



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

DEC 26 2001

The Honorable Joanne M. S. Brown  
Legislative Secretary  
I Mina'Bente Sais na Liheslaturan Guåhan  
Twenty-Sixth Guam Legislature  
Suite 200  
130 Aspinal Street  
Hagåtña, Guam 96910


OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>2:44 pm</u>
Date	<u>12-26-01</u>

Dear Legislative Secretary Brown:

Enclosed please find Bill No. 203 (COR) "AN ACT TO ADOPT THE GUAM ECONOMIC DEVELOPMENT AUTHORITY E-COMMERCE RULES AND REGULATIONS" which was I have signed into law as **Public Law No. 26-71**.

This legislation approves the e-commerce rules and regulations developed by the Guam Economic Development Authority. These rules were developed pursuant to Public Law No. 25-177 and describe the general procedures for obtaining a recommendation from GEDA for the issuance of a Qualifying Certificate to a global internet infrastructure services company, which provides Internet connectivity and co-location facilities and its tenant-sellers in the sales of goods, services and information over the Internet. These rules and regulations constitute all the rules governing the administration of the QC program for the Telecommunications Industry.

Very truly yours,

  
Carl T. C. Gutierrez  
I Maga'Lahen Guåhan  
Governor of Guam

Attachments: original bill for vetoed legislation or  
copy of bill for signed or overridden legislation  
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco  
Speaker

0629

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN  
2001 (FIRST) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 203 (COR) "AN ACT TO ADOPT THE GUAM ECONOMIC DEVELOPMENT AUTHORITY E-COMMERCE RULES AND REGULATIONS," was on the 7<sup>th</sup> day of December, 2001, duly and regularly passed.



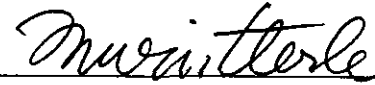
ANTONIO R. UNPINGCO  
Speaker

Attested:



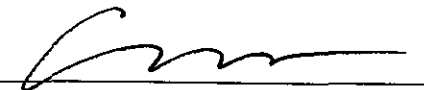
JOANNE M.S. BROWN  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahen Guåhan* this 20<sup>th</sup> day of December, 2001,  
at 1:35 o'clock P.M.



Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:



CARL T. C. GUTIERREZ  
*I Maga'lahen Guåhan*

Date: 12-26-01

Public Law No. 26-71

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

**Bill No. 203 (COR)**

As amended on the Floor.

Introduced by:

F. P. Camacho  
A. R. Unpingco  
J. F. Ada  
T. C. Ada  
F. B. Aguon, Jr.  
J. M.S. Brown  
E. B. Calvo  
M. C. Charfauros  
Mark Forbes  
L. F. Kasperbauer  
L. A. Leon Guerrero  
K. S. Moylan  
V. C. Pangelinan  
A. L.G. Santos  
J. T. Won Pat

**AN ACT TO ADOPT THE GUAM ECONOMIC  
DEVELOPMENT AUTHORITY E-COMMERCE  
RULES AND REGULATIONS.**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that Guam must seek new industries to diversify our economy and  
4 provide new opportunities for our People. A fast-growing and increasingly  
5 important new global trend is the use of the internet to accomplish business  
6 transactions. The Web is becoming the tool of choice for businesses of all

1 sorts, and their customers. Guam could see *substantial* economic and social  
2 benefits from the development of a thriving e-commerce community here.

3 The Guam Economic Development Authority ("GEDA") has developed  
4 rules and regulations to attract new businesses and developers interested in e-  
5 commerce. *I Liheslaturan Guåhan* finds that these rules and regulations should  
6 be approved to help foster the growth of this important new industry.

7 **Section 2. Approval of GEDA E-Commerce Rules and Regulations.**

8 The following rules and regulations for the Guam Economic  
9 Development Authority E-Commerce program are hereby approved. These  
10 rules and regulations are attached and incorporated herein as **Exhibit A**  
11 and **Exhibit B**.

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

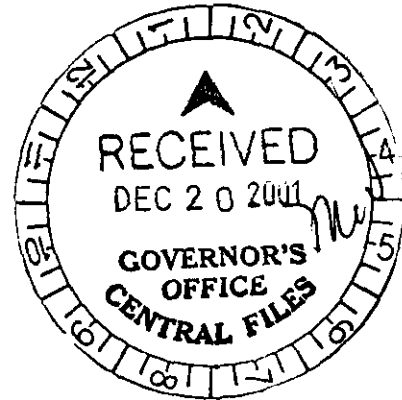


**MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN**  
TWENTY-SIXTH GUAM LEGISLATURE  
155 HENRIER PLACE, HAGÅTÑA, GUAM 96910

December 20, 2001

COPY

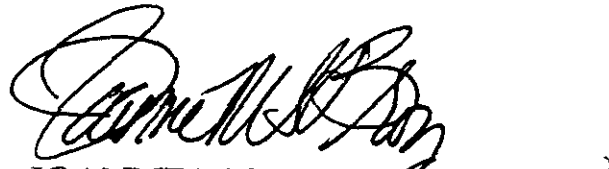
The Honorable Carl T.C. Gutierrez  
*I Maga'lahaen Guåhan*  
*Ufisinan I Maga'lahi*  
*Hagåtña, Guam 96910*



Dear *Maga'lahi* Gutierrez:

Transmitted herewith are Bill No. 203 (COR) and Substitute Bill No. 159 (COR) which were passed by *I Mina'Bente Sais Na Liheslaturan Guåhan* on December 7, 2001, and Substitute Bill No. 173 (COR) which was passed by *I Liheslatura* on December 14, 2001.

Sincerely,

  
JOANNE M.S. BROWN  
Senator and Legislative Secretary

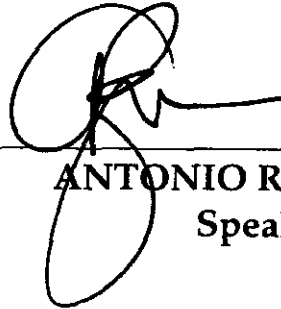
Enclosures (3)

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN  
2001 (FIRST) Regular Session

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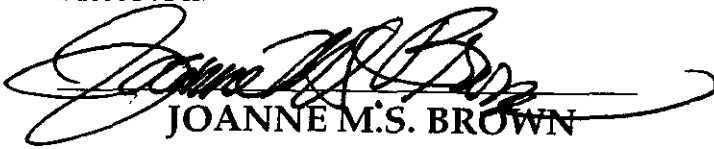
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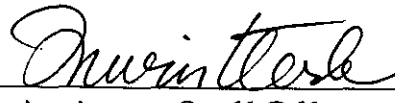
ANTONIO R. UNPINGCO  
Speaker

Attested:



JOANNE M.S. BROWN  
Senator and Legislative Secretary

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at 1:35 o'clock P.M.



Assistant Staff Officer  
Maga'lahaen's Office

APPROVED:

\_\_\_\_\_  
CARL T. C. GUTIERREZ  
I Maga'lahaen Guåhan

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

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As amended on the Floor.

Introduced by:

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**GUAM ECONOMIC DEVELOPMENT AUTHORITY  
RULES AND REGULATIONS  
FOR THE DEVELOPMENT OF TELECOMMUNICATION AND  
ELECTRONIC COMMERCE  
APPLICATION & ISSUANCE OF QUALIFYING  
CERTIFICATE**

**EXHIBIT A**

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## **APPLICATION AND ISSUANCE OF QUALIFYING CERTIFICATE**

### **Section 1. Introduction.**

**Section 1.01.** The rules and regulations ("Rules") set out herein describe the general procedures for obtaining a recommendation from GEDA for the issuance of a Qualifying Certificate ("QC") pursuant to Chapter 58 of Division 2 of Title 12 of the Guam Code Annotated ("QC Law"), as amended by Public Law Number 25-177, hereinafter referred to as the "*Telecommunication and E-commerce Incentive Act.*" These Rules are adopted pursuant to the provisions of §§ 58108 and 58146 of the QC Law, § 3 of the Telecommunication and E-commerce Incentive Act, and in the manner prescribed by the Administrative Adjudication Law.

**Section 1.02.** To apply for a QC under the Telecommunication and E-commerce Incentive Act, an applicant, which may be the global internet infrastructure services company ("Carrier Hotel"), as defined under § 58104 Item 15 its Tenant-Service Provider(s), or other eligible entities, shall file with GEDA a completed QC-1 form (Application for a Qualifying Certificate, with exhibits), QC-2 (Affidavit of Compliance); QC-3 (Authority to Release Non-Proprietary Information), together with the filing fee as set forth herein.

**Section 1.03.** These Rules shall constitute all the rules governing the administration of the QC program for the Telecommunications Industry, and no other rules shall apply, *except* if specifically mentioned.

## **Section 2. Purpose.**

**Section 2.01.** The purpose of these Rules is to establish pursuant to §§ 58103, 58104, 58108, 58122 and 58146 of the QC Law, the general procedures and forms governing the Application and Issuance of a QC to eligible entities as defined under § 58104(15). The intent of the law is to foster the development of Guam as a major center of telecommunications and Internet commerce, to attract new businesses and their attendant employment opportunities.

## **Section 3. Definitions.**

**Section 3.01.** In these Rules, the following terms shall have the following meanings:

(a) *“Administrator”* shall mean the Administrator of the Guam Economic Development Authority.

(b) *“Applicant”* shall mean a person as defined in (q), *infra*, that is in compliance with the requirements set forth in 12 G.C.A. § 58104(15)(i), (ii), (iii) and (iv).

(c) *“Authority”* shall mean the Guam Economic Development Authority as prescribed by § 50101 of Chapter 50 of Title 12 of the Guam Code Annotated.

(d) *“Beneficiary”* shall mean the person to whom a Qualifying Certificate is issued and who benefits from the tax rebates or abatements. The Beneficiary may be the Carrier Hotel, its Tenant-Service Provider(s), or other eligible entity who applies

and is found qualified to receive the benefits sought under the QC program.

(e) "*Board*" shall mean the Board of Directors of the Guam Economic Development Authority, as prescribed by §50105 of Chapter 50 of Title 12 of the Guam Code Annotated.

(f) "*Bona Fide Resident*" means a citizen of the United States or a permanent resident alien who has been residing continuously on Guam for *at least* five (5) years.

(g) "*Call center*" means a facility for placing or receiving calls which is manned by agents for one (1) company. A call center may allow order entry, order servicing, help desk or information services, and is usually organized to allow appropriate handling and distribution of calls to designated agents.

(h) "*CPI*" or "*Consumer Price Index*" means the measure of price changes from a designated reference period, as published by the Guam Department of Commerce.

(i) "*Capital Investment*" means the investment of money or property into the Beneficiary's approved business or development within Guam and includes, but is *not* limited to, all the cost and expense to the Beneficiary of the acquisition and improvement of land within Guam, the maintenance and repair of improvement, finance charges, interest, furniture, fixtures, salaries, machinery, equipment, inventory, supplies and the other expenses incurred in

the operation of the development or business that is the subject of a Qualifying Certificate.

(j) "*Carrier Hotel*" means a building that houses multi-telecommunications and/or information service providers for voice, data, data storage, Internet, video services, e-commerce and call centers.

(k) "*Commerce*" means the exchange or buying and selling of goods or services.

(l) "*Electronic Commerce*" or "*E-Commerce*" means buying and selling over the public Internet, the public Web and corporate Internet.

(m) "*Internet*" means a network of computer networks that carry packets of data, the most significant of which are e-mail and the World Wide Web.

(n) "*Investment*" for current QC holders means a commitment to meet *at least* one (1) of the following three (3) criteria: (1) additional employment; (2) impact of amount of taxes paid; and (3) amount to be re-invested in technology.

(o) "*Local Business*" means businesses that are sixty percent (60%) or more owned by individuals who are residents of Guam and either citizens of the United States or permanent resident aliens.

(p) "*Management Personnel*" means those persons who are directly responsible for making and implementing the decisions

within the organization and who tend to coordinate the activities of the organization towards accomplishing its objectives. It includes Top Management (executives), Middle Management (managers) and First-Level Management (first level supervisors). It also includes those individuals who regularly exercise discretionary authority, regularly direct two (2) or more other employees and have the authority to hire or dismiss employees, or whose suggestions are given substantial weight in such decisions, including promotions.

(q) "*Person*" shall mean one (1) or more individuals, corporations, partnerships, joint ventures or trusts.

(r) "*Possession Corporation*" is a domestic corporation who elects the application of § 935 of the U.S. Tax Code, or when §§ 931 or 957(c) of the U.S. Tax Code are applied to such corporation.

(s) "*Qualifying Certificate*" is a contract valid upon its execution by *I Maga'lahen Guåhan*, upon recommendation by the Authority, entitling a person to certain tax benefits for a limited period of time given to encourage the Beneficiary and to improve the economy of Guam as defined by 12 G.C.A. § 58101.

(t) "*Telecommunications*" means the art and science of "communicating" over a distance by telephone, telegraph and radio; the transmissions, reception and the switching of signals, such as electrical or optical, by wire, fiber or electromagnetic (i.e. through the air).

(u) "Telecommunications Service" means any service of a telecommunications company providing user information transfer capabilities to a group of users by transmissions, reception and the switching of signals, such as electrical or optical, by fiber, microwave/satellite and/or other wireless technology.

(v) "Tenant-Service Provider" means any business legally established on Guam that utilizes the Carrier Hotel to conduct business on the Internet and satisfies the requirements set forth in 12 G.C.A. §§ 58104(15)(i), (ii), (iii) and (iv).

#### **Section 4. Eligibility.**

**Section 4.01.** The Board shall *not* recommend the issuance of a Qualifying Certificate, *except* as follows:

(a) to persons engaged, or about to engage in one (1) or more of those activities set forth under 12 G.C.A. § 58104(15);

(b) the Board finds that the activities of the applicant will result in the creation of new employment and one (1) or more of the following within Guam:

(i) the replacement of imports;

(ii) the reduction of consumer prices; *or*

(iii) the creation of facilities or services vitally needed by the People of Guam;



(c) the Board finds that the activities of the Applicant will improve the economy or the quality of life for the People of Guam;

(d) the Applicant is licensed to do business on Guam; *if* the Applicant is a corporation that was either formed under the laws of Guam, or is a possessions corporation; *if* the applicant is a trust or a partnership, it must be registered with the Department of Revenue and Taxation; *and*

(e) stockholder applicants for rebates of corporate income tax on dividends paid by the corporation must be bona fide residents of Guam, or corporations formed under the laws of Guam.

**Section 4.02.** No applicant shall be eligible to receive a Qualifying Certificate under the Telecommunication and E-commerce Incentive Act, *unless*:

(a) the applicant meets the requirements contained in these Rules;

(b) the applicant establishes to the Board's satisfaction that it is reputable and financially able to carry out the intended information and telecommunications businesses from Guam; *and*

(c) the Carrier Hotel applicant establishes to the Board's satisfaction that it has acquired a valid interest in suitable real property within Guam.

**Section 5. Application for Qualifying Certificates.**

**Section 5.01.** Each applicant for a QC shall complete and submit to the Administrator an application, in such form and with such supporting documents as the Administrator shall from time to time prescribe. In any event, the application shall include the following:

(a) the identification of the qualifying activity of the Applicant as required by § 58104(15) of Title 12 of the Guam Code Annotated; in the application for the Tenant/Service Provider Applicant, the name of the Carrier Hotel and the QC number;

(b) a comprehensive business plan, including income projections and forecasts and financial statements of principal(s);

(c) a detailed summary and explanation of how and why the activities of the Applicant will result in the benefits required by §§ 4.01(b) and (c) of these Rules;

(d) the verification of eligibility required by § 4.02 of these Rules, where applicable;

(e) the verification of the Applicant's commitment and ability to make the minimum capital investment required by § 8.01 of these Rules;

(f) information and documentation sufficient to enable the Board to make each of the specific findings required by § 9.01 of these Rules;

(g) the Carrier Hotel applicant shall submit an Economic Impact Statement; *and*

(h) such other information as required by the Administrator or the Board.

**Section 5.02.** *Prior* to submission to the Board, the Administrator shall review each application and shall have the authority to reject any application which does *not* comply with the requirements of these Rules.

**Section 6. Notice of Application and Issuance.**

**Section 6.01.** *No later than seven (7) days* following submission of the completed application, the applicant shall cause to be published in a Guam newspaper of general circulation at the Applicant's expense, a brief resumé of the application, as approved by the Authority.

**Section 6.02.** *Not less than five (5) days prior* to the scheduled hearing date, a notice of public hearing, approved by the Authority as to form and content, shall be published by the applicant in a Guam newspaper of general circulation, at the Applicant's expense.

**Section 7. Requirement to be Included in Every QC.**

**Section 7.01.** Every QC approved by the Authority shall include the following requirements and conditions:

(a) the Beneficiary shall be required to furnish written monthly reports beginning thirty (30) days after the date of issuance of the Qualifying Certificate; the reports are to include, but are *not* limited to, financial data (balance sheet and income statement), employment data and payroll data;

(b) the Beneficiary shall be required to establish a profit sharing/pension program, health and life insurance programs, and other similar benefits for its employees in a manner and as prescribed by the Board, to commence on the effective date of the Qualifying Certificate;

(c) at all times *at least* seventy-five percent (75%) of all employment categories of a Beneficiary's work force shall either be United States citizens or permanent residents of the United States and shall be paid at prevailing wage rates; provided, however, that for good cause the Authority may grant temporary exemptions for limited periods. The Authority shall, from time to time, determine the various management and non-management employment categories of a Beneficiary;

(d) the Beneficiary shall be responsible for maintaining operational control of the business or development which is the subject of the Qualifying Certificate (It may utilize the services of a management company to assist in the operation of the business or development, but in no case may the business be leased without the Authority's express written approval. Any lease shall be considered as a transfer of the Qualifying Certificate and its benefits by the applicant, which requires written permission of the Authority and approval by *I Maga'lahaen Guahan.*);

(e) in no event shall a substantial portion of the property or assets of a Beneficiary's development or business be transferred without the Authority's written consent;

(f) in no event shall there be a material change in the identity of the stockholders that control a corporate Beneficiary or in the stockholders of any parent corporate stockholder, without the Authority's written consent (A material change would be the transfer of more than fifty percent (50%) of the outstanding shares of the corporate Beneficiary or the parent corporate stockholder. Amendments regarding additional shareholders of the corporate Beneficiary, which shall be subject to a processing fee set forth in these Rules shall be *exempt* from the requirement of a public notice and hearing under §§ 58124 and 58125 of Title 12 of the Guam Code Annotated. The Beneficiary shall also provide written notice to the Authority when any shareholder is removed from the beneficiary status within ten (10) days from the effective date of the removal.);

(g) the Beneficiary shall be required to make a cash or in-kind contribution of between the five percent-ten percent (5%-10%) of projected benefits the GEDA Board has accepted as standard, equitable contribution levels to be directed to one (1) or more of the following areas:

- (1) "Guam Industry Promotions Fund";
- (2) education in the field of telecommunications to include public libraries/museums; *and*
- (3) other community improvement projects as approved by the GEDA Board; *and*

(h) in its procurement of the goods and services necessary to operate and construct the business, the Beneficiary shall, at all times, give preference to those goods and services which are available from local businesses. The Beneficiary shall purchase goods or services from a local business, unless the Beneficiary proves to the Authority's satisfaction that the goods or services are not available from a local business.

**Section 8. Minimum Capital Investment.**

**Section 8.01.** A Beneficiary must commit to make, and prior to the effective date of the QC, verify having made a capital investment of the following *minimum* amounts for the following types of business:

Telecommunications Carrier Hotel	\$ 5,000,000
Tenant-Service Provider in E-Commerce	\$ 25,000
Independent Service Provider	\$ 50,000
Satellite operating systems or services	\$ 50,000
Call centers	\$ 50,000
FCC 214 license holder	\$ 50,000

**Section 9. Recommendations.**

**Section 9.01.** Before making its final recommendation to *I Maga'lahaen Guåhan*, the Board shall consider and make specific findings on the following:

- (a) the impact of the Beneficiary's proposed activities upon established businesses and markets on Guam;

- (b) the financial risks facing the Beneficiary to undertake the proposed activities;
- (c) the location of the proposed activities;
- (d) the importance of the proposed activities to the economy of Guam; *and*
- (e) the government's officially adopted economic policies.

**Section 9.02.** In its recommendation of specific tax benefits, the Board shall consider the following as possible alternatives:

- (a) limiting the tax benefits to a percentage of the capital investment to be made by the Beneficiary within Guam;
- (b) varying the rates of tax benefits over the term of the QC;
- (c) limiting the tax benefits to a fixed dollar amount; *and*
- (d) conditioning the tax benefits upon the Beneficiary's investment in or creation of public improvements separate from its proposed activities.

**Section 10. Fees.**

**Section 10.01.** The following fees shall be assessed to each Applicant and/or Beneficiary of a QC pursuant to 12 G.C.A. §§ 58143, 58144 and 58145:

	<u>Filing Fee</u>	<u>Annual Surveillance Fee</u>
Telecommunications, carrier		
hotel	\$ 15,000	based on # of tenants*

Telecommunications tenant service		
provider	\$ 5,000	\$ 1,000
Independent telecom service		
provider	\$ 10,000	\$2,000
Call center	\$ 10,000	\$2,000
Satellite operating systems or		
services	\$ 10,000	\$ 2,000
FCC 214 license holder	\$ 10,000	\$2,000
* 1-10 tenants	\$ 10,000	
11-20 tenants	\$ 15,000	
21 - 30 tenants	\$ 20,000	

plus \$5,000 for each additional increment of every ten (10) tenants.

**Section 10.02.** The Board shall have the Authority to adjust the fees annually, based upon the current CPI and/or upon demonstration by the Authority that the cost, including extraordinary costs, of performing the services covered by the fees is *greater* than the amount of fees charged.

**Section 11. Authority.**

**Section 11.01.** These rules and regulations are made pursuant to 12 G.C.A. §§ 58108 and 58146, and § 3 of the Telecommunication and E-commerce Incentive Act, and in accordance with the provisions of the Administrative Adjudication Law.



**GUAM ECONOMIC DEVELOPMENT AUTHORITY  
RULES AND REGULATIONS  
For TELECOMMUNICATIONS and ELECTRONIC COMMERCE  
COMPLIANCE OF QUALIFYING CERTIFICATE**

**EXHIBIT B**

<b>SECTION</b>	<b>TITLE</b>	<b>Page</b>
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7.0	NON-COMPLIANCE	5
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**GEDA FORM QC-1**

**APPLICATION FOR A QUALIFYING CERTIFICATE BY  
A CORPORATION**

<b>ARTICLE 1.</b>	<b>Applicant</b>	<b>7</b>
<b>ARTICLE 2.</b>	<b>Type of Business and Ownership</b>	<b>8</b>
<b>ARTICLE 3.</b>	<b>Funds to be Invested in the Project</b>	<b>10</b>
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**GEDA FORM QC-2**

**AFFIDAVIT OF CORPORATE APPLICANT FOR  
QUALIFYING CERTIFICATE IN COMPLIANCE WITH THE  
QC LAW**

**17**

**GEDA FORM QC-3**

**AUTHORITY TO RELEASE NON-PROPRIETARIAL  
INFORMATION**

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**GEDA FORM QC-4**

**NOTICE OF AN APPLICATION FOR A QUALIFYING  
CERTIFICATE BEFORE THE GUAM ECONOMIC  
DEVELOPMENT AUTHORITY ("GEDA")**

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**GEDA FORM QC-5**

**NOTICE OF A PUBLIC HEARING ON AN APPLICATION  
TO THE GUAM ECONOMIC DEVELOPMENT  
AUTHORITY ("GEDA") FOR A QUALIFYING  
CERTIFICATE AUTHORIZING THE ABATEMENT AND  
REBATE OF CERTAIN GUAM TAXES**

**24**

**INFORMATION TO BE MADE AVAILABLE AT A PUBLIC  
HEARING BEFORE THE GUAM ECONOMIC  
DEVELOPMENT AUTHORITY ("GEDA") ON AN  
APPLICATION FOR A QUALIFYING CERTIFICATE ("QC")**

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## COMPLIANCE OF QUALIFYING CERTIFICATE

### Section 1. Purpose.

**Section 1.01.** The purpose of this part of the Rules is to establish, pursuant to 12 G.C.A. § 58103, further procedures and instructions for monitoring and certifying compliance with the terms and conditions of all effective Qualifying Certificates.

### Section 2. Responsibilities.

**Section 2.01.** The Administrator shall be responsible for the management and administration of the Qualifying Certificate compliance program and may delegate inspections, monitoring and reports to a Compliance and Internal Audit Supervisor.

### Section 3. Inspections.

**Section 3.01.** All Beneficiaries of Qualifying Certificates must adhere to the following inspections requirements:

(a) as a minimum requirement, semi-annual on-site inspections shall be conducted on all Qualifying Certificate Beneficiaries during the term of the Qualifying Certificate (Additional inspections may be conducted at the discretion of the Authority. The Authority shall provide reasonable notice to the Beneficiary *prior* to all on-site inspections.);

(b) *at least* one (1) of the semi-annual inspections shall be scheduled to coincide with the ending of the Beneficiary's fiscal year;

(c) in the case of new construction, one (1) inspection shall be conducted within thirty (30) to sixty (60) days *prior* to the completion of construction and a second inspection thirty (30) days *after* the commencement of operations;

(d) during the course of all inspections, the Qualifying Certificate Beneficiary shall provide for review by the Authority copies of all requested records and documents in order for the Authority to determine the following:

- (1) adherence to these Rules;
- (2) employment level and classification status;
- (3) fringe benefits offered, such as:
  - (i) profit sharing/retirement plan;
  - (ii) health plan;
  - (iii) dental plan;
  - (iv) life insurance; *and*
  - (v) any other plan recommended by GEDA

Board of Directors;

(4) training programs in effect, due annually by January 31<sup>st</sup> for the current year:

- (i) Training Plan:
  - (aa) course schedules for each calendar year;
  - (bb) beginning and ending dates for each training course; *and*

- (cc) list of all outside training facilities (i.e. UOG and GCC), including location(s);
- (ii) Internship Program;
- (5) safety programs in effect;
- (6) employee rules and regulations;
- (7) Affirmative Action Plan for hiring the disabled;
- (8) annual audited financial statements and tax returns;
- (9) business license;
- (10) FCC and/or FTC licenses;
- (11) international treaties, *if* required;
- (12) contracts between Carrier Hotel and Tenant/Service Providers; *and*
- (13) any other records or documents the Authority requires to determine compliance;

(NOTE: Should an industry association be established, then the Authority shall require beneficiaries to participate with the Association.); *and*

- (e) the inspection process will include an inspection of the business in order for the Authority to determine:
  - (1) access for persons with disabilities;
  - (2) overall conditions of the business; *and*
  - (3) any other areas the Authority requires to determine compliance.

#### **Section 4. Reports.**

**Section 4.01.** The following reports shall be prepared by the Authority in conjunction with the inspection process:

- (a) Inspection Report – a concise detailed inspection report shall be required within fifteen (15) working days from date of inspection for review by the Administrator and the Board; *and*
- (b) Monthly Status Report – a detailed status report of the previous month's activities shall be required for review by the Board at the regularly scheduled meeting.

#### **Section 5. Grounds for Suspension, Recision or Revocation.**

**Section 5.01.** In accordance with the Administrative Adjudication Law, the Board may suspend, rescind or revoke a Qualifying Certificate where the Beneficiary fails to comply with any of the Rules, the terms or conditions of the Qualifying Certificate or any provision of law.

#### **Section 6. Compliance.**

**Section 6.01.** When it has been determined by the Authority that the terms and conditions stipulated on the Qualifying Certificate have been fulfilled by the Beneficiary, the Authority shall forward a "Certificate of Compliance" together with a copy of the Beneficiary's corporate income tax return and certified audited financial statements to the Department of Revenue and Taxation, government of Guam.



## **Section 7. Non-Compliance.**

**Section 7.01.** When it has been determined by the Administrator that the terms and conditions stipulated on the Qualifying Certificate, a provision of law or a requirement imposed by these Rules have *not* been met, then the Administrator shall notify the Beneficiary in writing of the specifics of the non-compliance and provide reasonable time limit in which to correct the discrepancy (“Notice”).

**Section 7.02.** In the event that the Beneficiary continues to be in violation of the Rules, any terms and conditions of the Qualifying Certificate, or provision of law after the expiration of the time allowed in the Notice, then the Board may take the action referred to in Rule 5.

**Section 7.03.** In the event the Beneficiary is required to temporarily discontinue operations due to extenuating circumstances that are acceptable to the Authority, then the Board may accept a “voluntary suspension” of the Qualifying Certificate from the Beneficiary *not* to exceed one (1) year. *If* after the one (1) year period the Beneficiary is still unable to continue operations, the Authority may recommend revocation to the Board in accordance with the Administrative Adjudication Law, or may accept a “voluntary surrender” of the Qualifying Certificate.

**Section 8. Authority.**

**Section 8.01.** These rules and regulations are made pursuant to 12 G.C.A. §§ 58108 and 58146, and in accordance with the provisions of the Administrative Adjudication Law.

GEDA FORM QC-1

BEFORE  
THE  
GUAM ECONOMIC DEVELOPMENT AUTHORITY ("GEDA")

In the Matter of the Application )  
for a Qualifying Certificate )

Case No. \_\_\_\_\_

by )

) APPLICATION FOR A QUALIFYING  
) CERTIFICATE BY A CORPORATION,  
) [§58104 et seq., Title 12, Guam Code  
) Annotated]

\_\_\_\_\_, )  
a corporation doing business as )

\_\_\_\_\_, )

)  
)  
) Applicant. )

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In accordance with Chapter 58, Title 12, Guam Code Annotated (the "QC Law"), \_\_\_\_\_, a Guam corporation ("Applicant"), requests the issuance of a Qualifying Certificate ("QC") thereunder, and submits the following:

**ARTICLE 1.**

**APPLICANT.**

§ 1.01. *Name of Applicant.* " \_\_\_\_\_ " (It will conduct its business under the fictitious name of " \_\_\_\_\_ ".)

§ 1.02. *Address and telephone number of principal Guam office:*

\_\_\_\_\_, municipality of \_\_\_\_\_  
\_\_\_\_\_, Guam 969\_\_\_; telephone #: (671) \_\_\_\_-\_\_\_\_\_  
\_\_\_\_\_.

§ 1.03. *Location of Project:* Lot(s) No(s). \_\_\_\_\_

and \_\_\_\_\_ (adjacent to \_\_\_\_\_), municipality of \_\_\_\_\_, Guam (the "Project").

§ 1.04. *Name, address and telephone number of Applicant's*

*attorney or other representative, if any:* \_\_\_\_\_,  
\_\_\_\_\_, municipality of \_\_\_\_\_, Guam 969\_\_\_; telephone #:  
(671) \_\_\_\_-\_\_\_\_\_; fax #: (671) \_\_\_\_-\_\_\_\_\_.

## ARTICLE 2.

### TYPE OF BUSINESS AND OWNERSHIP.

§ 2.01. *Corporate tax structure:* Indicate whether Applicant is a so-called "Subchapter S" corporation.

§ 2.02. *Business for which QC is sought:*

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§ 2.03. *Names, addresses, and ownership percentages:*

<i>Names of Shareholders:</i>	<i>Addresses:</i>	<i>% of share ownership:</i>
_____	_____	_____%
_____	_____	_____%
_____	_____	_____%
TOTAL:		100%.

**ARTICLE 3.**

**FUNDS TO BE INVESTED IN THE PROJECT.**

**§ 3.01.      *Amounts by category:***

<i>Categories:</i>	<i>Amounts:</i>
Construction costs . . . . .	\$ _____/
Land acquisition costs. . . . .	\$ _____/
Equipment, furniture and fixtures. . . . .	\$ _____/
Pre-opening expenses. . . . .	\$ _____/
Working capital. . . . .	\$ _____/
Other costs (detail):	
_____	\$ _____/
_____	\$ _____/
_____	\$ _____/
Total estimated costs:	\$ _____.
Amount from shareholders.	\$ _____/
Amount to be financed.	\$ _____/
Total:	\$ _____.

**ARTICLE 4.**

**SUPPLEMENTAL FORMS AND DOCUMENTS.**

**§ 4.01.      *Financial Statement(s) of principal(s):*** Recent financial statement(s) of Applicant's principal shareholder(s) \_\_\_\_\_, and \_\_\_\_\_, (Attach as Exhibits 1-A, 1-B and 1-C.)

§ 4.02. *Business plan:* A comprehensive business plan covering Applicant's Project, including income projections and forecasts as appropriate, demonstrating, with as much detail as Applicant believes is necessary, the soundness and feasibility of the Project. (Attach as Exhibit 2.)

§ 4.03. *Corporate documentation:* Certified copies of Applicant's articles of incorporation, by-laws and corporate charter. (Attach as Exhibits 3-A, 3-B and 3-C.)

§ 4.04. *Affidavit of compliance:* Affidavit of compliance with the QC Law on or following GEDA Form QC-2. (Attach as Exhibit 4.)

§ 4.05. *Copy of Lease Agreement with Carrier Hotel.* (For Tenant-Service Providers only: Attach as Exhibit 5.)

#### ARTICLE 5.

#### LAND FOR PROJECT.

(for Carrier Hotel Applicant only)

§ 5.01. *Project's area:* The land for the Project as described in §1.03, supra, contains an area of \_\_\_\_\_ (\_\_\_\_\_) square meters, or \_\_\_\_\_ (\_\_\_\_\_) square feet. See the map attached hereto as Exhibit 5.

§ 5.02. *Approximate value excluding improvements:* \_\_\_\_\_ Dollars (\$\_\_\_\_\_), based on a unit value of \_\_\_\_\_ Dollars (\$\_\_\_\_\_ ) per square meter.

§ 5.03. *Tenure:* Applicant holds or will hold the land in fee simple/leasehold.

§ 5.04. *Annual rental, if any:* \_\_\_\_\_.



**ARTICLE 6.**

**BUILDINGS.**

(for Carrier Hotel Applicant only)

§ 6.01. Numbers and types of buildings and improvements to be used in the Project, with approximate floor spaces, if known:

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§ 6.02. Cost: Approximately \_\_\_\_\_ Dollars (\$\_\_\_\_\_). See § 3.01, *supra*.

§ 6.03. Annual rental if any: \_\_\_\_\_.

**ARTICLE 7.**

**SERVICES.**

§ 7.01. Description of services and goods to be offered to the public on the Project's completion: \_\_\_\_\_

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If it is determined that the Project will make considerable demands on Guam's utility infrastructure, will Applicant be willing to contribute to such infrastructure? \_\_\_\_\_

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§ 7.02. *Estimated annual sales of such goods and services at contemplated rate of operations:* \_\_\_\_\_

Dollars (\$ \_\_\_\_\_) (first full year); \_\_\_\_\_

Dollars (\$ \_\_\_\_\_) (fifth year).

**ARTICLE 8.**

**EMPLOYEES.**

§ 8.01. *Anticipated total number of employees:* \_\_\_\_\_  
(\_\_\_\_) full-time employees, \_\_\_\_\_ (\_\_\_\_) part-time.

§ 8.02. *Annual gross payroll:* \_\_\_\_\_  
Dollars (\$ \_\_\_\_\_) (fifth year).

§ 8.03. *Classification of proposed payroll for the first (1st) year of operations:*

<i>Classification:</i>	<i>Number:</i>	<i>Annual gross payroll:</i>
_____ department,	_____,	\$ _____,
_____ department,	_____,	\$ _____,
_____ department,	_____,	\$ _____,
_____ department,	_____,	\$ _____,
_____ department,	_____,	\$ _____,
<i>Total:</i>	_____,	\$ _____.

§ 8.04. *Analysis of nationality of proposed total number of employees after first (1st) year of operations:*

Citizens or permanent residents of the United States: \_\_\_\_\_.

Aliens: \_\_\_\_\_.

**ARTICLE 9.**

**BUSINESS REFERENCES.**

§ 9.01. *Names and addresses of three (3) business references:*

*Names:*

*Addresses:*

1. \_\_\_\_\_,
2. \_\_\_\_\_,
3. \_\_\_\_\_,

- \_\_\_\_\_,
- \_\_\_\_\_,
- \_\_\_\_\_.

**ARTICLE 10.**

**CONCLUSION.**

§ 10.01. *Entitlement:* [Brief summary of why Applicant's Project qualifies for a QC]. \_\_\_\_\_

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§ 10.02. *Request for QC:* On the basis of the information presented in this application and the accompanying exhibits, Applicant requests for the issuance of a QC by *I Maga'Lahen Guahan* (the Governor of Guam), upon the

recommendation of GEDA, granting to Applicant the tax relief provided by §§ 58127.1 *et seq.*, of the QC Law, as follows:

<i>Nature of tax:</i>	<i>Periods requested:</i>	<i>Percentages requested:</i>
Corporate income tax, _____ (___) years,		_____ percent (___%),
Corporate dividend tax, _____ (___) years,		_____ percent (___%),
Real property tax, _____ (___) years,		_____ percent (___%), etc.

**Execution**

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Applicant,

By \_\_\_\_\_,  
\_\_\_\_\_, duly  
authorized representative.

GUAM )  
( ss.:  
City of Hagatña. )

On this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, a notary public in and for Guam, personally appeared \_\_\_\_\_, known to me to be the duly authorized representative of \_\_\_\_\_, who executed the foregoing application, and the person acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

)SEAL(

\_\_\_\_\_  
Notary Public

AFFIDAVIT OF CORPORATE APPLICANT  
FOR A QUALIFYING CERTIFICATE  
IN COMPLIANCE WITH THE QC LAW.

GUAM )  
( ss.:  
City of Hagatña. )

\_\_\_\_\_, being first duly sworn, states that the person is the duly authorized representative of \_\_\_\_\_, ("Applicant"), which is applying for a Qualifying Certificate ("QC") under the provisions of Chapter 58, Title 12, Guam Code Annotated (the "QC Law"), and that:

§ 1. *Fringe benefits.* The following fringe benefits will be given to all those employees of Applicant which are employed on the Project for which the QC is sought: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

§§ 58116 through 58120, QC Law.

§ 2. *Transfer of benefits of QC:* GEDA's permission will be sought prior to any transfer of (i) a majority of the voting stock of Applicant or (ii) a

substantial part of Applicant's assets by way of lease, sale, assignment or other transfer, either of which constitutes a transfer of the benefits of the QC.

§ 58121, QC Law.

§ 3. *Commencement of Applicant's operations:* Applicant's QC Project will be completed and its services or goods will be available in Guam within \_\_\_\_\_ (\_\_\_\_) months from the date of execution by *I Maga'Lahen Guåhan* (the Governor of Guam) Applicant's QC.

§ 4. *No conflicts of interest:* No (i) GEDA employee or board member, (ii) member of *I Liheslatura* (the Legislature), (iii) full-time employee of the executive branch of the government of Guam from the level of first assistant to the agency head and up (iv) employee of *I Maga'Lahi's* (the Governor's) office, (v) judge of any of the courts of Guam, nor (vi) the spouse of any of the foregoing, has any financial interest, direct or indirect, in Applicant.

§ 58115, QC Law.

§ 5. *Monthly reports.* Applicant shall furnish GEDA monthly reports, beginning thirty (30) days after the date of the issuance of its QC. GEDA agrees that such monthly reports shall be confidential and shall be limited to the following:

5.1. *Prior to commencement of operations:*

5.1.1. *Construction.* Status of construction, including whether construction has been delayed, and if so, why and for how long;

5.1.2. *Hiring.* Status of employee hiring and training, including current number of employees; and

5.1.3. *Equipment.* Status of any necessary equipment acquisition, and whether such acquisition, if delayed, will delay commencement of operation, and if so, why and for how long.

5.2. *After commencement of operations:*

5.2.1. *Income.* Gross income, and if a hotel, its occupancy rate and current number of guest rooms;

5.2.2. *Employees.* Number of employees and total gross payroll, broken down into all job titles, with rates of pay, with identification of all employees not citizens or permanent residents of the United States;

5.2.3. *Taxes.* Total taxes paid to the government of Guam;

5.2.4. *Dividends.* Dividends or other payments made to Applicant's shareholders; and

5.2.5. *Fees.* If a hotel, total management fee paid, if any.

§ 58123, QC Law.

DATED this \_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Applicant,

By \_\_\_\_\_,

\_\_\_\_\_, applicant.

SUBSCRIBED and SWORN to before me, a notary public, this \_\_\_\_ day  
of \_\_\_\_\_, 200\_\_.

)SEAL(

\_\_\_\_\_  
Notary public



**GEDA FORM QC-3**

TO: GUAM ECONOMIC DEVELOPMENT AUTHORITY ("GEDA")  
ITC BUILDING - SUITE 911  
590 SOUTH MARINE DRIVE  
TAMUNING, GUAM 96911

FROM: \_\_\_\_\_, QC applicant.

**AUTHORITY TO RELEASE NON-PROPRIETARIAL INFORMATION.**

The undersigned hereby authorizes GEDA to disclose non-confidential and non-proprietary information respecting the undersigned's application for a Qualifying Certificate. GEDA agrees that the determination as to whether information is confidential or proprietary is to be made exclusively by the undersigned.

\_\_\_\_\_  
Applicant,

By \_\_\_\_\_ (Print Name)      \_\_\_\_\_ (Title)      \_\_\_\_\_ (Date)

GEDA FORM QC-4

NOTICE OF AN APPLICATION FOR A QUALIFYING CERTIFICATE  
BEFORE THE  
GUAM ECONOMIC DEVELOPMENT AUTHORITY ("GEDA").

PLEASE TAKE NOTICE that:

§ 1. *Filing of application.* \_\_\_\_\_  
[*name of Applicant*]

(the "Applicant"), has filed its application with GEDA for a Qualifying Certificate ("QC") under Chapter 58, Title 12, Guam Code Annotated (the "QC Law").

§ 2. *Address.* The address of Applicant is \_\_\_\_\_  
[*district or village*]  
municipality of \_\_\_\_\_, Guam 969\_\_\_\_.  
[*municipality*] [zip]

§ 3. *Proposed investment.* Applicant intends to invest approximately  
\$ \_\_\_\_\_ to \_\_\_\_\_  
[*estimated total*] [description of QC project]  
located at Lot(s) number(s) \_\_\_\_\_, municipality of  
\_\_\_\_\_, Guam.

§ 4. *Benefits sought.* Applicant is applying, pursuant to the QC Law,  
for a rebate of \_\_\_\_\_% income taxes payable to the government of  
[*percentage*]

Guam for a period of \_\_\_\_\_ years, and for an abatement of  
[number]  
\_\_\_\_\_% of the real property tax due on the property discussed in §2  
[percentage]  
above for a period of \_\_\_\_\_ years.  
[number]

§ 5. *Shareholders.* The names and addresses of the shareholders of Applicant are as follows:

*Names:*

*Addresses:*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, etc.

**GEDA FORM QC-5**

**NOTICE OF A PUBLIC HEARING ON AN APPLICATION  
TO THE GUAM ECONOMIC DEVELOPMENT AUTHORITY  
("GEDA") FOR A QUALIFYING CERTIFICATE AUTHORIZING  
THE ABATEMENT AND REBATE OF CERTAIN GUAM TAXES.**

**PLEASE TAKE NOTICE that:**

§ 1. *Public hearing.* In accordance with Chapter 58, Title 12, Guam Code Annotated (the "QC Law"), and pursuant to the rule-making procedures of the Administrative Adjudication Law, GEDA will conduct a public hearing at GEDA's conference room, ITC Building, 5th Floor, Tamuning, Guam, on \_\_\_\_\_, \_\_\_\_\_ 200\_\_ at \_\_\_\_\_m. on the application of  
[*day of week*] [date] [time]  
\_\_\_\_\_  
[*name of applicant*]

Applicant, for a Qualifying Certificate ("QC"), which request is for tax relief by way of abatement and rebate of Guam taxes in consideration of Applicant \_\_\_\_\_, all  
[*Applicant's QC Project*]

pursuant to the QC Law, and as set out in Applicants's application for a QC.

§ 2. *Nature of hearing.* This hearing shall be open to the public. Oral or written statements will be received from anyone wishing to testify thereat, which statement will be incorporated into the records of the hearing.

§ 3. *Further information.* For further information, please contact GEDA's Administrator at 647-4332, or at the GEDA offices on the fifth floor, ITC Building, Tamuning, Guam.

**INFORMATION TO BE MADE AVAILABLE AT  
A PUBLIC HEARING BEFORE THE  
GUAM ECONOMIC DEVELOPMENT AUTHORITY ("GEDA")  
ON AN APPLICATION FOR A QUALIFYING CERTIFICATE ("QC").**

§ 1. *Construction, if appropriate:* Description of buildings with renderings. Construction schedule, including estimated dates for groundbreaking and opening.

§ 2. *Description of Project:* Overview with some detail of the project or business for which the QC is sought.

§ 3. *Budget:* Include equity contribution, amount to be financed, source of financing, and anticipated return on investment.

§ 4. *Employees:* Include number of full-time and part-time employees, and the percentage of which are U.S. citizens or permanent residents. Estimate the first year's payroll, and the payroll after five (5) years.

§ 5. *Benefits to Guam:* Estimated total tax revenue from Applicant's project or business to the government of Guam over the first five (5) years, broken down into corporate income tax, real property tax, hotel occupancy tax, gross receipts tax, employee income tax and use tax.

§ 6. *Benefits to Applicant:* Description of total of QC benefits over first five (5) years, broken down into income tax rebates, dividend tax rebates, if any, and property tax abatements. Give the estimated year in which Applicant will begin to enjoy the income tax rebates.

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# I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 12/7/01

## VOTING SHEET

Bill No. 203(COR)

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

PL 71

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.	✓				
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.					✓

TOTAL

14    0    0    0    1

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence



THE OFFICE OF  
**Senator Felix P. Camacho**  
TWENTY-SIXTH GUAM LEGISLATURE

October 5, 2001

The Honorable Antonio R. Unpingco  
Speaker  
I Mina' Bente Sais Na Liheslaturan Guahan  
155 Hessler Street  
Hagatna, Guam 96910

Dear Mr. Speaker:

The Committee on Tourism, Transportation and Economic Development, to which was referred **Bill No. 203(COR)**, "AN ACT TO ADOPT THE GUAM ECONOMIC DEVELOPMENT AUTHORITY E-COMMERCE RULES AND REGULATIONS," does hereby report back with the recommendation **TO DO PASS**.

The Committee votes are as follows:

  9   To Pass  
       Not To Pass  
       To The Inactive File  
       Abstained  
       Off-Island  
       Not Available

A copy of the Committee Report and all pertinent documents are attached for your information and file.

Sincerely,

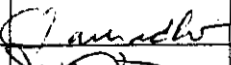
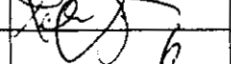
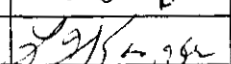
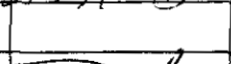
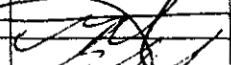
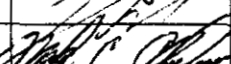
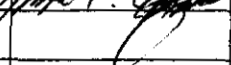
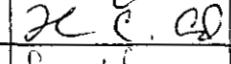


A handwritten signature in cursive script that reads "F. Camacho".

Felix P. Camacho



# VOTING SHEET

**BILL 203(COR)**

RECOMMENDATION TO						
COMMITTEE MEMBERS	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
Senator Felix Camacho		✓				
Senator Kaleo Moylan		✓				
Speaker Antonio Unpingco		✓				
Vice Speaker Larry Kasperbauer		x				
Senator Joseph Ada						
Senator Mark Forbes		✓				
Senator Eddie Baza Calvo		✓				
Senator Mark Charfauros		✓				
Senator Ben Pangelinan						
Senator Tom Ada		✓				
Senator Lou Leon Guerrero		✓				

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

**Bill No.** 203 (012)

Introduced by:

F. P. Camacho   

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**AN ACT TO ADOPT THE GUAM ECONOMIC  
DEVELOPMENT AUTHORITY E-COMMERCE  
RULES AND REGULATIONS**

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

2           **Section 1. Legislative Findings and Intent.**    *I Liheslaturan Guåhan* finds  
3 that the island must seek new industries to diversify our economy and provide  
4 new opportunities for our people. A fast-growing and increasingly important new  
5 global trend is the use of the internet to accomplish business transactions. The  
6 Web is becoming the tool of choice for businesses of all sorts, and their  
7 customers; Guam could see substantial economic and social benefits from the  
8 development of a thriving e-commerce community here.

9           The Guam Economic Development Authority has developed rules and  
10 regulations to attract new businesses and developers interested in e-commerce. *I*  
11 *Liheslaturan Guåhan* finds that these rules and regulations should be approved to  
12 help foster the growth of this important new industry.

13

1           **Section 2. Approval of Guam Economic Development Authority E-**  
2 **Commerce rules and regulations.** The following rules and regulations for the  
3 Guam Economic Development Authority E-Commerce program are hereby  
4 approved. These rules and regulations are attached and incorporated herein.

5           **Section 3. Severability.**     *If* any provision of this Law or its application  
6 to any person or circumstance is found to be invalid or contrary to law, such  
7 invalidity shall *not* affect other provisions or applications of this Law which can  
8 be given effect without the invalid provisions or application, and to this end the  
9 provisions of this Law are severable.

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1 **GUAM ECONOMIC DEVELOPMENT AUTHORITY**

2 **RULES AND REGULATIONS**

3 **For the Development of TELECOMMUNICATION AND ELECTRONIC COMMERCE**

4  
5 **APPLICATION & ISSUANCE OF QUALIFYING CERTIFICATE**

6  
7 **Section 1 Introduction**

8 §1.01 The rules and regulations ("Rules") set out herein describe the general procedures for  
9 obtaining a recommendation from GEDA for the issuance of a Qualifying Certificate ("QC") pursuant to  
10 Chapter 58, Division 2, Title 12, Guam Code Annotated (the "QC Law") as amended by Public Law 25-177,  
11 hereinafter referred to as the "Telecommunication and E-commerce Incentive Act". These Rules are adopted  
12 pursuant to the provisions of §§58108 and 58146 of the QC Law, Section 3 of the Telecommunication and E-  
13 commerce Incentive Act, and in the manner prescribed by the Administrative Adjudication Law.

14 §1.02 To apply for a QC under the Telecommunication and E-commerce Incentive Act, an  
15 applicant, which may be the global internet infrastructure services company (the "Carrier Hotel") as defined  
16 under §58104 item 15 its Tenant-Service Provider(s), or other eligible entities, shall file with GEDA a  
17 completed QC-1 form (Application for a Qualifying Certificate, with exhibits), QC-2 (Affidavit of  
18 Compliance); QC-3 (Authority to Release Non-Proprietary Information), together with the filing fee as set  
19 forth herein.

20 §1.03 These Rules shall constitute all the rules governing the administration of the QC program for  
21 the Telecommunications Industry, and no other rules shall apply except if specifically mentioned.

22  
23 **Section 2 Purpose**

24 §2.01 The purpose of these Rules is to establish pursuant to §§58103, 58104, 58108, 58122, and  
25 58146 of the QC Law, the general procedures and forms governing the Application and Issuance of a QC to  
26 eligible entities as defined under §58104 (15). The intent of the law is to foster the development of Guam as  
27 a major center of Telecommunications and Internet commerce, to attract new businesses and their attendant  
28 employment opportunities.

29  
30 **Section 3 Definitions**

31 §3.01 In these Rules, the following terms shall have the following meanings:

- 32 a. "Administrator" shall mean the Administrator of the Guam Economic Development Authority.

- 1 b. "Applicant" shall mean a person as defined in (q) *infra*, that is in compliance with the  
2 requirements set forth in 12 GCA §58104(15) (i)(ii)(iii)(iv)
- 3 c. "Authority" shall mean the Guam Economic Development Authority as prescribed by §50101,  
4 Chapter 50, Title 12 of the GCA.
- 5 d. "Beneficiary" shall mean the person to whom a Qualifying Certificate is issued and who benefits  
6 from the tax rebates or abatements. The Beneficiary may be the Carrier Hotel, its Tenant-Service  
7 Provider(s), or other eligible entity who applies and is found qualified to receive the benefits  
8 sought under the QC program.
- 9 e. "Board" shall mean the Board of Directors of the Guam Economic Development Authority as  
10 prescribed by §50105, Chapter 50, Title 12 of the GCA.
- 11 f. "Bona Fide Resident" means a citizen of the United States or a permanent resident aliens who  
12 has been residing continuously in Guam for at least five (5) years.
- 13 g. "call center" means a facility for placing or receiving calls which is manned by agents for one  
14 company. A call center may allow order entry, order servicing, help desk or information  
15 services, and is usually organized to allow appropriate handling and distribution of calls to  
16 designated agents.
- 17 h. "CPI" or "Consumer Price Index" means the measure of price changes from a designated  
18 reference period as published by the Guam Department of Commerce.
- 19 i. "Capital Investment" means the investment of money or property into the Beneficiary's approved  
20 business or development within Guam and includes, but is not limited to, all the cost and expense  
21 to the Beneficiary of the acquisition and improvement of land within Guam, the maintenance and  
22 repair of improvement, finance charges, interest, furniture, fixtures, salaries, machinery,  
23 equipment, inventory, supplies and the other expenses incurred in the operation of the  
24 development or business that is the subject of a Qualifying Certificate.
- 25 j. "Carrier Hotel" means a building that houses multi-telecommunications and/or information  
26 service providers for voice, data, data storage, Internet, video services, e-commerce and call  
27 centers.
- 28 k. "Commerce" means the exchange or buying and selling of goods or services.
- 29 l. "Electronic Commerce" or "E-Commerce" means buying and selling over the public Internet, the  
30 public Web and corporate Internet.
- 31 m. "Internet" means a network of computer networks that carry packets of data, the most significant  
32 of which are e-mail and the World Wide Web.

- 1 n. "Investment" for current QC holders means a commitment to meet at least one of the following  
2 three criteria: 1) additional employment 2) impact of amount of taxes paid 3) amount to be re-  
3 invested in technology.
- 4 o. "Local Business" means businesses that are Sixty Percent (60%) or more owned by individuals  
5 who are residents of Guam and either citizens of the United States or permanent resident aliens.
- 6 p. "Management Personnel" means those persons who are directly responsible for making and  
7 implementing the decisions within the organization and who tend to coordinate the activities of  
8 the organization towards accomplishing its objectives. It includes Top Management  
9 (executives), Middle Management (managers) and First-Level Management (first level  
10 supervisors). It also includes those individuals who regularly exercise discretionary authority,  
11 regularly direct two (2) or more other employees and have the authority to hire or dismiss  
12 employees, or whose suggestions are given substantial weight in such decisions, including  
13 promotions.
- 14 q. "Person" shall mean one or more individuals, corporations, partnerships, joint ventures or trusts.
- 15 r. "Possession Corporation" is a domestic corporation who elects the application of Section 935 of  
16 the U.S. Tax Code, or when Sections 931 or 957(c) of the U.S. Tax Code are applied to such  
17 corporation.
- 18 s. "Qualifying Certificate" is a contract valid upon its execution by the Governor of Guam, upon  
19 recommendation by the Authority, entitling a person to certain tax benefits for a limited period of  
20 time given to encourage the Beneficiary and to improve the economy of Guam as defined by 12  
21 GCA §58101.
- 22 t. "Telecommunications" means the art and science of "communicating" over a distance by  
23 telephone, telegraph and radio; the transmissions, reception and the switching of signals, such as  
24 electrical or optical, by wire, fiber or electromagnetic (i.e. through the air).
- 25 u. "Telecommunications Service" means any service of a telecommunications company providing  
26 user information transfer capabilities to a group of users by transmissions, reception and the  
27 switching of signals, such as electrical or optical, by fiber, microwave/satellite and/or other  
28 wireless technology.
- 29 v. "Tenant-Service Provider" means any business legally established on Guam that utilizes the  
30 Carrier Hotel to conduct business on the Internet and satisfies the requirements set forth in 12  
31 GC §58104(15)(i)(ii)(iii)(iv).  
32

1 Section 4 Eligibility

2 §4.01 The Board shall not recommend the issuance of a Qualifying Certificate, except as follows:

3 a. To persons engaged, or about to engage in one or more of those activities set forth under 12 GCA  
4 §58104(15); and

5 b. The Board finds that the activities of the applicant will result in the creation of new employment  
6 and one or more of the following within Guam:

7 i. The replacement of imports;

8 ii. The reduction of consumer prices; or

9 iii. The creation of facilities or services vitality needed by the people of Guam; and

10 c. The Board finds that the activities of the Applicant will improve the economy or the quality of  
11 life for the people of Guam; and

12 d. The Applicant is licensed to do business on Guam. If the Applicant is a corporation it was either  
13 formed under the laws of Guam, or is a possessions corporation. If the applicant is a trust or a  
14 partnership it must be registered with the Department of Revenue and Taxation; and

15 e. Stockholder applicants for rebates of corporate income tax on dividends paid by the corporation  
16 must be bona fide residents of Guam, or corporations formed under the laws of Guam.

17 §4.02 No applicant shall be eligible to receive a Qualifying Certificate under the  
18 Telecommunication and E-commerce Incentive Act unless:

19 a. The applicant meets the requirements contained in these Rules; and

20 b. The applicant establishes to the Board's satisfaction that it is reputable and financially able to  
21 carry out the intended information and telecommunications businesses from Guam; and

22 c. The Carrier Hotel applicant establishes to the Board's satisfaction that it has acquired a valid  
23 interest in suitable real property within Guam.

24  
25 Section 5 Application for Qualifying Certificates

26 §5.01 Each applicant for a QC shall complete and submit to the Administrator an application in  
27 such form and with such supporting documents as the Administrator shall from time to time prescribe. In  
28 any event, the application shall include the following:

29 i. The identification of the qualifying activity of the Applicant as required by §58104 (15), T12 GCA; in  
30 the application for the Tenant/Service Provider Applicant, the name of the Carrier Hotel and the QC  
31 number.

- 1 2. A comprehensive *business plan* including income projections and forecasts and financial statements of  
2 principal(s).
- 3 3. A detailed summary and explanation of how and why the activities of the Applicant will result in the  
4 benefits required by §4.01(b) and (c) of these Rules.
- 5 4. The verification of eligibility required by §4.02 of these Rules, where applicable:
- 6 5. The verification of the Applicant's commitment and ability to make the *minimum* capital investment  
7 required by §8.01 of these Rules.
- 8 6. Information and documentation sufficient to enable the Board to make each of the specific findings  
9 required by §9.01 of these Rules; and
- 10 7. The Carrier Hotel applicant shall submit an Economic Impact Statement; and
- 11 8. Such other information as required by the Administrator or the Board.

12 §5.02 Prior to submission to the Board, the Administrator shall review each application and shall  
13 have the authority to reject any application which does not comply with the requirements of these Rules.

14  
15

#### Section 6 Notice of Application and Issuance

16 §6.01 No later than seven (7) days following submission of the completed application the applicant  
17 shall cause to be published in a Guam newspaper of general circulation at the applicant's expense, a brief  
18 resume of the application, as approved by the Authority.

19 §6.02 Not less than five (5) days prior to the scheduled hearing date, a notice of public hearing,  
20 approved by the Authority as to form and content, shall be published by the applicant in a Guam newspaper  
21 of general circulation, at the applicant's expense.

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#### Section 7 Requirement To Be Included In Every Qualifying Certificate

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§7.01 Every Qualifying Certificate approved by the Authority shall include the following requirements and conditions:

29  
30 a. The Beneficiary shall be required to furnish written *monthly reports beginning thirty (30) days*  
31 *after the date of issuance of the Qualifying Certificate.* The reports are to include but are not limited to  
32 financial data (balance sheet and income statement), employment data, and payroll data.



1           b. The Beneficiary shall be required to establish a profit sharing/pension program, health and life  
2 insurance programs, and other similar benefits for its employees in a manner and as prescribed by the Board,  
3 to commence on the effective date of the Qualifying Certificate.

4           c. At all times at least Seventy-five Percent (75%) of all employment categories of a Beneficiary's  
5 work force shall either be United States citizens or permanent residents of the United States and shall be paid  
6 at prevailing wage rates; provided, however, that for good cause the Authority may grant temporary  
7 exemptions for limited periods. The Authority shall from time to time determine the various management  
8 and non-management employment categories of a Beneficiary.

9           d. The Beneficiary shall be responsible for maintaining operational control of the business or  
10 development which is the subject of the Qualifying Certificate. It may utilize the services of a management  
11 company to assist in the operation of the business or development but in no case may the business be leased  
12 without the Authority's express written approval. Any lease shall be considered as a transfer of the  
13 Qualifying Certificate and its benefits by the applicant, which requires written permission of the Authority  
14 and approval by the Governor of Guam.

15           e. In no event shall a substantial portion of the property or assets of a Beneficiary's development or  
16 business be transferred without the Authority's written consent.

17           f. In no event shall there be a material change in the identity of the stockholders that control a  
18 corporate Beneficiary or in the stockholders of any parent corporate stockholder, without the Authority's  
19 written consent. A material change would be the transfer of more than 50% of the outstanding shares of the  
20 corporate Beneficiary or the parent corporate stockholder. Amendments regarding additional shareholders of  
21 the corporate Beneficiary, which shall be subject to a processing fee set forth in these Rules shall be exempt  
22 from the requirement of a public notice and hearing under §§58124 and 58125. The Beneficiary shall also  
23 provide written notice to the Authority when any shareholder is removed from the beneficiary status within  
24 ten (10) days from the effective date of the removal.

25           g. The Beneficiary shall be required to make a cash or in-kind contribution of between the 5%-10%  
26 of projected benefits the GEDA Board has accepted as standard, equitable contribution levels to be directed  
27 to one or more of the following areas:

- 28                   1. "Guam Industry Promotions Fund "
- 29                   2. Education in the field of telecommunications to include Public Libraries/Museums;
- 30                   4. ~~and any~~ other community improvement projects ~~as~~ approved by the GEDA Board.

31           h. In its procurement of the goods and services necessary to operate and construct the business, the  
32 Beneficiary shall at all times give preference to those goods and services which are available from local





1 businesses. The Beneficiary shall purchase goods or services from a local business, unless the Beneficiary  
2 proves to the Authority's satisfaction that the goods or services are not available from a local business.  
3

#### 4 Section 8 Minimum Capital Investment

5 §8.01 A Beneficiary must commit to make, and prior to the effective date of the QC, verify having  
6 made a capital investment of the following minimum amounts for the following types of business:

7	Telecommunications Carrier Hotel	\$5,000,000
8	Tenant-Service Provider in E-Commerce	\$25,000
9	Independent Service Provider	\$50,000
10	Satellite operating systems or services	\$50,000
11	Call centers	\$50,000
12	FCC 214 license holder	\$50,000

#### 13 Section 9 Recommendations

14 §9.01 Before making its final recommendation to the Governor, the Board shall consider and make  
15 specific findings on the following:  
16

- 17 1. The impact of the Beneficiary's proposed activities upon established  
18 businesses and markets on Guam;
- 19 2. The financial risks facing the Beneficiary to undertake the proposed  
20 activities;
- 21 3. The location of the proposed activities; and
- 22 4. The importance of the proposed activities to the economy of Guam and  
23 the government's officially adopted economic policies.

24 §9.02 In its recommendation of specific tax benefits, the Board shall consider the following as  
25 possible alternatives:

- 26 1. Limiting the tax benefits to a percentage of the capital investment to be made by the  
27 Beneficiary within Guam;
- 28 2. Varying the rates of tax benefits over the term of the Qualifying Certificate;
- 29 3. Limiting the tax benefits to a fixed dollar amount; and
- 30 4. Conditioning the tax benefits upon the Beneficiary's investment in or  
31 creation of public improvements separate from its proposed activities.  
32  
33

1 Section 10. Fees

2 §10.01 The following fees shall be assessed to each Applicant and/or Beneficiary of a  
3 *Qualifying Certificate* pursuant to 12 GCA §§58143, 58144, & 58145.

	<u>Filing Fee</u>	<u>Annual Surveillance Fee</u>
6 Telecommunications, carrier hotel	\$15,000	based on # of tenants*
7 Telecommunications tenant service provider	\$ 5,000	\$1,000
8 Independent telecom service provider	\$10,000	\$2,000
9 Call center	\$10,000	\$2,000
10 Satellite operating systems or services	\$10,000	\$2,000
11 FCC 214 license holder	\$10,000	\$2,000

12 *	1-10 tenants	\$10,000
13	11-20 tenants	\$15,000
14	21 - 30 tenants	\$20,000
15	plus \$5,000 for each additional increment of every ten tenants	

16 §10.02 The Board shall have the Authority to adjust the fees annually, based upon the current CPI  
17 and/or upon demonstration by the Authority that the cost, including extraordinary costs, of performing the  
18 services covered by the fees is greater than the amount of fees charged.

19  
20 Section 11. Authority

21 §11.01 These rules and regulations are made pursuant to 12 GCA §§58108, 58146, Section  
22 3 of the Telecommunication and E-commerce Incentive Act, and in accordance with the provisions of the  
23 Administrative Adjudication Law.

24

1 *GUAM ECONOMIC DEVELOPMENT AUTHORITY*

2 *RULES AND REGULATIONS*

3 For TELECOMMUNICATIONS and ELECTRONIC COMMERCE

4 **COMPLIANCE OF QUALIFYING CERTIFICATE**

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6  
7 Section 1. Purpose

8 §1.01 The purpose of this part of the Rules is to establish pursuant to 12 GCA §58103, further  
9 procedures and instructions for monitoring and certifying compliance with the terms and conditions of all  
10 effective Qualifying Certificates.

11 Section 2. Responsibilities

12 §2.01 The Administrator shall be responsible for the management and administration of the  
13 Qualifying Certificate compliance program and may delegate inspections, monitoring and reports to a  
14 Compliance & Internal Audit Supervisor.

15 Section 3. Inspections

16 §3.01 All Beneficiaries of Qualifying Certificates must adhere to the following inspections  
17 requirements:

- 18 a. As a minimum requirement semi-annual on-site inspections shall be conducted on all Qualifying  
19 Certificate Beneficiaries during the term of the Qualifying Certificate. Additional inspections  
20 may be conducted at the discretion of the Authority. The Authority shall provide reasonable  
21 notice to the Beneficiary prior to all on-site inspections.
- 22 b. At least one (1) of the semi-annual inspections shall be scheduled to coincide with the ending of  
23 the Beneficiary's fiscal year.
- 24 c. In the case of new construction, one (1) inspection shall be conducted within thirty (30) to sixty  
25 (60) days prior to the completion of construction and a second inspection thirty (30) days after  
26 the commencement of operations.
- 27 d. During the course of all inspections, the Qualifying Certificate Beneficiary shall provide for review  
28 by the Authority copies of all requested records and documents in order for the Authority to  
29 determine the following:
- 30 1. Adherence to these Rules;
  - 31 2. Employment level and classification status;
  - 32 3. Fringe benefits offered, such as:

- 1 a) profit sharing/retirement plan
- 2 b) health plan
- 3 c) dental plan
- 4 d) life insurance, and
- 5 e) any other plan recommended by GEDA Board of Directors;
- 6 4. Training programs in effect, due annually by January 31<sup>st</sup> for the current year
- 7 a) Training Plan
  - 8 i) Course schedules for each calendar year
  - 9 ii) Beginning and ending dates for each training course
  - 10 iii) List of all outside training facilities (ie, UOG & GCC), including location(s)
  - 11 b) Internship Program;
- 12 5. Safety programs in effect;
- 13 6. Employee rules and regulations;
- 14 7. Affirmative Action Plan for hiring the disabled;
- 15 8. Annual audited financial statements and tax returns; and
- 16 9. Business License
- 17 10. FCC and/or FTC licenses
- 18 11. International Treaties (if required)
- 19 12. Contracts between Carrier Hotel and Tenant/Service Providers
- 20 13. Any other records or documents the Authority requires to determine
- 21 compliance.

22 NOTE: Should an industry association be established, then the Authority shall require  
 23 beneficiaries to participate with the Association.

- 24 e. The inspection process will include an inspection of the business in order for the Authority to
- 25 determine:
  - 26 1. Access for persons with disabilities;
  - 27 2. Overall conditions of the business; and
  - 28 3. Any other areas the Authority requires to determine compliance.

#### 29 Section 4. Reports

30 §4.01 The following reports shall be prepared by the Authority in conjunction with the inspection  
 31 process:

1 a. Inspection Report – a concise detailed inspection report shall be required within fifteen (15)  
2 working days from date of inspection for review by the Administrator and the Board.

3 b. Monthly Status Report – a detailed status report of the previous month's activities shall be  
4 required for review by the Board at the regularly scheduled meeting.

5 Section 5. Grounds for Suspension,

6 **Recision, or Revocation**

7 §5.01 In accordance with the Administrative Adjudicative Act, the Board may suspend, rescind or  
8 revoke a Qualifying Certificate where the Beneficiary fails to comply with any of the Rules, the terms or  
9 conditions of the Qualifying Certificate or any provision of law.

10 Section 6. Compliance

11 §6.01 When it has been determined by the Authority that the terms and conditions stipulated on the  
12 Qualifying Certificate have been fulfilled by the Beneficiary, the Authority shall forward a "Certificate of  
13 Compliance" together with a copy of the Beneficiary's corporate income tax return and certified audited  
14 financial statements to the Department of Revenue and Taxation, Government of Guam.

15 Section 7. Non-Compliance

16 §7.01 When it has been determined by the Administrator that the terms and conditions stipulated  
17 on the Qualifying Certificate, a provision of law or a requirement imposed by these Rules have not been met,  
18 then the Administrator shall notify the Beneficiary in writing of the specifics of the non-compliance and  
19 provide reasonable time limit in which to correct the discrepancy ("Notice").

20 §7.02 In the event that the Beneficiary continues to be in violation of the Rules, any terms and  
21 conditions of the Qualifying Certificate, or provision of law after the expiration of the time allowed in the  
22 Notice, then the Board may take the action referred to in Rule 5.

23 §7.03 In the event the Beneficiary is required to temporarily discontinue operations due to  
24 extenuating circumstances that are acceptable to the Authority, then the Board may accept a "voluntary  
25 suspension" of the Qualifying Certificate from the Beneficiary not to exceed one (1) year. If after the one (1)  
26 year period the Beneficiary is still unable to continue operations, the Authority may recommend revocation to  
27 the Board in accordance with the Administrative Adjudication Law or may accept a "voluntary surrender" of  
28 the Qualifying Certificate.

29 Section 8. Authority

30 §8.01 These rules and regulations are made pursuant to the 12 GCA §58108 and 58146 and in  
31 accordance with the provisions of the Administrative Adjudication Law.

32







1 **ARTICLE 3**

2 FUNDS TO BE INVESTED IN THE PROJECT

3 §3.01. *Amounts by category:*

4 <i>Categories:</i>	5	6 <i>Amounts:</i>
5 Construction costs . . . . .		\$ _____,
6 Land acquisition costs. . . . .		\$ _____,
7 Equipment, furniture and fixtures. . . . .		\$ _____,
8 Pre-opening expenses. . . . .		\$ _____,
9 Working capital. . . . .		\$ _____,
10 Other costs (detail):		
11 _____ . . . . .		\$ _____,
12 _____ . . . . .		\$ _____,
13 _____ . . . . .		\$ _____,
14 <b><i>Total estimated costs:</i></b> . . . . .		\$ _____.
15 Amount from shareholders . . . . .		\$ _____,
16 Amount to be financed. . . . .		\$ _____,
17 <b>Total</b>		\$ _____.

18

19 **ARTICLE 4**

20 SUPPLEMENTAL FORMS AND DOCUMENTS

21 §4.01. *Financial Statement(s) of principal(s):* Recent financial statement(s) of  
22 Applicant's principal shareholder(s) \_\_\_\_\_, \_\_\_\_\_, and  
23 \_\_\_\_\_. (Attach as Exhibits I-A, I-B and I-C.)

24 §4.02. *Business plan:* A comprehensive business plan covering Applicant's  
25 Project, including income projections and forecasts as appropriate, demonstrating, with as much

1 detail as Applicant believes is necessary, the soundness and feasibility of the Project. (Attach as  
2 Exhibit 2.)

3 §4.03. **Corporate documentation:** Certified copies of Applicant's articles of  
4 incorporation, bylaws, and corporate charter. (Attach as Exhibits 3-A, 3-B and 3-C.)

5 §4.04. **Affidavit of compliance:** Affidavit of compliance with the QC Law on or  
6 following GEDA Form QC-2. (Attach as Exhibit 4.)

7 §4.05. **Copy of Lease Agreement with Carrier Hotel.** (For Tenant-Service  
8 Providers only: Attach as Exhibit 5.)

9

10

## **ARTICLE 5**

11

### LAND FOR PROJECT

12

(for Carrier Hotel Applicant only)

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14 §5.01. **Project's area:** The land for the Project as described in  
15 §1.03, *supra*, contains an area of \_\_\_\_\_ (\_\_\_\_\_) square meters, or  
\_\_\_\_\_ (\_\_\_\_\_) square feet. See the map attached hereto as Exhibit 5.

16

17 §5.02. **Approximate value excluding improvements:**  
\_\_\_\_\_ Dollars (\$\_\_\_\_\_), based on a unit value of \_\_\_\_\_  
18 Dollars (\$\_\_\_\_\_ ) per square meter.

19

20 §5.03. **Tenure:** Applicant holds or will hold the land in fee  
simple/leasehold.

21

22 §5.04. **Annual rental, if any:** \_\_\_\_\_.

23

## **ARTICLE 6**

24

### BUILDINGS

25

(for Carrier Hotel Applicant only)

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27 §6.01. **Numbers and types of buildings and improvements to be  
used in the Project, with approximate floor spaces, if known:**

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§6.02. **Cost:** Approximately \_\_\_\_\_ Dollars  
(\$\_\_\_\_\_). See §3.01, *supra*.

§6.03. **Annual rental if any:** \_\_\_\_\_.

**ARTICLE 7**

**SERVICES**

§7.01. **Description of services and goods to be offered to the public  
on the Project's completion:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If it is determined that the Project will make considerable demands on Guam's utility infrastructure,  
will Applicant be willing to contribute to such infrastructure?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

§7.02. **Estimated annual sales of such goods and services at  
contemplated rate of operations:** \_\_\_\_\_ Dollars  
(\$\_\_\_\_\_)(*first full year*); \_\_\_\_\_ Dollars (\$\_\_\_\_\_)  
(*fifth year*).

1 **ARTICLE 8**

2 EMPLOYEES

3 §8.01. *Anticipated total number of employees:* \_\_\_\_\_  
4 (\_\_\_\_) full-time employees, \_\_\_\_\_ (\_\_\_\_) part-time.

5 §8.02. *Annual gross payroll:* \_\_\_\_\_ Dollars (\$\_\_\_\_)  
6 *(fifth year).*

7 §8.03. *Classification of proposed payroll for the first (1st) year of*  
8 *operations:*

10 <i>Classification:</i>	<i>Number:</i>	<i>Annual gross payroll:</i>
11 _____ department,	_____,	\$_____.
12 _____ department,	_____.	\$_____.
13 _____ department,	_____.	\$_____.
14 _____ department,	_____.	\$_____.
15 _____ department,	_____.	\$_____.
16 <i>Total:</i>	_____.	\$_____.

17 §8.04. *Analysis of nationality of proposed total number of employees after first*  
18 *(1st) year of operations:*

19  
20 Citizens or permanent residents of the United States: \_\_\_\_\_.

21 Aliens: \_\_\_\_\_.

22  
23 **ARTICLE 9**

24 BUSINESS REFERENCES

25 §9.01. *Names and addresses of three (3) business references:*

26 *Names:* \_\_\_\_\_ *Addresses:* \_\_\_\_\_

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- 2           2. \_\_\_\_\_,
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**ARTICLE 10**

**CONCLUSION**

§10.01. **Entitlement:** [Brief summary of why Applicant’s Project qualifies for a QC].

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§10.02. **Request for QC:** On the basis of the information presented in this application and the accompanying exhibits, Applicant requests for the issuance of a QC by the Governor of Guam, upon the recommendation of GEDA, granting to Applicant the tax relief provided by §§58127.1 *et seq.*, of the QC Law, as follows:

<i>Nature of tax:</i>	<i>Periods requested:</i>	<i>Percentages requested:</i>
Corporate income tax,	_____ (___) years,	_____ percent (___%),
Corporate dividend tax,	_____ (___) years,	_____ percent (___%),
Real property tax,	_____ (___) years,	_____ percent (___%), etc.

**Execution**

EXECUTED this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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\_\_\_\_\_, Applicant,

by \_\_\_\_\_,  
\_\_\_\_\_, duly  
authorized representative.

GUAM )  
( ss.:  
City of Agaña. )

On this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, a notary public in and for  
Guam, personally appeared \_\_\_\_\_, known to me to be the duly authorized  
representative of \_\_\_\_\_, who executed the foregoing application, and he  
acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

)SEAL( \_\_\_\_\_,  
Notary Public



**AFFIDAVIT OF CORPORATE APPLICANT  
FOR A QUALIFYING CERTIFICATE  
ON COMPLIANCE WITH THE QC LAW**

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GUAM )  
( ss.:  
City of Agaña. )

\_\_\_\_\_, being first duly sworn, states that he is the duly authorized representative of \_\_\_\_\_, ("Applicant"), which is applying for a Qualifying Certificate ("QC") under the provisions of Chapter 58, Title 12, Guam Code Annotated (the "QC Law"), and that:

§1. *Fringe benefits.* The following fringe benefits will be given to all those employees of Applicant which are employed on the Project for which the QC is sought:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

§§58116 through 58120, QC Law.

§2. *Transfer of benefits of QC:* GEDA's permission will be sought *prior* to any transfer of (i) a majority of the voting stock of Applicant or (ii) a substantial part of Applicant's assets by way of lease, sale, assignment or other transfer, either of which constitutes a transfer of the benefits of the QC.

§58121, QC Law.

§3. *Commencement of Applicant's operations:* Applicant's QC Project will be completed and its services or goods will be available in Guam within \_\_\_\_\_ (\_\_\_\_) months from the date of execution by the Governor of Applicant's QC.

§4. *No conflicts of interest:* No (i) GEDA employee or board member, (ii) member of the Legislature, (iii) full-time employee of the executive branch of the government of Guam from the level of first assistant to the agency head and up (iv) employee of the Governor's office, (v) judge of any of the courts of Guam, nor (vi) the spouse of any of the

1 foregoing, has any financial interest, direct or indirect, in Applicant.

2 §58115, QC Law.

3  
4 §5. *Monthly reports.* Applicant shall furnish GEDA monthly reports, beginning thirty (30) days after the  
5 date of the issuance of its QC. GEDA agrees that such monthly reports shall be confidential and shall be limited to the  
6 following:

7 5.1. *Prior to commencement of operations:*

8 5.1.1. *Construction.* Status of construction, including whether construction has been  
9 delayed, and if so, why and for how long;

10 5.1.2. *Hiring.* Status of employee hiring and training, including current number of  
11 employees; and

12 5.1.3. *Equipment.* Status of any necessary equipment acquisition, and whether such  
13 acquisition, if delayed, will delay commencement of operation, and if so, why and for how long.

14 5.2. *After commencement of operations:*

15 5.2.1. *Income.* Gross income, and if a hotel, its occupancy rate and current number of guest  
16 rooms;

17 5.2.2. *Employees.* Number of employees and total gross payroll, broken down into all job  
18 titles, with rates of pay, with identification of all employees not citizens or permanent residents of the United States;

19 5.2.3. *Taxes.* Total taxes paid to the government of Guam;

20 5.2.4. *Dividends.* Dividends or other payments made to Applicant's shareholders; and

21 5.2.5. *Fees.* If a hotel, total management fee paid, if any.

22 §58123, QC Law.

23 DATED this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

24  
25  
26 \_\_\_\_\_  
27 Applicant,  
28

29 by \_\_\_\_\_,  
30

31  
32 \_\_\_\_\_, applicant.  
33

34  
35 SUBSCRIBED and SWORN to before me, a notary public, this \_\_\_\_ day of \_\_\_\_\_,  
36 200\_\_.

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)SEAL(

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Notary public

1 GEDA FORM QC-3

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TO: GUAM ECONOMIC DEVELOPMENT AUTHORITY ("GEDA")  
ITC BUILDING - SUITE 911  
590 SOUTH MARINE DRIVE  
TAMUNING, GUAM 96911

10 FROM: \_\_\_\_\_, QC applicant.

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**AUTHORITY TO RELEASE NON-PROPRIETARIAL INFORMATION**

18 The undersigned hereby authorizes GEDA to disclose non-confidential and non-  
19 proprietary information respecting the undersigned's application for a Qualifying Certificate.  
20 GEDA agrees that the determination as to whether information is confidential or proprietary is to be  
21 made exclusively by the undersigned.

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\_\_\_\_\_,  
Applicant,

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30 \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
31 (Print Name) (Title) (Date)

32  
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2 **NOTICE OF AN APPLICATION BY A**  
3 **FOR A QUALIFYING CERTIFICATE**  
4 **BEFORE THE**  
5 **GUAM ECONOMIC DEVELOPMENT AUTHORITY (“GEDA”)**

6  
7 PLEASE TAKE NOTICE that:

8 §1. *Filing of application.* \_\_\_\_\_,  
9 *[name of Applicant]*

10 (the “Applicant”), has filed its application with GEDA for a Qualifying Certificate (“QC”) under  
11 Chapter 58, Title 12, Guam Code Annotated (the “QC Law”).

12  
13 §2. *Address.* The address of Applicant is \_\_\_\_\_,  
14 *[district or village]*  
15 municipality of \_\_\_\_\_, Guam 969\_\_\_\_.  
16 *[municipality] [zip]*

17  
18 §3. *Proposed investment.* Applicant intends to invest approximately  
19 \$ \_\_\_\_\_ to \_\_\_\_\_  
20 located  
21 *[estimated total] [description of QC project]*

22  
23 at Lot(s) number(s) \_\_\_\_\_, municipality of \_\_\_\_\_, Guam.

24  
25 §4. *Benefits sought.* Applicant is applying, pursuant to the QC Law, for a rebate  
26 \_\_\_\_\_% of income taxes payable to the government of Guam for a Guam for a  
27 *[percentage]*  
28 period of \_\_\_\_\_ years, and for an abatement of \_\_\_\_\_% of the real property tax due on the  
29 *[number] [percentage]*  
30 property discussed in §2 above for a period of \_\_\_\_\_ years.  
31 *[number]*

32  
33 §5. *Shareholders.* The names and addresses of the shareholders of Applicant are as follows:

34 *Names:* \_\_\_\_\_ *Addresses:* \_\_\_\_\_  
35 \_\_\_\_\_, \_\_\_\_\_,  
36 \_\_\_\_\_, \_\_\_\_\_, etc.  
37

2  
3 **NOTICE OF A PUBLIC HEARING ON AN APPLICATION**  
4 **TO THE GUAM ECONOMIC DEVELOPMENT AUTHORITY**  
5 **(“GEDA”) FOR A QUALIFYING CERTIFICATE AUTHORIZING**  
6 **THE ABATEMENT AND REBATE OF CERTAIN GUAM TAXES**  
7

8  
9 **PLEASE TAKE NOTICE that:**

10 §1. **Public hearing.** In accordance with Chapter 58, Title 12, Guam Code  
11 Annotated (the “QC Law”), and pursuant to the rule-making procedures of the  
12 Administrative Adjudication Law, GEDA will conduct a public hearing at  
13 GEDA’s conference room, ITC Building, 5th Floor, Tamuning, Guam, on \_\_\_\_\_

14 \_\_\_\_\_  
15 *[day of week]*

16  
17 \_\_\_\_\_ 200\_\_\_\_ at \_\_\_\_\_.m. on the application of \_\_\_\_\_,  
18 *[date]* *[time]* *[name of applicant]*

19  
20 Applicant, for a Qualifying Certificate (“QC”), which request is for tax relief by way of  
21 abatement and rebate of Guam taxes in consideration of Applicant  
22 \_\_\_\_\_

23 \_\_\_\_\_  
24 *[Applicant’s*

25  
26 \_\_\_\_\_, all pursuant to the QC Law, and as set out in Applicant’s  
27 *[QC project]*

28  
29 application for a QC.  
30

31 §2. **Nature of hearing.** This hearing shall be open to the public. Oral or written  
32 statements will be received from anyone wishing to testify thereat, which statement will be  
33 incorporated into the records of the hearing.  
34

35 §3. **Further information.** For further information, please contact GEDA’s  
36 Administrator at 647-4332, or at the GEDA offices on the fifth floor, ITC Building, Tamuning,  
37 Guam.

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**INFORMATION TO BE MADE AVAILABLE AT  
A PUBLIC HEARING BEFORE THE  
GUAM ECONOMIC DEVELOPMENT AUTHORITY (“GEDA”)  
ON AN APPLICATION FOR A QUALIFYING CERTIFICATE (“QC”)**

9           §1. *Construction, if appropriate:* Description of buildings with renderings.  
10 Construction schedule, including estimated dates for groundbreaking and opening.

11           §2. *Description of Project:* Overview with some detail of the project or business for  
12 which the QC is sought.

13           §3. *Budget:* Include equity contribution, amount to be financed, source of financing,  
14 and anticipated return on investment.

15           §4. *Employees:* Include number of full-time and part-time employees, and the  
16 percentage of which are U.S. citizens or permanent residents. Estimate the first year’s payroll, and  
17 the payroll after five years.

18           §5. *Benefits to Guam:* Estimated total tax revenue from Applicant’s project or  
19 business to the government of Guam over the first five years, broken down into corporate income  
20 tax, real property tax, hotel occupancy tax, gross receipts tax, employee income tax, and use tax.

21           §6. *Benefits to Applicant:* Description of total of QC benefits over first five years,  
22 broken down into income tax rebates, dividend tax rebates, if any, and property tax abatements.  
23 Give the estimated year in which Applicant will begin to enjoy the income tax rebates.  
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