- (g) Should it choose, DCD may establish an escrow account for the purpose of collecting funds for necessary insurance. Such escrow accounts are to be administered as directed by the DCD Board.

§ 25-10-1020 Lapsed Coverage

In the event any borrower fails to obtain P&C, life insurance, property insurance or any other insurance required under the Loan documents or policies, or to maintain such insurance coverage, then the borrower shall be called in to meet with the DCD Loan Manager, and the following shall apply:

(a) The Loan Manager shall inform the borrower that, unless the necessary insurance is obtained or the policy is reinstated, the Loan will be declared to be in default.

(b) Upon approval of the borrower's insurance application by the insurance firm, DCD may pay the first year premium, on behalf of the borrower, and the Loan may be restructured to reflect the new principal amount including the premium paid by DCD.

PART 1100 - DISBURSEMENTS

§ 25-10-1101 Check Signing Authority

All checks issued by DCD shall contain two signatures, one of which shall be the Executive Director (or other official of DCD with check signing authority as approved by the Board of Directors of CDA) and the other by the Chairman (or Vice Chairman or the Chairman or Vice Chairman of the CDA Board of Directors in the absence of the Chairman or Vice Chairman). In the absence of both Chairmen and Vice Chairmen, the Board of Directors shall appoint one among its members to sign jointly with the Executive Director or other official of DCD.

§ 25-10-1105 Disbursement Requirements

No funds shall be disbursed unless the Loan application is complete and all documents have been fully reviewed and executed by all necessary parties and all fees and charges have been paid or added to the total loan amount. All disbursements are subject to the accounting procedures and policies set forth under the CDA Act and these Rules and Regulations. These disbursement requirements shall also apply to any funds guaranteed by DCD and disbursed by a private bank or lender.

§ 25-10-1110 Retained Proceeds

In the event an approved Loan is for a construction project and the contractor is not bonded, the standard withholding of ten percent (10%) of the project cost may be increased at the discretion of the Board of Directors. With each incremental payment, an amount equal to a minimum of ten percent (10%) of the incremental payment shall be withheld to assure that all subcontractors, materialmen and suppliers have been paid. Such withheld portion shall be released only after the project has been completed, upon finding by the Chairman, or his or her designee, that all the materialmen, subcontractors, and other suppliers have been paid.

§ 25-10-1115 Incremental Disbursements

Each construction increment shall be done according to plans and specifications and must be approved by the Loan Applicant or owner. Upon receipt of such approval, then such increment shall be inspected by the Executive Director, or his or her designee, to determine that the work

has been performed according to the plans and specifications. Upon approval of each increment by the Executive Director, or his or her designee, funds may accordingly be disbursed, subject to the ten percent (10%) withholding set forth above.

§ 25-10-1120 Purchase of Equipment and Materials

In the event that disbursements involve the purchase of equipment, materials or other properties then disbursements shall be made only upon the Loan Applicant producing satisfactory ~~receipts~~, invoices or receipts, purchase orders, or other types of evidences of the impending purchase. No further disbursement shall be made without first satisfying the previous disbursements with supporting documents.

§ 25-10-1125 Disbursement Discretion.

The Executive Director shall exercise his or her sound discretion in authorizing the release or disbursement of any approved Loan proceeds. All disbursements are to be used for approved purposes and as set forth in the Loan commitment/approval letter from DCD.

PART 1200 - PROFESSIONALS

§ 25-10-1201 Approved Professionals

All professionals who seek to be paid out of proceeds from a Loan, or who provide their services in connection with the Loan approval process, including without limitation, Accountants, Architects, Attorneys, Appraisers, Contractors, Engineers, Insurers, Lenders and Surveyors, must meet certain minimum requirements of qualification before payment for their services, or reliance on their opinions will be permitted.

§ 25-10-1205 Pre-Qualified List

The Board of Directors may cause to be published a request for proposals from professionals, setting forth the minimum qualifications and from the responses, create a pre-qualified list. At any time, professionals may submit their qualifications and request inclusion on the list.

§ 25-10-1210 Requirements

When establishing minimum qualifications, the Board of Directors may require, among other things: the possession of a Commonwealth business license for at least two (2) years in advance of the request for inclusion on the pre-qualified list; professional licensing from the relevant professional society; a client list of customers from the Commonwealth who can attest to the quality of the professional's work; and other proof of the ability of the professional to perform.

PART 1300 - FEASIBILITY STUDIES AND TECHNICAL ASSISTANCE

§ 25-10-1301 Feasibility Studies.

The Board of Directors, with the approval of the CDA Board of Directors, may authorize the total or partial funding of economic feasibility studies on specific projects in the areas of agriculture, aquiculture, mariculture, light industries, fishing and of other economic projects. With the approval of the CDA Board of Directors, DCD may hire a consultant or retain the services of a professional firm to perform the feasibility study or authorize a prospective loan applicant to perform such a study.

§ 25-10-1305 Results and Reports

The results of any feasibility studies undertaken solely by DCD shall be provided without charge to interested residents of the Commonwealth, except that a reasonable fee for printing and reproduction costs may be charged.

§ 25-10-1310 Technical Assistance

At its option and without obligation, the Board of Directors may provide, through its staff or by retaining the services of outside experts, consultants, architects, engineers, technical or management assistance to borrowers, businesses or to assure quality construction of any project undertaken or financed by DCD.

PART 1400 - LOAN SERVICING

§ 25-10-1401 Tracking System

The Executive Director shall institute a follow-up or tickler system and accounting system to assure that all the payments concerning all Loans are received in a timely fashion. Any accounting system required by law shall be followed. The system used shall include the ability to follow-up on insurance payments, principal and interest payments that are delinquent more than fifteen (15) days and production of any financial statements required pursuant to the Loan agreement.

§ 25-10-1405 Monthly Reports

For the first year, borrowers ~~shall~~ may be required to submit monthly reports to show exactly how the Loan proceeds are being spent. After this initial period, all Loans shall require a least an annual or semi-annual financial report from the borrowers together with a status report on the business. For Loans in excess of \$500,000.00, the Executive Director shall require a borrower to submit annual financial statements audited by a certified public accountant or other documentation displaying the financial condition of the borrower.

The Executive Director and the Loan Manager shall conduct a review every quarter on all Loans. As part of that review, the file documentation must be reviewed to ensure that the borrowers are providing all updated loan documents required by DCD. Each loan requirement must also be scrutinized to ensure that the borrower has satisfied all terms and conditions of the Loan agreement.

(a) The Executive Director shall supervise all lending activities and quality of Loans and shall assist the Loan Division with loan functions.

(b) The Executive Director shall ensure that all Loan applications and approved Loans are domiciled and serviced by the central office (Saipan) and that all such Loans approved are within the CNMI jurisdiction and that there is no deviation.

(c) The Executive Director and Loan Manager shall report to the Board of Directors any exceptions and or deviations revealed during the review.

(d) Any Loan application in excess of the Executive Director \$25,000.00 credit limit must be presented and reported to the Board or Directors for further review and final approval or disapproval.

~~(e) The Loan Manager shall develop a tickler for all required insurance policies showing the expiring policies for each Loan account. The Loan Manager shall insure that renewals are received thirty (30) days prior to policy expiration. These insurance policies must be updated. Should the borrowers be unable to update the policy, DCD has the option of purchasing the policy to protect its interest, but approval should be obtained from the Executive Director to add on any insurance costs.~~

(e) The Loan Manager must maintain an updated list of all Loans and guarantees.

(f) The Loan Manager must contact the borrowers ninety (90) days prior to the expiration of Loans to discuss renewal requirements.

(g) The Loan Manager shall insure that the handling of credit reports, insurance, documentation, filing and other administrative duties and functions of the credit division are in accordance to standard documentary procedure and lending policy.

(h) The Loan Manager shall prepare and submit to the Executive Director the month-end delinquent reports as well as track the recoveries of past due Loans, either performing, non-performing or Loans handled by attorneys.

(i) The Executive Director shall submit his/her Loan Quality Assurance & Control report to the Board of Directors for further review and disposition. This quarterly report is due on or before the tenth (10th) day following the quarter end.

§ 25-10-1415 Failure to Submit Reports

If a borrower fails to submit a **required requested** financial or status report, the Executive Director may order an investigation or audit of the financial condition of the borrower upon five (5) days written notice to the borrower. Any failure to submit the required reports or refusal to cooperate with an investigation or audit shall be deemed and considered an event of default under the Loan.

§ 25-10-1420 Executive Director Meetings and Reports

Borrowers shall be required to meet with the Executive Director, or his or her designee, as often as the Executive Director deems is necessary to discuss Loan problems or review business records.

PART 1500 - LOAN REPAYMENT

§ 25-10-1501 Term of Loan

The repayment period or term of a Loan may not exceed thirty (30) years, exclusive of any grace period, revisions or extensions. A Loan may not be revised or extended more than five (5) times, not including any revisions or extensions made prior to the 2005 amendment of these regulations. A Loan Applicant may be granted a term of more than twelve (12) years only if the Loan is secured by a first mortgage of sufficient real property. If the Loan is secured only by a second mortgage of real property, its term may not exceed twelve (12) years inclusive of any grace period, revisions or extensions. If the Loan is secured only by a chattel mortgage, its term may not exceed ~~three (3)~~ **five (5)** years, inclusive of any grace period, revisions or extensions, except upon submission of **audited** financial statements, **bank statements**, and approval of an increased term by the Board of Directors. When determining the term of Loan, the Board of Directors shall consider, among other things, the repayment capability of the Loan Applicant and the useful life of the assets to be acquired with the Loan.

§ 25-10-1505 Advance Payments and Early Payoff

There shall be no minimum repayment period requirement, prohibition, fee charge or penalty for an advance payment on or the early pay-off of a Loan.

§ 25-10-1510 No Assumption of Loan

No assumption shall be allowed of any Loan without the prior pre-approval of the Board of Directors. Any pre-approved assumption shall be conditioned on the qualification of the party seeking to assume the Loan as an eligible Loan Applicant.

§ 25-10-1515 Death of Borrower

Upon the death of a borrower, the entire unpaid balance of the Loan shall be immediately due and payable. First, the Loan Manager shall claim and collect any life insurance proceeds available to be applied toward the loan. If life insurance proceeds are insufficient, then the Board of Directors may allow assumption of the Loan by the heirs of the borrower if a final decree in the probate of the borrower identifies the heirs and approves distribution to them of the mortgaged property and Loan, and if the respective heirs themselves qualify as eligible Loan Applicant and execute all necessary documents. In the event the insurance proceeds are insufficient, and the Loan is unable to be assumed by heirs, then DCD shall pursue foreclosure and seek to collect its Loan in court.

§ 25-10-1520 Monthly Payments

All Loan payments shall be due and payable monthly. Monthly payments on the Loan shall be made in accordance with the executed Loan documents. Unless the Board of Directors agrees, or the Loan documents state, otherwise, timely monthly payments will first be applied against any accrued interest and then against the outstanding principal amount.

§ 25-10-1525 Past Due Payments

Any payments toward a delinquent Loan or that are past due or not made on or before the date they are due under the executed Loan documents shall first be applied against any outstanding out-of-pocket expenses and charges associated with the Loan including, but not limited to, legal fees, publication, insurance, court and appraisal costs, then against any accrued interest and finally against the outstanding principal amount.

§ 25-10-1530 Late Payment Fees

In accordance with the terms and conditions of the Loan documents, late payment fees may be charged each time a monthly payment is missed or delayed more than fifteen (15) calendar days. The amount of late payment fees shall be posted and as determined by the Board of Directors as circumstances require.

§ 25-10-1535 Additional Required Payments

It is a policy of DCD to continually foster economic development and, accordingly, borrowers shall be encouraged to pay-off their Loans as swiftly as they are able in order to better circulate

DCD's available loan funds. It shall be an understood and agreed upon condition of each Loan, that any proceeds generated by a Loan that exceed those required to operate and preserve the business should be used to pay down or pay-off the Loan.

PART 1600 - LOAN REVISIONS AND REFINANCING

§ 25-10-1601 Loan Revision

Subject to the approval of the Board of Directors, a borrower may request and receive a loan revision. A Loan may not be revised or extended more than five (5) times, not including any revisions or extensions made prior to the 2005 amendment of these regulations.

§ 25-10-1605 Loan Revision Fee

As a condition of every loan revision, the borrower shall be assessed and shall pay a loan revision fee equal to one quarter ~~(3)~~ (1/4 or .25) of one percent (1% or .01), which is equal to .0025 of the outstanding balance of the Loan plus any applicable legal fees but not less than \$125.00. Any assessed loan revision fee must be paid before a loan can be revised and may not be included in or added to principal amount of the loan. The Executive Director may exercise discretion in waiving a loan revision fee for those borrowers who are approved for a loan revision, due to financial hardship and/or other extenuating circumstances beyond their control.

§ 25-10-1610 Waiver of Interest and Late Fees

In general, it is a recognized policy that accrued interest and late fees shall not be waived. Further, in recognition of 4 CMC § 10402(f) and the fact that CDA pays its administrative expenses, in large part, out of earned interest on its loans, only the CDA Board can authorize the waiver of interest or fees and, even then, only as part of negotiated settlements or declared emergencies as set forth in §25-10-1615.

§ 25-10-1615 State of Emergency Relief

In the event the U.S. President declares a state of emergency for all or part of the CNMI, and in the event the declared emergency reasonably impacts some or all of the DCD borrowers, the CDA Board may waive interest and penalties for a period up to six (6) months for those borrowers who are both: (a) fully performing, current borrowers; ~~and~~ (b) who are affected by the declared emergency; and (c) judgment debtors.

§ 25-10-1620 Working With Borrowers

Subject to very real time and resource limitations, the Loan Division shall use its best efforts to

work with its delinquent borrowers to facilitate revisions in those situations where such an option is feasible, and the borrower is willing.

§ 25-10-1625 Loan Refinancing

Subject to the approval of the Board of Directors, a borrower whose Loan is current may refinance his or her Loan to take advantage of an available and reduced interest rate or to consolidate a supplemental DCD loan with his or her DCD Loan. In every refinance situation, the borrower must first be qualified as if she was a new DCD borrower, including the presentation of sufficient security and mortgages.

§ 25-10-1630 Loan Refinancing Fee

As a condition of every loan refinance, the borrower shall be assessed and shall pay a reasonable loan refinance fee to be set by the Board of Directors and posted in accordance with Section 8.10. Any assessed loan refinance fee must be paid before a loan can be refinanced and may not be included in or added to principal amount of the loan.

PART 1700 - LOAN COLLECTION AND FORECLOSURE

§ 25-10-1701 Monitoring.

The Executive Director and Loan Manager shall closely monitor the repayment of all Loans and shall prepare and issue reports for the Board of Directors as required by Section 16.3.

§ 25-10-1705 Fifteen Day Phone Call

If any payment is not received by the fifteenth (15th) day after its due date, then the Loan Manager, or his or her designee, ~~shall~~ may attempt to contact the borrower by telephone informing them of the payment default.

§ 25-10-1710 DCD Thirty Day Notice

If any payment is not received by the thirtieth (30th) day after its due date, then the Loan Manager, or his or her designee, shall again attempt to contact the borrower by telephone or by written letter informing them of the payment default.

§ 25-10-1715 DCD Sixty Day Notice

If any payment is not received by the sixtieth (60th) day after its due date, then the Loan Manager, or his or her designee, shall again attempt to contact the borrower by telephone or by written letter informing them of the payment default.

§ 25-10-1720 Demand Letter

If any payment is ninety (90) days or more delinquent, the matter shall be forwarded to CDA Legal Counsel together with a delinquency update showing the amount of principal, interest and fees needed to bring the Loan current. CDA Legal Counsel shall send the borrower a letter demanding payment within thirty (30) days.

§ 25-10-1725 Notice of Default.

If the borrower fails to bring the Loan current within the thirty (30) days stated in the Demand Letter, the Loan Manager, or his or her designee, may direct CDA Legal Counsel to send the borrower a Notice of Default in accordance with the Commonwealth's Mortgage Foreclosure Act (2 CMC § 4537, *et seq.*). The Loan Manager, or his or her designee, shall provide CDA Legal Counsel with an Account Update of all principal, interest and fees outstanding and the working file in order to facilitate the drafting of a Notice of Default. A Notice of Default must be served personally or by certified mail, return receipt requested, upon the borrower.

§ 25-10-1730 Other Defaults

If a borrower has defaulted for any reason other than the failure to make a monthly Loan payment, and notice of such default has been given to the borrower and the borrower has failed to cure said default within thirty (30) days or within the period provided for in the Loan documents, the Loan Manager, or his or her designee, may direct CDA Legal Counsel to send the borrower a Notice of Default and to commence foreclosure notwithstanding the fact that said default has not yet continued for the periods applied to defaults due to a failure to make a monthly payment.

§ 25-10-1735 Deed in Lieu of Foreclosure

(a) In the event of default, the Loan Manager, together with the Executive Director, may propose a deed in lieu of foreclosure to the defaulted borrower. For purposes of these regulations, a deed in lieu of foreclosure shall be defined as when the defaulted borrower voluntarily agrees to exchange by way of a deed all of his or her mortgaged property for the elimination of all or a part of his debt.

(b) Before any deed can be accepted, a clean Preliminary Title Report (PTR) and a current and approved appraisal must be obtained for the mortgaged property and the cost of such PTR and appraisal must be paid by the borrower. For purposes of this section, an appraisal shall be considered "current" if its "date of value" is within one (1) year of the date of the deed in lieu of foreclosure. The appraised value will be used for the value of the mortgaged property. In the event an appraisal value exceeds the outstanding balance of the defaulted loan, no credit or payment shall be made by CDA to the defaulted borrower for the difference. The value assigned the mortgaged property shall be the value of the loan only.

(c) Unless some other justifiable resolution is approved by the Board of Directors, any debt remains (anything above the appraised value of the mortgaged property), shall be reduced to a new note with new terms. If the defaulted borrower provides new and acceptable security for this new note, interest rates may be reduced; otherwise the interest rate on the new loan should remain the same as the rate for the old loan unless the Board of Directors otherwise approves.

(d) Only CDA mortgaged properties can be used for deeds in lieu of foreclosure. The Board of Directors may, however, upon recommendation of and justification by the Loan Manager and Executive Director approve deed(s) in lieu of foreclosure that convey the mortgaged properties plus or together with other unmortgaged property. Before such additional property can be accepted, a clean PTR and current approved appraisal must also be obtained for such unmortgaged property. Otherwise, no other, new or substitute property can qualify for a deed in lieu of foreclosure.

§ 25-10-1740 Complaint to Foreclose

After the Notice of default is served on the borrower, and if the borrower fails to cure the default in the time frame allowed, and in the manner directed by the Loan Manager or his or her designee, and if the deed in lieu of foreclosure option has been rejected by the borrower, then CDA Legal Counsel may be directed to file a lawsuit to collect the Loan and foreclose upon the mortgages.

§ 25-10-1745 Acceleration of Loan

Upon filing of the lawsuit, the Loan shall be accelerated and the entire principal balance plus any accrued interest shall become immediately due and payable. Prejudgment interest shall accrue on the principal at the rate established in the Loan agreement. Prior to the entry of a judgment, the borrower may have the right, as set forth by the law, to cure the default and bring the Loan current. After judgment, interest shall accrue at the rate established by law for judgments.

§ 25-10-1750 Judgment and Auction

Upon entry of a judgment in the lawsuit, a copy of the judgment shall be served upon the borrower. If the borrower fails to pay the entire judgment amount within three (3) months from the time borrower is served the copy of the judgment, all properties mortgaged as security for the Loan shall be noticed for sale. The Board of Directors shall set the minimum bid for any auction after considering the appraisal obtained, the outstanding loan balance and all other relevant documents. All auction notices shall include the minimum bid set by the Board of Directors, and shall provide notice that the Board of Directors reserves the right: to withdraw the mortgaged property from auction before the sale or before a bid for the property is accepted; to adjourn the auction without notice at any time before the mortgaged property is struck off, without incurring any liability whatsoever thereby; and to reject any and all bids. At auction, CDA may purchase the mortgaged property.

§ 25-10-1755 Multiple Properties

In the event of multiple real properties being noticed for sale, either the Executive Director or Loan Manager shall apportion the minimum bid for any sale of property in a manner so as to maximize the likelihood of sale and to maximize the possibility of recovery of all amounts owed DCD.

§ 25-10-1760 Certificate of Sale

If the property is sold at an auction, CDA Legal Counsel shall prepare a Certificate of Sale and shall deliver a copy to the buyer after recording the original.

§ 25-10-1765 Deed

After the one year redemption period, if the borrower has not redeemed the property, CDA Legal Counsel shall prepare a Deed to be executed in accordance with the Commonwealth's Mortgage Foreclosure Act and to be delivered to the buyer after filing.

§ 25-10-1770 Controlling Authority

If any of the above procedures conflict with any applicable provision of law or any term in any of the Loan documents, then said law or contractual term shall control.

§ 25-10-1775 Loan Revisions

A Loan being foreclosed or in financial difficulty may only be revised in accordance with Part 1600.

§ 25-10-1780 Settlement

All CDA obtained judgments are subject to settlement at the discretion of the Board of Directors, subject to the mutual agreement of the parties and a determination by the Board of Directors that such a settlement is reasonable and in the best interest of DCD and CDA.

§ 25-10-1785 Attorneys Fees

In accordance with all executed Loan documents, a borrower shall be responsible for, and his or her account shall be charged with, all reasonable expenses and legal fees incurred by DCD in the collection, foreclosure and monitoring of his or her Loan. Any payments toward a Loan to which fees and expenses have been charged shall first be applied against those outstanding fees, expenses and other charges, then against any accrued interest and finally against the outstanding principal amount.

§ 25-10-1790 Seizure of Chattel & Accounts

At CDA's option, if any payment is not received by the thirtieth (30th) day after its due date, then the Loan Manager, or his or her designee, may at any time after the thirtieth (30th) day, seize, secure and/or sell, in accordance with the chattel mortgage, security agreements or applicable law, any and all mortgaged chattels or other movable security or accounts including, but not limited to, automobiles, boats, furniture, fixtures, merchandise, machinery, inventory, equipment, appliances, bank accounts, accounts receivables and supplies.

§ 25-10-1795 Non-Collectible Debt

(a) The CDA Management shall take all reasonable steps to attempt to see that debts owed to it are satisfied prior to determining whether or not a particular debt should be classified as non-collectible. At a minimum, these steps should include (in no particular order):

(1) The CDA Management should conduct foreclosure sales on any and all property mortgaged to satisfy the debt.

(2) The CDA Management, in consultation with its attorneys, should seek an Order in Aid of Judgment to determine the most reasonable means by which to seek full satisfaction of the debt.

(3) The CDA Management should conduct a thorough and complete asset search to determine whether or not the debtor owns any property (not mortgaged to secure the debt) that can legally be utilized to satisfy the debt. Such asset searches should include, but not be limited to:

(i) A thorough grantor/grantee search of recorded documents with the CNMI Recorder's Office to determine what, if any, interests in non-mortgaged real property are owned by the debtor;

(ii) Employment of an asset search specialist, or the utilization of CDA personnel, to determine what, if any, interests in non-mortgaged personal property are owned by the debtor;

(iii) Any and all other reasonable steps the CDA Management may take to determine what property the debtor owns that is subject to collection within the CNMI and/or Guam, and as applicable in other jurisdictions; and

(iv) any and all other reasonable steps the CDA Management deems fit, in its discretion, under each individual circumstance.

(4) The CDA Management should, once a determination is made that the debtor owns an interest in real or personal property sufficient value to justify collection efforts, work in consultation with its attorneys to take any and all legal steps to utilize said property to satisfy the debt.

(5) The CDA Management should attempt, when reasonable, to implement a payment plan with debtors when any deficiency on an account remains after efforts to satisfy the debt through the collection and sale of a debtor's property. CDA shall develop a standard operating procedure by which it will assess a debtor's financial ability to participate meaningfully in a payment plan.

(b) If, after all reasonable efforts to satisfy the debt (including those specific steps mentioned above) have been exhausted, and the debt in question remains unpaid, the CDA Management is hereby directed to determine (by applying GAAP and its best judgment) whether the remaining debt should be declared non-collectible. When such a determination has been made, the CDA Management will present its recommendation for classification as non-collectible to this Board at the earliest practicable meeting, at which this Board shall consider the CDA Management's recommendation to declare the debt non-collectible. Should such a declaration be made, CDA may refer the remainder of the non-collectible debt to an appropriate collections attorney or collection agency and reflect that such debt is non-collectible in all future financial records and statements.

PART 1800 - FUNDS AND ACCOUNTING

§ 25-10-1801 Accounting Records and Reports

The Executive Director shall ensure at all times that accounting records and supporting documents are maintained to insure sound internal control. DCD shall use the accrual method of accounting. Monthly financial statements with detailed loan fund status reports must be prepared in accordance with Generally Accepted Accounting Principles and Practices (GAAPP) and copies thereof shall be provided to the Board of Directors.

§ 25-10-1805 Accounting System

A separate accounting system shall be used and maintained for the functions of DCD including its economic development loan fund activities. The accounts and statements of account of DCD shall be audited by the Public Auditor or an independent auditor approved by the Public Auditor. The fiscal year of DCD shall be identical with that of the Commonwealth Government.

§ 25-10-1810 Liquid Funds

DCD shall maintain sufficient liquid assets to be able to meet normal operating expenses and discharge its short-term liabilities and current maturities of any long-term indebtedness. DCD

funds not currently needed in liquidity shall be reinvested by the Board of Directors, to the extent permitted by law, in qualified investments which mature not later than the date on which such funds will be needed.

§ 25-10-1815 Accounts

DCD may, as it deems necessary, open and maintain savings and checking accounts and other investment forms with banks or savings and loan associations which are reputable financial firms and members of the Federal Reserve System or the Federal Deposit Insurance Corporation (FDIC). Money received by DCD shall be deposited into such accounts.

§ 25-10-1820 Collections

DCD shall cause to be collected and obtained: (a) from the Development Banking Division of CDA, all 702(c) Covenant funds, any appropriated or budgetary funds, and all assets of the EDLF existing prior to September 19, 1985; (b) all money to be received by or on behalf of DCD, with respect to repayment of any Loan made, including interest and other charges payable; (c) all money arising from property or investments acquired by or invested in by DCD; and (d) all other money and property due and payable to DCD. DCD shall not accept and hold deposits, but may hold evidence of deposits, or otherwise accept control of deposits, in other financial institutions.

§ 25-10-1825 Loan and Investment Amounts

The Board of Directors shall pay out of the DCD funds: (a) approved Loan or Loan Guaranty amounts; and (b) amounts approved for investment or equity participation, and participation in any projects and/or feasibility studies or technical assistance.

§ 25-10-1830 Operation Expenses

The Board of Directors shall pay out of funds available to DCD pursuant to 4 CMC § 10401(b)(1) and (b)(3) all expenses, costs and obligations incurred for the administration and operation of DCD. Payment under this section shall be in conformity with the operating budget, prepared and submitted to the CDA Board of Directors. *See* § 25-10-215.

§ 25-10-1835 Technical Assistance and Studies

The Board of Directors shall also pay out of funds available to DCD pursuant to 4 CMC § 10401(b)(1) and (b)(3) all amounts expended or obligated for technical assistance, economic studies, project evaluations and feasibility studies. Payment under this section shall also be in conformity with the operating budget, prepared and submitted to the CDA Board of Directors. *See* § 25-10-215.

§ 25-10-1840 Interest Tracking and Booking

DCD shall track accrued and unpaid interest for one hundred twenty (120) days, after which such interest shall continue to accrue but shall be booked (together with the underlying Loan) as non-performing and shall be isolated from amounts/funds able to be used for payment of CDA administrative and operating expenses.

PART 1900 - INVESTIGATIONS AND AUDITS

§ 25-10-1901 Investigations and Audits

The Board of Directors or the Executive Director may instruct a representative of DCD, or may contract with a qualified firm or person, to investigate or audit the accounts of any borrower in order to ascertain:

- (a) Whether the Loan has been used for the purposes for which it was granted;
- (b) Whether there is evidence or indication of future difficulties arising that might prevent the borrower from repaying the Loan in accordance with the Loan agreement; or
- (c) Whether management or other assistance is needed to improve the business operation.

§ 25-10-1905 Associated Fees for Costs

The Board of Directors may impose reasonable fees upon the borrower for performing the above services in order to recover its costs incurred.

PART 2000 - CONFLICTS AND CONFIDENTIALITY

§ 25-10-2001 Conflicts of Interest

As a mandated division of CDA, DCD follows and abides by the same conflicts of interest law and standards as CDA. The applicable conflicts of interest law and standards are set forth in 4 CMC § 10408.

§ 25-10-2005 Confidentiality

No member of the Board of Directors or DCD employee or officer who becomes privy to any confidential information, data figures, projections, estimates, customer lists, tax records, personnel history, accounting procedures, promotions and information otherwise privileged as a result of his or her membership shall reveal such information to any person, firm, corporation, or other entity outside the course of his or her official duties; nor shall he or she use such

information for his or her own personal gain. Nothing in this section shall prevent DCD from using and disclosing such information as is necessary to administer its Loans or collect amounts outstanding from the Loan Applicant or borrower.

§ 25-10-2010 Preparation of Loan Applications

No DCD employee, officer or member shall engage in the preparation of any Loan application; provided, however, that the Loan Department staff may assist a Loan Applicant in the preparation of a Loan application within the DCD office without compensation. If the staff assists the Loan Applicant, the Loan Applicant shall first waive any legal claims against the staff, DCD and CDA for any wrongful performance or alleged misrepresentation on the Loan application.

PART 2100 - VIOLATIONS OF RULES AND REGULATIONS

§ 25-10-2101 Known Violations

Known violations or possible violations of any provision contained in these Rules and Regulations shall immediately be reported to the Executive Director or other person designated for that purpose. The violation or possible violation shall then be promptly reported to the Board of Directors by the Executive Director.

§ 25-10-2105 Discovered Violations

If any DCD employee or member discovers irregularities in the use and enforcement of these Rules and Regulations, or has reasonable grounds to believe that these Rules and Regulations may have been violated, the employee or member shall report the matter to the Executive Director who shall furnish the Board of Directors with the information he or she has obtained.

§25-10-2110 Additional Information

It is the responsibility of the Executive Director, together with the Chairman, to review the information submitted, and request additional information necessary to make a determination as to whether there is substantial evidence of a violation of these Rules and Regulations or whether further investigation should be undertaken.

§ 25-10-2115 Penalties

If it is determined by the majority of the Board of Directors that an individual has violated any of the provisions of these Rules and Regulations, he or she shall be subject to the penalties provided by law, and to such additional disciplinary and other remedial action including, among others, dismissal, suspension, or reduction in job position, as is appropriate.



MARIANAS VISITORS AUTHORITY

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Public Notice of Proposed Amendments to the Procurement Regulations for the Marianas Visitors Authority


Notice of Intended Action: The Marianas Visitors Authority (MVA) approved the publication of the following amendments to its Procurement Regulations at its meeting of March 12, 2020. It intends to adopt these regulations as permanent, pursuant to the Administrative Procedure Act, 1 CMC § 9104(a). If adopted, these amendments will become effective ten days after publication of a Notice of Adoption in the Commonwealth Register. 1 CMC 9105(b).

Authority: These amendments are promulgated under the authority of 4 CMC 2124(d), which authorizes MVA to adopt procurement and supply regulations consistent with those of the Commonwealth government, and 4 CMC, 2128, which grants MVA the authority to adopt rules and regulations.

Terms and Substance: These proposed amendments would change the way the MVA conducts small purchases.

Directions for Filing and Publication: These proposed amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).

Comments: Interested parties may submit written comments **on** the proposed regulations to Marian Aldan-Pierce, MVA Board Chair, via U.S. mail to PO Box 500861, Saipan, MP 96950, or via email to info@mymarianas.com. Comments, data, views, or arguments are due within **30 days** from the date of publication of this notice. 1 CMC § 9104(a)(2).

Submitted by: 


Marian Aldan-Pierce, MVA Chair

Date: 06-25-2020

Received by: 

Date: 06/25/2020

Mathilda A. Rosario
Special Assistant for Administration

Filed and Recorded by: 

Date: 06.28.2020

Esther SN. Nesbitt
Commonwealth Register *ran*

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.



Date: 6/26/2020

Edward Manibusan
Attorney General

NMIAC § 90-20-205(a)

(a) The purchase of all supplies and materials and all construction works when the expenditure exceeds ~~\$25,000~~ \$10,000 shall be by contract let to the lowest responsible bidder.

NMIAC § 90-20-210 Small Purchases

(a) Any procurement not exceeding ~~\$25,000~~ \$10,000 may be made in accordance with small purchase procedures with this section. Procurement requirements shall not be artificially divided as to constitute a small purchase.

(b) Small Purchases of ~~\$5,000~~ \$1,000 or Less.

(1) The Chair of the MVA Board delegates the expenditure authority for purchases of ~~\$5,000.00~~ \$1,000.00 or less to the Managing Director.

(2) The Managing Director may make small purchases of ~~\$5,000~~ \$1,000 by any commercially reasonable method and shall exercise best efforts to ensure responsible expenditure of MVA funds. Purchase orders may be used for such transactions. Procurement requirements shall not be artificially divided so as to constitute a small purchase of ~~\$5,000~~ \$1,000 or less.

(3) The Managing Director shall maintain a small purchase log. For each small purchase, the log shall contain:

- (i) The date of the purchase;
- (ii) The name of the vendor;
- (iii) The goods or services purchased; and
- (iv) The purpose of the purchase.

(c) The Managing Director shall provide the small purchase log to any board member upon request.

(d) Small Purchases between ~~\$5,000.01~~ \$1,000.01 and ~~\$25,000.00~~ \$10,000.

(1) The Chair of the MVA Board is the expenditure authority for small purchases between ~~\$5,000.01~~ \$1,000.01 and ~~\$25,000~~ \$10,000.

(2) Insofar as it is practical for small purchases of goods or services between ~~\$5,000.01~~ \$1,000.01 and ~~\$25,000.00~~ \$10,000, no less than three businesses shall be solicited to submit written, electronic, or oral quotations that are recorded and placed in the procurement file. If fewer than three businesses submit quotations, the Managing Director shall certify, in writing, that there are fewer than three vendors available. Award shall be made to the business offering the lowest acceptable quotation.

- (3) The names of the businesses solicited to submit quotations, the names of the businesses submitting quotations, and the date and amount of each quotation shall be recorded and maintained as a public record.
- (4) Purchase orders may be used for procurement under this section.



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Nutisian Publiku put i Manmaproponi na Amenda para i Regulasion Procurement siha para i Mariãnas Visitors Authority


NUTISIAN I AKSION NI MA´INTENSIONA: I Mariãnas Visitors Authority (MVA) ha aprueba i publikasion nu i mantinattiyi na amenda siha para Regulasion “Procurement” ñiha gi huntan-ñiha gi Måtsu 12, 2020. I intensiona para u adãpta esti na regulasion siha komu petmanienti, sigun para i Åktun “Administrative Procedure”, 1 CMC § 9104(a). Komu ma´adãpta, esti siha na amenda umifektibu gi halum dies dihas dispues di publikasion nu i Nutisian i Adãptasion gi halum i Rehistran Commonwealth. 1 CMC 9105(b).

ÅTURIDÅT: Esti na amenda siha manmacho´gui gi papa´ i aturidåt nu 4 CMC **2124(d)**, ni aturisa i MVA para u adãpta i regulasion “procurement” yan suplika ni parehu yan i gubietnamentun Commonwealth, yan 4 CMC, 2128, ni munã´i i MVA i aturidåt para u adãpta i areklamentu yan regulasion siha.


I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA: Esti i manmaproponi na amenda siha ha tulaika siempri i MVA mankondukta i mandikiki´ na finãhan siha.

DIREKSION SIHA PARA U MAPO´LU YAN PUPBLIKASION: Esti i manmaproponi na amenda siha debi na u mapupblika gi halum i Rehistran Commonwealth gi halum i maproponi na seksiona yan nuebu na ma´adãpta na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi halum i kumbinienti na lugåt gi halum i Civic Center yan gi halum ufinisan gubietnamentu siha gi kada distritun senadot, parehu Inglis yan i dos na linguãhi natibu (1 CMC § 9104(a)(1)).

UPIÑON SIHA I intirisao na pãttida siña muna´halum tinigi´ upiñon put i manmaproponi na amenda siha guatu as Marian Aldan-Pierce, Kabesiyun Kuetpun MVA, via U.S. mail para PO Box 500861, Saipan, MP 96950, pat via email para info@mymarianas.com. I upiñon, infotmasion yan kuntestasion siha debi na u fanhãlum gi halum trenta (30) dihas ginin i kalendãriu publikasion esti na nutisia. 1 CMC § 9104(a) (2).

Nina'halum as: 
Marian Aldan-Pierce, MVA Kabesiyu

Fetcha: 06-25-2020

Rinisibi as: 
Mathilda A. Rosario
Ispisiât Na Ayudânti Para I Atministrasion

Fetcha: 06/25/2020

Pine'lu yan
Ninota as: 
Esther SN. Nesbitt
Rehistran Commonwealth

Fetcha: 06-28-2020

Hu sitifikâo, sigun para i 1 CMC § 2153(e) yan 1 CMC § 9104(a)(3), na hu ribisa yan aprueba esti siha na regulasion kumu para u fotma yan ligât na sufisienti.

 Fetcha: 6/26/2020
Edward Manibusan
Abugâdu Henerât



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**Arongorongol Toulap reel Pommwol Liiwel ngáli Mwóghutughutúl
Procurement ngáli Marianas Visitors Authority**

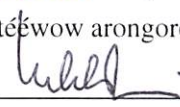
Arongorong reel Mángemángil Mwóghut: Marianas Visitors Authority (MVA) re átirowa akkatééwowul liiwek ikka e amwirimwiritiw ngáli Mwóghutughutúl Procurement reel aar yéélágh wóól Mááilap 12, 2020. Re mánagemángil rebwe adóptááli mwóghutughut bwe ebwe lléghló reel fféerúl, sáangi Administrative Procedure Act, 1 CMC § 9104(a). Ngáre re adóptááli, ebwe bwunguló liiwek kkal llól seigh ráál mwiril aal akkatééwow me llól Notice of Adoption me llól Commonwealth Register. 1 CMC 9105(b).

Bwangil : Ebwe arongowow liiwek kkal faal bwángil 4 CMC 2124(d), iye e ayoorai bwángiir MVA reel rebwe adóptááli mwóghutughutúl procurement me supply iye e weewe fengál me gobetnameentol Commonwealth, me 4 CMC, 2128, iye e aiti ngáliir MVA bwángiir reel rebwe adóptááli allégh me mwóghutughut.


Kkapsal me Aweewel: Pommwol liiwek kkal ebwe siiweli mwóghutughut MVA reel amééwal milikka e ghitighiit.

Afal reel Ammwelil me Akkatééwowul: Ebwe akkatééwow pommwol liiwek kkal me llól Commonwealth Register llól táilil pommwol me ffél mwóghutughut ikka ra adóptááli (1 CMC § 9102(A)(1)) me ebwe appaschetá llól civic center me bwal llól bwulasyiol gobetnameento llól senatorial district, fengál llól English me mwaliyaasch (1 CMC § 9104(a)(1)).

Kkapas: Schóó kka re mwuschel isiisilong ischil mánagemáng wóól pommwol mwóghutughut kkal rebwe isch ngáli Marian Aldan-Pierce, MVA Board Chair, via U.S. mail ngáli PO Box 500861, Saipan MP 96950, ngáre via email ngáli info@mymarianas.com. Kkapas, data, views, me angiingi ebwe toolong llól eliigh ráál mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2).

Isáliyalong: 
Marian Aldan-Pierce, MVA Chair

Ráál: 06-25-2020

Bwughiyal: 
Mathilda A. Rosario
Special Assistant ngáli Administration

Ráál: 06/25/2020

Ammwelil:  Ráál: 06-28-2020
Esther SN. Nesbitt
Commonwealth Register ^{for}

I alúghúlúgh, sáangi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3), bwe I ya takkal amwuri fischiiy me átirowa mwóghutughut kkal bwe aa ffil reel fféerúl me legal sufficiency.

 Ráál: 6/26/2020
Edward Manibusan
Soulemelemil Allégh Lapalap



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Commonwealth of the Northern Mariana Islands
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COMMISSION ORDER NO: 2020-002

Order Requiring Casino Licensee to Appoint a Chief Executive Officer

For good cause determined at the June 25, 2020 public meeting of the Commonwealth Casino Commission, which was duly publicly noticed, and based on the authority granted by the laws of the Commonwealth (including but not limited to Public Laws 18-56 and 19-24) and the Regulations of the Commonwealth Casino Commission, NMIAC Chapter 175-10.1, the Commonwealth Casino Commission hereby finds and **ORDERS AS FOLLOWS:**

1. WHEREAS, Section 2314(b)(2) of Title 4 of the Commonwealth Code requires the Commission to promulgate regulations as may be necessary to properly supervise, monitor and investigate to ensure the suitability and compliance with the legal, statutory and contractual obligations of owners, operators, and employees of casinos; and
2. WHEREAS, Section 2314(b)(3) of Title 4 of the Commonwealth Code requires the Commission to promulgate regulations which provide for "[t]he examination, supervision and monitoring of the continuing fiscal and financial capability of casino owners, operators, concessionaires and other parties with any direct relation to the sole casino and to protect the public in the event that such capability is significantly diminished"; and
3. WHEREAS, the Commission has, pursuant to the above statutory mandate, promulgated regulations found at NMIAC Chapter 175-10.1 et. seq. which address the financial suitability of the casino licensee for the protection of the gaming industry and the residents of the Commonwealth of the Northern Mariana Islands; and
4. WHEREAS, Regulation §175-10.1-1805(a) states: "The Commission deems any activity on the part of the casino gaming licensee, its agents, or employees, that is inimical to the public health, safety, morals, good order, and general welfare of the people of the Commonwealth, or that would reflect or tend to reflect discredit upon the Commonwealth of the Northern Mariana Islands or the gaming industry, to be an unsuitable method of operation and shall be grounds for disciplinary action by the Commission in accordance with the Act and the regulations." and
5. WHEREAS, it has come to the attention of the Commission that the casino licensee has been operating without an appointed Chief Executive Officer; and
6. WHEREAS, The Commission believes that the failure to appoint a Chief Executive Officer has led to grave mismanagement of the casino in the Third Senatorial District resulting in

the Commission's belief that, as presently constituted, the casino licensee is unable to comply with its contractual, regulatory and statutory obligations; and

7. WHEREAS, the Commission deems any licensee's unwillingness or inability to comply with contractual, regulatory, and statutory obligations an unsuitable method of operation and indicia of unsuitability to hold a license, and further specifically deems that the casino licensee's present and continuing failure to appoint and seek licensure of a Chief Executive Officer is an unsuitable method of operation and is inimical to the public health, safety, morals, good order, and general welfare of the people of the Commonwealth and further reflects discredit upon the gaming industry; and

8. WHEREAS, the Commission deems it necessary and proper to ensure the casino licensee is financially suitable and operating suitably by requiring the casino licensee to settle any outstanding obligations owed to the United States of America, the Commonwealth of the Northern Mariana, and the political agencies of either, make any contribution required by an agreement with a public entity, and immediately pay any outstanding obligation to any private entity if so ordered by a court of competent jurisdiction; **NOW, THEREFORE,**

9. **IT IS HEREBY ORDERED** that no later than fifteen (15) calendar days from the effective date of this Order, the casino licensee shall appoint a Chief Executive Officer and submit the appointee for licensure by the Commission. The appointee must meet the minimum standards for the Chief Executive Officer position required by the Regulations.

10. **IT IS HEREBY FURTHER ORDERED** that the Chief Executive Officer must be responsible for the casino licensee's compliance with all Federal and CNMI laws and regulations, all provisions of the Casino License Agreement (gaming and non-gaming), and all Commission Orders, Directives, and related mandates. The Chief Executive Officer must have the authority to bind and otherwise act on behalf of the casino licensee in all gaming and non-gaming matters including, but not limited to: gaming operations, finance, marketing, and the construction and operation of the integrated resort; and

11. **IT IS HEREBY FURTHER ORDERED** that the Commission Chairman or the Executive Director shall take steps necessary to ensure that this Order is published in the Commonwealth Register without reasonable delay; and

12. **IT IS HEREBY FURTHER ORDERED** that this Order is to take effect immediately or at the earliest time allowed by law, and shall remain in effect until it is repealed or replaced by subsequent Order of the Commission.

SO ORDERED this 25th day of June 2020.

Signature:



EDWARD DELEON GUERRERO
CHAIRMAN



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COMMISSION ORDER NO: 2020-003

Order Requiring Casino Licensee to Maintain Sufficient Working Capital to Pay Three Months' Payroll In a Bank in the CNMI or USA

For good cause determined at the June 25, 2020 public meeting of the Commonwealth Casino Commission, which was duly publicly noticed, and based on the authority granted by the laws of the Commonwealth (including but not limited to Public Laws 18-56 and 19-24) and the Regulations of the Commonwealth Casino Commission, NMIAC Chapter 175-10.1, the Commonwealth Casino Commission hereby finds and **ORDERS AS FOLLOWS:**

1. WHEREAS, Section 2314(b)(2) of Title 4 of the Commonwealth Code requires the Commission to promulgate regulations as may be necessary to properly supervise, monitor and investigate to ensure the suitability and compliance with the legal, statutory and contractual obligations of owners, operators, and employees of casinos; and
2. WHEREAS, Section 2314(b)(3) of Title 4 of the Commonwealth Code requires the Commission to promulgate regulations which provide for "[t]he examination, supervision and monitoring of the continuing fiscal and financial capability of casino owners, operators, concessionaires and other parties with any direct relation to the sole casino and to protect the public in the event that such capability is significantly diminished"; and
3. WHEREAS, the Commission has, pursuant to the above statutory mandate, promulgated regulations found at NMIAC Chapter 175-10.1 et. seq. which address the financial suitability of the casino licensee for the protection of the gaming industry and the residents of the Commonwealth of the Northern Mariana Islands; and
4. WHEREAS, Regulation §175-10.1-1805(a) states: "The Commission deems any activity on the part of the casino gaming licensee, its agents, or employees, that is inimical to the public health, safety, morals, good order, and general welfare of the people of the Commonwealth, or that would reflect or tend to reflect discredit upon the Commonwealth of the Northern Mariana Islands or the gaming industry, to be an unsuitable method of operation and shall be grounds for disciplinary action by the Commission in accordance with the Act and the regulations." and
5. WHEREAS, Regulation §175-10.1-1805(b)(15) declares the breaching of any contract an unsuitable method of operation which subjects the casino licensee to discipline; and
6. WHEREAS, Regulation §175-10.1-560(a) allows the Commission to adopt or revise a bankroll formula that specifies the minimum bankroll requirements applicable to the casino

gaming licensee, along with instructions for computing available bankroll. The formula adopted by the Commission may require the licensee to maintain a number of days of cash on hand, utilize a debt-to service ratio, or utilize any other ratio the Commission deems fit; and

7. WHEREAS, it has come to the attention of the Commission that the casino licensee has recently failed to pay its employees in a timely fashion as required by applicable law, regulation and business custom, for consecutive pay periods; and

8. WHEREAS, the Commission deems the licensee's unwillingness or inability to timely pay its employees as an unsuitable method of operation and indicia of unsuitability to hold a license, and further specifically deems that the failure to pay employees in a timely fashion is inimical to the public health, safety, morals, good order, and general welfare of the people of the Commonwealth and reflects discredit upon the gaming industry, and further calls into question the casino licensee's ability to pay winning patrons; and

9. WHEREAS, the failure to timely pay employees could be explained by difficulties with the bank wire transfer process, but ultimately is due to the fact that the casino licensee fails to keep sufficient funds on hand and readily available; and

10. WHEREAS, the Commission finds that, if the casino licensee fails to keep sufficient cash on hand to ensure timely payment of its employees, it likewise fails to keep sufficient cash or cash equivalents on hand in an amount sufficient to reasonably protect the licensee's patrons against defaults in gaming debts owed by the licensee such that the minimum bankroll formula must be supplemented by additional cash reserves; and

11. WHEREAS, the Commission deems it necessary and proper to ensure the casino licensee is financially suitable and operating suitably by requiring the casino licensee to maintain in the Commonwealth at all times funds sufficient to pay for three months' payroll, in addition to the previous minimum bankroll required by Regulation §175-10.1-560(a) as reflected in Commission Order 2019-002; **NOW, THEREFORE,**

12. **IT IS HEREBY ORDERED** that no later than thirty (30) calendar days from the effective date of this Order, the casino licensee shall maintain cash or cash equivalents in a restricted account in a bank in the CNMI or United States of America an amount sufficient to reasonably protect the licensee's employees against defaults of debts owed by the licensee as they become due; in no case shall the amount of cash or cash equivalents be less than three months worth of expected obligations, subject to the schedule listed in paragraph 13 below; and

13. **IT IS HEREBY FURTHER ORDERED** that: notwithstanding the foregoing:

A. For the first three months from the effective date of the Order, the casino licensee must reserve One (1) month payroll in advance for the August 2020 through October 2020 payrolls. Amount in reserve to be no less than \$1,400,000 regardless of actual payroll;

B. For the second three months, the casino licensee must reserve Two (2) months payroll in advance for the November 2020 through January 2021 payrolls. Amount in reserve to be no less than \$2,800,000 regardless of actual payroll;

C. For all months thereafter the casino licensee must reserve Three (3) Months payroll in advance beginning February 2021. Amount in reserve to be no less than \$4,200,000 regardless of actual payroll; and

14. **IT IS HEREBY FURTHER ORDERED** If at any time the licensee's available cash or cash equivalents should be less than the amount required by this Order, the licensee or operator shall immediately notify the Commission of this deficiency and shall also detail the means by which the licensee shall comply with the minimum capital requirements; and

15. **IT IS HEREBY FURTHER ORDERED** that the Commission Chairman or the Executive Director shall take steps necessary to ensure that this Order is published in the Commonwealth Register without reasonable delay; and

16. **IT IS HEREBY FURTHER ORDERED** that this Order is to take effect immediately or at the earliest time allowed by law, and shall remain in effect until it is repealed or replaced by subsequent Order of the Commission.

SO ORDERED this 25th day of June, 2020.

Signature: 
EDWARD DELEON GUERRERO
CHAIRMAN



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COMMISSION ORDER NO: 2020-004

Order Requiring Casino Licensee to Settle Accounts Payable

For good cause determined at the June 25, 2020 public meeting of the Commonwealth Casino Commission, which was duly publicly noticed, and based on the authority granted by the laws of the Commonwealth (including but not limited to Public Laws 18-56 and 19-24) and the Regulations of the Commonwealth Casino Commission, NMIAC Chapter 175-10.1, the Commonwealth Casino Commission hereby finds and **ORDERS AS FOLLOWS:**

1. WHEREAS, Section 2314(b)(2) of Title 4 of the Commonwealth Code requires the Commission to promulgate regulations as may be necessary to properly supervise, monitor and investigate to ensure the suitability and compliance with the legal, statutory and contractual obligations of owners, operators, and employees of casinos; and
2. WHEREAS, Section 2314(b)(3) of Title 4 of the Commonwealth Code requires the Commission to promulgate regulations which provide for “[t]he examination, supervision and monitoring of the continuing fiscal and financial capability of casino owners, operators, concessionaires and other parties with any direct relation to the sole casino and to protect the public in the event that such capability is significantly diminished”; and
3. WHEREAS, the Commission has, pursuant to the above statutory mandate, promulgated regulations found at NMIAC Chapter 175-10.1 et. seq. which address the financial suitability of the casino licensee for the protection of the gaming industry and the residents of the Commonwealth of the Northern Mariana Islands; and
4. WHEREAS, Regulation §175-10.1-1805(a) states: “The Commission deems any activity on the part of the casino gaming licensee, its agents, or employees, that is inimical to the public health, safety, morals, good order, and general welfare of the people of the Commonwealth, or that would reflect or tend to reflect discredit upon the Commonwealth of the Northern Mariana Islands or the gaming industry, to be an unsuitable method of operation and shall be grounds for disciplinary action by the Commission in accordance with the Act and the regulations.” and
5. WHEREAS, Regulation §175-10.1-1805(b)(15) declares the breaching of any contract an unsuitable method of operation which subjects the casino licensee to discipline; and
6. WHEREAS, it has come to the attention of the Commission that the casino licensee has outstanding accounts payable owed to public entities, or owed pursuant to agreements with

public entities, which call into question the casino licensee's willingness or ability to comply with its contractual, regulatory, and statutory obligations; and

7. WHEREAS, it has come to the attention of the Commission that the casino licensee has at least one outstanding amount payable owed to a private entity, has been ordered by the federal district court to make such payment, and has failed to make the payment ordered by the court, thereby requiring the authorities to execute on the judgment, which calls into question the casino licensee's willingness or ability to comply with its contractual, regulatory, and statutory obligations; and

8. WHEREAS, the Commission deems any licensee's unwillingness or inability to comply with contractual, regulatory, and statutory obligations an unsuitable method of operation and indicia of unsuitability to hold a license, and further specifically deems that the failure to pay an obligation to a public entity or contribution required by an agreement with a public entity when due is inimical to the public health, safety, morals, good order, and general welfare of the people of the Commonwealth and reflects discredit upon the gaming industry; and

9. WHEREAS, the Commission deems any licensee's unwillingness or inability to comply with an order of the federal district court an unsuitable method of operation and indicia of unsuitability to hold a license, and further specifically deems that the failure to pay an amount in full when ordered by a court of competent jurisdiction is inimical to the public health safety, morals, good order, and general welfare of the people of the Commonwealth and reflects discredit upon the gaming industry; and

10. WHEREAS, the Commission deems it necessary and proper to ensure the casino licensee is financially suitable and operating suitably by requiring the casino licensee to settle any outstanding obligations owed to the United States of America, the Commonwealth of the Northern Mariana, and the political agencies of either, make any contribution required by an agreement with a public entity, and immediately pay any outstanding obligation to any private entity if so ordered by a court of competent jurisdiction; **NOW, THEREFORE,**

11. **IT IS HEREBY ORDERED** that no later than thirty (30) calendar days from the effective date of this Order, the casino licensee shall: settle in full any payable or contribution owed to a public entity, including but not limited to the United States of America, the Commonwealth of the Northern Mariana, and the political agencies of either; immediately make any payment or contribution required by an agreement with a public entity; immediately pay any outstanding obligation to any private entity if so ordered by a court of competent jurisdiction; and immediately pay any debt owed to any private entity which is more than 89 days old; and

12. **IT IS HEREBY FURTHER ORDERED** that, "settle in full" referenced in paragraph 11 above means pay in full the amount owed if no settlement agreement or payment schedule exists, or paying the amount necessary to become current with any settlement agreement or payment schedule such that the licensee is not in arrears; and

13. **IT IS HEREBY FURTHER ORDERED** that, no later than thirty (30) calendar days from the effective date of this Order, the Chairman and highest ranking executive of the casino licensee must each, in writing, certify that:

- A. The casino licensee is a “going concern” as that phrase is commonly used in the area of financial accounting; and
- B. The casino licensee, as a business entity, is “solvent” as that word is commonly used in the area of financial accounting as of the date of certification; and
- C. The casino licensee has the present ability to pay debts as they mature and become due, and the casino licensee has paid all such debts within 90 days of their accrual such that no debt older than 89 days old exists as of the date of certification; and
- D. The casino licensee has the present ability to pay to public and private entities all payments required by contract, and the casino licensee has no such uncontested payment older than 89 days old as of the date of certification; and
- E. The casino licensee has the present ability to fully construct the entirety of the Initial Gaming Facility located in Garapan, Saipan, CNMI in accordance with all applicable laws, regulations and codes; and

14. **IT IS HEREBY FURTHER ORDERED** that, if the Chairman and highest ranking executive of the casino licensee cannot make some or all of the required certifications, the Chairman and executive must explain in writing the inability to so certify and provide an explanation why the certification cannot be made, and outline the steps the casino licensee will take to ensure that the required certifications can be made; and

15. **IT IS HEREBY FURTHER ORDERED** that the Chairman or the Executive Director shall take steps necessary to ensure that this Order is published in the Commonwealth Register without reasonable delay; and

16. **IT IS HEREBY FURTHER ORDERED** that this Order in no way amends or affects the casino licensee’s obligations pursuant to Commission Order 2020-001; and

17. **IT IS HEREBY FURTHER ORDERED** that this Order is to take effect immediately or at the earliest time allowed by law, and shall remain in effect until it is repealed or replaced by subsequent Order of the Commission.

SO ORDERED this 25th day of June 2020.

Signature: 
EDWARD DELEON GUERRERO
CHAIRMAN