

OFFICE OF THE GOVERNOR  
DATE  
LEGAL OFFICE

30-09-0002

01/05/09  
11:30

2009 JAN -5 PM 4:48

IN THE DISTRICT COURT OF GUAM

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.  
GOVERNMENT OF GUAM,  
Defendant.

CIVIL CASE NO. 02-00022

ORDER  
RE: APPROVAL OF TRUSTEE

The court has reviewed the request and other documents from the Receiver, Gershman, Brickner & Bratton, Inc. ("GBB"), attached hereto as Exhibit A, indicating that GBB has selected Citibank, N.A. as the trustee for the \$20 million the court ordered the Government of Guam to deposit in order to commence work at the Layon landfill site. See Docket No. 272. GBB now requests the court approve its selection.

Having reviewed the submission, the court HEREBY APPROVES GBB's designation of Citibank, N.A. as the trustee for said funds. The Government of Guam shall be the beneficial owner of such funds, and all interest income on such funds shall be credited to the trust account for use by GBB in implementing projects and paying expenses as required under the Consent Decree for the benefit of the Government of Guam. These funds shall not be released unless ordered by the court or pursuant to the procedures for disbursement to be approved by the court.

IT IS SO ORDERED.

RECEIVED

JAN 05 2009  
8:45am  
ATTORNEY GENERAL'S OFFICE  
pickup from District Court.



/s/ Frances M. Tydingco-Gatewood  
Chief Judge  
Dated: Jan 02, 2009

The Honorable Frances Tydingco-Gatewood  
January 2, 2009  
Page 2

Since the evaluation was completed, we have been in negotiations with Citi Bank resulting in agreements which will allow us, contingent upon the Court's approval, to engage Citi Bank as the custodian and trustee for the funds to be deposited pursuant to the Court's October 22, 2008, Order.

Attached are several documents for the Court's review. Specifically, these documents are:

1. Financial Service Agreement Dated As Of January 5, 2009 re: Trustee Services;
2. Receiver Certification – Deposit Account;
3. CitiBusiness Deposit Account Application; and
4. GBB Corporate Resolution.

These documents have been reviewed by Assistant Attorney General Thomas P. Keeler and independent counsel Andrew Mishkin of the law firm of Duane Morris LLP, retained by GBB to review and advise in this matter. All of the recommendations of the Attorney General and Mr. Mishkin have been included in the final documents and accepted by the Receiver and Citi Bank. Upon approval by the Court, we will advise the Government of Guam of GBB's designated trustee and provide them with deposit instructions.

GBB has drafted the Financial Service Agreement to provide that the Government of Guam will be the beneficial owner of funds deposited with Citi Bank pursuant to the Court's October 22, 2008, Order, and that interest income on such funds shall be credited to the account for use by GBB as Receiver in implementing projects and paying expenses as required under the Consent Decree for the benefit of the Government of Guam. GBB would appreciate the Court's confirmation that the Government of Guam shall be the beneficial owner of such funds. In addition, in entering into the Financial Service Agreement, GBB is relying on the provision of the Court's March 17, 2008, order that stated: "The Receiver shall not be personally liable for any act done in compliance with this Order. No suit shall be filed against the Receiver without the consent of the court."

We respectfully request the Court's approval of Citi Bank as trustee pursuant to the October 22, 2008 Order of the Court. Please contact us with any questions, concerns or issues you may wish to discuss.

Thank you for your continuing support.

Sincerely,



Harvey W. Gershman  
President and Receiver Officer-in-Charge



David L. Manning  
Receiver Representative

C.c. Mr. Andrew Mishkin, Esq.  
Thomas P. Keeler, Assistant Attorney General  
Mr. Harvey T.H. Chang, Citi Bank

### **III. Scope of Services**

1. Act as custodian for \$20,000,000 to be deposited by the Government of Guam on January by January 5, 2009 and any additional deposits ordered by the Court for the purpose of implementing the Consent Decree;
2. Collateralize the funds in the account in accordance with 5 GCA § 21114, a copy of which is attached;
2. Pay interest on the daily balance in the account at a rate equal to or greater than the highest interest rate it pays for comparable business related accounts and manage the funds in a manner to ensure that cash is available on a daily basis to fund payments properly authorized pursuant to procedures established by the Receiver and approved by the Court;
3. Make payments in accordance with procedures established by the Receiver and approved by the Court;
4. Provide reports of daily payment activity electronically to those designated by the Receiver, including the Court and the Government of Guam;
5. Provide monthly statements for all activity on the accounts to those designated by the Receiver, the Court and the Government of Guam;
6. Provide online access to account information to those designated by the Receiver and approved by the Court;
7. Cooperate with a firm to be named by the Receiver and approved by the Court, for the purpose of conducting quarterly reviews of activities and transactions in this account; and
8. Such other banking and trustee services as are reasonably related to the forgoing scope of services and are requested by the Receiver and approved the Court.

### **IV. Evaluation Criteria**

Three evaluators will evaluate each proposal according to the following factors and their relative importance designated by a number of points totaling 100 per evaluator:

1. 25 points -Experience providing similar services to similar sized accounts. Please provide a written description of the financial institution's experience in providing the kind of services outlined in the scope of services section. Please provide a description of the services provided and the size of the accounts, the length of time these services have been provided for at least 3 such accounts for different organizations. If possible please disclose the name of the organization and a contact name and number with whom we may speak.
2. 25 points - The existence of a formal trust department within the financial institution. Please describe the history of the trust department, the range of services provided and a general description of the client base (i.e. individuals, businesses, governments, non-profit organizations, etc);
3. 10 points - The training and experience of the officer of the financial institution who will have primary responsibility for the account. Please attach a resume.
4. 15 points - References. Please provide a list of at least 3 relevant references willing to speak with the evaluators. Please provide full contact information.
5. 25 points - The cost of services. The fee schedule outlined in the Section V will be evaluated against a model of expected transaction volumes to determine the evaluated cost of services.

Attachment I

**Gershman, Brickner & Bratton, Inc. (GBB) in its capacity as Receiver for the  
Solid Waste Management Division of the Department of Public Works of the  
Government of Guam**

**TRUSTEE SERVICES  
RFP RESPONSE FORM**

In an effort to objectively evaluate proposed fees and charges for these services, GBB requests you fill in and include this response form.

FEES FOR SERVICES

1. Initial Acceptance Fee: \$ \_\_\_\_\_
  
2. Annual Administration Fee: \$ \_\_\_\_\_
  
3. Disbursement Fee: \$ \_\_\_\_\_
  
4. Investment Fees: \$ \_\_\_\_\_
  
5. Outside Counsel, if any (one time fee; please discuss  
and provide not to exceed amount): \$ \_\_\_\_\_
  
6. Out of Pocket Expenses (Itemize and Explain): \$ \_\_\_\_\_  
\_\_\_\_\_  
\$ \_\_\_\_\_  
\_\_\_\_\_  
\$ \_\_\_\_\_
  
7. Other charges not identified in the RFP, including,  
but not limited to, other transaction charges,  
(please give amount and description with  
explanation on addendum): \$ \_\_\_\_\_
  
8. Please provide **total** estimated initial and annual fees for transaction  
Initial \$ \_\_\_\_\_  
Annual \$ \_\_\_\_\_

## **Banks Receiving the Request for Proposal**

Allied Bank  
P.O. Box CT  
Hagatna, Guam 96932

Bank of Guam  
PO Box BW  
Hagatna, Guam 96932

Bank of Hawaii  
P.O. Box BH  
Hagatna, Guam 96932

BankPacific  
P.O. Box 2888  
Hagatna, Guam 96932

Metro Bank  
665 South Marine Corps. Dr  
Tamuning, Guam 96913

Oceanic Bank  
1088 West Marine Corps Drive, Suite 129  
Dededo, Guam 96929

First Hawaiian Bank  
400 Route 8  
Mongmong, Guam 96910

Citi Bank  
402 East Marine Corps Drive  
Agana, Guam 96910

U.S. Bank  
150 Fourth Ave North  
2nd Floor  
Nashville, TN 37219

Deutche Bank National Trust Co  
6810 Crumpler Boulevard, Suite 100  
Olive Branch, MS 38654

The Bank of New York  
900 Ashwood Pkway  
Suite 425  
Atlanta, GA 30338

CitiBusiness Deposit Account Application



Business Information

Business Name As Known / Business License: Gershan, Brickner & Bratton, Inc.

Doing Business As (DBA):

Employer ID Number: REDACTED Social Security Number: | | | - | | | | | |

Business Entity: [X] Corporation [ ] Sole Proprietorship [ ] For Account Of [ ] Religious Corporation [ ] Authority/Client Trust [ ] Single Stockholder Corporation [ ] Limited Liability Partnership [ ] Foreign Corporation [ ] Unincorporated Association [ ] Other [ ] General Partnership [ ] Limited Liability Company [ ] Non Profit Corporation [ ] Government

Business Start Date: (MM) 8 (DD) 14 (YY) 90 Date of Incorporation: (MM) 7 (DD) 21 (YY) 80

Industry / Business Activity: Solid Waste Management Where Established / Incorporated: Maryland

Number of Employees: CONSULTING/REDACTED Annual Net Profit \$: N/A

Current Bank: REDACTED Length of Relationship: 14 Years Months

Business Physical Address

Street Number: 8550 Street Name: Arlington Blvd Suite: 304

City: Fairfax State: VA Zip: 22031-4620

Business Phone: (703) 573-5800 Business Fax: 703-598-1306

Contact Name: James A. Plutino Contact Phone: (703) 663-2428

Mailing Address

Street Number: 8550 Street Name: Arlington Blvd Suite: 304

City: Fairfax State: VA Zip: 22031-4620

Account Synopsis

Who are the business's main customers?

- 1. FedEx
2. Office Depot
3. Verizon

To what industry does the business sell? Services to state & local governments, public authorities, and private companies

Are there other business locations? [ ] Yes [X] No

Transaction Synopsis

Will you deposit or withdraw cash? [X] Yes [ ] No

Cash in per week \$: # of visits per week: N/A Cash out per week \$: # of visits per week:

Will you receive or send wire transfers? [X] Yes [ ] No

Wires in from where? Anticipated \$/S range: Govt of Guam \$20 million Wires out from where? Anticipated \$/S range:

Will you be purchasing or depositing any of the following instruments?

[X] Cashiers checks [ ] Purchase [ ] Deposit [ ] Business checks [ ] Deposit [ ] Deposit

Additional Client CitiBusiness Product Services

- [ ] Telephone Banking [ ] Checks-As-Cash [ ] Facsimile instructions [ ] Checking Plus Line [ ] Night Depository [ ] Safety Check [ ] Merchant Bankcard Services [ ] Other

REDACTED



**ACCOUNT TITLE**

**SIGNATURE CARD**

**IMPORTANT INFORMATION ABOUT OPENING A NEW ACCOUNT AT CITIBANK, N.A. GUAM BRANCH:** To be an authorized signatory on the account, you must be a resident of the United States, Puerto Rico, or the U.S. Virgin Islands. You must be at least 18 years old and have a valid Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN). You must be a U.S. citizen, U.S. resident alien, or U.S. national. You must be a resident of the United States, Puerto Rico, or the U.S. Virgin Islands for at least 12 months before opening the account. You must be a resident of the United States, Puerto Rico, or the U.S. Virgin Islands for at least 12 months before opening the account. You must be a resident of the United States, Puerto Rico, or the U.S. Virgin Islands for at least 12 months before opening the account.

**IMPORTANT: ALL AUTHORIZED SIGNERS MUST READ, COMPLETE & SIGN THIS APPLICATION BY TICKING YOUR CHOICE:**

- I am a U.S. citizen, U.S. resident alien, or U.S. national. I am a resident of the United States, Puerto Rico, or the U.S. Virgin Islands for at least 12 months before opening the account. I am a resident of the United States, Puerto Rico, or the U.S. Virgin Islands for at least 12 months before opening the account. I am a resident of the United States, Puerto Rico, or the U.S. Virgin Islands for at least 12 months before opening the account.
- I am a U.S. citizen, U.S. resident alien, or U.S. national. I am a resident of the United States, Puerto Rico, or the U.S. Virgin Islands for at least 12 months before opening the account. I am a resident of the United States, Puerto Rico, or the U.S. Virgin Islands for at least 12 months before opening the account. I am a resident of the United States, Puerto Rico, or the U.S. Virgin Islands for at least 12 months before opening the account.

**TAX CERTIFICATION**

**For All Business:** Tax Certificates from IRS Form 940, applicable only when signature appears below.

**Part I: For U.S. Payees Exempt from Backup Withholding:**  Exempt  Not Exempt (check one)

**Part II: Certification.**

**Under penalties of perjury, I certify that:**

- The number shown on this form is the business entity's correct taxpayer identification number, and that
- The business entity is not subject to backup withholding because (a) the business entity is exempt from backup withholding, or (b) the business entity has not been notified by the Internal Revenue Service (IRS) that it is subject to backup withholding as a result of failure to report all interest or dividends, or (c) the IRS has notified the business entity that it is no longer subject to backup withholding.
- The payee is a U.S. person/entity.

**Certification Instruction:** You may check box (2) above if the business entity has been notified by the IRS that it is currently under audit or is withholding because it is not a U.S. person/entity and dividends are subject to backup withholding.

**The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.**

**AGREEMENT AND AUTHORIZATION**

I certify that the information provided on this form is true and correct. I authorize Citibank to be held harmless for any and all losses, damages, and expenses, including reasonable attorneys' fees, incurred by Citibank in connection with the opening of this account. I agree to indemnify and hold Citibank harmless for any and all losses, damages, and expenses, including reasonable attorneys' fees, incurred by Citibank in connection with the opening of this account. I agree to indemnify and hold Citibank harmless for any and all losses, damages, and expenses, including reasonable attorneys' fees, incurred by Citibank in connection with the opening of this account.

**ACCOUNT TITLE**

Robert H. Brickner

SECRETARY PARTNER (INDICATE PARTNER NAME) SIGNATURE DATE

NAME/TITLE: Harvey W. Gershman, President SIGNATURE: [Signature] DATE: 12-31-08

NAME/TITLE: James A. Blanton SIGNATURE: [Signature] DATE: 12/31/08

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

NAME/TITLE: [Blank] SIGNATURE: [Blank] DATE: [Blank]

**RECEIVER CERTIFICATION – DEPOSIT ACCOUNT**

To \_\_\_\_\_ ("Bank")

Each of us (the "Receiver") certifies under penalty of perjury under the laws of Guam that the following is true and correct.

1. The name of the Receivership is The Receivership of the Solid Waste Management Division of the Department of Public Works of Guam (the "Receivership").
2. The Receivership was originally established on the March 17, 2008, in the United States District Court for the District of Guam (the "District Court") Order (the "Receivership Order") in Civil Case No. 02-00022 appointing Gershman, Brickner & Bratton, Inc., as Receiver to implement the February 11, 2004, Consent Decree issued by the District Court in said case (the "Consent Decree") as modified and expanded on the District Court's October 22, 2008, Order requiring the Government of Guam to deposit Twenty Million Dollars (\$20,000,000) to a trustee to be designated by the Receiver and approved by the District Court by January 5, 2009, and such orders have not been revoked, modified, or amended in any manner that would cause the representations contained in this certification to be incorrect.
3. This certification is made with respect to the above-named Receivership. The Bank shall promptly be provided with a duly completed and properly executed IRS Form W-9 (or Form W-8 BEN, in case of non-U.S. entity) certifying the depositor's status as a beneficial owner of the Property for federal income tax purposes. In the event the payee is not a party to this Agreement, the Bank shall be provided with a duly completed and properly executed IRS Form W-9 (or Form W-8 BEN, in case of non-U.S. entity) on such payee prior to payment being made. Receiver acknowledges that, in the event tax identification numbers are not certified to the Bank, the Internal Revenue Code, as amended from time to time, may require withholding of a portion of any interest or other income earned on the investment of the Property. The parties acknowledge that any funds to be deposited in the deposit account being established in connection with this Receiver Certification shall be deposited by the Government of Guam, and any interest earned shall be credited to the account for use by Receiver in implementing projects and paying expenses as required under the Consent Decree for the benefit of the Government of Guam. Documentation of such status, including a taxpayer identification number, shall promptly be provided to the Bank.
4. The person(s) who donated assets or funds to the Receivership (Grantor or Settlor) is/are:  
  
(Name) The Government of Guam  
(Address) \_\_\_\_\_  
  
(Telephone Number) \_\_\_\_\_
5. The name and address of the only currently acting Receiver(s) of the Receivership is/are as follows  
(Name) Harvey W. Gershman (Name) David L. Manning  
(Address) Gershman, Brickner & Bratton, Inc. (Address) Gershman, Brickner & Bratton, Inc.  
8550 Arlington Boulevard, Suite 304  
Fairfax VA 22031
6. The Receiver(s) are empowered by the Receivership to
  - ✓ Enter into deposit, electronic fund transfer and other financial service agreements with the Bank with respect to Receivership assets;
  - ✓ Deposit funds and maintain Receivership property with the Bank in an amount which may exceed the maximum FDIC-insurance coverage, without collateralization by the Bank;
  - ✓ Withdraw or transfer Receivership assets from the Bank.



FINANCIAL SERVICE AGREEMENT

DATED AS OF JANUARY 5, 2009

RE: TRUSTEE SERVICES

This Agreement ("Agreement") is entered into between Citibank, N.A., Guam Branch ("Citibank") and the undersigned in its capacity as Receiver for the Solid Waste Management Division of the Department of Public Works of the Government of Guam ("Client").

**WHEREAS**, Citibank offers to certain Clients a Trustee Service, subject to the terms and conditions provided herein; and

**WHEREAS**, pursuant to the March 17, 2008, Order (the "Receivership Order") of the United States District Court for the District of Guam (the "District Court") in Civil Case No. 02-00022, Client has been appointed as Receiver for the Solid Waste Management Division of the Department of Public Works of Guam in order to enforce the terms of the February 11, 2004, Consent Decree issued by the District Court in said case (the "Consent Decree"); and

**WHEREAS**, on October 22, 2008, the District Court ordered that Government of Guam deposit Twenty Million Dollars (\$20,000,000) to a trustee to be designated by Client and approved by the District Court by January 5, 2009 (the "October 22 Order"); and

**WHEREAS**, after conducting a solicitation through Request for Proposals SW-09-01, Client has recommended that Citibank be designated as trustee in accordance with the October 22, 2008 Order; and

**WHEREAS**, Citibank is willing to provide these services to Client in accordance with the terms described herein and according to the Client Profile Sheet attached as Exhibit A, as the same may be amended from time to time

NOW, THEREFORE, the parties hereto agree as follows:

**Scope of Services**

1. Citibank will provide custody and other services in connection with securities, cash and other property delivered from time to time to Citibank hereunder by, or at the direction of the Client, and income, distributions and payments received by Citibank with respect thereto (collectively, the "Assets"); and Citibank hereby agrees to act in such capacity, and perform such services, and hold the Assets in a custody account established in the name of the Client as indicated in the Client Profile sheet, Exhibit A (the "Account") upon the terms and conditions as stated herein. Initially, the Assets will consist of Twenty Million Dollars (\$20,000,000), expected to be deposited by the Government of Guam on or about January 5, 2009.

Page 1 of 11



procedures will not result in Citibank having any discretionary or subjective decision-making responsibility. Once such procedures are agreed upon, they shall be submitted to the District Court for approval, and, upon such approval, shall be implemented. Until such procedures are approved by the District Court, no funds shall be disbursed from the Account.

**Risk of Loss; Force Majeure.** Whenever Citibank shall be required by the terms of this Agreement to provide services under this Agreement, Citibank shall not be deemed to be in default hereunder and Client shall not enforce or exercise any of its rights under this Agreement, if and so long as non-performance hereunder shall be caused by strikes, war or national defense preemptions, governmental restrictions, flood, typhoon, earthquake, natural disaster, acts of God or any other cause or causes which are unavoidable or beyond the reasonable control of Citibank.

**Account Statements.** All debits and credits to Client's accounts will be reflected on Client's periodic account statements issued by Citibank, and no other notices thereof will be provided to Client unless Client separately engages Citibank to provide information reporting services.

**Audits.** On at least two (2) business days' notice, Citibank will make available to and permit inspection during Citibank's regular business hours by auditors (designated by Client) of all books, records, and accounts retained by Citibank (or, to the extent practicable, its agents) in connection with its duties hereunder on behalf of Client.

**Cooperation.** Client and Citibank agree to cooperate promptly and fully in the investigation of any claim asserted by any person arising out of this Agreement or the transactions generated hereunder or relating hereto. Client shall maintain adequate records to assure that the funds represented by such items can be collected in the event a deposit is lost, stolen or destroyed.

**Limitation on Liability; Indemnity.** Notwithstanding any provisions of this Agreement providing to the contrary, Citibank shall only be liable to Client for Citibank's failure to exercise ordinary care resulting in a delay in executing, improper execution of, or failure to execute a transaction in an amount equal to interest losses attributable thereto; however, with respect to services performed hereunder outside the scope of the applicable Uniform Commercial Code, Citibank shall only be liable to Client for damages attributable to its own gross negligence or willful misconduct in performing such services. Citibank shall have no liability or responsibility with respect to any other matter, including without limitation, any act or omission by any other third party. In no event will Citibank be liable for any consequential, special, punitive or indirect loss or damage that Client may incur or suffer in connection with this Agreement. Citibank's liability hereunder for interest losses will not be paid while the deposits are in transit or subject to any dispute under this Agreement. Interest, where applicable, will only be paid upon deposit into the Account, in accordance with the terms of that Account.



and any other orders of the District Court implementing the Consent Decree and said orders.

**Tax Reporting.** The Client agrees that, for tax reporting purposes, the Interest Income shall be allocated to the party to whom the Interest Income shall be disbursed and shall be reported in the year of disbursement on a Form 1099 INT for interest earned. The parties acknowledge and agree that Interest Income shall be credited to the Account for use by Receiver in implementing projects and paying expenses as required under the Consent Decree for the benefit of the Government of Guam.

**IRS Circular 230 Disclosure.** Citigroup, Inc., its affiliates, and its employees are not in the business of providing tax or legal advice to any taxpayer outside of Citigroup, Inc. and its affiliates. This Agreement and any amendments or attachments are not intended or written to be used, and cannot be used or relied upon, by any such taxpayer or for the purpose of avoiding tax penalties. Any such taxpayer should seek advice based on the taxpayer's particular circumstances for an independent tax advisor.

**Term.** The term of this Agreement shall be for a period of one (1) year, and shall automatically renew for subsequent one (1)-year terms unless either party gives notice on non-renewal at least forty five (45) prior to the expiration of such term. Either party may terminate this Agreement by giving sixty (60) days' notice in writing to the other party. This Agreement shall automatically terminate if the Account is closed during the term of this Agreement and a new account is not designated by Client, or Client closes all of its checking and savings accounts with Citibank.

**Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of Guam in effect either at the time of execution of the Agreement or at any time during the term.

**Authorized Representatives.** The individuals who are designated as Client's authorized representatives and agent under this Agreement are indicated in the Client Profile Sheet, attached as Exhibit A.

Client shall notify Citibank in writing, prior to changing any of its authorized representative(s) designated above.


**Instructions and Directions.** Citibank shall be deemed to have received appropriate "instructions" or "directions" upon receipt of written instructions or directions, or in the case of cash movement, written or oral instructions or directions, (a) signed or given by person(s) whose name(s) and signature(s) are listed on the most recent certificate delivered by Client to Citibank which lists those persons authorized to give orders, corrections and instructions in the name of and on behalf of the Client or (b) signed or given by any other person(s) duly authorized by Client to give instructions or directions to Citibank hereunder or whom Citibank reasonably believes to be so authorized, including but not limited to an investment adviser or other agent designated in writing by Client.

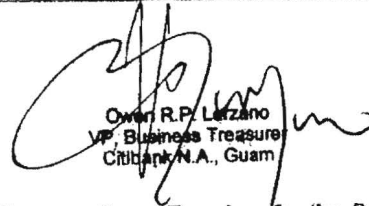
Page 5 of 11



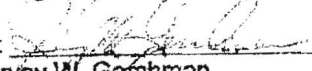
Modification. This Agreement shall not be modified except in writing signed by the parties.

This Agreement has been executed by the parties on this 2<sup>nd</sup> day of JANUARY, 2009

  
CITIBANK N.A., GUAM  
BY: Gaby Lacson  
Vice President  
Title: Citibank N.A., Guam

  
Owen R.P. Larzano  
VP, Business Treasury  
Citibank N.A., Guam

Client: Gershman, Brickner & Bratton, Inc. in its capacity-as Receiver for the Solid Waste Management Division of the Department of Public Works of the Government of Guam

By:   
Harvey W. Gershman  
President

**EXHIBIT B: Schedule of Fees**

Services	CH
Checks Paid	No charge for first 300. \$0.10 per unit thereafter
Account Maintenance	No Charge
Customer Deposits Received	No Charge
<b>Over the counter Charges</b>	
House Checks	No Charge
Local Bank Checks	No Charge
Off-Island Bank Checks	No Charge
Return Check Charges	No Charge
Cash Deposit	No Charge
Wire - Email notification	\$10 per unit
<b>Cash Management Services</b>	
Primary Concentration Acct	\$20.00 per unit
Sub Concentration Acct	No Charge
Stop Payment Charge	\$20 per unit
FDIC	No Charge

Page 9 of 11

1	Initial Acceptance Fee:	\$ 0 none
2	Annual Administration Fee – depending on Balance Relationship	\$ Up to 1,320 annual (\$100/month)
3	Disbursement Fee: Free withdrawals up to 300 debits per month	Waived
4	Investment Fees – placement within Citibank Guam	\$ 0 none
5	Outside Counsel, if any (one time fee, please discuss and provide not to exceed amount):	At Cost of legal counsel
6	Out of Pocket Expenses (Itemize and Explain)	Varies, depending on the requirements of detailed procedures
7	Other Charges not identified in the RFP, including, but not limited to, other transaction charges, other provisions of collateral, if required	Varies, depending on the requirements of detailed procedures
8	Please provide estimated initial and annual fees for transaction Initial – refer to Item #1 Annual – refer to Item #2	\$ 0 none \$ Up to 1,320 annual (\$100/month)

Citibank reserves the right to negotiate with Client reasonable fees for services for unanticipated or not existing at the time of the awarding of the contract. Citibank may, at its option, contract for them through an alternative process. Citibank will have access to accredited legal and professional firms, and may call upon Citigroup affiliates which can be utilized, depending on the expanded scope and needs.

Page 11 of 11