



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932

TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

30 MAR 2009

The Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina' Trenta Na Liheslaturan Guahan
Thirtieth Guam Legislature
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Hafa Adai! Transmitted herewith is Bill No. 1 (1-S), "AN ACT TO AMEND AND RESTATE ARTICLE 8 TO DIVISION 2 OF CHAPTER 51 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GOVERNMENT OF GUAM TO ISSUE SOLID WASTE MANAGEMENT SYSTEM REVENUE BONDS OR SECTION 30 LIMITED OBLIGATION BONDS FOR THE PURPOSE OF FINANCING FACILITIES OF THE SOLID WASTE MANAGEMENT SYSTEM OF GUAM, AND APPROVING THE TERMS AND CONDITIONS OF THE ISSUANCE OF ONE (1) OR MORE SERIES OF SUCH BONDS PURSUANT TO SUCH ARTICLE TO PAY THE COSTS OF A NEW LANDFILL AND THE CLOSURE OF THE ORDOT LANDFILL AND OTHER SYSTEM COSTS", which I have vetoed.

The Office of the Attorney General has advised the Office of the Governor of Guam that this bill does not meet the requirements of Chief Judge Frances Tydingco-Gatewood's February 13, 2009 order issued in Civil Case No. 02-00022. The failure to comply with the Judge's order forces the Government of Guam to continue making weekly payments of Nine Hundred Ninety-Three Thousand Seven Hundred Dollars (\$993,700.00) to the Court's receiver.

The failure of the legislature to comply with the requirements of the Judge's February 13, 2009 order put the government of Guam in a very bad cash shortage that will start adversely affecting the government's vital services.

Sinseru yan Magâhet,

FELIX P. CAMACHO
I Maga' Lâhen Guahan
Governor of Guam

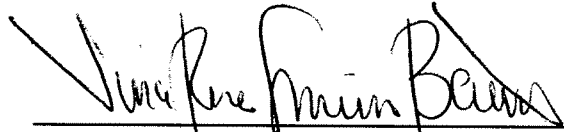
30-09-0363
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 3/30/09
Time 4:30
Received by

367

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Special Session

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

This is to certify that **Bill No. 1 (1-S)**, “**AN ACT TO AMEND AND RESTATE ARTICLE 8 TO DIVISION 2 OF CHAPTER 51 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE GOVERNMENT OF GUAM TO ISSUE SOLID WASTE MANAGEMENT SYSTEM REVENUE BONDS OR SECTION 30 LIMITED OBLIGATION BONDS FOR THE PURPOSE OF FINANCING FACILITIES OF THE SOLID WASTE MANAGEMENT SYSTEM OF GUAM, AND APPROVING THE TERMS AND CONDITIONS OF THE ISSUANCE OF ONE (1) OR MORE SERIES OF SUCH BONDS PURSUANT TO SUCH ARTICLE TO PAY THE COSTS OF A NEW LANDFILL AND THE CLOSURE OF THE ORDOT LANDFILL AND OTHER SYSTEM COSTS,**” was on the 26th day of March, 2009, duly and regularly passed.



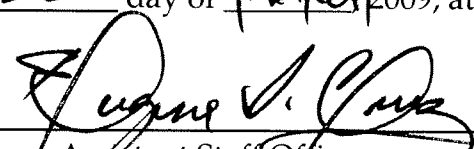
TINA ROSE MUÑA BARNES
Acting Speaker

Attested:



Rory Respicio
Acting Legislative Secretary

This Act was received by I Maga'lahaen Guåhan this 26th day of MARCH 2009, at 7:30 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

**I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Special Session**

Bill No. 1 (1-S)

As amended on the Floor.

Introduced by:

Committee on Rules, Natural
Resources, Federal, Foreign,
and Micronesian Affairs

By request of *I Maga'tahen
Guåhan* in accordance with the
Organic Act of Guam.

**AN ACT TO *AMEND* AND *RESTATE* ARTICLE 8 TO
DIVISION 2 OF CHAPTER 51 OF TITLE 10, GUAM CODE
ANNOTATED, RELATIVE TO AUTHORIZING THE
GOVERNMENT OF GUAM TO ISSUE SOLID WASTE
MANAGEMENT SYSTEM REVENUE BONDS *OR* SECTION
30 LIMITED OBLIGATION BONDS FOR THE PURPOSE OF
FINANCING FACILITIES OF THE SOLID WASTE
MANAGEMENT SYSTEM OF GUAM, AND APPROVING
THE TERMS AND CONDITIONS OF THE ISSUANCE OF
ONE (1) *OR* MORE SERIES OF SUCH BONDS PURSUANT TO
SUCH ARTICLE TO PAY THE COSTS OF A NEW LANDFILL
AND THE CLOSURE OF THE ORDOT LANDFILL AND
OTHER SYSTEM COSTS.**

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

2 **Section 1. Amendment and Restatement of the Guam Solid Waste**
3 **Management System Revenue Bond Act.** Article 8 of Chapter 51, Title 10, of
4 the Guam Code Annotated, is hereby *amended* and *restated* to read as follows:

5 **"Article 8**

6 **Solid Waste Management System Bonds**

1 **§51801. Short Title.** This Article may be cited as the Guam
2 Solid Waste Management System Bond Act.

3 **§51802. Definitions.** The following terms wherever used *or*
4 referred to in this Article *or* in any indenture entered into pursuant hereto
5 (*except* to the extent modified therein in accordance with this Article) *shall*
6 have the following meanings, respectively, unless a different meaning
7 appears from the context:

8 (a) *Bonds* means an instrument of indebtedness, whether in
9 the form of bonds, notes *or* another such instrument, issued by the
10 government and providing for repayment of the principal amount of
11 the indebtedness, plus interest, over a specified timeframe.

12 (b) *Bondholder or holder of bonds, or* any similar term,
13 means any person who *shall* be:

14 (1) the bearer of any outstanding bond *or* bonds
15 registered to bearer *or not* registered; *or*

16 (2) the registered owner of any such outstanding bond
17 *or* bonds which *shall* at the time be registered other than to
18 bearer.

19 (c) *Department* means the Department of Public Works,
20 acting on behalf of the government of Guam.

21 (d) *Director* means the Director of the Department of Public
22 Works.

23 (e) *Guam Solid Waste Management and Litter Control Act*
24 means Chapter 51 of Title 10 of the Guam Code Annotated.

25 (f) *Indenture* means an agreement pursuant to which bonds
26 are issued, regardless of whether such agreement is expressed in the

1 form of a certificate of *I Maga'lahañ Guåhan* (the Governor of Guam)
2 *or* by other instrument.

3 (g) *Organic Act* means the Organic Act of Guam, as
4 amended, and in effect on the effective date of this Article (Title 48,
5 §1421 et seq. of the United States Code).

6 (h) *Person* includes any individual, firm, corporation,
7 association, partnership, trust, business trust *or* receiver *or* trustee *or*
8 conservator for any thereof, and also includes the United States, Guam
9 *or* any public corporation, political subdivision, city, county *or* district
10 *or* any agency *or* instrumentality of the United States *or* of Guam.

11 (i) *Pledged revenue* means any revenue of the system and
12 any General Fund revenue pledged to the payment of bonds.

13 (j) *Rates, fees and charges* means all rates, fees and charges
14 (including tipping fees, residential pick-up fees, collection fees, self-
15 drop fees and all other solid waste management service charges),
16 received *or* receivable by *or* on behalf of the Department for
17 providing solid waste management services.

18 (k) *Revenue of the system* means all gross income and other
19 amounts received by *or* on behalf of the Department as revenues of
20 any kind from the ownership *or* operation of any part of the system,
21 including all rates, fees and charges received by the Department, and
22 all proceeds of insurance *or* grants covering business interruption loss
23 (and related losses and expenses) relating to the system, and all other
24 income and revenue howsoever derived by the Department from the
25 ownership *or* operation of, *or* arising from, the system, together with
26 all interest, profits *or* other income derived from the investment of
27 amounts in the Solid Waste Operations Fund, to be deposited to the

1 Solid Waste Operations Fund in accordance with §51833, Title 10,
2 Guam Code Annotated.

3 (l) *Section 30 revenue* means revenues derived by the
4 government of Guam under Section 30 of the Organic Act.

5 (m) *Solid Waste Operations Fund* means the fund by that
6 name established pursuant to §51118(f), Title 10, Guam Code
7 Annotated.

8 (n) *System* means the solid waste management system, now
9 *or* hereafter existing, owned and/*or* operated by the Department *or* its
10 contractors, agents *or* subcontractors, including, but *not limited to*,
11 landfills (whether closed *or* open and including Ordot Dump), transfer
12 stations, recycling facilities, collection trucks, appurtenant equipment
13 such as scales, ground water monitoring equipment and pollution
14 control equipment, and administrative facilities supporting the
15 provision of solid waste management services, including facilities for
16 payroll, billing and collections. Notwithstanding this *or* any other
17 provision of law, the authorization to enter into a privatization,
18 partnership, *or* contract by the Department for the operation of the
19 system *shall* require a cost benefit analysis and economic impact
20 study, and legislative approval.

21 (o) *System operation and maintenance costs* means such
22 reasonable and necessary current expenses of the Department, paid *or*
23 accrued, for operation, maintenance and repair of the system,
24 including, without limiting the generality of the foregoing:

25 (1) legal and overhead expenses of the Department
26 directly related and reasonably allocable to the administration
27 of the system;

1 (2) fidelity bond and insurance premiums appertaining
2 to the system *or* a reasonably allocable share of a premium of
3 any blanket bond *or* policy pertaining to the system;

4 (3) contractual services, professional services, salaries,
5 administrative expenses, and costs of labor appertaining to the
6 system; and

7 (4) the costs incurred in the collection of all *or* any
8 part of the revenues.

9 (p) *United States* means the United States of America.

10 **§51803. Power to Incur Indebtedness.** *I Maga'lahaen Guåhan,*
11 through the agency of the Guam Economic Development Authority pursuant
12 to §50103(k), Title 12, Guam Code Annotated, and with the approval of *I*
13 *Liheslaturan Guåhan* by statute, has the power and is hereby authorized, in
14 addition to all other powers conferred by the Guam Solid Waste
15 Management and Litter Control Act *or* any other provision of this Chapter
16 *or* by any law of Guam *or* of the United States, to incur indebtedness on
17 behalf of the government of Guam, by the issuance of bonds pursuant to this
18 Article to raise funds for the purpose of acquiring, constructing, improving,
19 equipping, maintaining, repairing, renewing, replacing, reconstructing *or*
20 insuring the system, *or* any part thereof, *or* to reimburse the government for
21 its payment, after February 27, 2009, of such system bond costs, *or* for the
22 purpose of refunding any such system bonds *or* any other prior obligations
23 of the government issued for any of such system purposes, *or* for any
24 combination of such system purposes for which bonds may be issued and
25 secured as provided in this Article.

26 It is hereby declared that the system and each facility of the system is
27 and *shall* be a public improvement *or* undertaking as that term is used in

1 Section 11 of the Organic Act (§1423a, Title 48, U.S. Code). Indebtedness
2 issued by the government pursuant to this Article that is payable only from
3 funds in the Solid Waste Operations Fund available therefor and from
4 revenue of the system will *not* be and *shall not* be deemed to be public
5 indebtedness of Guam as that term is used in said Section 11. Indebtedness
6 that is issued by the government pursuant to this Article and that is payable
7 from Section 30 revenue may *not* be issued in an amount that would cause a
8 violation of the debt limitation provisions of said Section 11.

9 *No* obligation undertaken by the government pursuant to this Article
10 *shall* be *or* become a lien, charge *or* liability against the government of
11 Guam *or* against the Department *or* against any property *or* funds of the
12 government of Guam *or* the Department, *except* to the extent of the pledge
13 of revenue of the system provided by the indenture.

14 **§51804. Powers of Department.** Notwithstanding any provision
15 of law *or* regulation, the Department has power and is hereby authorized, in
16 addition to all other powers conferred upon the Department by the Guam
17 Solid Waste Management and Litter Control Act *or* any other provision of
18 this Chapter *or* by any law of Guam, to exercise any *or* all of the powers
19 granted to the Department by this Article. The Department has jurisdiction
20 over and may collect and transport to permitted solid waste facilities, *or*
21 contract for the collection and transportation to permitted solid waste
22 facilities, of solid waste from all individual dwelling units, single-family
23 residences, duplexes, and government-managed housing units *or* residences.
24 The Department may operate the Ordot Dump, *or* it may contract for the
25 operation of the Ordot Dump, in accordance with Guam law and its permit
26 under this Chapter. The Department may contract for the operation of the
27 landfill.

1 The Department may also operate, *or* contract for the operation of, all
2 other permitted solid waste management facilities and operations *not*
3 addressed above and within the policy guidelines of the Integrated Solid
4 Waste Management Plan. Any such contract for the operation of the Ordot
5 Dump *or* the landfill may be entered into pursuant hereto *or* pursuant to
6 Article 9 of this Chapter and may be with any person *or* corporation duly
7 qualified to provide such services, whether public *or* private, domestic *or*
8 foreign. Notwithstanding this *or* any other provision of law, the
9 authorization to enter into a privatization, partnership, *or* contract by the
10 Department for the operation of the system *shall* require a cost benefit
11 analysis, economic impact study, and legislative approval.

12 **§51805. Rates, Fees and Charges; Refunds.** Notwithstanding
13 any provision of law *or* regulation to the contrary, the Department is
14 authorized to establish and modify from time to time, with prior approval by
15 the Public Utilities Commission, reasonable rates, fees and charges for solid
16 waste services at least adequate to cover the full cost of such services,
17 including the costs of debt service for capital improvements of permitted
18 solid waste facilities, and to collect money from all users *or* customers, and
19 to refund charges collected in error. Rates, fees and charges may be
20 collected before *or* after the provision of the service for which they are
21 charged.

22 *Except* to the extent otherwise permitted *or* required by an indenture
23 pursuant to which bonds are issued, rates, fees and charges, together with
24 other moneys made available to the Department for such purposes, *shall* at
25 all times be fixed to yield annual revenue of the system at least equal to the
26 sum of annual principal payments and interest charges on all bonds then
27 outstanding, all coverage and reserve fund requirements relating to such

1 bonds, any obligations undertaken pursuant to Article 9 of this Chapter, and
2 the annual system operation and maintenance costs; provided, however, that
3 Section 30 revenue may be used for the purposes and treated as satisfying
4 the requirements of this paragraph with respect to the costs of the closure of
5 the Ordot Dump and the bonds *or* other obligations related thereto.

6 An indenture, lease *or* contract of indebtedness may provide for
7 payment from revenue of the system of refunds of rates and charges that are
8 collected in error and that are refundable by the Department.

9 **§51806. Validity of Authorization and Issuance of Bonds.** The
10 validity of the authorization and issuance of any bonds by the government
11 pursuant to this Article is *not* dependent on *nor* affected in any way by:

12 (a) proceedings taken by the Department for the acquisition,
13 construction *or* improvement of the system *or* any part thereof;

14 (b) any contracts made by the Department in connection with
15 the acquisition, construction *or* improvement of the system *or* any part
16 thereof; *or*

17 (c) the failure to complete the system *or* any part thereof for
18 which bonds are authorized to be issued.

19 **§51807. *I Maga'lahaen Guåhan* to Determine Issuance of Bonds
20 and Incurring of Other Indebtedness; Government Only Liable as
21 Provided by Indenture *or* Contract.**

22 (a) *I Maga'lahaen Guåhan shall* determine the time, form and
23 manner of issuance of bonds.

24 (b) *No* bond issued *or* sold pursuant to this Article and no
25 other obligation undertaken by the government under any indenture,
26 lease *or* other instrument *shall* be *or* become a lien, charge *or* liability
27 against the government of Guam *or* against the Department *or* against

1 any property *or* funds of the government of Guam *or* the Department,
2 *except* to the extent of the pledge of the pledged revenue provided by
3 such indenture, lease *or* other instrument. Every such bond *shall*
4 contain a recital on its face stating that it is a limited obligation of the
5 government of Guam and *shall not* be deemed to be secured by the
6 faith and credit of the government of Guam.

7 **§51808. I Maga'lahi to Declare Purpose and Maximum**
8 **Amount of Bonds to be Issued.** Before issuing any bond *or* bonds, *I*
9 *Maga'lahaen Guåhan shall* declare the purpose for which the proceeds of the
10 bonds proposed to be issued *shall* be expended and *shall* specify the
11 maximum amount of bonds to be issued *or* sold for such purpose. Bonds
12 *shall not* be issued *or* sold for such purpose in an amount exceeding such
13 specified maximum.

14 **§51809. Indenture Providing Terms and Conditions of Bonds.**
15 *I Maga'lahaen Guåhan* may enter into one (1) *or* more indentures on behalf
16 of the government providing for the aggregate principal amount, date *or*
17 dates, maturities, interest rates *or* methods for determination thereof,
18 denominations, form, registration, transfer and interchange of any bonds
19 issued pursuant to this Article and the terms and conditions on which the
20 same *shall* be executed, issued, secured, sold, paid, redeemed, funded and
21 refunded. Each taker and subsequent holder of the bonds has recourse to all
22 the provisions of the indenture and of this Article and is bound thereby.

23 **§51810. Issues of Bonds.** An indenture may provide for one (1)
24 *or* several series of bonds and that any series may be divided into one (1) *or*
25 more divisions with different maturities *or* dates of issue, different rates of
26 interest *or* methods for determining such rates, *or* different terms and
27 conditions for the bonds of the several series *or* divisions. It is *not* necessary

1 that all bonds of the same authorized series be of the same kind *or* character,
2 have the same security, *or* be of the same interest rate, but the terms thereof
3 *shall* in each case be as authorized by *I Maga'lahaen Guahan*.

4 **§51811. Covenants and Agreements That May be Contained**
5 **in Indenture.** An indenture pursuant to which bonds are issued may include
6 any and all covenants and agreements on the part of the government as *I*
7 *Maga'lahaen Guahan* deems necessary *or* advisable, including, without
8 limiting the generality of the foregoing, any one (1) *or* more of the
9 following:

10 (a) A provision that payments of principal and interest of
11 bonds *shall* be secured by a pledge of all *or* by part of the revenue of
12 the system *or* the Section 30 revenue *or* both;

13 (b) Provisions creating one (1) *or* more funds *or* accounts
14 into which all *or* any part of pledged revenue *shall* be deposited:

15 (1) for payment of the principal of and interest on
16 bonds at *or* prior to maturity; *or*

17 (2) for reserve *or* sinking funds for the further security
18 of bonds.

19 (c) A provision requiring the government to operate the
20 system continuously, to the extent reasonably practicable under
21 conditions as they may from time to time exist, in an efficient and
22 economical manner.

23 (d) A provision requiring the government to maintain the
24 system and to make all necessary repairs, renewals and replacements
25 to the system and to keep the system at all times in good working
26 order and condition.

1 (e) A provision requiring the government to preserve and
2 protect the security of the bonds and the rights of the holders thereof
3 and to warrant and defend such rights.

4 (f) A provision requiring the government to pay and
5 discharge *or* cause to be paid and discharged all lawful claims for
6 labor, materials and supplies *or* other charges which, *if* unpaid, might
7 become a lien *or* charge upon pledged revenue *or* any part thereof, *or*
8 which might impair the security of the bonds.

9 (g) A provision which limits, restricts *or* prohibits any right,
10 power *or* privilege of the government to mortgage *or* otherwise
11 encumber, sell, lease *or* dispose of the system *or* any part thereof, in
12 any manner that impairs *or* impedes the operation of the system *or*
13 any part thereof necessary to secure adequate pledged revenue *or* that
14 otherwise impairs *or* impedes the right of the holders of bonds *or*
15 other obligations with respect to such pledged revenue.

16 (h) A provision requiring the government, with the prior
17 approval of the Guam Public Utilities Commission, to fix, prescribe
18 and collect annually rates *or* other charges in connection with the
19 solid waste management services furnished from the system which,
20 together with other available revenues, including, to the extent
21 provided by an indenture, Section 30 revenue, will be:

22 (1) sufficient to pay the principal of and interest on the
23 bonds as they become due and payable, together with such
24 additional sums as may be required for any bond reserve fund
25 *or* account *or* other fund *or* account created by the indenture for
26 the security of such bonds;

1 (2) sufficient to pay any payments due under any lease
2 *or* lease-back entered into pursuant to Article 9 of this Chapter;

3 (3) sufficient to pay the annual system operation and
4 maintenance costs; and

5 (4) in such additional amount as *shall* be provided in
6 the indenture for the further security *or* protection of such
7 bonds.

8 (i) A provision that *no* solid waste management service *shall*
9 be furnished free of charge to any person, *except* to the extent
10 permitted by the indenture.

11 (j) A provision requiring the government to hold *or* cause to
12 be held in trust the pledged revenue *or* any part thereof, *or* to any fund
13 *or* account created by any indenture for the further security *or*
14 protection of such bonds and to apply such pledged revenue *or* cause
15 it to be applied only as provided in the indenture and to invest all *or*
16 any part of such pledged revenue pending such application in such
17 securities and subject to such limitations as are specified in the
18 indenture.

19 (k) A provision defining the power of the government in
20 applying the proceeds of the sale of any issue of bonds for the
21 acquiring, constructing *or* completing of the system *or* any part
22 thereof.

23 (l) A provision permitting the government to issue
24 additional bonds *or* to enter into one (1) *or* more lease-back
25 obligations pursuant to Article 9 of this Chapter, in each case equally
26 secured with bonds theretofor issued under the indenture and lease-
27 back obligations previously entered into, for the purpose of acquiring,

1 constructing *or* completing, improving *or* extending the system *or* any
2 part thereof, *or* for the purpose of refunding any prior bonds *or* any
3 other prior obligations of the government relating to the system; and a
4 provision limiting the power of the government to issue any additional
5 bonds so secured *or* any other additional bonds for such purpose.

6 (m) A provision requiring, specifying *or* limiting the kind,
7 amount and character of insurance (*or* any reserve fund *or* funds in
8 lieu of insurance) to be maintained by the government on the system
9 *or* any part thereof and the use and disposition of the proceeds of any
10 such insurance thereafter collected *or* of the moneys in any such
11 reserve fund.

12 (n) A provision specifying the events of default and the
13 terms and conditions upon which any *or* all of the bonds then *or*
14 thereafter issued may become *or* be declared due and payable prior to
15 maturity, and the terms and conditions upon which such declaration
16 and its consequences may be waived.

17 (o) A provision designating the rights, limitations, powers
18 and duties arising upon breach by the government of any of the
19 covenants, conditions *or* obligations contained in the indenture.

20 (p) A provision prescribing a procedure by which the terms
21 and conditions of the indenture may be subsequently amended *or*
22 modified with the consent of the government and the vote *or* written
23 consent of the holders of a specified principal amount *or* specified
24 proportion of the bonds issued and outstanding, including provisions
25 for meetings of bondholders and for the manner in which the consent
26 of the bondholders may be given and specifically stating the effect of

1 such amendment *or* modification upon the rights of the holders of all
2 of the bonds.

3 (q) With respect to any provision relating to the modification
4 *or* amendment of an indenture, the government may agree that bonds
5 held by the government, the United States *or* any instrumentality of
6 either thereof (including every public corporation, political
7 subdivision, agency *or* instrumentality of any kind *or* class) *shall not*
8 be counted as outstanding bonds, *or* be entitled to vote *or* assent, but
9 *shall*, nevertheless, be subject to any such modification *or*
10 amendment.

11 (r) A provision limiting the right of action by individual
12 bondholders in the event of a default by the government *or*
13 proscribing the procedure for the conduct of any such action by an
14 individual bondholder.

15 (s) A provision permitting the government to purchase
16 outstanding bonds from any moneys *or* funds *or* accounts referred to
17 in the indenture *or* otherwise legally available for such purpose.

18 (t) A provision for any working capital fund *or* account *or*
19 contingency fund *or* account relating to the system.

20 (u) A provision for the replacement of lost, destroyed *or*
21 mutilated bonds.

22 (v) A provision *or* provisions relating to such other acts and
23 matters as may be necessary *or* convenient *or* desirable in order to
24 better secure the bonds *or* to make the bonds more marketable.

25 **§51812. Trustee for Government and Holders of Bonds.**

26 (a) The government *or* any agent designated by the government
27 *shall* act as trustee for the government and the holders of bonds issued

1 hereunder and the government may authorize the trustee to act on behalf of
2 the holders of the bonds *or* any stated percentage thereof and to exercise and
3 prosecute on behalf of the holders of the bonds such rights and remedies as
4 may be available to the holders.

5 (b) The government may provide in an indenture:

6 (1) for the deposit of all *or* any portion of the pledged
7 revenue with the government and for the holding thereof by the
8 government in one (1) *or* more separate funds *or* accounts in the Solid
9 Waste Operations Fund; and

10 (2) for the transfer to the trustee of all *or* any portion of the
11 pledged revenue as are provided as security for the bonds and for the
12 holding thereof by the trustee in one (1) *or* more separate funds *or*
13 accounts. All money in each such fund *or* account *shall* be disbursed
14 only as provided herein and in the indenture.

15 **§51813. Duties and Powers of Trustee.** The government *shall*
16 prescribe in any indenture the duties and powers of the trustee with respect
17 to the issuance, authentication, sale and delivery of the bonds provided for in
18 such indenture and with respect to the payment of principal of and interest
19 on such bonds, the redemption thereof, the registration and discharge from
20 registration thereof and the administration of any and all funds provided as
21 security therefore.

22 **§51814. Issuance and Interchange of Bearer and Registered**
23 **Bonds.** An indenture may provide that bonds may be issued as bearer bonds
24 *or* as registered bonds and for the interchange of bearer bonds for registered
25 bonds and registered bonds for bearer bonds, and may provide that bonds
26 *shall* be registered as to principal only *or* as to both principal and interest *or*
27 otherwise as *I Maga'lahen Guahan* may determine.

1 **§51815. Redemption of Bonds Prior to Maturity.** An indenture
2 may provide that bonds may be redeemed prior to maturity upon such terms,
3 conditions and upon such notice as are stated in the indenture and upon the
4 payment of such premium as may be fixed by the indenture.

5 **§51816. Places of Payment.** An indenture may provide for the
6 payment of the principal and interest of bonds at any one (1) *or* more places
7 in Guam *or* in the United States and in any specified coin *or* currency of the
8 United States.

9 **§51817. Execution and Authentication of Bonds.** An indenture
10 may provide for the execution and authentication of bonds by the manual *or*
11 facsimile signature of any one (1) *or* more officers of the government and by
12 additional authentication by endorsement by the manual signature *or* a
13 signature stamp of any one (1) *or* more officers of the government *or* of any
14 agent designated by the government as trustee. *If* any officer *or* agent whose
15 signature, countersignature *or* endorsement appears upon the bonds ceases to
16 be an officer *or* agent before the delivery of the bonds, his signature,
17 countersignature *or* endorsement is nevertheless valid and of the same force
18 and effect as *if* he had remained such officer *or* agent until the delivery of
19 the bonds.

20 **§51818. Dates and Maturities of Bonds.** Bonds *shall* bear dates
21 prescribed in the indenture providing for their issuance. Bonds may be serial
22 bonds, term bonds *or* sinking fund bonds with such maturities as the
23 indenture *shall* specify. *No* bond by its terms *shall* mature more than fifty
24 (50) years after its date of issuance.

25 **§51819. Sale of Bonds.** Bonds authorized to be issued under this
26 Article *shall* be sold for cash, in accordance with the provisions of a
27 certificate *or* agreement executed by *I Maga'lahaen Guåhan*. The bonds may

1 be sold at either public *or* private sale, and upon such terms and conditions
2 as *shall* be authorized by *I Maga'lahen Guåhan*, which may provide that the
3 bonds may be sold at *less than* their par *or* face value.

4 **§51820. Payment of Bonds from Sources Other Than Pledged**
5 **Revenue.** The government may use and expend all *or* any part of any funds
6 other than pledged revenue *or* proceeds of any property owned by it other
7 than the system, whether received by gift *or* appropriation (*if not* restricted
8 as to the use of such funds *or* proceeds of property by the terms of gift *or*
9 trust *or* provision of law) for the payment of bonds issued pursuant to the
10 provisions of this Article and interest due thereon.

11 **§51821. Payments Which May be Made Out of Proceeds of**
12 **Sale of Bonds.** The proceeds of sale of any bonds may be expended for any
13 one (1) *or* more of the following purposes, all as provided in the indenture
14 relating to such bonds:

15 (a) for payment of any costs *or* expenses of the acquisition,
16 construction *or* improvement of the system *or* any part thereof (including
17 any closed landfill *or* dump) *or* any costs *or* expenses incidental thereto,
18 including payment to the United States *or* any other public body for the
19 portion to be borne by the government of the cost of any work done by the
20 United States *or* such public body for *or* jointly *or* in conjunction with the
21 *Department*;

22 (b) for payment of any engineering, inspection, legal, consultants'
23 *or* paying agents' fees relating *or* incidental to:

24 (1) the acquisition, construction *or* improvement of the
25 system *or* any part thereof;

26 (2) the authorization, issue *or* sale of bonds; *or*

27 (3) professional technical services to prepare the technical

1 specifications for a bid invitation for a Finance, Build, Operate, and
2 Lease Back (FBOL) to meet the requirements for USEPA compliant
3 municipal solid waste services on Guam, and for the evaluation of
4 bids which have been submitted, and to provide its findings and
5 recommendation to the Governor and the Legislature within one
6 hundred eighty (180) days from enactment of the Act.

7 (c) for payment of any costs *or* expenses relating to the
8 authorization, issuance *or* sale of bonds;

9 (d) for deposit in any one (1) *or* more reserve funds *or* accounts in
10 lieu of insurance *or* in any working capital fund *or* account *or* contingency
11 fund *or* account relating to the system;

12 (e) for payment of interest on bonds during the projected period of
13 acquisition, construction *or* improvement of the system *or* any part thereof
14 for the acquisition, construction *or* improvement of which such bonds have
15 been issued and for a period *not to exceed* three (3) years thereafter;

16 (f) for deposit in any reserve *or* sinking fund; *or*

17 (g) for the payment of any prior bonds *or* other obligations of the
18 government issued for solid waste management purposes.

19 **§51822. Bonds May be Secured by Revenue of the System.** An
20 indenture may provide that payment of the bonds and the interest thereon
21 *shall* be secured by a pledge of and lien upon all *or* any portion of the
22 revenue of the system, subject to any parity lien created *or* to be created
23 pursuant to Article 9 of this Chapter. Any such pledge and lien *shall* be
24 valid and binding against all parties in accordance with its terms and have
25 priority against all parties in accordance with its terms from the time the
26 pledge is made, and property so pledged *shall* immediately be subject to the
27 lien of the pledge without the need for physical delivery, recordation filing

1 or other further act. The pledge *shall not* be subject to Division 9 of Title 13
2 of the Guam Code Annotated or any successor statute. The indenture by
3 which such pledge is created need *not* be recorded. The revenue of the
4 system pledged and thereafter received by the government *or* by any trustee,
5 depository *or* custodian *shall* be deposited in a separate subaccount of the
6 Revenue Account in the Solid Waste Operations Fund. All such pledged
7 revenue of the system is hereby appropriated for the purposes of paying the
8 principal and interest on the bonds issued pursuant to this Article.

9 Pledged revenue released from the lien of the indenture *or* certificate
10 pursuant to which the bonds are issued *shall* be available for any other
11 lawful purpose. *If* the bonds are secured *solely* by such a pledge of and lien
12 upon all *or* a portion of the revenue of the system, then *no* such bond and *no*
13 other obligation undertaken by the government under any indenture, lease *or*
14 other instrument relating to such bond *shall* be *or* become a lien, charge *or*
15 liability against the government of Guam *or* against the *Department or*
16 against any property *or* funds of the government of Guam *or* the
17 Department, *except* to the extent of the pledge of revenue of the system
18 provided by such indenture, lease *or* other instrument.

19 **§51823. Bonds May be Secured by Section 30 Revenue.** *If* and to
20 the extent determined by *I Maga'lahañ Guåhan*, all *or* any part of the
21 revenues derived by the government of Guam under Section 30 of the
22 Organic Act (Section 30 revenue) may be pledged to secure the payment of
23 any bonds issued pursuant to this Article, subject to any previously created
24 lien on *or* pledge of such Section 30 revenue and to any parity lien created
25 pursuant to Article 9 of this Chapter. Any such pledge *shall* be valid and
26 binding against all parties in accordance with its terms and have priority
27 against all parties in accordance with its terms from the time the pledge is

1 made, and property so pledged *shall* immediately be subject to the lien of the
2 pledge without the need for physical delivery, recordation, filing, *or* other
3 further act. The pledge *shall not* be subject to Division 9 of Title 13 of the
4 Guam Code Annotated *or* any successor statute. The Section 30 revenue
5 pledged and thereafter received by the government of Guam *or* by any
6 trustee, depository *or* custodian *shall* be deposited in accordance with the
7 provisions of the applicable indenture *or, if not* otherwise provided for in
8 such indenture, in a separate subaccount of the Revenue Account in the Solid
9 Waste Operations Fund. The indenture by which such pledge is created need
10 *not* be recorded. All Section 30 revenue so pledged is hereby appropriated
11 for the purpose for which they have been pledged. Pledged Section 30
12 revenue released from the lien of the indenture *or* certificate pursuant to
13 which the bonds are issued *shall* be available for appropriation for any other
14 lawful purpose of the government. Indebtedness issued by the government
15 pursuant to this Article and that is payable from Section 30 revenue may *not*
16 be issued in an amount that would cause a violation of the debt limitation
17 provisions of Section 11 of the Organic Act.

18 **§51824. Temporary Bonds.** An indenture may provide that
19 pending the actual issuance *or* delivery of definitive bonds, the government
20 may issue temporary *or* interim bonds, certificates *or* receipts *or* any
21 denomination whatsoever, to be exchanged for definitive bonds when ready
22 for delivery.

23 **§51825. Replacement of Bonds.** The government may provide
24 for the replacement of lost, destroyed *or* mutilated bonds.

25 **§51826. Tax Exemption.** Bonds issued pursuant to the
26 provisions of this Article and the interest *or* income therefrom are *exempt*

1 from taxation to the extent permitted by the provisions of Section 11 of the
2 Organic Act.

3 **§51827. Bonds as Legal Investments and as Security For**
4 **Performance of Any Act.** Notwithstanding any other provision of law, all
5 bonds issued pursuant to the provisions of this Article are legal investments
6 for all trust funds and for the funds of all banks, both commercial and
7 savings, and may be deposited as security for the performance of any act
8 whenever any evidence of indebtedness of Guam may be so deposited and
9 may also be used as security for the deposit of public moneys in banks in
10 Guam.

11 **§51828. Refunding Bonds.** *I Maga'lahaen Guåhan* may, on
12 behalf of the government, provide for the issuance, sale *or* exchange of
13 refunding bonds for the purpose of retiring indebtedness *or* other obligations
14 issued to finance all *or* any portion of the system. All provisions of this
15 Article applicable to the issuance of bonds are applicable to refunding bonds
16 and to the issuance, sale *or* exchange thereof.

17 **§51829. Use of Other Funds for System.** In addition to the
18 proceeds of any bonds issued and sold pursuant to this Article, the
19 Department may use, for the payment of the costs of acquisition,
20 construction *or* improvement of the system *or* any part thereof, any available
21 money *or* funds of the Department and any money *or* funds made available
22 to the Department by any person *or* provided from any source which may be
23 expended for the accomplishing of the purposes set forth in this Article *or* in
24 the Guam Solid Waste Management and Litter Control Act.

25 **§51830. Insurance.** The Department may insure against loss of
26 revenue of the system from any cause whatsoever. The Department may
27 insure against public liability *or* property damage from any cause. An

1 indenture, lease *or* other instrument may provide for the carrying of such
2 insurance *or* any other insurance in such amount and of such character as
3 *shall* be specified in such indenture, lease, *or* other instrument for the
4 payment of the premiums thereon and for the disposition of all proceeds
5 received from any such insurance. At the option of the Director, subject to
6 the requirements of any indenture, lease, *or* other instrument, any insurance
7 may be provided by funded reserves *or* any other means.

8 **§51831. Pledge by the Government of Guam.** The government
9 of Guam is fully committed to ensuring that the Department has the ability
10 to implement the capital improvements authorized to be paid by this
11 legislation in order to meet the needs of Guam ratepayers for reliable and
12 affordable services. The government also is fully committed to ensuring that
13 bondholders are protected to ensure full and timely payments of their bonds.
14 In accordance with prior similar situations and precedents, the government
15 hereby pledges, while any bonds issued under this Article remain
16 outstanding and *not* fully performed *or* discharged, (a) to maintain the rights,
17 powers and duties of the Director, the Department and the Guam Public
18 Utilities Commission, *or* their respective successors in accordance with law,
19 to fulfill the terms of any agreements made with bondholders in accordance
20 with this Article; (b) to maintain the rights and remedies of bondholders
21 provided in this Article and any indenture; and (c) *not* to transfer any
22 additional non-system operating responsibilities *or* other unfunded mandates
23 to the system without providing for the payment of the costs of such
24 additional responsibilities.

25 **§51832. Construction Account.** The proceeds from the sale of
26 all bonds authorized by this Article *shall* be deposited to the credit of a
27 Construction Account, which account is hereby created within the Solid

1 Waste Operations Fund. The money in the Account *shall* be expended in the
2 manner provided by law for any of the purposes authorized by this Article,
3 including any *or* all of the purposes specified by Title 10, Guam Code
4 Annotated, §51821, and for such other purposes, subject to the restrictions
5 provided by law *or* by such indenture, as may be authorized by such
6 indenture.

7 **§51833. Revenue Account.** All revenue of the system and, to the
8 extent provided by an indenture *or* by Article 9 of this Chapter, the Section
9 30 revenue, *shall* be deposited to the credit of the applicable subaccount of
10 the Revenue Account, which account is hereby created within the Solid
11 Waste Operations Fund. The money in such subaccounts may be used for
12 any of the following purposes in the order of priority set forth in any
13 indenture as provided in Title 10, Guam Code Annotated, §51811(j) *or* any
14 lease *or* lease-back as provided in Article 9 of this Chapter:

15 (a) to pay principal *or* interest on any bonds *or* any other
16 obligations of the Department;

17 (b) to pay amounts due and owing under any lease *or* lease-
18 back entered into pursuant to Article 9 of this Chapter;

19 (c) to pay any amounts due and owing under any credit
20 provider reimbursement agreement;

21 (d) to pay the annual system operation and maintenance
22 costs; and

23 (e) for any other purposes of the system, as provided in any
24 indenture *or* indentures and subject to any restrictions provided by law
25 *or* any indenture.

26 **§51834. Investment of Money in Funds and Accounts.** Moneys
27 in the Revenue Account and Construction Account in the Solid Waste

1 Operations Fund may be invested by the government *or* the trustee under
2 any indenture, as the case may be, in any investment authorized by any
3 indenture providing for the issuance of bonds. All interest *or* other earnings
4 received pursuant to such investments *shall* be deposited to the credit of the
5 fund *or* account from which such interest *or* other earnings are derived,
6 unless otherwise provided in an indenture.

7 **§51835. Use of Balances of Funds and Accounts and Surplus**
8 **Money in Funds and Accounts.** Any balance remaining in any of the funds
9 *or* accounts created by this Article *or* any indenture, including, the
10 Construction Account established pursuant to Title 10, Guam Code
11 Annotated, §51832, after payment of all costs, expenses and charges
12 required *or* authorized to be expended therefrom, may be allocated and used
13 for such other purposes relating to the acquisition, construction,
14 improvement, operation and maintenance of the system, subject to the
15 limitations and restrictions in any indenture. After all bonds *shall* have been
16 fully paid and discharged *or* provision for their payment and discharge
17 irrevocably made, any surplus moneys in any fund *or* account created by this
18 Article *or* any indenture *shall*, subject to the limitations and restrictions in
19 any indenture, be subject to legislative appropriation.

20 **§51836. Appropriation of Money in Funds and Accounts.** All
21 money in the Funds and Accounts created by this Article *or* any indenture is
22 hereby continuously appropriated for expenditure to carry out the purposes
23 herein and therein provided.

24 **§51837. Credit Enhancement.** *I Maga'lahaen Guåhan* is hereby
25 authorized to enter into such contracts *or* agreements on behalf of the
26 government with such banks, insurance companies *or* other financial
27 institutions as *I Maga'lahaen Guåhan* determines are necessary *or* desirable

1 to improve the security and marketability of the bonds. Such contracts *or*
2 agreements may contain an obligation to reimburse, with interest, any such
3 banks, insurance companies *or* other financial institutions for advances used
4 to pay principal of *or* interest on the bonds and to indemnify any such banks,
5 insurance companies *or* other financial institutions for costs and expenses
6 incurred in connection with any such advance; provided, that any obligation
7 of the government under any reimbursement agreement *shall* be payable
8 *solely* from pledged revenue.

9 Any reimbursement agreement may include a provision that the
10 obligations of the government under the agreement *shall* be secured by all *or*
11 by part of pledged revenue; provided that, at the time of execution and
12 delivery of each such agreement, any such provision *shall* be in compliance
13 with and *shall not* violate *or* breach any provision of any indenture, lease *or*
14 other instrument then in effect to which the government *or* the Department is
15 a party.

16 **§51838. No Personal Liability.** Neither *I Maga'lahaen Guåhan*,
17 the Director, any employee of the Department, any employee of the
18 government *nor* any elected official of the government *shall* be individually
19 *or* personally liable for the payment of any amounts due on any bonds, *or* for
20 any other liability arising in connection with the bonds; provided, however,
21 that nothing in this Title 10, Guam Code Annotated, §51838, *shall* relieve
22 any employee *or* elected official from the performance of any ministerial
23 duty required by law.

24 **§51839. Waiver of Immunity.** Notwithstanding any substantive
25 *or* procedural provision of Chapter 6 of Title 5, Guam Code Annotated, the
26 government *shall not* be entitled to immunity from any suit *or* action in
27 contract on the indebtedness authorized by this Article. For the purposes of

1 this Act only, immunity is waived as to the award of attorney fees in
2 connection with any suit brought to enforce any right *or* obligation given
3 under this Act *or* in connection with the enforcement of the terms of any
4 agreement *or* indenture that arises directly from the issuance of bonds.

5 **§51840. Construction of Article.** This Article *shall* be liberally
6 construed to carry out the objects and purposes and the declared policy of
7 the government of Guam as in this Article set forth. Nothing contained in
8 this Article *shall* be construed directly *or* by implication to be in any way in
9 derogation *or* limitation of powers conferred upon *or* existing in the
10 Department, the Director *or I Maga'lahren Guåhan* by virtue of any
11 provisions of the Organic Act *or* laws of Guam.

12 **§51841. Approval by Guam Economic Development**
13 **Authority.** §50103(k), Title 12, Guam Code Annotated, provides that
14 agencies and instrumentalities of the government of Guam *shall* issue bonds
15 and other obligations only by means of and through the agency of the Guam
16 Economic Development Authority (GEDA). *No* issue of bonds authorized
17 by this Article *shall* be sold until the Board of Directors of GEDA has
18 adopted a resolution approving the sale of such issue.

19 **§51842. Approval of Voters Not Required.** The issuance of
20 bonds pursuant to this Article is *not* subject to the approval of the voters of
21 Guam.

22 **§51843.** Bonds authorized pursuant to this Article 8 *shall* only be
23 issued if the Income Tax Refund COLA Deficit Financing Bonds authorized
24 in 5 G.C.A. §1512.1 are also issued at the same time or earlier.”

25 **Section 2. Approval of Government of Guam Solid Waste**
26 **Management System Revenue Bonds *or* Section 30 Limited Obligation Bonds.**

27 *I Liheslaturan Guåhan*, pursuant to §50103 of Title 12, Guam Code

1 Annotated, and §51803 of Title 10, Guam Code Annotated, hereby approves the
2 issuance and sale by the government of bonds pursuant to Article 8, Chapter 51,
3 Title 10, Guam Code Annotated (the Act), in one (1) *or* more series *or* issues
4 (together with any related reimbursement obligations); provided that the issuance,
5 terms and conditions of the bonds, the indenture *or* certificate pursuant to which
6 the bonds are to be issued, and any reimbursement agreements *shall* have been
7 approved by the Guam Public Utilities Commission, and further provided that such
8 bonds may be issued in the amount necessary to fund reserves with respect to such
9 bonds and to pay the cost of issuance incurred in connection with the issuance of
10 such bonds to provide, together with any lease-back obligations issued pursuant to
11 Article 9, Chapter 51, Title 10, Guam Code Annotated, an aggregate principal
12 amount *not to exceed* Two Hundred Two Million Four Hundred Twenty-five
13 Thousand Dollars (\$202,425,000) for the payment, *or* reimbursement to the
14 government for its prior payment, of the costs of the closure of the Ordot Dump
15 and the construction of the new landfill. Such bonds *shall* have a final maturity *not*
16 *later than 2042*, *shall* bear interest at such rate *or* rates and *shall* be sold for such
17 price *or* prices as *shall* result in a yield to the bondholders *not exceeding* nine
18 percent (9%) per annum, and *shall* be issued and sold in the manner, for the
19 purposes and subject to the requirements and limitations provided in Article 8,
20 Chapter 51, Title 10, Guam Code Annotated.

21 *I Liheslaturan Guåhan* further hereby rescinds its approval, contained in
22 Section 3 of Public Law 30-1, of the issuance and sale by the government of bonds
23 pursuant to Article 8, Chapter 51, Title 10, Guam Code Annotated, as enacted by
24 said Public Law 30-1.

25 **Section 3.** §1512.1(c) of Article 5, Chapter 1 of Title 5, Guam Code
26 Annotated, is hereby *amended* to read as follows:

1 “§1512.1(c) (i) Valid and Binding. The bonds authorized by this
2 Section *shall* constitute the valid and legally binding general *or* limited
3 obligations of the government of Guam. The government of Guam pledges
4 its full faith and credit for the punctual payment of both principal of and
5 interest on the bonds and covenants that there *shall* be collected annually in
6 the same manner and at the same time as government revenue for other
7 purposes is collected, such sum as is required to pay the principal of and
8 interest on the bonds. There are hereby appropriated from the General Fund
9 such sums as may be necessary in each year to equal the amount of money
10 necessary to pay the principal and interest on such bonds. The certificate *or*
11 indenture *shall* require interest only payments for Fiscal Years 2009 and
12 2010 and *shall not* require bond principal payments until after such Fiscal
13 Years. All officers charged by law with any duty in the collection of the
14 revenues of the government from which debt service on the bonds will be
15 payable *shall* do every lawful thing necessary to collect such sum. The
16 validity of any such bonds *shall not* be affected by the validity *or* regularity
17 of any proceedings for the payment of the General Fund expenses paid *or* to
18 be paid with the proceeds of the bonds.

19 (ii) Pledge of Section 30 Revenues. *All or* any part of the revenues
20 derived by the government of Guam under Section 30 of the Organic Act
21 may be pledged to secure the repayment of any bonds issued pursuant to this
22 Section and pay costs incurred in the creation of such debts, subject to any
23 previously created lien on *or* pledge of such revenues. Any pledge made to
24 secure the bonds *shall* be valid and binding from the time the pledge is
25 made. The revenues pledged and thereafter received by the government of
26 Guam *or* by any trustee, depository *or* custodian *shall* be deposited in a
27 separate account and *shall* be immediately subject to the lien of such pledge

1 without physical delivery thereof *or* further act, and the lien of such pledge
2 *shall* be valid and binding against all parties having claims of any kind in
3 tort, contract *or* otherwise, against the government of Guam, such trustee,
4 depository *or* custodian, irrespective of whether the parties have notice
5 thereof. The certificate *or* indenture by which such pledge is created need
6 *not* be recorded. *All* revenues pledged are hereby continuously appropriated
7 for the purpose for which they have been pledged.”

8 **Section 4.** §1512.1(b) of Article 5, Chapter 1 of Title 5, Guam Code
9 Annotated, is hereby *amended* to read as follows:

10 "(b) Terms and Conditions Determined by Certificate *or* Indenture.
11 The terms and conditions of the bonds *shall* be as determined by I
12 *Maga'lahaen Guåhan*, and approved by *I Liheslaturan Guåhan*, by the
13 execution of a certificate *or* indenture authorizing the issuance of the bonds
14 prior to the issuance of the bonds; provided, however, that such terms and
15 conditions *shall* be consistent with this Section, and that the bonds *shall*
16 *mature not later than* the date thirty (30) years after their date of issuance
17 and *shall* bear interest at such rates and be sold for such price *or* prices as
18 *shall* result in a yield to the bondholders that *does not exceed* ten percent
19 (10%) per annum.”

20 **Section 5.** Subsection 1512.1(i) of Chapter 1, Article 5 of Title 5, Guam
21 Code Annotated, is hereby *amended* to read as follows:

22 "(i) Use of Proceeds from the Sale of the Bonds. The proceeds from
23 the sale of the bonds *shall* be used and are hereby appropriated to: (1) pay
24 the General Fund expenses described below in this Subsection; (2) establish
25 necessary reserves; (3) pay expenses relating to the authorization, sale and
26 issuance of the bonds, including, without limitation, printing costs, costs of
27 reproducing documents, credit enhancement fees, underwriting, legal,

1 financial advisory and accounting fees and charges, fees paid to banks *or*
2 other financial institutions providing credit enhancement, costs of credit
3 ratings and other costs, charges and fees in connection with the issuance,
4 sale and delivery of the bonds; and (4) fund capitalized interest on the bonds
5 for a period ending *not later than* thirty (30) months after their issuance.
6 The General Fund expenses authorized to be paid with the proceeds of the
7 bonds are as follows and *shall* be paid in the following order of priority:

8 (1) Cost of Living Adjustment (COLA) to discharge finally
9 and permanently the obligations of the government incurred pursuant
10 to the settlement agreement entered into between the government of
11 Guam and the COLA Class as ordered by the Judgment in Rios v.
12 Camacho, Superior Court Case No. SP0206-93: \$92,000,000;

13 (2) 2006 and prior year individual and corporate tax refunds
14 including interest, *if* any, thereon and individual tax refunds *shall* be
15 paid first: \$112,000,000;

16 (3) Health Care Capital Improvement Projects at the Guam
17 Memorial Hospital: \$11,000,000;

18 (4) amounts past due as contributions to the Government of
19 Guam Retirement Fund, including interest, *if* any, thereon, on behalf
20 of the following:

21 (A) Guam Memorial Hospital: \$14,953,216;

22 (B) Guam Public School System: \$16,867,640.

23 Total: \$246,820,856.

24 Payments made pursuant to this Subsection *shall* apply to any other
25 appropriations for the same items and *shall not* constitute double appropriations."

26 **Section 6. Additional Funding.** (a) Should *I Maga'lahi* require funding
27 for the construction of the new landfill and the closure of the Ordot dump beyond

1 the authorization contained herein, he *shall* first demonstrate his best efforts and
2 pursue the payment of the unpaid compact impact re-imbusement due from the
3 federal government based upon the reports submitted to the Department of Interior
4 by the government of Guam documenting Guam's cost of services provided to
5 habitual residents of the citizens of the Freely Associated States living on Guam
6 under the authority of the Compacts of Free Association between the United States
7 and the Freely Associated States.

8 (b) Before *I Maga'lahi* moves to sell any real assets owned by the
9 government of Guam to comply with the Consent Decree he:

10 (i) *shall* first pursue the payment of the unpaid compact impact re-
11 imbursement due from the federal government based upon the reports
12 submitted to the Department of Interior by the government of Guam
13 documenting Guam's cost of services provided to habitual residents of the
14 citizens of the Freely Associated States living on Guam under the authority
15 of the Compacts of Free Association between the United States and the
16 Freely Associated States; and

17 (ii) *shall* obtain legislative approval.

18 **Section 7. Severability.** *If* any provision of this Act or its application to any
19 person or circumstance is found to be invalid *or* contrary to law, such invalidity
20 *shall not* affect other provisions *or* applications of this Act which can be given
21 effect without the invalid provisions or application, and to this end the provisions
22 of this Act are severable.