

MEMORANDUM OF UNDERSTANDING
BETWEEN
POHNPEI STATE GOVERNMENT
AND
COLLEGE OF MICRONESIA-FSM

This Memorandum of Understanding is entered into by the Pohnpei State Government and the College of Micronesia-FSM (COM-FSM) on this ____ day of _____, 2014.

RECITALS

A Previous Memorandum of Understanding and Agreement (the “Prior Agreement”) was signed by the parties in March, 2010. This Memorandum of Understanding (hereinafter MOU), supersedes and takes the place of that Prior Agreement, and will also terminate the obligations of both parties concerning the Pohnpei Small Business Development Center (PSBDC). This agreement is consented to by the Small Business Guaranty Finance Corporation (SBGFC) and the Pohnpei Small Enterprises Development Council (PSEDC). It is recognized that the building involved in the prior MOU remains the property of the State of Pohnpei.

NOW THEREFORE, In consideration of the following premises, the parties mutually agree as follows:

SECTION 1

TERMINATION OF PRIOR MEMORANDUM OF UNDERSTANDING

- 1.1 The Memorandum of Understanding and Agreement signed by the parties on or about March 22, 2010 pertaining to the operation of the PSBDC is hereby immediately terminated by the agreement of both parties to the agreement.
- 1.2 The parties agree that both sides have fulfilled all of their obligations under the prior agreement.
- 1.3 This MOU is to facilitate the termination of the previous agreement and to outline the actions to be taken by the parties after the termination of the previous agreement.
- 1.4 As far as either party is aware, there are no outstanding obligations of PSBDC at this time. Responsibility of any identified outstanding obligation of PSBDC that accrued during the prior agreement may be settled by the parties in subsequent agreement.
- 1.5 All money appropriated for PSBDC has been utilized and accounted for.
- 1.6 Per this agreement the PSBDC is no longer to be located in the building described in section 3 of this agreement, and COM-FSM is no longer to be considered a part

of or affiliated with PSBDC in any manner.

SECTION 2 DISPOSITION OF ASSETS OF PSBDC

- 2.1 The assets of PSBDC include all equipment and materials used in the program, along with the three story building built for purposes of the development of this program, on land currently leased by COM-FSM.
- 2.2 All equipment and materials previously owned by PSBDC shall revert to COM-FSM.
- 2.3 All equipment, material and other assets owned previously by COM-FSM but used by PSBDC shall revert to COM-FSM.
- 2.4 All equipment, material and other assets owned previously by Pohnpei State but used by PSBDC shall revert to Pohnpei State. Inventory of properties shall be completed no later than 30 days following the effective date of this MOU.
- 2.5 The disposition of the building described in this section, shall be disposed of as outlined in the next section.

SECTION 3 USE OF THE BUILDING

- 3.1
 - a. The first floor shall for the use of COM-FSM.
 - b. Small Business Guarantee Finance Corporation (SBGFC) shall continue the use of the second floor where it is presently situated, including the reception area, the kitchen and the conference room. All other parts of the second floor shall be for use by COM-FSM.
 - c. The third floor shall primarily be used by the COM-FSM but will be made available for community outreach programs.
- 3.2 The costs of operating the SBGFC shall be borne by the SBGFC. COM-FSM shall bear the cost for the operation of its own programs.
- 3.3 Each party shall pay for their own utility costs directly used by that party, and maintain the offices and rooms solely used by each party. General expenses for common area maintenance, repairs and maintenance of the building itself, security and any other joint expenses, shall be divided on a pro rata basis. COM-FSM will provide security for the building, and will seek a pro rata contribution for such services from SBGFC. COM-FSM will also maintain all common areas , including but not limited to stairs, hallways and parking area, and seek a pro rata

contribution for such services from SBGFC. SBGFC agrees to abide by all COM-FSM policies, rules and regulations, while located on the campus.

- 3.4 COM-FSM shall use the former premises of the PSBDC on the second floor of the building as defined herein for purposes of conducting its own business and business development programs. COM-FSM may seek outside funding and support for this program and Pohnpei State Government consents to the use of the facility in conjunction with such outside funding and support.
- 3.5 With regards to major repair, renovation or alteration of facility, COM-FSM shall consult with Pohnpei State prior to any such renovation, and determine the apportionment of such costs between the parties.
- 3.6 COM-FSM will provide property and general liability insurance on the building, subject to a pro rata contribution by SBGFC. Each entity will be responsible for insurance coverage on its own employees and for general liability insurance for its own activities.

SECTION IV SPECIAL PROVISIONS

- 4.1 Any dispute that may arise under this section shall be resolved by mutual consultation of the parties. If the dispute is not resolved within a period of 60 days, either party shall have the right to terminate this agreement with 90 days prior written notice sent to the other party. In case of termination herein, the parties shall observe the requirements of SL No. 6L-16-04, as amended; bearing in mind that subsequent to the enactment of this statute COM-FSM also made a sizeable financial contribution to allow completion of the building; unless another lawful agreement amongst the parties is reached. COM-FSM seeks first option to purchase any interest from the State of Pohnpei in the building at that time, to then use the building for its own purposes.

SECTION V TERM OF AGREEMENT

- 5.1 The MOU shall remain in force for a period of ten years, effective from November 1, 2013 and ending October 31, 2023. The MOU can be terminated by either party with a six-month notice.
- 5.2 This MOU may be extended for an additional time period beyond the five years stated herein, based on a signed writing by the parties Pohnpei State and COM-FSM.

SECTION VI
AMENDMENTS

6.1 Amendments to the MOU shall be made in writing, as agreement upon by Pohnpei State and COM-FSM. In the event of any dispute in the interpretation, development, implementation, and/or execution of each party's responsibility, the parties shall meet to discuss and resolve the dispute.

SECTION VI
AUTHORIZED SIGNATURES

IN WITNESS WHEREOF, The parties hereto have executed this Memorandum of Understanding on the dates indicated by their respective name. This MOU may be signed and executed by the parties in duplicate and both shall be treated as equally originals. The signatories below further represent that they have been properly authorized by their principals to act as duty constituted authorities.

For COM-FSM:

For the State of Pohnpei:

JOSEPH DAISY
President

JOHN EHSA
Governor

Date: _____

Date: _____

Chairman, PSEDC

Date: _____

For Small Business Guarantee Corporation

Chairman, SBGFC

Date: _____

Approved as to form:

STEPHEN V. FINNEN
Legal Counsel for COM-FSM

Date: _____

Approved as to form:

JUDAH JOHNNY
Attorney General

Date: _____