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**FILED**  
DISTRICT COURT OF GUAM

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Office of the Speaker  
Judith T. Won Pat, Ed. D.

JEANNE G. QUINATA  
Clerk of Court

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Attorneys for the Government of Guam

IN THE DISTRICT COURT OF GUAM  
TERRITORY OF GUAM

UNITED STATES OF AMERICA,

CIVIL CASE NO. 02-00022

Plaintiff,

vs.

RESPONSE TO RECEIVER'S  
PROPOSED FINANCING PLAN

GOVERNMENT OF GUAM,

Defendant.

2009 FEB -2 PM 4:20

The Office of the Attorney General, on behalf of the Defendant, Government of Guam, files its Response to the proposed cash financing plan presented by Gershman, Brickner and Bratton, Inc. (the "Receiver") at the January 14, 2009 hearing.

**I. INTRODUCTION.**

On January 14, 2009, the Receiver presented the Court with a cash financing plan after reviewing the Government of Guam's submission of data related to its cash position. The

1 Receiver acknowledged that “Guam has a very weak cash position compared to the other  
2 jurisdictions”. Receiver’s Quarterly Report filed January 14, 2009 at Page 12 (Civil No. 02-  
3 00022) (Document 328-2). In fact, “[w]hile Guam has about 67 cents in cash or near cash  
4 assets for each dollar it owes in short-term payables, other jurisdictions have far more, ranging  
5 from a low of just over \$12 to a high of almost \$33 in cash or near cash assets for each dollar  
6 owed in short-term payables”. *Id.* Notwithstanding the Receiver’s observation that “[u]se of  
7 Guam’s current cash to pay for these projects will further exacerbate an already difficult cash  
8 position”, a new cash financing proposal was submitted at the January 14, 2009 hearing. *Id.*

9  
10 The Receiver’s proposal requires the Government of Guam to supplement the initial  
11 deposit of \$20,000,000 on a weekly basis in the amounts shown in Table 5 of the Receiver’s  
12 January 14, 2009 Report (the “cash financing plan”). Table 5 identifies an initial weekly cash  
13 contribution of approximately \$1,000,000 beginning on March 1, 2009, and continuing until  
14 July 1, 2011, when it is reduced to approximately \$600,000 per week. The weekly \$600,000  
15 contribution continues until August 1, 2012, after which one final contribution of \$438,726 is  
16 required.

17 The Government of Guam, with leave of the Court, has compiled relevant information  
18 concerning the viability of alternative financing arrangements, including a private-public sector  
19 partnership, to fund and construct a Municipal Solid Waste Landfill Facility in Layon within  
20 the time-frame set forth by the Court. To this end, the Guam Economic Development  
21 Authority (“GEDA”) drafted enabling legislation for the Office of the Governor which  
22 authorizes the use of Section 30 funds and alternative revenue streams. The Office of the  
23 Governor officially transmitted the legislation to the 30<sup>th</sup> Guam Legislature on January 29,  
24 2009.  
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1 The Government of Guam has also undertaken a detailed analysis of all available  
2 budget and financial data to assess the impact of the Receiver's proposed cash financing plan  
3 on government operations.

4 In support of this response to the Receiver's proposal, the Government of Guam has  
5 filed the affidavit of the Bureau of Budget and Management Research ("BBMR") Director  
6 Bertha M. Duenas ("Duenas Affidavit"), which describes the potential impact of the Receiver's  
7 cash financing plan on the Government of Guam; the affidavit of GEDA Administrator  
8 Anthony C. Blaz ("Blaz Affidavit") which describes various financing issues related to the  
9 cash financing plan and alternative financing; and the affidavit of Shannon Taitano-Lujan  
10 ("Taitano-Lujan Affidavit") which has three attachments - two of the attachments describe the  
11 impact the Receiver's cash financing plan would have on essential government functions and  
12 on federal grants requiring local matching funds and the third attachment is an annual report  
13 which analyzes the Government of Guam's financial health based on audit findings.

14  
15 **II. PROPOSED LEGISLATION / ALTERNATIVE FINANCING.**

16 The Government of Guam, through the Governor's fiscal policy team, in conjunction  
17 with GEDA and GEDA's financial consultant Bank of America, drafted legislation authorizing  
18 the use of lease financing in addition to, in lieu of, or in conjunction with one or more series of  
19 Solid Waste Management System Revenue bonds. The proposed legislation, entitled the  
20 "Guam Solid Waste Management System Revenue Bond Act," (the "Proposed Bond Act") was  
21 drafted as a result of the January 16, 2009 meeting attended by Governor's Legal Counsel  
22 Shannon Taitano-Lujan, Assistant Attorney General Thomas P. Keeler, BBMR Director Bertha  
23 M. Duenas, GEDA Administrator Anthony C. Blaz, Bank of America representatives  
24 Lawrence Tonomora and Aulii Limtiaco, Vice-Speaker B.J. Cruz, Senator Thomas C. Ada,  
25

1 Chairman of the Committee on Utilities, Transportation, Public Works and Veterans Affairs,  
2 Senator Frank B. Aguon, Jr., Chairman of the Committee on Economic Development, Health  
3 & Human Services and the Judiciary, and Gershman, Brickner and Bratton, Inc., Special  
4 Principal Associate David Manning. The Office of the Governor formally transmitted the draft  
5 proposed legislation to the 30<sup>th</sup> Guam Legislature on January 29, 2009. *See* Blaz Affidavit,  
6 Attachment 1 (Governor's transmittal letter and proposed legislation / Guam Solid Waste  
7 Management System Revenue Bond Act).

8  
9 A. Proposed Bond Act Financing Options.

10 Due to market conditions, the Government of Guam's financial advisor – Bank of  
11 America – recommends that legislation authorizing landfill financing allow flexibility in its  
12 financing mechanism in order to minimize financing costs and meet project goals and  
13 timelines. *See* Blaz Affidavit, Attachment 4 (Jan. 27, 2009 Limtiaco Memorandum).

14 One financing option in the Proposed Bond Act is to issue bonds backed by Section 30  
15 revenues. Blaz Affidavit, Attachment 1 (Proposed Bond Act). The Proposed Bond Act also  
16 provides a new option utilizing lease financing for the construction and operation of a new  
17 Municipal Solid Waste Landfill Facility at Layon and for closure of the Ordot dump. *See* Blaz  
18 Affidavit, Attachment 1. The Proposed Bond Act provides for a private contractor to be fully  
19 responsible for carrying out the construction, financing, operation, and maintenance of the  
20 Layon facility, thus alleviating the burden on the Government of Guam to secure funds under  
21 adverse market conditions. The capital financing would be secured by the contractor who  
22 would then be paid in annual or semi-annual increments from tipping fees remitted by  
23 commercial trash haulers, residential tipping fees and potential fees derived from the  
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1 Department of Defense's use of the new landfill. Based on the January 16 meeting, the  
2 Receiver does not oppose pursuing this method of financing as an option.

3 Under this new approach, the Government of Guam would only need to secure its own  
4 bond financing for the closure of the Ordot dump within the next eighteen to twenty-four  
5 months, after the new landfill has opened. GEDA anticipates that with the additional time, it  
6 would be able to sell bonds for the closure of the Ordot dump and sell them at a reasonable  
7 rate.

8  
9 B. Request for Information / Identification of Private Sector Partners.

10 The Government of Guam has endeavored to identify potential private sector partners  
11 to finance the construction of the Municipal Solid Waste Landfill Facility at Layon. To this  
12 end, the Government of Guam issued a Request for Information ("RFI") for proposals to  
13 "Finance, Build, Operate, and Leaseback (FBOL) a New Solid Waste Facility." See Blaz  
14 Affidavit, Attachment 2 (GEDA RFI No. 09-002). The RFI expressly requires that all  
15 proposals assure compliance with the Court approved time-line for the opening of a new  
16 Municipal Solid Waste Landfill Facility in Layon.

17 C. Market Viability.

18 The Government of Guam's ability to provide financing at this time is not an issue  
19 isolated to the Government of Guam nor is it within its control. The Court is no doubt aware  
20 of the extent and impact of the global financial crises that began in 2007 and continues to the  
21 date of this filing.

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1 The viability of alternative financing is dependent upon market conditions. The  
2 Government of Guam, therefore, continues to work with Lawrence Tonomora and Aulii  
3 Limtiaco of Bank of America to ascertain the current status of the municipal bond market. *See*  
4 Blaz Affidavit, Attachment 3 (Market Update dated January 20, 2009). Current conditions, as  
5 reported, may allow for some bond financing, albeit at a much higher rate than under normal  
6 market circumstances for entities with the Government of Guam's current investment rating.  
7 *See* Blaz Affidavit, Attachment 4 (Statement of Aulii Limtiaco dated January 27, 2009).  
8 However, "GEDA and Bank of America Securities are presently in the process of reviewing  
9 proposed plans of finance from several qualified investment banks." *Id.* "In addition, GEDA  
10 and Bank of America are seeking, on a parallel track, interested parties who would potentially  
11 build, finance, and operate the new landfill." *Id.* GEDA's financial advisor has stated: "We  
12 have made it clear in the past that a revenue bond issue would not be viable with a pledge of  
13 tipping fee revenue solely. The most viable security available to GovGuam at this time is the  
14 pledge of Section 30 revenues with a 'lock box' mechanism." *Id.*

15  
16 The Government of Guam is and will make every effort to meet the timelines of the  
17 Court for the opening of a new landfill and the closing of the Ordot dump. However, the  
18 Government of Guam submits that commodities, banking, and real estate sector woes have so  
19 adversely affected market conditions that if the Government of Guam is unable to obtain  
20 financing at this time for the new landfill, certain timeline requirements may be subject to the  
21 following defenses.

22  
23 1. *Force Majeure*

24 *Force majeure* is defined as "an event or effect that can be neither anticipated nor  
25 controlled." *Black's Law Dictionary*, (8th ed. 2004). As a defense to contract claims, it often

1 contemplates an unexpected act of god, such as an earthquake, a flood, or a tsunami, or of man,  
2 such as the outbreak of war or a strike – uncontrollable events that, in substance, affect and  
3 “pertain to a party’s ability to conduct day-to-day commercial operations.” *Team Mktg. USA*  
4 *Corp. v. Power Pact, LLC*, 41 A.D.3d 939, 943 (N.Y. App. Div. 2007). *See Kel Kim Corp. v.*  
5 *Central Mkts., Inc.*, 519 N.E.2d 295, 296-7 (Ct.App. N.Y. 1987). In consent decrees with the  
6 United States government, *force majeure* is often expressed as “any event arising from causes  
7 beyond the control of [the party] that delays or prevents the performance of any obligation...”  
8 *See United States v. Bridgeport United Recycling, Inc.*, 2008 WL 2073960, at \*9 (D. Conn.  
9 May 2, 2008); *United States v. Custom Climate Control, Inc.*, 2007 WL 4557234, at \*9 (M.D.  
10 Fla. Dec. 20, 2007).

11 Generally, to label an event as a *force majeure*, courts require three things: (1) the  
12 existence of an unanticipated situation; (2) that is beyond the control of the parties; and (3) that  
13 frustrates the reasonable expectations held by the parties at the time they entered into the  
14 relationship. *See Team Mktg. USA Corp.*, 41 A.D.3d at 943. Central to the *force majeure*  
15 defense is that the party did not either expressly or impliedly assume the risk of the  
16 contingency when it entered into the contract. *See Stand Energy Corp. v. Cinergy Servs., Inc.*,  
17 760 N.E.2d 453, 457 (Ohio Ct. App. 2001) (“When a party assumes the risk of certain  
18 contingencies in entering a contract...such contingencies cannot later constitute a ‘force  
19 majeure.’”) (citation omitted).

20 It is axiomatic that “[m]arket forces are by their very nature beyond the control of the  
21 parties.” *Hearst Commc’ns, Inc. v. Seattle Times Co.*, 115 P.3d 262, 270 (Wash. 2005)  
22 (discussing *force majeure* in the context of the economic downturn following the terrorist  
23 attacks on September 11, 2001). Indeed, in *Hearst*, the court explained that events of this  
24 nature are “*force majeure* events in that they were extraordinary events beyond the control of  
25

1 the parties. They are also forces affecting the market and, potentially, the ability of [businesses]  
2 to survive..." *Id. See Hyatt Corp. v. Personal Commc'ns Indus. Ass'n*, 2004 WL 2931288, at  
3 \*1 (N.D. Ill. Dec. 15, 2004) (where party alleged that "economic difficulties brought on by the  
4 September 11, 2001 terrorist attacks" implicated *force majeure*) (case dismissed on other  
5 grounds).

## 6 2. Impossibility

7 Relief from performance of contractual obligations may be obtained by reliance on the  
8 defense of impossibility of performance, when one of two conditions is met: (1) the subject  
9 matter of the contract is destroyed; or (2) the means of performance is destroyed so as to make  
10 performance objectively impossible. *Kel Kim Corp.*, 519 N.E.2d at 296.

11 The event that renders performance impossible must have been unanticipated such that  
12 it "could not have been foreseen or guarded against in the contract." *Id. See Sub-Zero Freezer*  
13 *Co., Inc. v. Cunard Line Ltd.*, 2002 WL 32357103, at \* 5 (W.D. Wis. Mar. 12, 2002)  
14 (explaining that while the parties might not have foreseen the specific events of September 11  
15 and the war that followed, that did "not make the risk unforeseeable under the law" where the  
16 party knew of the general risks of war and terrorism). Thus, it will be essential to differentiate  
17 mere market shifts and economic fluctuations or general risks of market forces from other,  
18 more compelling crises. For example, even if an employer can identify a qualifying destruction  
19 of the subject matter or the means of performance, as distinguished from more ordinary  
20 circumstances, the ability to rely on this defense will be challenging. *See Kel Kim Corp.*, 70  
21 N.Y.2d at 902 ("performance should be excused only in extreme circumstances"). *Cf. 407*  
22 *East 61st Garage, Inc. v. Savoy Fifth Ave. Corp.*, 244 N.E.2d 37, 44 (N.Y. 1968).

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1           3. Impracticability

2           Absent circumstances making performance impossible, the doctrine of impracticability  
3 may be available. *See Restatement § 261 cmt. d.* (“Performance may be impracticable because  
4 of extreme and unreasonable difficulty [or] expense...[or a] *severe shortage* of raw material or  
5 of supplies *due to...unforeseen shutdown of major sources of supply*, or the like, which either  
6 causes a marked increase in cost or prevents performance altogether.” (emphasis added). On  
7 the other hand, if performance remains practicable, and it is merely beyond that given party’s  
8 capacity, then contractual obligations will not ordinarily be discharged. *Id.*

9           Traditionally, the defense of impracticability has been applied in circumstances of  
10 supervening death or incapacity of a person necessary for performance, supervening  
11 destruction of a specific thing necessary for performance, and supervening prohibition or  
12 prevention by law. *Restatement § 261 cmt. a.* Nevertheless, *Restatement* section 261 speaks  
13 more expansively and without attempting exhaustive expression of contingencies:

14           Where, after a contract is made, a party’s performance is made impracticable without  
15 his fault by the occurrence of an event the non-occurrence of which was a basic  
16 assumption on which the contract was made, his duty to render that performance is  
discharged, unless the language or the circumstances indicate the contrary.

17 *Id., cmt. a.*

18           From the text and comments to *Restatement* section 261, the contours of the  
19 impracticability defense crystallize as: (1) the non-occurrence of the supervening event must  
20 have been a basic assumption on which both parties made the contract; (2) it must render  
21 performance impracticable; and (3) the party must make reasonable efforts to overcome the  
22 obstacle preventing performance. *Restatement § 261.* Under certain circumstances, a party may  
23 be excused from a contractual obligation, even without express protection against that risk.  
24 *Restatement § 261 cmt. a.* (“Even though a party, in assuming a duty, has not qualified the  
25

1 language of his undertaking, a court may relieve him of that duty if performance has  
2 unexpectedly become impracticable as a result of a supervening event.”). But mere market  
3 shifts or financial inability generally will not effect discharge under the doctrine of  
4 impracticability because the continuation of existing market conditions and of the financial  
5 situation of the parties are ordinarily not considered to qualify as basic assumptions on which  
6 the contract was made. *Restatement* § 261 *cmt. b.* Nor are newly adopted governmental  
7 regulations which render the fulfillment of employment obligations unprofitable likely to  
8 excuse employer performance. *Id.*

9  
10 **III. IMPACT OF PROPOSED FINANCING ON GOVERNMENT OPERATIONS.**

11 The Government of Guam has studied the fiscal impact that the proposed cash  
12 financing plan set forth in the status report to the District Court of Guam on January 14, 2009  
13 will have on government operations. *See* Duenas Affidavit, Attachment 1(Budgetary Impact).  
14 The impact by fiscal year of the proposed cash deposits for each fiscal year (“FY”) would be as  
15 follows: FY 2009: \$29,504,700; FY 2010: \$42,316,100; FY 2011: \$34,508,300; FY 2012:  
16 \$22,312,600. The total impact is \$128,641,700. *See* Duenas Affidavit ¶ 3 & Attachment 1  
17 (Budgetary Impact).<sup>1</sup> The actual impact on the Government of Guam’s operations, however, is  
18 better understood by looking at the budgetary impact; the cash liquidity impact; and the  
19 potential impact on federally funded programs.  
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23 <sup>1</sup> The Government of Guam previously provided the Court with information including: (1) Cash availability for  
24 the years FY 2003 through FY 2007, as reflected in audited financial statements, in the following categories: (a)  
25 Unrestricted Cash and Cash Equivalents; (b) Short Term Investments; (c) Time Certificates of Deposit; and (d)  
Net Receivables; (2) An Estimated Average Monthly Cash Flow; (3) Cash availability as of September 30, 2008;  
(4) Cash availability for each day starting with October 1, 2008, and ending November 30, 2008.

1 A careful review of all financial information available to the Government of Guam at  
2 the time of this submission supports the conclusion that the Receiver's proposed cash financing  
3 plan will cripple the Government of Guam's ability to operate.<sup>2</sup>

4 A. Overall Impact.

5 The Government of Guam cannot afford the Receiver's proposed payment schedule  
6 without negatively impacting critical services. *See* Duenas Affidavit, Attachment 1 (Budgetary  
7 Impact). The Government of Guam's fiscal position was already precarious in 2007 and 2008.  
8 *See* Taitano-Lujan Affidavit, Attachment 3 (Crawford & Associates, P.C. Performer). A  
9 detailed snapshot of the impact of the Receiver's proposed financing plan will have on each  
10 Government of Guam agency is shown in schedules A and B of Attachment 1 to the Duenas  
11 Affidavit. The Receiver's proposed financing plan would have a 9% across-the-board  
12 budgetary impact for all appropriations supported by the General Fund and by Special Funds.  
13 *See* Duenas Affidavit, ¶ 4 & Attachment 1, pp. 3-4. Schedule A of Attachment 1 of the Duenas  
14 Declaration shows the budgetary impact of the 9 % funding cut on each Government of Guam  
15 agency for the FY 2009. If education, health and public safety agencies were allowed to retain  
16 their current appropriations, the budgetary impact for the remaining agencies for the rest of the  
17 fiscal year would be a reduction in appropriated funds of 37%. *See* Duenas Affidavit, ¶ 4 &  
18 Attachment 1, p. 4 & Schedule B. Clearly, a 9% across-the-board cut in agency budgets  
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22 <sup>2</sup> The Government of Guam notes that the Receiver foresaw these adverse impacts on operations and concluded  
23 that a cash financing plan was untenable. *See* Order Re: Consent Decree Timetable, Financing Options, Guam  
24 Land Use Commission dated October 22, 2008 at 7 ("Under the 'pay as you go' approach, funding would have to  
25 come directly from the Government of Guam's General Fund. GBB believes a 'pay as you go' approach is  
unnecessarily disruptive to the other operations of the Government of Guam. This approach would require the  
Government of Guam to pay for the projects from the current revenues of the Government's General Fund.  
**Given the limited financial resources and challenges facing Guam, such an approach could create serious  
financial stress upon an already taxed economy. Again, GBB does not recommend this option for the  
Government of Guam.**") (Emphasis added).

1 would significantly impair the Government of Guam's ability to operate. A 37% cut for those  
2 agencies whose mission is not education, health or public safety would eliminate numerous  
3 Government of Guam programs and would have a drastic impact on government operations  
4 and agency personnel budgets.

5 B. Agency Impact.

6 The administrators involved in agencies with education, health and public safety  
7 missions have supplemented the foregoing information with specific statements regarding the  
8 impact of an across-the-board budget cut of 9%. These include: the Guam Public School  
9 System; the Guam Police Department; the Guam Fire Department; the Guam Memorial  
10 Hospital Authority; the Department of Public Health and Social Services; the Department of  
11 Mental Health and Substance Abuse; the University of Guam; and the Guam Community  
12 College. See Taitano-Lujan Affidavit, Attachment 1 (Agency Impact Statements 2009). The  
13 Government of Guam Retirement Fund also submitted an impact statement. *Id.*

14 C. Impact on Federal Programs.

15 The government of Guam allocated \$34,115,673 towards federal programs with  
16 mandatory cost sharing and matching funds requirements for fiscal year 2009. Taitano-Lujan  
17 Affidavit, Attachment 2 (Sustained and Stable Local Cash Flow Essential to Health of Guam's  
18 Federal Programs), p. 1. The across-the-board 9% budget reduction or 37% budget reduction  
19 for all agencies excluding education, health, and public safety would result in a severe  
20 reduction in the Government of Guam's matching funds for federal programs. *Id.* Hence, even  
21 federally financed programs could be eliminated or drastically reduced. *Id.*

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1           D. Impact on Debt Ceiling.

2           In obtaining financing for construction of a new landfill and for closure of the Ordot  
3 dump, the Government of Guam must consider the impact the financing will have on the  
4 Government of Guam's debt ceiling. The current debt ceiling is \$672,511,778. *See* Blaz  
5 Affidavit, Attachment 5 (Debt Ceiling). The current debt amount reflects all existing confirmed  
6 debts. The current debt subject to the ceiling is \$325,801,119. Three government obligations  
7 have legislative authorization and are in the process of becoming debts that will impact the  
8 debt ceiling, but have not yet become finalized government debts. These include: \$60,000,000  
9 for the construction of a new John F. Kennedy High School; \$10,000,000 for the full faith and  
10 credit pledge on a Guam Power Authority loan; and, \$246,820,856 for the Government of  
11 Guam General Obligation Bonds. *Id.* After taking into consideration these obligations, the  
12 balance available under the current debt ceiling is \$29,889,803. *Id.*

14           **IV. COST ESTIMATE FOR FULL COMPLIANCE WITH CONSENT DECREE.**

15           The Receiver is in the process of concluding its review of the mass grading and  
16 earthwork bids submitted in response to its Request for Proposals. The amounts of the bids are  
17 substantially less than originally predicted. \*\* This is indicative of the changing economic  
18 conditions in the global and regional marketplace. It is possible, based on a review of the  
19 market conditions that the overall project cost could fall below the original amount forecast by  
20 the Receiver of \$159,000,000 for both closure of the Ordot dump and the opening of the new  
21 Municipal Solid Waste Landfill Facility in Layon.

22           It appears that the cost for the clearing, grading and mass earthwork for phase I of the  
23 landfill construction will be significantly lower than original estimates. Receiver Website  
24 ([http://www.guamsolidwastereceiver.org/pr\\_09\\_01\\_23.html](http://www.guamsolidwastereceiver.org/pr_09_01_23.html)). Changes in construction costs,  
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1 naturally, affect the amount of financing needed for construction of a new landfill and the  
2 closing of the Ordot dump. If a lesser amount of financing is needed, the ability of the  
3 Government of Guam to borrow money and terms for borrowing will be impacted. Therefore,  
4 the Government of Guam has asked that the Receiver submit to the Government of Guam  
5 updated cost estimates for opening a new landfill and closing the Ordot dump.

6 Also, the tipping fee rates will be significantly reduced if the U.S. Military on Guam  
7 becomes a part of the new solid waste system. Quarterly Report of Receiver, Oct. 22, 2008.  
8 Therefore, the Government of Guam hopes that a memorandum of understanding with the  
9 Military can be reached as soon as possible and has asked that the Receiver include a  
10 representative from the Government of Guam in meetings with the Military regarding such a  
11 memorandum of understanding.  
12

#### 13 **V. CONCLUSION.**

14 The Government of Guam is cognizant that time is of the essence in proceeding with  
15 the closure of the Ordot dump and opening a new Municipal Solid Waste Landfill Facility in  
16 Layon. The alternative financing proposal in the Proposed Bond Act and the presentation of  
17 updated budget and fiscal information demonstrate that the Receiver's cash financing plan is  
18 not the only, or even a viable, alternative to achieve full compliance with the Consent Decree  
19 in accordance with the time-table established by the Court. The Government of Guam will  
20 pursue the alternatives addressed in the proposed legislation in order to avoid the devastating  
21 impact to government operations of the Receiver's cash financing plan.  
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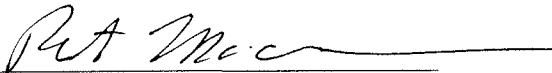
23 In its report to the Court on January 14, 2009, the Receiver has requested an order from  
24 the Court requiring the Government of Guam to comply with the weekly payment plan in the  
25 cash financing plan. The Government of Guam asks that the Court deny this request by the

1 Receiver, but instead allow the Government of Guam to pursue the financing alternatives set  
2 forth in the Proposed Bond Act.

3 At the quarterly status hearings, the Receiver submits reports which request orders  
4 from the Court. The Government of Guam does not have any time to review these requests.  
5 The Government of Guam asks the Court to allow it two weeks to respond to any orders  
6 requested by the Receiver.

7 Respectfully submitted this 2<sup>nd</sup> day of February, 2009.

8 OFFICE OF THE ATTORNEY GENERAL  
9 **Alicia G. Limtiaco, Attorney General of Guam**

10 By:   
11 **J. PATRICK MASON**  
12 Deputy Attorney General

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