

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 35-31 (Co✓)

Introduced by:

T.C. Ada
R.J. RESPICIO
B.J.F. Cruz
ADOLPHO B. PALACIOS, SR.
Aline A. Yamashita, Ph.D.
V. A. Ada
C. Duenas
M.S. Taijeron
D. G. Rodriguez, Jr.

AN ACT TO *AMEND* §12000 OF CHAPTER 12 OF TITLE 12, §79100 AND §79101 OF CHAPTER 79 OF TITLE 12 AND §1921 OF CHAPTER 19 OF TITLE 1 GUAM CODE ANNOTATED (GCA), AND TO *REPEAL* §51118, ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10 GCA AND *REENACT* THEM UNDER A NEW CHAPTER 15, TITLE 12 GCA FOR A GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent.

3 *I Liheslaturan Guåhan* finds that the history of the Government of Guam's
4 (GovGuam) violation of the Clean Water Act goes back to 1986, when the United States
5 Environmental Protection Agency issued an administrative order directing the island's
6 Department of Public Works to cease the discharge of leachate from the Ordot Dump.
7 Twenty-four (24) years later, the Ordot Dump, the island's only municipal site for solid
8 waste disposal, continues to leach contaminants, posing an environmental and health
9 hazard. A Consent Decree was approved by the U.S. District Court of Guam in February
10 2004, yet compliance with its mandates has been minimal. GovGuam's commitment to
11 comply with the Consent Decree was not enough to rectify the island's solid waste crisis.
12 Consequently, on March 17, 2008, Gershman, Brickner & Bratton, Inc. (GBB), solid
13 waste management consultants, was appointed as Receiver by the District Court of Guam

1 to achieve the government's compliance with the Clean Water Act as set forth in the
2 Consent Decree. GBB has full power and authority to enforce the terms of the Consent
3 Decree to include assumption of the functions, powers and authority of the Solid Waste
4 Management Division of the Department of Public Works insofar as they affect
5 GovGuam's compliance with the Consent Decree.

6 *I Liheslaturan Guåhan* intends to prepare GovGuam for the eventual resumption
7 of all functions, responsibilities and authority for solid waste management and
8 operations, subsequent to the U.S. District Court determination that the Consent Decree
9 has been satisfied and that GovGuam would have the capability to manage, operate and
10 sustain a compliant solid waste service and landfill. *I Liheslaturan Guåhan* intends to
11 establish the Guam Solid Waste Authority (GSWA), an autonomous public corporation,
12 as successor to the Solid Waste Management Division, a sub-entity of the Department of
13 Public Works.

14 *I Liheslaturan Guåhan* intends to place the GSWA under the governance of the
15 CCU. *I Liheslaturan Guåhan* finds that the Consolidated Commission on Utilities
16 (CCU), a governing body created by P.L. 26-76 in March 2002, has successfully
17 provided effective governance to the Guam Power Authority (GPA) and the Guam
18 Waterworks Authority (GWA) using best management and business practices and that
19 the CCU has the governing experience and capacity to similarly manage the GSWA.
20 Placing the GSWA under the governance of the CCU from the outset, will better assure a
21 successful and stabilized transition.

22
23 **Section 2.** §79100 of Chapter 79 of Title 12 of the Guam Code Annotated is hereby
24 *amended* to read as follows:

25 **§79100. Creation of Commission.** There is established an elected
26 Consolidated Commission on Utilities whose purpose is to exercise powers vested in
27 them by the laws establishing the Guam Power Authority ('GPA'), the Guam Solid
28 Waste Authority ('GSWA') and the Guam Waterworks Authority ('GWA'). The
29 Consolidated Commission on Utilities, hereinafter referred to as "Commission" shall be
30 elected by registered voters of Guam.

1 **Section 3.** §79101 of Chapter 79 of Title 12 of the Guam Code Annotated is hereby
2 *amended* to read as follows:

3 **§79101. Commissioners.** The Commission shall be comprised of five (5)
4 Commissioners elected at-large by the voters of Guam in a General Election. To be
5 eligible to be a Commissioner, a person must be a registered voter of Guam and a
6 minimum of twenty-five (25) years of age, and shall have been a resident of Guam for at
7 least five (5) years immediately prior to the date of the Commissioner's election.

8 A person may not simultaneously serve as a Commissioner and an employee of
9 the Guam Waterworks Authority, the Guam Power Authority, the Guam Solid Waste
10 Authority, or the Public Utilities Commission, or simultaneously serve as a
11 Commissioner and an unclassified or contracted employee of the government of Guam.
12 An adjunct instructor, adjunct teacher, or adjunct professor employed by the University
13 of Guam or the Guam Community College may serve as a Commissioner.

14 Persons retired from the government of Guam may serve as Commissioners. At
15 their first official meeting, the Commissioners shall elect from among the Commissioners
16 a chairperson, who shall preside over meetings of the Commission. A majority of the
17 Commissioners holding office shall constitute a quorum. The affirmative vote of the
18 majority of Commissioners holding office shall constitute the decision of the
19 Commission. The Commission may adopt rules and regulations governing the conduct of
20 its affairs.

21
22 **Section 4. Transition Liaison.** Upon enactment of this Act the Commission shall
23 establish a liaison with the Receiver, Gershman, Brickner & Bratton, Inc. and begin
24 discussions preliminary to achieving the objective of GovGuam's eventual resumption of
25 all functions, responsibilities and authority for solid waste management and operations
26 and the governance thereof.

27
28 **Section 5. Effective Date of Governance of the Authority.** Governance of the Guam
29 Solid Waste Authority by the Commission shall take effect upon determination by the
30 United States District Court that the requirements of Section XIV of the Consent Decree
31 (Civil Case No. 02-00022, United States of America, Plaintiff, v. Government of Guam,

Defendant) have been fulfilled, and governance of the Municipal Solid Waste Management is returned to the Government of Guam.

Section 6. A new Chapter 15 is hereby added to Title 12 the Guam Code Annotated, and shall read:

CHAPTER 15

GUAM SOLID WASTE AUTHORITY

Article 1. General Provisions

Article 2. Guam Solid Waste Authority Revenue Bonds

Article 3. Transition to a Guam Solid Waste Authority

Article 4. Annual Contract for Scrap Removal

Article 5. Contract for Collection of Recyclable Paper

Article 6. Municipal Recycling Program

Article 7. Recycling Enterprise Zone

Article 1.

General Provisions.

§15001. Short Title.

§15002. Definitions.

§15003. Continuation of Existence.

§15004. Powers and Duties of the Authority

§15005. Governance of the Authority.

§15006. General Manager (GM).

§15007. Assistant GM: Operations and Technical Support.

§15008. Assistant GM: Administration

§15009. Chief Financial Officer.

§15010. Other Officers.

§15011. Employees.

§15012. Acquisition of Existing Systems, Employees and Debt.

§15013. Exemption from Taxation and In Lieu Payments.

§15014. General Operations.

§15015. Accounting and Expenditures.

§15016. Annual Budget.

1 §15017. Employment.

2 §15018. Solid Waste Operation Fund

3 **§15001. Short Title.**

4 This Chapter may be cited as the **Guam Solid Waste Authority Act**.

5 **§15002. Definitions.** As used in this Chapter, unless otherwise indicated:

6 (1) *Authority* means the Guam Solid Waste Authority (GSWA).

7 (2) *General Manager* (GM) means the General Manager of GSWA.

8 (3) *Best public interest* means any activity which: lessens the demand for landfill
9 sites, conserves land resources and serves to insure proper, cost effective, and
10 environmentally sound disposal of solid waste; and, does not pose health risks to human
11 life or endanger plant and animal life.

12 (4) *Commission* means the Consolidated Commission on Utilities.

13 (5) *Business* means and includes any activity or conduct, whether proprietary,
14 partnerships, corporate or whatever form, engaged in, or caused to be engaged in, with
15 the object of gain or economic benefit, either direct or indirect, but shall not include
16 casual sales, personal service contracts, fundraising activities by political candidates or
17 the activities of non-profit associations.

18 (6) *Collection* or *Collect* means the removal of solid waste from a generator.

19 (7) *Collector* means any individual, governmental organization or business, which
20 has received a permit to collect and transport waste in accordance with applicable laws
21 and regulations.

22 (8) *Combustion* means to thermally break down certain types of solid waste in an
23 enclosed device using controlled temperatures.

24 (9) *Composting* means the controlled degradation of organic solid waste.

25 (10) *Disposal* means the discharge, deposit, injection, dumping, spilling, leaking, or
26 placing of any solid waste or hazardous waste into or on any land or water so that such
27 solid waste or hazardous waste or any constituent thereof may enter the environment or
28 be emitted into the air or discharged into any waters, including ground water.

29 (11) *Dump* means a land site where solid waste is disposed without a valid permit, or a
30 landfill that has historically been in regulatory noncompliance.

1 (12) *Duplex* means a residential building containing two (2) separate dwelling units
2 either side by side or one above the other.

3 (13) *Dwelling* means a building or portion thereof designed exclusively for residential
4 occupancy by one (1) family for living and sleeping purposes and not to exceed two (2)
5 dwelling units.

6 (14) *Dwelling unit* means one (1) or more rooms and a single kitchen in a dwelling,
7 designed as a unit for occupancy by one (1) family for living and sleeping purposes.

8 (15) *Financial assurance* means a financial guarantee assuring that funds are available
9 to pay for the design, construction, operation and closure of a solid waste landfill facility,
10 for rendering post-closure at a solid waste landfill facility, for corrective action and to
11 compensate third parties for bodily injury and property damage caused by sudden and
12 non-sudden accidents related to the operation of a solid waste landfill facility.

13 (16) *Generator* means any person that generates or produces solid waste.

14 (17) *Government* means the government of Guam, all of its agencies, whether line or
15 autonomous, and all public corporations.

16 (18) *Hardfill* shall mean a method of compaction and earth cover of solid wastes other
17 than those containing garbage or other putrescible (putrescent) waste, including, but not
18 limited to, demolition material, and like materials not constituting a health or nuisance
19 hazard, where cover need not be applied on a per day used basis. No combustible
20 materials shall be deposited in a hardfill.

21 (a) *Combustible Materials* shall mean any solid or liquid that may be ignited.

22 (i) *Combustible Solids*, as defined in Title 49 of the Code of Federal
23 Regulations, Chapter 1, Subtitle B, Part 173.124, are those capable of igniting and
24 burning.

25 (ii) *Combustible Liquids*, as defined in Title 29 of the Code of Federal
26 Regulations, Chapter 17, Subtitle B, Part 1910.106, shall mean any materials having a
27 flash point at or above 100 degrees Fahrenheit (37.8 degrees Celsius), but below 200
28 degrees Fahrenheit (93.3 degrees Celsius), except any mixture having components with
29 flashpoints of 200 degrees Fahrenheit (93.3 degrees Celsius), or higher, the total volume
30 of which make up ninety-nine percent (99%) or more of the total volume of the mixture.

1 (19) *Hazardous Waste* means any material or substance which, by reason of its
2 composition or characteristics:

3 (a) hazardous waste as defined in the Solid Waste Disposal Act, 42 USC '6901, et
4 seq., as amended, replaced or superseded and the regulations implementing same,
5 (b) a hazardous substance as defined by the Comprehensive Environmental
6 Response, Compensation and Liability Act of 1980, 42 USC § 9601, et seq.,
7 (c) material the disposal of which is regulated by the Toxic Substances Control
8 Act, 15 USC ' 2601, et seq., as amended, replaced or superseded, and the regulations
9 implementing same,

10 (d) special nuclear or by-products material within the meaning of the Atomic
11 Energy Act of 1954,

12 (e) pathological, infectious or biological waste,

13 (f) treated as hazardous waste or as a hazardous substance under applicable law,

14 (g) requires a hazardous waste or similar permit for its storage, treatment,
15 incineration or disposal,

16 (h) may cause or significantly contribute to an increase in mortality or an increase
17 in serious irreversible, or incapacitating reversible illness, or

18 (j) may pose a substantial present or potential hazard to human health or the
19 environment when improperly treated, stored, transported or disposed of, or otherwise
20 damaged.

21 (20) *Highway* means the entire width between the boundary lines of every right-of-
22 way or publicly maintained travel ways when any part thereof is open to the use of the
23 public for purposes of vehicular travel.

24 (21) *Incinerator* means an enclosed device using controlled flame combustion, the
25 primary purpose of which is to thermally break down solid waste.

26 (22) *Multi-family dwelling* means a building containing three (3) or more dwellings.

27 (23) *Operator* means any person who accepts solid waste from a collector for transfer,
28 storage, recycling, combustion, processing or disposal.

29 (24) *Performance bond* means a security for financial loss caused by the act or default
30 performance of a person or by uncontrollable conditions.

- 1 (25) *Person* means any individual, partnership, co-partnership, firm, company,
2 corporation, association, joint stock company, trust, estate, or any agency, department, or
3 instrumentality of the Federal or local government, or any other legal representatives,
4 agents or assigns.
- 5 (26) *Plan* means the interim or final Solid Waste Management Plan ('SWMP')
6 prepared and adopted by the GEPA in accordance with the Administrative Adjudication
7 Law.
- 8 (27) *Plasma torch heating technology* means converting electrical energy into heat
9 energy producing clean fuel gas and recyclable slag.
- 10 (28) *Plasma Remediation In-Situ Materials* ('PRISM') means a plasma torch
11 technology process that melts down and converts landfill material into slag and fuel gas.
- 12 (29) *Pollution* means the condition caused by the presence in the environment of
13 substances of such character and in such quantities that the quality of the environment is
14 impaired or rendered offensive to life.
- 15 (30) *Processing* means any method, system or other treatment designed to change the
16 physical, chemical or biological character or composition of any solid waste. This
17 includes the neutralization of any hazardous waste; the rendering of any hazardous waste
18 non-hazardous, safer for transport, amenable for recovery, amenable for storage or
19 reduced in volume; or any other activity or processing designed to change the physical
20 form or chemical composition of hazardous waste so as to render it non-hazardous.
- 21 (31) *Recyclable materials* includes the following materials discarded from households,
22 businesses, commercial and industrial establishments, hotels, government, agricultural,
23 landscaping, yard maintenance and military operations which may be reused or for which
24 a market exists:
- 25 (a) *aluminum* means any product manufactured of aluminum or aluminum alloy;
- 26 (b) *battery* means any lead acid battery or dry cell battery discarded on Guam,
27 independent of intended use;
- 28 (c) *biomass* means any large biomass source, such as trees, wood, grass, hedge
29 cuttings, jungle growth, yard waste and sewage sludge;
- 30 (d) *construction debris* means the materials from building construction;

1 (e) *corrugated cardboard* means kraft, jute or test liner pulp which is made by
2 combining two (2) or more webs of paper and formed or shaped into wrinkles or folds or
3 into alternate ridges and grooves;

4 (f) *demolition waste* means the materials obtained from the demolishment or
5 razing of buildings;

6 (g) *glass* means any product manufactured from a mixture of silicates, borates or
7 phosphates;

8 (h) *metal scrap* means any metal, in whole or in parts, from buildings, equipment,
9 machinery or vehicles;

10 (i) *newspaper* means a publication which is distributed and contains news articles,
11 opinions, features, and advertising and is printed on impermanent wood pulp materials;

12 (j) *office paper* means computer paper and white and colored ledger paper;

13 (k) *used oil* means any petroleum-based, mineral, or synthetic oil which through
14 use, storage or handling has become unsuitable for its original purpose due to the
15 presence of impurities or loss of original properties; and

16 (l) such other materials which the Authority determines, from time to time, may
17 be recycled.

18 (32) *Recycle* or *Recycling* means the method by which recovered resources are
19 converted for use as raw material or feedstock to make new products.

20 (33) *Resource recovery* means the process of recovering recyclable materials or the
21 recovery of energy from solid waste.

22 (34) *Resource Recovery Facility* ('RRF') is a facility that recovers for sale or reuse of
23 recyclable materials.

24 (35) *Reusing* means the reintroduction of a commodity in the economic stream without
25 any changes.

26 (36) *Sanitary landfill* means an approved site where solid waste and ash are disposed
27 using modern sanitary landfilling techniques in accordance with Federal and local
28 regulations.

29 (37) *Sanitary landfilling* means an engineered method of disposing of solid waste on
30 land in accordance with Federal and local regulations in a manner that protects the

1 environment by spreading the waste in thin layers, compacting it to the smallest practical
2 volume, and covering it with approved material at the end of each working day.

3 (38) *Separation* means the systematic division of solid waste into designated
4 components.

5 (39) *Single Family Residence* means a detached building designed for and/or occupied
6 exclusively by one (1) family, or one (1) of two (2) dwelling units on a duplex.

7 (40) *Solid waste* means any garbage, refuse or sludge from a waste treatment plant,
8 water supply treatment plant, or air pollution control facility and other discarded and/or
9 spilled materials, including solid, liquid, semisolid or contained gaseous material
10 resulting from industrial, mining, commercial, and agriculture operations, and from
11 community activities, but does not include solid or dissolved material in domestic
12 sewage, or solid or dissolved materials in irrigation return flows or industrial discharges
13 which are point sources subject to permits under '402 of the Federal Water Pollution
14 Control Act, as amended (68 Stat. 880) , or source, special nuclear, or by-product
15 material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) .

16 (41) *Solid waste management* means the purposeful, systematic control of the
17 generation, storage, collection, transportation, separation, processing and disposal of solid
18 waste.

19 (42) *Solid waste management facilities* means any facility, or any machinery,
20 equipment, vehicles, structures or any part of accessories thereof installed or acquired for
21 the primary purpose of: collection, transportation, storage, recycling, processing or
22 disposal of solid waste, and shall include sanitary landfills, resource recovery facilities, or
23 plasma torch.

24 (43) *Solid Waste Management Plan* means a comprehensive plan and all amendments
25 and revisions thereto for provisions of solid waste management throughout Guam.

26 (44) *Solid waste management practices* means the actions to effectuate the generation,
27 storage, collection, transportation, processing, recycling, incineration, plasma torch or
28 resource recovery or disposal of solid waste.

29 (45) *Solid Waste Management System* ('SWMS') means the entire system covered in
30 the SWMP and designated by the Director for the storage, collection, generation,

1 transportation, processing, recycling, incineration, plasma torch and disposal of solid
2 waste within Guam.

3 (46) *Source separated waste* means recyclable materials that are set aside by the
4 generator for segregated collection and transport to solid waste management facilities.

5 (47) *Storage* means the interim containment of solid waste in accordance with Federal
6 and local regulations.

7 (48) *Transfer station* shall mean any intermediate waste facility in which solid waste
8 collected from any source is temporarily deposited and stored while awaiting
9 transportation to another solid waste management facility.

10 **§ 15003. Continuation of Existence.** The Solid Waste Management Division, a sub-
11 entity of the Department of Public Works shall continue in existence as an autonomous,
12 public corporation now referred to as the Guam Solid Waste Authority (GSWA).

13 **§ 15004. Powers and Duties of the Authority.** The Authority shall have and exercise
14 each and all of the following powers:

15 (a) Administer those powers listed under this Chapter 15, Title 12 of the Guam
16 Code Annotated.

17 (b) Acquire by grant, purchase, gift, devise or lease, or by the exercise of the right
18 of eminent domain in accordance with the provisions and subject to limitations of 21
19 GCA Chapter 15, and hold and use any real or personal property necessary or convenient
20 or useful for the carrying on of any of the powers pursuant to the provisions of this
21 Chapter;

22 (c) Establish its internal organization and management, and adopt regulations for
23 the administration of its operations;

24 (d) Establish and modify from time to time, with approval of the Public Utility
25 Commission (PUC), reasonable rates and charges for the collection, transportation,
26 disposal, storage, recycling and processing of solid waste to recover the full cost of
27 providing such services, and collect money from customers using such services.

28 Similarly, the Authority shall establish and modify from time to time, with the approval
29 of the Public Utilities Commission, reasonable rate and charges for servicing of debt
30 obtained to undertake capital improvements to solid waste management;

31 (e) Enter into contracts and execute all instruments necessary or convenient in the

1 exercise of its powers, adopt a seal and sue or be sued in its own corporate name;

2 (f) At any time or from time to time, incur indebtedness pursuant to Article 2 of this

3 Chapter;

4 (g) Enter into contracts with the Government of Guam or with the United States for

5 loans or grants;

6 (h) Employ, retain or contract for the services of qualified solid waste management

7 specialists or experts, as individuals or as organizations, to provide technical advice and

8 assistance;

9 (i) Adopt such rules and regulations as may be necessary for the exercise of the

10 powers and performance of the duties conferred or imposed upon the Authority or the

11 Board by this Act;

12 (j) Control, operate, improve, equip, maintain, repair, renew, replace, reconstruct,

13 alter and insure that the solid waste management system is compliant with any applicable

14 zoning, building, environmental and health regulations of the territory of Guam; and

15 (k) Do any and all other things necessary to the full and convenient exercise of the

16 above powers;

17 (l) enter into public-private partnerships for solid waste management facilities and

18 operations, the closure and beneficial use of the Ordot Landfill site, source reduction,

19 recycling, composting, resource recovery, waste reduction and transfer stations. This

20 duty shall also address construction debris or demolition waste, metallic debris, white

21 goods, tires and green waste contracts;

22 (m) organize, plan for, secure and manage resources and promote the

23 implementation of the Solid Waste Management Plan;

24 (n) evaluate and promote capital improvements and maintenance programs to the

25 solid waste management system;

26 (o) address the necessity for a facility for the shredding of tires for recycling or for

27 use as rubberized asphalt;

28 (p) address the necessity for a facility for the recycling of glass, including its use as

29 glassphalt;

30 (q) address the necessity for a facility for the recycling of scrap metals, including

31 discarded vehicles, appliances and equipment, including shredding for containerization or

1 other shipment;

2 (r) require the preparation of any necessary environmental impact assessments or
3 environmental impact reports;

4 (s) mandate the inspection and monitoring of all solid waste management facilities
5 to assure compliance with this Act, the Plan, other law, rules and regulations applicable
6 to Guam; and

7 (t) apply for all grants-in-aid requests and administer any such programs or funds,
8 except those established for recycling.

9 Nothing contained in this Section or elsewhere in this Article shall be construed directly
10 or by implication to be in any way in derogation or limitation of powers conferred upon
11 or existing in the Authority or the Board by virtue of any provisions of the Organic Act of
12 Guam or Statutes of the Territory or any other provision of this Code.

13 **§ 15005. Governance of Authority.** All powers vested in the Authority, except as
14 provided herein, shall be exercised by the Board of Directors upon relief of the Receiver
15 by the U.S. District Court..

16 **§ 15006. General Manager.**

17 (a) The Board shall appoint a general manager who shall be its chief executive
18 officer and shall serve at its pleasure. The general manager shall, at a minimum, possess
19 the following qualifications:

20 i). A combined minimum of six (6) years of documented experience
21 successfully managing a Solid Waste Management System of similar size as the GSWA
22 system, and

23 ii). Graduation from an accredited institution of higher education with a
24 Bachelors degree in Business Management, Engineering Management, Engineering
25 Technology or Civil Engineering, or

26 (b) The Board shall fix the general manager's compensation, notwithstanding any
27 other provision of law. The general manager shall manage the construction,
28 maintenance, operation and administration of business affairs of the Authority.

29 (c) The Board may contract with a business entity to perform any or all of the
30 duties, and to exercise any or all of the powers of the general manager as provided in this
31 Section, and the general manager, subject to the approval of the Board, may contract with

1 a business entity to perform some of the duties or to render expert and technical
2 assistance in the operation of the Authority. The Initial Term of such a management
3 contract shall be for a period of up to three (3) years. The Authority shall also have the
4 option for two (2) Renewal Terms of five (5) years each. The contracted business entity
5 pursuant to this Section must have a minimum of ten (10) years experience in
6 management and operation of a solid waste system of similar or greater scope than the
7 Authority.

8 (d) The powers and responsibilities of the General Manager shall include the
9 following:

- 10 (i) To enforce all rules and regulation of the Authority;
- 11 (ii) To attend all meetings of the Board and submit a general report of the
12 affairs of the Authority;
- 13 (iii) To keep the Board advised as to the needs of the Authority, to approve
14 demands for the payment of obligations of the Authority, and to
15 approve expenditures and collection of revenue within the purposes
16 and amounts authorized by the annual budget;
- 17 (iv) To prepare, or cause to be prepared, all plans and specifications for the
18 constructions of work by the Authority in accordance with the annual
19 budget;
- 20 (v) To select and appoint the employees of the Authority, except as
21 otherwise provided by this Chapter, and to plan, organize, coordinate
22 and control the services of such employees in the exercise of the
23 powers of the Authority under the general direction of the Board;
- 24 (vi) To cause to be published within one hundred twenty (120) days from
25 the end of each fiscal year a financial report, which shall include an
26 annual financial audit pursuant to §1908 and §1909 of Chapter 19,
27 Title 1 Guam Code Annotated. This report should present the result
28 of operations for the preceding fiscal year and the financial status of
29 the Authority on the last day thereof. The publication shall be made in
30 the manner provided by the Board; and
- 31 (vii) To perform such other and additional duties as the Board may require.

1 **§15007. Assistant General Manager: Operations and Technical Support.**

2 The General Manager, with the consent of the Board, may appoint an Assistant
3 General Manager for Operations and Technical Support, who shall serve at the pleasure
4 of the General Manager.

5 (a) The Assistant General Manager of Operations and Technical Support shall be
6 entitled to receive compensation as recommended by the General Manager and approved
7 by the Board.

8 (b) Such Assistant General Manager shall devote his entire time to the business of
9 the Authority and shall have full charge and control, subject to the direction of the
10 General Manager, of all operations, engineering and technical services pertaining to the
11 generation, storage, collection, transportation, processing, recycling, resource recovery or
12 disposal of solid waste.

13 (c) Such Assistant General Manager shall have such other duties as may be
14 designated by the General Manager.

15 **§15008. Assistant General Manager: Administration.**

16 The General Manager, with the consent of the Board, may appoint an Assistant
17 General Manager for Administration, who shall serve at the pleasure of the General
18 Manager.

19 (a) The Assistant General Manager of Administration shall be entitled to receive
20 compensation as recommended by the General Manager and approved by the Board.

21 (b) Such Assistant General Manager shall devote his/her entire time to the business
22 of the Authority and shall have full charge and control, subject to the direction of the
23 General Manager, of all administration of the Authority.

24 (c) Such Assistant General Manager shall have such other duties as may be
25 designated by the General Manager.

26 **§ 15009. Chief Financial Officer.** The Board may appoint a chief financial officer who
27 shall be a Certified Public Accountant. The Board shall fix the chief financial officer's
28 compensation. The chief financial officer shall have full charge and control of the fiscal,
29 business and accounting operations of the Authority, subject to the supervision of the
30 Board.

31 **§ 15010. Other Officers.**

1 (a) The Board may also appoint a Secretary and an Attorney, who all shall serve at
2 the pleasure of the Board and whose duties and compensation shall be fixed by the Board.
3 The Board may appoint one or more assistants to any such office. Any of such offices
4 may be consolidated in one person.

5 (b) The Secretary shall have charge of all records and minutes of the Board.

6 (c) The Attorney, who must have been admitted to practice in Guam, shall advise
7 the Board and the General Manager on all legal matters to which the Authority is a party
8 or in which the Authority is legally interested and may represent the Authority in
9 connection with legal matters before the Legislature, boards and other agencies of the
10 Territory. The Attorney General shall represent the Authority in litigation concerning the
11 affairs of the Authority provided that he may delegate this duty to the Attorney of the
12 Authority, with respect to any such litigation.

13 **§ 15011. Employees.** All employees of the Authority shall be eligible for all insurance,
14 retirement, worker's compensation and other benefits as extended to employees of the
15 government of Guam, and shall be employees of the government of Guam for the
16 purposes of the application of all civil service laws and personnel rules and regulations
17 that apply to government of Guam employees, inclusive of all scales, tables and
18 schedules for compensation. With respect to compensation, this Section shall not apply to
19 the compensation of the General Manager, Assistant General Manager: Administration,
20 Assistant General Manager: Operations and Technical Support, Secretary, Attorney or the
21 Chief Financial Officer.

22 **§ 15012. Acquisition of Existing Systems, Employees, and Debt.** Ninety (90) days
23 after the effective date of this Act the Authority shall assume in writing from the
24 Department of Public Works, Solid Waste Management Division:

25 (a) all real property under the DPW Solid Waste Management Division (SWMD)
26 administration and items of property, materials and supplies which the SWMD owns or
27 controls, including construction work in progress.

28 (b) all working capital, cash, accounts payable and receivable, deposits, advances
29 payable and receivable, all books, records and maps and all other rights, obligations,
30 assets, liabilities, agreements and privileges of the Authority or attributable to the
31 Authority.

(c) Each Government of Guam employee assigned to the Department of Public Works, Solid Waste Management Division at the date of the transfer pursuant to statute shall be transferred to the Authority. All classified employees shall remain classified.

§ 15013. Exemption from Taxation, and In Lieu Payments. As an instrumentality of the Territory, the Authority and all property acquired by or for the Board and all revenues and income from taxation by the Territory or by any political subdivision or public corporation thereof and from all taxes imposed under the authority of the Legislature of the Territory, or with respect to which the Legislature is authorized to grant exemption.

§15014. General Operations. Rates for Services. The Authority shall apply to the Public Utilities Commission (PUC) for establishment of its rates for its services including, but not limited to:

(a) Operating Costs:

- i. Layon Landfill
- ii. Commercial Transfer Stations
- iii. Retail Transfer Stations
- iv. Residential Trash Collection
- v. Bulky and Metallic Waste collection
- vi. Recycling
- vii. Customer Service and Education
- viii. Equipment Maintenance
- ix. Household Hazardous Waste
- x. Administration

(b) Reserve Fund Costs.

- i. Debt Service
- ii. Equipment Replacement
- iii. New Cell Development
- iv. Closure of Cells
- v. Post Closure Care

§ 15015. Accounting and Expenditures.

(a) The Board shall adopt and maintain a system of accounting.

(b) The Board shall authorize, by means of the annual budget, payment of demands

1 against the Authority resulting from the exercise of its powers under this Act if:

- 2 i. the purposes and amounts of such demands are projected in the budget,
3 expressed in terms of major account groups of the Uniform System of
4 Accounts, which has been adopted by the Board after receiving
5 recommendations from the General Manager; and
6 ii. the specific demands which are made are approved by the Board before
7 payment.

8 (c) The Board shall employ, in accordance with the appropriate procurement laws
9 and the annual budget, a firm of locally licensed, independent Certified Public
10 Accountants who shall annually examine the financial status and workings of the
11 Authority for the previous fiscal year. Said firm shall submit no later than February 1st
12 of each year, a written report on the financial status and workings of the Authority during
13 the previous fiscal year to *I Magalahen Guåhan* [Governor], the General Manager and *I*
14 *Lihe slaturan Guåhan*. *I Magalahen Guåhan* and *I Lihe slaturan Guåhan* may request
15 special reports within thirty (30) days after the end of each fiscal quarter. The financial
16 information presented in the reports required by this Section shall be in accordance with
17 the Uniform System of Accounts adopted by the Board. Claims against the Guam Solid
18 Waste Authority shall be submitted to the Attorney General of Guam in accordance with
19 the Government Claims Act.

20 **§ 15016. Annual Budget.** For the purposes of Chapter 15 of Title 12 of the Guam Code
21 Annotated, the term *annual budget* means a balanced budget for expenditures of the
22 Guam Solid Waste Authority for a fiscal year to be funded by the anticipated revenues
23 and other funds to be received and expended for the same fiscal year, submitted to the
24 Board and approved by resolution, with amendment and modification as may be desired
25 by the Board.

26 (a) If the Authority fails to submit a budget for the next fiscal year, the current
27 fiscal year's budget shall be deemed approved for the next fiscal year, subject to Board
28 modification.

29 **§ 15017. Employment.**

30 (a) Pursuant to the provisions of 4 GCA §§4105 and 4106, the Board shall establish
31 rules and regulations regarding selection, promotion, performance evaluation, demotion,

1 suspension and other disciplinary action for the employees of the Authority which shall
2 be transmitted to *I Liheslatura Guahân* [Legislature] to be ratified, which thereafter shall
3 supersede the provisions in §15110 of this Chapter. All contracts for the hiring of off
4 island employees shall conform to the provisions of 4 GCA §§6501 and 6501.1.

5 (b) Classified employees of the Authority shall be members of the government of
6 Guam Retirement Fund. The Authority shall contribute to the government of Guam
7 Retirement Fund on the basis of annual billings as determined by the Board of Trustees
8 of the government of Guam Retirement Fund, for the government share of the cost of the
9 retirement benefits applicable to the Authority's employees and their beneficiaries. The
10 Authority shall also contribute to the Worker's Compensation Fund, on the basis of
11 annual billings as determined by the Worker's Compensation Commissioner, for the
12 benefit payments made from such Fund on account of the Authority's employees.

13 (c) Notwithstanding any other provisions of law, neither the General
14 Manager, Assistant General Managers, Secretary, Chief Financial Officer, nor Attorney
15 of the Authority shall be within the classified service of the government of Guam but
16 shall be hired, compensated and employed under the terms and conditions fixed by, and
17 at the pleasure of the Board.

18 **Article 2. Guam Solid Waste Authority Revenue Bonds.**

19 **§15200. Authorization of Indebtedness Through GEDA.**

20 **§15201. Guam Economic Development Authority as Central** 21 **Financial Manager.**

22 **§15202. Evidence of Transfers Filed at the Department of Land Management.**

23 **§15203. Statutory Approval Required for Sale.**

24 **§15204. Acceptance of Payments, Installation Applications and** 25 **Service/Repair Requests via the Internet.**

26 **§15200. Authorization of indebtedness through GEDA.** The Guam Economic
27 Development Authority ('GEDA') may obtain funds through the issuance of bonds or
28 other obligations on behalf of the Authority.

29 (a) Bonds or Notes. Accordingly, the Authority, through GEDA, with the approval
30 of *I Magalahen Guåhan* and *I Liheslaturan Guåhan* is authorized to incur indebtedness,
31 and to issue bonds or notes therefor, secured by a pledge of all or any portion of the

1 revenues of the Authority, to establish and facilitate the Solid Waste Management Plan,
2 and collection, transportation, storage, recycling, processing or disposal of solid waste,
3 which shall include sanitary landfills and resource recover facilities.

4 (b) Subordinated Indebtedness. In addition, the Authority, acting through GEDA,
5 may incur indebtedness for any other lawful purpose of the Authority, provided that such
6 indebtedness shall have a term not exceeding fifty (50) years and shall be subordinate to
7 any contractual obligation of the Authority to the holders of any indebtedness issued
8 pursuant to subsection (a) of this section.

9 (c) Short Term Borrowing. Pursuant to GEDA, the Authority may incur
10 indebtedness with the approval of the Governor for any lawful purpose for a term not
11 exceeding five (5) years; provided, that such indebtedness shall be subject and
12 subordinate to any contractual obligation of the Authority to the holders of any bonds
13 issued pursuant to paragraphs (a) or (b) of this section. The principal of and interest of
14 any such short term borrowing may be repaid from revenues, or if incurred for a purpose
15 for which bonds may be issued, from revenues or from the proceeds of sale of bonds.

16 (d) Character of Indebtedness. All indebtedness incurred by the Authority pursuant
17 to this Article shall be repayable solely from monies of the Authority available therefor,
18 including revenues, and shall not be deemed to be public indebtedness of the Territory as
19 that term is used in Section 11 of the Organic Act.

20 (e) Waiver of Immunity. Notwithstanding any substantive or procedural provision
21 of Chapter 6, Title 5, Guam Code Annotated, the Authority shall not be entitled to
22 immunity from any suit or action in contract on the indebtedness authorized by this
23 Article.

24 **§15201. Guam Economic Development Authority as Central Financial Manager.**

25 Notwithstanding any other provisions of this Article, the Guam Economic Development
26 Authority shall act as the Central Financial Manager and Consultant to the Authority and
27 shall provide technical assistance in obtaining funds through the issuance of bonds or
28 other obligations. The Authority must comply with all provisions under this section
29 relative to the financial requirements and needs as directed by GEDA.

30 **§ 15202. Evidence of Transfers Filed at the Department of Land Management.**

31 Transfer of real property interests pursuant to this Act, including but not limited to fee

1 estates, easements and land use rights evidenced by easements, leases and licenses, shall
2 be filed in the form of deeds or assignments signed by *I Magalahaen Guåhan* in good form
3 containing specific property descriptions, lot numbers and map numbers, at the
4 Department of Land Management within 360 days of the effective date of this Act. Any
5 transfer not filed within such time frame shall lapse and be of no further force and effect
6 unless re-initiated or authorized by separate statutory legislation authority. Any
7 subsequent easements or transfers of property from the Government of Guam, including
8 the Chamorro Land Trust Commission, shall be in the form of deeds or assignments in
9 good form containing specific property descriptions, lot numbers and map numbers,
10 recorded at the Department of Land Management.

11 **§ 15203. Statutory Approval Required for Sale.** Notwithstanding any of the provisions
12 of this Act, specific legislative statutory approval shall be required prior to sale, transfer
13 or lease of any real property assets or lands of the Guam Solid Waste Authority. Nothing
14 herein shall be construed as such approval. In addition, notwithstanding any other
15 provision contained herein, the provisions of 1 GCA § 1800 shall be applicable to the
16 Guam Solid Waste Authority.

17 **§ 15204. Acceptance of Payments, Installation Applications and Service/Repair**
18 **Requests via the Internet.**

19 (a) Notwithstanding any other provision of law, the Guam Solid Waste Authority
20 shall provide that the following services be made available via the internet:

- 21 (i) Acceptance of online payments;
- 22 (ii) Application for installation of new and additional services, and
- 23 (iii) Requests for service and repair.

24 (b) The Guam Solid Waste Authority shall provide an email address(es) for
25 inquiries regarding subsection (a) (1), (2) and (3).

26 (c) Nothing herein shall be construed as limiting the Authority's ability to receive
27 payments through online payment and/or banking services.

28 (d) The Guam Solid Waste Authority shall set, by Administrative Rule, the
29 timeframes to which email inquiries must be addressed and dispensed with.

30 (e) The Guam Solid Waste Authority shall adopt appropriate security measures
31 necessary to protect its customers from fraud and identity theft.

1 **Article 3. Transition to the Guam Solid Waste Authority**

2 **§15301. Effective Date.**

3 **§15301. Effective Date.** The provisions of this Act shall take effect upon ninety (90)
4 days of enactment of this Act except as specified in Section 5 of this Act.

5
6 **Section 7.** §51118 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed* and
7 *reenacted* as §15018, Chapter 15, Title 12 Guam Code Annotated, and shall read:

8 **§15018. Solid Waste Operations Fund.**

9 (a) **Commercial Haulers.** For commercial, including multi-family dwellings
10 and government agencies, the charge is a disposal tipping fee and does not include
11 collection fees independently charged by commercial waste haulers.

12 (b) **Commercial and Residential Tipping Fees.** All commercial and
13 residential tipping fees charged by the Authority shall be subject to the review and
14 approval of the Public Utilities Commission.

15 (c) **Business and Governmental Tipping Fees.** A tipping fee per cubic yard,
16 uncompacted, shall be established for business and government generators, subject to
17 approval by the Public Utilities Commission (PUC), and shall be published in a rate order
18 developed by the PUC.

19 (d) **Residential Tipping Fees.** A residential tipping fee, which may include
20 collection charges and a Self-Drop Fee, may be established subject to the approval of the
21 PUC.

22 (e) **PUC Rate-making.** The Public Utilities Commission of Guam [‘PUC’] is
23 hereby authorized to establish, amend and approve, in accordance with Chapter 12 of
24 Title 12, Guam Code Annotated, all commercial, government and residential tipping and
25 user fees [including without limitation a self-drop fee, a variable residential tipping fee
26 and, collectively referred to as ‘tipping fees’], which when established shall replace those
27 previously created by law. Tipping fees authorized and established by PUC shall be based
28 on volume and on an analysis of operations costs, including those cost components
29 specifically listed under §15014 of this Act. PUC is empowered to undertake a focused
30 management audit of the existing operations of the Guam Solid Waste Authority. In
31 performing its duties under this Section, PUC shall have the full authority and powers

1 conferred upon it by its enabling legislation, 12 GCA 12000 et. sec., including the audit
2 power conferred upon it by Public Laws 25-05:12 and 26-78:2.

3 (f) **Solid Waste Operations Fund.** All tipping, user and other fees authorized
4 under this Section and collected based on duly established rules and regulations or on a
5 PUC rate order shall be deposited in a special fund designated and hereby established as
6 the Solid Waste Operations Fund. All tipping/user fees in the Fund shall be used solely
7 for solid waste management purposes and, pursuant to PUC order, for the payment of
8 regulatory costs and expenses as may be incurred by PUC in performing its regulatory
9 duties under Subsection (e).

10
11 **Section 8.** Article 3 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed*
12 and *reenacted* under Article 4, Chapter 15, Title 12 Guam Code Annotated, and shall
13 read:

14 **ARTICLE 4**

15 **ANNUAL CONTRACT FOR SCRAP REMOVAL**

16 **§15401. Contract to Remove Scrap**

17 **§15402. Biennial Contract.**

18 **§15403. Environmental Impact Study**

19 **§15404. Conformity to Waste Removal Regulations**

20 **§15405. Reports**

21 **§15401. Contract to Remove Scrap**

22 The General Manager, after duly advertising for a request for proposals for the removal
23 of scrap metal, shall enter into a contract with any interested business organization, either
24 local or off-island, to collect and remove from Guam scrap metal. The successful offeror
25 may not be charged for the scrap metal but shall post a performance bond equal to 70%
26 of contract value to assure contract completion of the removal project within twenty-four
27 (24) months from receiving from the General Manager a Notice to Proceed. A “Scrap
28 Metal” for the purpose of this Article means abandoned vehicles and other abandoned
29 metal implements of which the Authority has jurisdiction and the right to dispose. In so
30 disposing of such scrap metal, the General Manager shall not charge any fees to the
31 owner of the same.

1 **§ 15402. Biennial Contract.**

2 The General Manager shall advertise for and execute such a contract every two (2) years
3 with any qualified party on the same terms as are set out in §15401 of this Article.

4 **§ 15403. Environmental Impact Study.**

5 The Guam Solid Waste Authority shall cause an environmental impact study to be
6 undertaken by the successful offeror prior to the issuance of a permit and the Notice to
7 Proceed to ensure that scrap removal project will not have potential adverse ecological
8 damage to aquifers or the environment at the temporary consolidation site and source
9 location.

10 **§ 15404. Conformity to Waste Removal Regulations.**

11 The successful offeror shall perform all work under this Article in compliance with
12 applicable rules and regulations of GEPA on the removal of scrap metal and hazardous
13 waste. As a minimum, the Authority shall ensure that all successful offerors include as
14 part of their processing, an intake system to screen and remove batteries and other
15 potentially hazardous residual material including, engine oil, hydraulic fluids and coolant
16 and freon from air conditioning units.

17 **§ 15405. Reports.**

18 Each successful bidder shall file a report on a quarterly basis with I Maga'lahen Guåhan
19 [the Governor], I Liheslaturan Guåhan [the Legislature] and the Guam Solid Waste
20 Authority outlining the following:

21 (a) total type and amount of scrap metals, batteries and other potentially
22 hazardous residual material referenced in §15404;

23 (b) cost comparison of the cost of the scrap metal program versus landfill
24 disposal of scrap metals, or any less-than-conventional methods of scrap metal waste
25 reduction; and

26 (c) recommendations for permanent implementation and improvements to the
27 recycling program.

28

29 **Section 9.** Article 4 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed*
30 and *reenacted* under Article 5, Chapter 15, Title 12 Guam Code Annotated, and shall
31 read:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

ARTICLE 5

CONTRACT FOR COLLECTION OF RECYCLABLE PAPER.

§15501. Contract to Accept and Collect Recyclable Paper.

§15502. Biennial Contract.

§15503. Conformity to All Laws and Rules and Regulations.

§15504. Reports.

§15501. Contract to Accept and Collect Recyclable Paper.

The Authority, in accordance with the applicable procurement laws, and after advertising for a request for proposals (‘RFP’) for the collection of recyclable paper, shall enter into a two (2) - year contract with any qualified local interested business or nonprofit organization, to accept and collect recyclable paper to include newsprint, office paper and magazines from the public, and to implement a plan to prevent them from entering Guam’s waste stream. The qualified local business or nonprofit organization shall have active recycling experience and knowledge in Guam. The RFP shall include the requirement that the prospective contractor accepts and pays for all recyclable paper, to include newsprint, office paper and magazines offered by the public. The successful offeror shall be one who bids the highest amount per pound to be paid to the public for the recyclable paper for the duration of the contract term. The successful offeror may not be charged for the recyclable paper but shall post a performance bond equal to 70% of contract value to assure contract completion of the recyclable paper collection project within twenty-four (24) months from receiving from the General Manager a Notice to Proceed.

§ 15502. Biennial Contract.

The Authority shall advertise for and execute such a contract every two (2) years with any qualified party on the same terms as are set out in §15501 of this Article.

§ 15503. Conformity to All Laws and Rules and Regulations.

The successful offeror shall perform all work under this Article in compliance with all applicable laws, including those of this Chapter, and rules and regulations of GEPA as may be established. As a minimum, the Authority shall ensure that all offerors include as part of their processing, a plan to remove the collected paper from Guam’s waste stream.

§ 15504. Reports.

Each successful bidder shall file a report on a quarterly basis with I Maga'lahañ Guåhan [the Governor], I Liheslaturan Guåhan [the Legislature] and the Guam Solid Waste Authority outlining the following:

- (a) total type and amount of paper recycled;
- (b) cost comparison of the cost of the paper-recycling program versus landfill disposal of paper, or any less-than-conventional methods of paper waste reduction; and
- (c) recommendations for permanent implementation and improvements to the recycling program.

Section 10. Article 6 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed* and *reenacted* under Article 6, Chapter 15, Title 12 Guam Code Annotated, and shall read:

ARTICLE 6

MUNICIPAL RECYCLING PROGRAM

§15601. Definitions.

§15602. Creation of Municipal Recycling Proceeds Fund for each village.

§15603. Creation of the Municipal Recycling Program.

§15604. Authorization for Municipal Planning Councils to Use the Proceeds from the Sale of Recyclable Materials for Village Needs.

§ 15601. Definitions.

For purposes of this Article, except as otherwise provided, the following words and phrases, together with all of the common derivatives thereof, shall have the meaning ascribed to them as follows:

- (1) 'GEPA' shall mean the Guam Environmental Protection Agency.
- (2) 'Recycling' means the process by which recovered resources are transformed into new products in such a manner that products lose their initial identity, as defined in § 51102 (18) of Chapter 51 of Title 10 of the Guam Code Annotated.
- (3) 'Recyclable materials' means materials which still have useful physical or chemical properties after serving a specific purpose for the same or other purpose. Recyclable materials are as follows:

- 1 (a) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium,
2 sealed types for power backup);
- 3 (b) automobiles, buses, and trucks or any form of motorized vehicle;
- 4 (c) tires (passenger/commercial);
- 5 (d) enameled white goods;
- 6 (e) home appliances (other small appliances that are not considered enameled
7 white goods);
- 8 (f) glass and plastic bottles;
- 9 (g) foam padding;
- 10 (h) lead;
- 11 (i) metals (ferrous/non-ferrous);
- 12 (j) organic material (i.e., tree trimmings, palm fronds, grass, food waste,
13 soiled cardboard);
- 14 (k) paper products;
- 15 (l) wood pallets and scrap wood;
- 16 (m) construction and demolition debris ('C&D');
- 17 (n) x-ray film;
- 18 (o) automobile oil and fluids;
- 19 (p) Freon and other refrigerant gases;
- 20 (q) electronic waste (i.e., computers, circuit boards, televisions, and portable
21 phones);
- 22 (r) heavy equipment; and
- 23 (s) other recyclable materials deemed recyclable by GEPA pursuant to the
24 Rules and Regulations.

25 (4) '*Recycling Company*' means any business licensed by the Department of Revenue
26 and Taxation, and issued a permit, as required in § 51104 of Chapter 51 of Title 10 of the
27 Guam Code Annotated, from the Guam Environmental Protection Agency to conduct
28 business on Guam.

29 **§ 15602. Creation of Municipal Recycling Proceeds Fund for Each Village.**

30 There is hereby established a Municipal Recycling Proceeds Fund for each municipality
31 which shall be maintained separate and apart from any other funds, including the General

1 Fund of the government of Guam, and independent records and accounts shall be
2 maintained in connection therewith. The proceeds from the sale of recyclable materials
3 collected, in accordance with the Municipal Recycling Program, from each village shall
4 be deposited in the respective Municipal Recycling Proceeds Fund. All revenue deposited
5 in each Municipal Recycling Proceeds Fund shall not be commingled with General Fund
6 monies and shall be kept in a separate bank account. All proceeds from fees collected in
7 accordance with §15703 of this Article shall be deposited in the Municipal Recycling
8 Proceeds Fund for the respective village and used exclusively for the purposes authorized
9 in §15704 of this Article. The Municipal Planning Council of each municipality shall
10 administer the Municipal Recycling Proceeds Fund for its municipality which shall be
11 subject to audits by the Public Auditor.

12 **§ 15603. Creation of the Municipal Recycling Program.**

13 There is hereby created a Municipal Recycling Program within the Guam Solid Waste
14 Authority to promote recycling on the municipal level in partnership with the village
15 mayors. The program shall incorporate the following components:

16 (a) Recycling Drop-Off Bins. GSWA shall solicit drop-off bins from
17 recycling companies that would be made available to each mayor participating in the
18 Municipal Recycling Program. The recycling drop-off bins shall be rust-proof, and
19 located at a suitable site within the respective villages so that the residents will have a
20 repository to which they can bring recyclable materials in accordance with guidelines
21 established by the Guam Solid Waste Authority. The mayors of each village participating
22 in the program will be responsible for the security and cleaning of the bins, and the
23 supervision of their use for recycling purposes.

24 (b) Village Education Program. In coordination with the village mayors,
25 GEPA and GSWA shall create educational programs to promote recycling and the use of
26 the recycling drop-off bins within each village.

27 (c) Sale of Recyclable Materials. In partnership with the village mayors,
28 GSWA shall arrange for the sale of recyclable materials, collected at the Recycling Drop-
29 off Bins in each village, to recycling companies. The proceeds from the sale of recyclable
30 materials shall be deposited into the respective Municipal Recycling Proceeds Fund of
31 the village from which the recyclable materials were collected.

(d) The Program shall first begin with pilot programs at three (3) villages; one (1) each from northern, central, and southern Guam. The selection of the three (3) villages shall be made by GSWA in concert with the village mayors.

§ 15604. Authorization for Municipal Planning Councils to Use the Proceeds from the Sale of Recyclable Materials for Village Needs.

The proceeds from the sale of recyclable materials from a village site shall be retained for use by the municipal government of that village in its Municipal Recycling Proceeds Fund. Expenditures from a village's Municipal Recycling Proceeds Fund shall be exclusively for the needs of that village as determined by the respective Municipal Planning Council through adoption of a resolution.

Section 11. Article 7, Article 8 and Article 9 of Chapter 51, Title 10 Guam Code Annotated are hereby *repealed* and *reenacted* under Article 7, Chapter 15, Title 12 Guam Code Annotated, and shall read:

ARTICLE 7

RECYCLING ENTERPRISE ZONE

§ 15701. Definitions.

§ 15702. Establishment of Recycling Enterprise Zone.

§ 15703. Eligibility of Recycling Companies for use of the Recycling Enterprise Zone.

§ 15701. Definitions.

For purposes of this Act, and except as otherwise provided, the following words and phrases, together with all of the common derivatives thereof, shall have the meaning ascribed to them as follows:

(1) *JLGCP* shall mean the Jose D. Leon Guerrero Commercial Port.

(2) *Recycle* or '*Recycling*' means the method by which recovered resources are converted for use as raw material or feedstock to make new products, as defined in § 51102 (35) of Chapter 51, Title 10 of the Guam Code Annotated.

(3) *Recycling company* means any business licensed by the Department of Revenue and Taxation, and has been issued a permit as required in § 51104 of Chapter 51, Title 10 of the Guam Code Annotated by the Guam Environmental Protection Agency ('GEPA')

1 to conduct business on Guam and that specifically commits eighty percent (80%) of its
2 operations to recycling.

3 (4) *Transshipment* shall mean to transfer for further transportation from one (1) ship or
4 conveyance to another.

5 (4) *Recyclable materials* means materials that still have useful physical or chemical
6 properties after serving a specific purpose for the same or other purpose. Recyclable
7 materials are as follows:

- 8 (a) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium,
9 sealed types for power backup);
- 10 (b) automobiles, buses, and trucks or any form of motorized vehicle;
- 11 (c) tires (passenger/commercial);
- 12 (d) enameled white goods;
- 13 (e) home appliances (other small appliances that are not considered enameled
14 white goods);
- 15 (f) glass and plastic bottles;
- 16 (g) foam padding;
- 17 (h) lead;
- 18 (i) metals (ferrous/non-ferrous);
- 19 (j) organic material (i.e., tree trimmings, palm fronds, grass, food waste,
20 soiled cardboard);
- 21 (k) paper products;
- 22 (l) wood pallets and scrap wood;
- 23 (m) construction and demolition debris ('C&D');
- 24 (n) x-ray film;
- 25 (o) automobile oil and fluids;
- 26 (p) freon and other refrigerant gases;
- 27 (q) electronic waste (i.e., computers, circuit boards, televisions, and portable
28 phones);
- 29 (r) heavy equipment; and
- 30 (s) other recyclable materials deemed recyclable by GEPA pursuant to the
31 Rules and Regulations.

1 **§ 15702. Establishment of Recycling Enterprise Zone.**

2 There is established a “Recycling Enterprise Zone” at the Jose D. Leon Guerrero
3 Commercial Port for use by recycling companies for the processing of automobiles,
4 trucks and tires for recycling purposes, and the transshipment of recyclable materials. The
5 size of the zone and its site on the JLGCP property shall be designated by the Board of
6 Directors of the Port Authority of Guam and guided by the provisions of Section 7.1.4 of
7 the Integrated Solid Waste Management Plan. Such designation shall be made within
8 sixty (60) days of the enactment hereof and the site shall be made available for lease to
9 recycling companies. The Board of Directors of the Port Authority of Guam shall
10 determine and charge a reasonable rate for the lease of said property.

11 **§ 15703. Eligibility of Recycling Companies for use of the Recycling Enterprise**
12 **Zone.**

13 Lease space in the Recycling Enterprise Zone shall only be available to companies that
14 qualify for Qualifying Certificates as recycling companies under guidelines established
15 by the Guam Economic Development Authority.

16
17 **Section 12.** §1921 of Title 1, Chapter 19 Guam Code Annotated is hereby *amended* to
18 read as follows:

19 §1921. Supervision of Audits in Autonomous Agencies and Grantees, Manpower Audits.

20 The Public Auditor is specifically authorized to supervise audits, or at the Public
21 Auditor’s discretion, perform audits, of autonomous agencies and instrumentalities of the
22 government of Guam, inclusive of, but not limited to, the Guam Visitors Bureau
23 (‘GVB’), the Guam Economic Development & Commerce Authority (‘GEDCA’), the
24 Port Authority of Guam (‘PAG’), the A.B. Won Pat Guam International Airport
25 Authority (‘GIAA’), the University of Guam (‘UOG’), the Guam Community College
26 (‘GCC’), the Guam Memorial Hospital (‘GMHA’), the Guam Housing Corporation
27 (‘GHC’), the Guam Housing and Urban Renewal Authority (‘GHURA’), the Guam
28 Power Authority (‘GPA’), the Guam Waterworks Authority (‘GWA’), the Guam
29 Telephone Authority (‘GTA’), the Government of Guam Retirement Fund(‘GGRF’), and
30 the Guam Solid Waste Authority (‘GSWA’).

31 The Public Auditor is authorized to supervise audits of all funds in excess of Three

1 Hundred Thousand Dollars (\$300,000.00) for a single fiscal year from the government of
2 Guam that are given in grant or subsidy to non-profit or profit-making groups, inclusive
3 of GVB. The Public Auditor is authorized to audit the hiring practices, manpower levels
4 and staffing patterns of all departments, agencies and bureaus of the Executive Branch of
5 the government of Guam, and to determine and report to *I Maga'lahaen Guåhan*
6 [Governor], *I Liheslaturan Guåhan* [Legislature] and the Public Utilities Commission
7 ("PUC"), as appropriate, on the necessity and applicability of employment levels and
8 categories to the department or agency's purpose and function, as well as draw
9 comparisons with similar entities located elsewhere.

10
11 **Section 13.** §12000 of Chapter 12, Title 12 Guam Code Annotated is hereby amended to
12 read:

13 **§ 12000. Definitions.**

14 As used in this Chapter:

15 (a) *Public Utility* means the Guam Power Authority, the Jose D. Leon Guerrero
16 Commercial Port, the Guam Waterworks Authority, the Guam Solid Waste Authority or
17 any duly licensed private contractors operating:

18 (i) a facility or subsystem of the community-wide water production and
19 distribution system, or

20 (ii) a facility or subsystem of the community-wide waste water disposal
21 system, or both, or any private golf course management corporation leasing public
22 property providing preferential golf rates and reservations to Guam residents, or

23 (iii) a marine terminal with facilities for loading and unloading commercial
24 cargo or passengers onto and from ocean common carriers.

25 (b) *Commission* means the Public Utilities Commission.

26 (c) *General lifeline rate* means a lower than average cost per unit charge for a level
27 of utility service necessary to fulfill the essential needs of all residential customers.

28
29 **Section 14. Severability.** If any provision of this law or its application to any person
30 or circumstance is found to be invalid or contrary to law, such invalidity shall not affect

- 1 other provisions or applications of this law which can be given effect without the invalid
- 2 provisions or application, and to this end the provisions of this law are severable.