



**GUAM SOLID WASTE AUTHORITY  
BOARD OF DIRECTORS MEETING  
AGENDA**

**THURSDAY, OCTOBER 26, 2023  
VIA VIDEO CONFERENCE**

- I. CALL TO ORDER
- II. ROLL CALL
- III. DETERMINATION OF PROOF OF PUBLICATION
- IV. APPROVAL OF AGENDA ITEMS
- V. APPROVAL OF MINUTES
- VI. REPORTS
  - a. MANAGEMENT REPORTS
    - i. OPERATIONAL UPDATE
      - a. GSWA BOARD RESOLUTION 2024-001: RELATIVE TO APPROVING THE ABOVE STEP RECRUITMENT FOR THE SAFETY OFFICER POSITION
      - b. GSWA BOARD RESOLUTION 2024-002: RELATIVE TO PETITIONING THE PUC FOR THE APPROVAL OF THE AWARD TO WORLDWIDE ENTERPRISES INC. FOR TWO 24 CY REAR LOADING REGUSE TRUCKS AND THE AWARD TO FAR EAST EQUIPMENT FOR TWO 24 CY SIDE LOADING REFUSE TRUCKS
    - ii. FINANCIAL UPDATE
      - a. GSWA BOARD RESOLUTION 2024-003: RELATIVE TO AUTHORIZING THE GUAM SOLID WASTE AUTHORITY MANAGEMENT TEAM TO ESTABLISH A TCD / MONEY MARKET ACCOUNT FOR LAYON LANDFILL
  - b. LEGAL COUNSEL'S REPORT
  - c. COMMITTEE REPORTS
- VII. UNFINISHED BUSINESS
  - a. ISLAND WIDE TRASH COLLECTION INITIATIVE
  - b. ORDOT POST CLOSURE PLAN UPDATE
    - i. FEDERAL RECEIVERSHIP UPDATES / INFORMATION
  - c. LAYON CELLS 1 AND 2 CLOSURE
  - d. RATE CASE WITH PUBLIC UTILITIES COMMISSION
  - e. PROCUREMENT OF LEGAL SERVICES
- VIII. NEW BUSINESS
- IX. COMMUNICATIONS AND CORRESPONDENCE
- X. PUBLIC FORUM - MEMBERS OF THE PUBLIC TO CONTACT GSWA TO BE PLACED ON THE AGENDA IF THEY WISH TO ADDRESS THE BOARD.
- XI. NEXT MEETING
- XII. ADJOURN

**Guam Solid Waste Authority Board of Directors Regular Meeting**

**Thursday, October 26, 2023 – 1:00 PM (ChST)**

**Join Zoom Meeting**

Link: <https://zoom.us/j/9140408814?pwd=TjZ3U0dHSVd0ajlKRjBhcWFrc1ZYZz09>

**Meeting ID: 914 040 8814**

**Passcode: 777546**

The Guam Solid Waste Authority Board of Directors will have a board meeting October 26, 2023 at 1:00 PM. The meeting will be conducted via Zoom.

**Agenda:**

- I. Call to order**
- II. Roll Call**
- III. Determination of Proof of Publication**
- IV. Approval of Agenda Items**
- V. Approval of Minutes**
- VI. Reports**
  - a. Management Reports**
    - i. Operational Update**
      - a. GSWA Board Resolution 2024-001: Relative to approving the above step Recruitment for the Safety Officer Position**
      - b. GSWA Board Resolution 2024-002: Relative to Petitioning the PUC for the Approval of the Award to Worldwide Enterprises Inc. for Two 24 CY Rear Loading Refuse trucks and the award to Far East Equipment for the two 24 CY Side Loading Refuse Trucks**
    - ii. Financial Update**
      - a. GSWA Board Resolution 2024-003: Relative to Authorizing the Guam Solid Waste Authority Management Team to establish a TCD/ Money Market Account for Layon Landfill**
      - b. Legal counsel report**
      - c. Committee Report**
- VII. Unfinished Business**
  - a. Island wide trash collection initiative**
  - b. Ordot post closure plan update i. Federal Receivership Updates/ Information**
  - c. Layon cells 1 and 2 closure d. Rate case with the Public Utilities Commission**
- VIII. New Business**
- IX. Communications and Correspondences**
- X. Public Forum- Members of the public to contact GSWA to be placed on the agenda if they wish to address the board**
- XI. Next meeting**
- XII. Adjourn**

**Access live stream of the meeting on GSWA website: <https://www.guamsolidwasteauthority.com/>**

*For more information, please contact GSWA Admin at [admin@gswa.guam.gov](mailto:admin@gswa.guam.gov) or 671-646-3215. Persons needing telecommunication device for the Hearing/Speech Impaired (TDD) may contact 671-646-3111. This advertisement was paid for by GSWA.*



## DEPARTMENT OF REVENUE AND TAXATION

Government of Guam  
P.O. Box 23607 GMF, Guam 96921 • Tel: 635-1840 Fax No.: 633-2643



### GUAM REAL ESTATE COMMISSION MEETING

#### NOTICE OF MEETING

**Date and Time: Thursday, October 26, 2023 at 2:00pm**  
 Zoom Virtual Conference: Meeting ID 882 8716 0597, Passcode 6351844671  
 Zoom Link: <https://us06web.zoom.us/j/88287160597?pwd=Yl9qOjNmcEgbyGoyqB9XqHfFEUFPmZ.1>  
 Facebook Live: Guam Department of Revenue & Taxation

#### AGENDA

1. Call Meeting to Order
2. Attendance – Roll Call
3. Approval of Meeting Minutes Dated August 17, 2023
4. Old Business
  - a. GCA Title 21, Chapter 104, Real Estate Regulations
  - b. Seller's Disclosure
  - c. Police Clearance (Initial and Renewal Applications for Real Estate License)
5. New Business
  - a. Real Estate ID Cards
  - b. Request for Approval of Real Estate Continuing Education Courses by G.R.E.A.T.
6. Open Discussion
7. Next Meeting Scheduled for Thursday, December 14, 2023 at 2:00pm
8. Meeting Adjournment

**DAFNE MANSAPIT-SHIMIZU**  
Real Estate Commissioner

*This ad is paid with government funds by the Department of Revenue and Taxation Director's Office.*



## GUAM LAND USE COMMISSION

Department of Land Management  
ITC Building, Third Floor, Tamuning, GU 96913  
P.O. Box 2950, Hagåtña, Guam 96932  
Tel: 671-649-5263 Ext. 300 • Fax: 671-649-5383



### AGENDA

A regular Guam Land Use Commission meeting will be held on Thursday, October 26, 2023 at 1:30 p.m., Department of Land Management Conference Room, 590 S. Marine Corps Dr., 3rd Floor, ITC Building, Tamuning. Livestreamed on YouTube at Guam Department of Land Management Channel.

- I. Notation of Attendance/Roll Call
- II. Approval of Minutes – October 12, 2023
- III. Old Business [None]
- IV. New Business
  - A. Application No. 2023-34, Summer Towers, LLC; requests a Tentative Subdivision, to create eight (8) lots for single-family dwellings, on Lot 5172-3-1NEW-3, Tract 108, Increment 4, Tamuning.
  - B. Application No. 2021-29, Perez Properties, Inc.; requests a Tentative Subdivision to construct sixteen (16) single-family residences (Villa Serena), on Tract 18208 (formerly Lots 1087-A-1 thru 1087-A-6, and Lot 1087-B-1), Barrigada.
- V. Administrative & Miscellaneous Matters
  - C. Application No. 2013-04A-1, the Applicant, Hafa Adai Investments, Inc.; requests an amendment to the Sigua Highlands Master Plan in order to sell a small remnant of Lot 177-4-R2-1-R1 (Pulantat site), Yona.
- VI. Adjournment

*Funding Source provided by the Applicant.*  
**Person(s) requiring special accommodations, please call 671-649-5263, ext. 375**

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*“Upward Bound paved the way to college for college. UB was the bridge between high school and college which I think prevented the feeling of uncertainty of the unknown. The program introduced me to FAFSA and its application process. As an Upward Bound student, I got to explore college opportunities as well as various college degree programs that would be an interest of mine. Science & Health were both my subjects of interests in high school, and Upward Bound expanded my knowledge on both subjects when I got selected on a Summer Research Program to Upward Bound Program in Hawaii in 2012. Since I graduated with my bachelor's degree, I have been working at the University of Guam Cooperative Extension and Outreach conducting various community workshops under Family Consumer Sciences. One of the workshops that I conduct is Teen Financial Literacy, which I had conducted with the Upward Bound students in summer 2023.”*  
**Harley Edeluchel Jr., GW-UB Class of 2013/ UOG- Extension Assistant I, Family & Consumer Sciences**




#### UB Program: Financial Literacy Workshops

**CONNECT with us for more info:**  
 Email: rowenat@triton.uog.edu  
 Phone: (671) 735-1991/1992  
 FB: Upward Bound Guam  
 IG: @upwardboundguam

**UB is a national college preparation program hosted by UOG. It is 100% federally funded under the Title IV of the Higher Education Act of 1965 (as amended). UOG's UB has annual funding of \$497,625. This ad was paid for by program funds from the U.S. Education Dept.**



## Guam Solid Waste Authority Board of Directors Regular Meeting


### Thursday, October 26, 2023 - 1:00 PM (ChST)

Join Zoom Meeting  
 Link: <https://zoom.us/j/9140408814?pwd=TjZ3UOdHSVd0ajlKRjBhcWFrc1ZYz09>  
 Meeting ID: 914 040 8814 Passcode: 777546

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**Agenda:** I. Call to order; II. Roll Call; III. Determination of Proof of Publication; IV. Approval of Agenda Items; V. Approval of Minutes; VI. Reports a. Management Reports i. Operational Update a. GSWA Board Resolution 2024-001: Relative to approving the above step Recruitment for the Safety Officer Position b. GSWA Board Resolution 2024-002: Relative to Petitioning the PUC for the Approval of the Award to Worldwide Enterprises Inc. for Two 24 CY Rear Loading Refuse trucks and the award to Far East Equipment for the two 24 CY Side Loading Refuse Trucks ii. Financial Update a. GSWA Board Resolution 2024-003: Relative to Authorizing the Guam Solid Waste Authority Management Team to establish a TCD/ Money Market Account for Layon Landfill b. Legal counsel report c. Committee Report VII. Unfinished Business a. Island wide trash collection initiative b. Ordot post closure plan update i. Federal Receivership Updates/ Information c. Layon cells 1 and 2 closure d. Rate case with the Public Utilities Commission VIII. New Business IX. Communications and Correspondences X. Public Forum- Members of the public to contact GSWA to be placed on the agenda if they wish to address the board XI. Next meeting XII. Adjourn


Access live stream of the meeting on GSWA website: <https://www.guamsolidwasteauthority.com/>  
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## GUAM ELECTION COMMISSION

### Kumision Ileksion Guahan


Thursday, October 26, 2023, at 5:30 p.m.  
 Guam Election Commission Regular Meeting  
 GEC Conference Room, Oka Building, Tamuning, GU  
 For meeting livestream, visit GEC's website at <https://gec.guam.gov/board>




#### Agenda

- I. Call to Order - Certification of a Quorum Present
- II. Certification - Public Notice Requirements – Guam Daily Post and Guam Public Notice Website (10/19/2023 & 10/23/2023)
- III. Approval of Agenda
- IV. Approval of Minutes
  - a. July 20, 2023 Regular Meeting
- V. Correspondence
  - a. July 15, 2023: Guam Criminal Law and Procedure Review Commission (CLRC) Chairman & Executive Director Re: Request for Guam Election Commission's Review of Criminal Statutes in Title 3 of the Guam Code Annotated
  - b. August 21, 2023: Department of Homeland Security Re: Physical and Cybersecurity Assessment
  - c. September 18, 2023: Journal of Election Administration Research & Practice Re: Invitation to 2023 Symposium on Election Administration, Research & Practice
  - d. September 29, 2023: Election Systems & Software Re: Guam's Preventative Maintenance and Water Intrusion Inspection
- VI. Executive Director's Report
  - a. Timeline
  - b. Monthly Voter by Precinct Report
  - c. Online/Motor Voter Registration and Pre-Registration
  - d. Monthly Financial Report/ U.S. Election Assistance Commission Grant
  - e. Office of the Inspector General – U.S. Election Assistance Commission Audit
- VII. Old Business – Other Items
  - a. 2022 General Election
  - b. Fiscal Year 2024 Budget Request
  - c. Campaign Finance Committee
    - i. Statutory & Guam Administrative Rules and Regulations Updates
  - d. Bill No. 95-37: AN ACT TO REPEAL § 1107 OF CHAPTER 1, TITLE 3, GUAM CODE ANNOTATED; AND TO REPEAL ALL OF CHAPTER 15, TITLE 3, GUAM CODE ANNOTATED, RELATIVE TO REMOVING THE PRIMARY ELECTIONS OF ITS ENTIRETY
  - e. Bill No. 106-37 (LS): AN ACT TO PROVIDE A LEGISLATIVE SUBMISSION FOR CONSIDERATION BY GUAM VOTERS AT THE NEXT GENERAL ELECTION; AND TO PROVIDE GUAM VOTERS THE POWER TO DECIDE ON REPRODUCTIVE RIGHTS.
  - f. Guam HAVA State Plan
  - g. 2023 National Conference of State Legislatures (NCSL) Summit
- VIII. New Business
  - a. Election Manual Update
- IX. Legal Counsel
  - a. Guam Society of Obstetricians and Gynecologists, Guam Nurses Association, et al. v. Douglas B. Moylan, et al.
- X. Public Comment
- XI. Next Meeting
- XII. Adjournment

For individuals requiring special accommodations, auxiliary aids, or services, please contact Christiana Ramirez at (671) 477-9791 or send an email to [vote@gec.guam.gov](mailto:vote@gec.guam.gov).  
 This advertisement is paid with Government funds.  
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[vote@gec.guam.gov](mailto:vote@gec.guam.gov) (e-mail) • <http://gec.guam.gov> (website)



**DEPARTMENT OF REVENUE AND TAXATION**  
Government of Guam  
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  - c. Recent Complaints Against Real Estate Licensees
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**DAFNE MANSAPIT-SHIMIZU**  
Real Estate Commissioner

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little type

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- buying
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- hiring



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**UNIVERSITY OF  
GUAM**  
UNIBETSEDAT GUAHAN

**Notice of UOG Board of Regents Special Meeting**

The special meeting of the University of Guam Board of Regents is scheduled for **5 p.m. on Tuesday, October 31, 2023**, Silent Room, RFK Memorial Library, UOG, Mangilao, Guam.

**AGENDA**

- 1.0 CALL TO ORDER
- 2.0 Reports from Standing Committee
  - 2.1 Academic, Personnel and Tenure (AP&T) Committee
    - 2.1.1 Resolution No. 23-35, Relative to Approving a Third Amendment to the Negotiated Agreement By and Between the Board of Regents of the University of Guam and the University of Guam Faculty Union, American Federation of Teachers, Local 6282, December 1, 2018 - April 30, 2023
- 3.0 ADJOURNMENT

For special accommodations, contact Elaine Faculo-Gogue, ADA Coordinator, Human Resources Office, UOG Campus, at 735-2244 or (TTY) 735-2243. Live closed captioning is available through a website link provided within the online meeting.

The meeting will be streamed on the UOG YouTube channel at  
<https://www.youtube.com/uogtriton>  
/s/UOG Board of Regents Chairperson  
**Sandra H. McKeever**

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# GUAM WORKFORCE DEVELOPMENT BOARD PUBLIC NOTICE

**The Guam Workforce Development Board (GWDB) will be holding a General Membership Meeting on Thursday, October 26, 2023 at 4:00 p.m. at the 3rd floor conference room located in the GCIC Building at 414 West Soledad Avenue, Hagåtña, Guam 96910.**

Individuals who wish to participate are asked to contact the Guam Department of Labor at 671-475-7044 or email [martha.rubic@dol.guam.gov](mailto:martha.rubic@dol.guam.gov). The GWDB General Membership Board Meeting will be publicly broadcast on the GDOL YouTube channel at <https://www.youtube.com/@guamlabordepartment>.

This advertisement is paid with government funds by the  
Guam Department of Labor





**GUAM SOLID WASTE AUTHORITY**  
**BOARD OF DIRECTORS' MEETING MINUTES**  
**Thursday, September 21, 2023**  
**1:05 pm – 2: 28 p.m.**  
**Guam Solid Waste Authority Via Video Conference**

**I. Call to Order**

Chairman Gayle called the meeting to order for the Guam Solid Waste Authority (GSWA) Board of Directors' meeting at 1:05 pm.

**II. Roll Call**

**Board Members:**

Andrew Gayle	Chairman
Minakshi Hemlani	Vice Chairwoman
Margaret "Peggy" Denney	Secretary
Jim Oehlerking	Member

**Management & Staff:**

Irvin Slike	General Manager
Katherine Kakigi	Comptroller
Alicia Fejeran	Chief of Administration
Roman Perez	SW Operations Superintendent
Keilani Mesa	Administrative Officer

**Guests:**

Christopher Lund	Federal Receivership GBB
Harvey Girshman	Federal Receivership GBB
Joyce Tang	Receiver Attorney
Dean Manglona	Receiver Attorney
Julia Faye Munoz	Senator Perez Office
Jesse Chargualaf Jr	Senator Perez Office
Attorney Sandra Miller	Office of the Attorney General
Thomas Benavente	Pacific Daily News

**III. Determination of Proof of Publication**

1st Publication with Guam Daily Post, Thursday, September 14, 2023.

2nd Publication with Guam Daily Post, Tuesday, September 19, 2023.

Proof of publication was determined with no objections by the board members.

**IV. Approval of Agenda Items**

Vice Chairwoman Minakshi Hemlani motioned to approve the meeting agenda provided by Chairman Gayle; Member Jim Oehlerking seconded the motion. Agenda was approved.



## **V. Approval of Minutes**

Board members reviewed the August 24, 2023 draft minutes. Secretary Denney motioned to approve the draft minutes; Vice Chairwoman Hemlani seconded the motion. Minutes for August 24, 2023 Board Meeting were approved.

## **VI. Reports**

### **a. Management Reports**

#### **i. Operational Update**

General Manager Irvin Slike informed the Board that he met with Guam EPA today to discuss a DERA Grant. He stated that a year ago, GSWA applied for a \$300,000 grant to replace one of our diesel trucks with an electric one for greenhouse gas credits and was successful. He stated that depending on the U.S. Government shutdown, GSWA may receive the funds in late November or December. There might be follow-up discussions, but it looks promising.

General Manager Slike informed the Board that the electric truck charger was delivered last week, and GSWA Superintendent Roman Perez will work with DPW and GPA for the installation. Additionally, two mini-electric trucks are on their way to Guam and that two Multi-Pack Diesel trucks will be delivered on September 26, 2023.

General Manager Slike also informed the Board that he is also communicating with Guam Council on the Arts and Humanities Agency (CAHA) to put Island Murals on the trucks. He stated that they plan to create a Memorandum of Agreement (MOA) with CAHA for this project, which may incur costs for GSWA.

General Manager Slike stated that due to challenges including the effects of Typhoon Mawar, GSWA's temporary labor contract which was not to exceed \$1.1M is expected to be exceeded by approximately \$90,000 to \$97,000. He plans to request consideration from the PUC on that requirement.

He stated that next month, GSWA will be issuing a Board Resolution for an above-step recruitment of a Safety Officer due to a qualified candidate's salary requirements.

Additionally, management will possibly submit a Board Resolution on an Investment Strategy to invest some of the excess revenues. He stated Comptroller Kakigi has been communicating with the Bank of Guam and hopes to put together a package to be presented at the next Board meeting.



The Board was informed that GSWA has about \$1.6 million in additional Typhoon Revenue and hopes to receive \$500,000 from FEMA for monitoring and overtime expenses. In August, GSWA increased Operating Income by \$700,000, and the Comptroller will provide more details in the Financial Update.

General Manager Slike stated that the forecast for the ECC Project hauling refuse extends through December. He also reported that GSWA has been working with DPW to provide bins for illegal dumping issues.

ii. **Financial Update**

Comptroller Kakigi reported that she was unable to prepare a detailed report due to being occupied with closing financial records, working on the FEMA Grant, and collaborating on the budget modifications for the month.

Comptroller reported that as of August 31, 2023, the Operational Income stands at \$2.2 million. In August, there was a net increase of \$760,000, primarily due to increased revenues, with \$677,000 from the commercial accounts and an \$89,000 increase in government revenues. This boost is mainly attributed to August's revenue increase. Additionally, there was an interest payment transfer to the Ordot dump, leaving the net balance for operations at \$680,000.

Additionally, Comptroller Kakigi reported on the Typhoon Mawar Revenues and reimbursements. She stated that in August, \$426,000 in revenues were collected, with the majority stemming from the Army Corps Contract. The Purchase Order is divided between two customers: PFM/Commercial and ECC/Commercial. This marks the first month of recognition for the program, which started on August 4, 2023, with the initial drop-off at Layon. She also reported that waste disposal by DPW is ongoing, with expectations of an increasing number, a sentiment shared by the General Manager.

Comptroller Kakigi also informed the Board that weekly meetings with FEMA have been taking place. Initially it was focused on labor cost reimbursement; however, discussions have expanded to cover additional costs incurred by GSWA, which FEMA has approved. The actual cost for FEMA reimbursement is \$302,097.89, with a projected future cost of \$266,184.49. The primary expense arises from excess tonnage from the Army Corps contract, making the total projected cost \$568,282.38. FEMA is expected to cover 90% (\$511,454.14), while GSWA will cover the remaining 10% (\$56,828.24).

Comptroller Kakigi ended her reports with the notation that the collection ratio has been improving, rising from 94% in June to 101% in August.



Accounts Receivable (AR), Residential, and Truck-related revenues have all seen increases as of August.

**b. Legal Counsel's Report**

Attorney Sandra Miller reported that she can follow up on the General Manager's report concerning PHRS and temporary employees because it is likely that GSWA will exceed the budget by more than 10%, which was the threshold for not requiring additional approval. However, Attorney Miller stated that, this additional cost is eligible for reimbursement by FEMA and should not impact the rates, which is the primary concern of the PUC. Since federal funds cover this expense, Attorney Miller believes the PUC is unlikely to have an issue with it. Nonetheless, GSWA will need to present it to the PUC for confirmation. Attorney Miller stated she will reach out to ALJ Attorney Fred Horecky to determine whether a petition for approval is necessary or if the PUC can approve it without a formal hearing, as it is a continuation or supplement to the already approved expenses.

Attorney Miller reported that the Attorneys for PHRS have inquired about the itemization of their bills. They are not seeking to amend the contract or request additional funds; rather, they have questions about the billing process when submitting invoices to GSWA. Attorney Miller suggested arranging a meeting between PHRS and GSWA to establish a standardized accounting procedure.

**c. Committee Reports**

No discussion.

**VII. Unfinished Business**

**a. Island Wide Trash Collection Initiative**

General Manager, Irvin Slike, reported that GSWA received the initial draft bill, on which GSWA provided comments. Additionally, the second iteration was reviewed and GSWA provided feedback. He stated he considers it an ongoing work in progress. Julia Faye Munoz, Staff Member of Senator Perez's office, stated that the bill has been introduced, but as of now, no public hearing date has been scheduled. Senator Perez's office will keep GSWA apprised of further developments.

**b. Ordot Post Closure Plan Update**

General Manager Slike stated he spoke with Attorney Heather Zona and provided additional comments to present to the court. He was informed that Attorney Zona has submitted these comments to Receiver Attorneys, Joyce Tang, and US DOJ Attorney Valerie Mann. With the revenue from Mawar, GSWA should be able to make the second interest payment before the court hearing in October. Comptroller Kakigi is monitoring this to ensure the payment is made in a timely manner, or





GSWA would have to inform the court of the expected payment date, but it will be completed well before the year ends.

Chairman Gayle reminded the Board that the Ordot Post Closure plan is still under the control of the Receiver GBB, which is the last piece in receivership. A joint report has been filed, and a court hearing is scheduled for October. The court hearing will include a presentation by the receiver, Harvey Gershman and Chris Lund, along with all involved parties, to provide insights as to the court's direction on issues discussed in the Ordot Post Closure plan. These issues include certification of cessation, leachate management, financial capabilities of the plan, and transaction timing.

Receiver Officer Harvey Gershman introduced himself and emphasized his continued responsibility for the Ordot dump's closure and post-closure operation, as stipulated in the Consent Decree. The receiver plans to coordinate closely with GSWA and transition responsibilities over time. He will participate in future Board Meetings to provide updates on the Ordot dump facility agenda item each month. This approach aims to ensure direct communication between the receiver and Board members, addressing questions and concerns.

In the upcoming Board meeting, updates will be provided, including negotiations for a contract extension with Brown and Caldwell for future operations work at Ordot. Additionally, a new Bank of Guam account will be set up to accrue significant interest in the post-closure trust account.

Receiver Attorney Joyce Tang informed the Board that they received a copy of GWA's petition to the PUC on September 20, 2023, requesting a 27% rate increase across the board. It's uncertain whether this petition will impact the leachate disposal rate for the Ordot Landfill. The concern arises from the lack of communication about this petition, especially considering that the PUC recently reduced the rate without mentioning the pending petition. The receiver will respond to this matter in due course.

**c. Layon Cells 1 and 2 Closure**

No discussion.

**d. Rate Case with Public Utilities Commission**

No discussion.

**e. Procurement of Legal Services**

- i. GSWA Board Resolution No. 2023-015 Relative to the Authorizing and approving GSWA Management to Procure Legal Services**



Chairman Gayle discussed the existing MOA with Attorney General Moylan, and the primary focus was the resource availability. Chairman Gayle stated that Attorney General Moylan expressed he had no objections if GSWA were to engage our own legal services, with the condition that the Office of the Attorney General continues to represent GSWA in any ongoing litigation, particularly our case pending in the U.S. District Court. The Attorney General clarified that, being an autonomous agency, we have the authority to pursue our own legal services.

GSWA Chief of Administration Alicia Fejeran introduced Board Resolution 2023-015 Relative to the Authorizing and Approving of GSWA Management to Procure Legal Services. She informed the Board that despite the existing MOA with the AG's office, there is a need for legal services in various areas, including personnel claims and the rate case. She stated that upon approval of this resolution, we will proceed with the Request for Proposal (RFP) process to procure these services. Vice Chair Hemlani motioned to approve GSWA Resolution No. 2023-015 provided by GSWA Management; Member Oehlerking seconded the motion. GSWA Resolution No. 2023-015 was approved unanimously.

**VIII. New Business**

No discussion.

**IX. Communications and Correspondence**

None.

**X. Public Forum: Members of the public to contact GSWA to be placed on the agenda if they wish to address the board.**

None.

**XI. Next meeting**

The next meeting will be held via video conference on Thursday, October 26, 2023 at 1:00 p.m.

**XIII. Adjourn**

Member Montellano made a motion to adjourn the meeting, and Vice Chair Hemlani seconded the motion. The motion passed unanimously, and the meeting adjourned at 2:12 pm.



# GUAM SOLID WASTE AUTHORITY

LOURDES A. LEON GUERRERO  
Governor of Guam

JOSHUA F. TENORIO  
Lt. Governor of Guam

IRVIN L. SLIKE  
General Manager



## GSWA Board Resolution No. 2024-001 RELATIVE TO APPROVING THE ABOVE STEP RECRUITMENT FOR SAFETY OFFICER

**WHEREAS**, the Guam Solid Waste Authority (GSWA) seeks to fill the Safety Officer position as per the provisions of 4 GCA Chapter 6 §6205, which authorizes the General Manager to petition the governing board for recruitment at a higher step due to documented recruitment difficulty or exceptional qualifications; and

**WHEREAS**, GSWA conducted recruitment for the Safety Officer position on February 23, 2021, through March 25, 2021, but did not receive any qualified applicants; and

**WHEREAS**, a second recruitment period was opened on April 26, 2023, through May 6, 2023, during which only one unqualified applicant applied; and

**WHEREAS**, a third recruitment period was opened on June 8, 2023, through July 8, 2023, resulting in one unqualified applicant and one qualified applicant, Mr. James John Techaira, who has expressed interest in the position; and

**WHEREAS**, the job announcement was published on the GSWA website and in Newspapers of public circulation, such as the Pacific Daily News on June 8, 2023; and

**WHEREAS**, Mr. James John Techaira has requested to be recruited above the minimum step and possesses exceptional qualifications for the Safety Officer position; and

**WHEREAS**, GSWA is financially capable of supporting an above-step recruitment for the Safety Officer position at KX-05, with an annual salary of \$48,008.00 or \$23.08 per hour; and

**WHEREAS**, the Board of Directors acknowledge the recruitment difficulty with the Safety Officer position and the critical need to fill the position immediately; and

**THEREFORE, BE IT HEREBY RESOLVED** by the Board of Directors as the Governing Body of the Guam Solid Waste Authority approves and authorizes the above-step recruitment of Mr. John James Techaira at pay grade KX-05 of the GSWA Pay Plan, \$48,008.00 per annum, or \$23.08 per hour.

Ayes: 4

Nays: 0

Absent: 1

Abstain: 0



# GUAM SOLID WASTE AUTHORITY

**LOURDES A. LEON GUERRERO**  
Governor of Guam

**JOSHUA F. TENORIO**  
Lt. Governor of Guam

**IRVIN L. SLIKE**  
General Manager



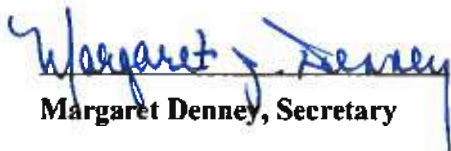
Upon said roll call, the text of the foregoing was duly enacted as a Resolution of the Board of Guam Solid Waste Authority, Guam, on the 26<sup>th</sup> day of October 2023.

**GUAM SOLID WASTE AUTHORITY  
BOARD OF DIRECTORS**

  
**Andrew Gayle, Chairman**

**ATTEST:  
ALICIA FEJERAN, CLERK**

**BY:** 

  
**Margaret Denney, Secretary**



# GUAM SOLID WASTE AUTHORITY

**LOURDES A. LEON GUERRERO**  
Governor of Guam

**JOSHUA F. TENORIO**  
Lt. Governor of Guam

**IRVIN L. SLIKE**  
General Manager



**GSWA Board Resolution No. 2024-002**  
**RELATIVE TO PETITIONING THE PUBLIC UTILITIES COMMISSION (PUC) FOR**  
**THE APPROVAL OF THE AWARD TO WORLDWIDE ENTERPRISES INC FOR**  
**TWO (2) 24CY REAR LOADING REFUSE TRUCKS AND THE AWARD TO FAR**  
**EAST EQUIPMENT FOR TWO (2) 24CY SIDE LOADING REFUSE TRUCKS**

**WHEREAS**, on Friday, September 8, 2023, the Guam Solid Waste Authority (GSWA) issued an Invitation for Bid (IFB) No. GSWA-004-23 to solicit the purchase of a minimum of one (1) and maximum of two (2) 24-Cubic Yard Rear Loading Refuse Trucks and a minimum of one (1) and maximum of two (2) 24-Cubic Yard Side Loading Refuse Trucks; and

**WHEREAS**, in response, four (4) prospective bidders acquired bid documents, but only one bid submission was received by the submission deadline of September 25, 2023 at 10:00 a.m. with Far East Equipment submitting bids for both categories for GSWA consideration; and

**WHEREAS**, the invitation for bid indicated that GSWA would consider Federal General Services Administration (Fed GSA) contracts if offered; and

**WHEREAS**, Guam law at Title 5 GCA § 5122 authorizes GSA to “procure supplies from the United States when the cost to the General Services Agency is less by ten percent (10%) than from other contractors.”; and

**WHEREAS**, in its Opinion No. GSA 07-1084 dated June 16, 2008, the Attorney General opined that Title 5 GCA § 5113 authorizes that “the manner of finding the [10%] differential [is] left to the Chief Procurement Officer” who has “every right to adopt a procedure therefor in order to make the statute authorizing procurement through the Federal GSA a functional one.”; and

**WHEREAS**, Far East Equipment’s price for two (2) Rear Loading units is \$940,436.66, while the Fed GSA Contract offers the same equipment for \$847,645.60, exceeding the 10% threshold specified by 5GCA §5122; and

**WHEREAS**, Far East Equipment’s price for two (2) Side Loading units is \$986,399.84, while the Fed GSA Contract offers the same equipment for \$959,320.80 which makes Far East Equipment’s bid higher by 2.82%, which is less than the 10% threshold, so Far East Equipment had been issued an Intent to Award on October 6, 2023; and

**WHEREAS**, pursuant to the authority granted to her by Title 5 GCA § 5113, the Chief Procurement Officer authorized the issuance of Purchase Order to federal vendor Worldwide Enterprises Inc. for the total amount of \$847,645.60 for two (2) 24CY Rear Loading Refuse Trucks to be delivered within 210 days from the issued date on the purchase order; and





# GUAM SOLID WASTE AUTHORITY

LOURDES A. LEON GUERRERO  
Governor of Guam

JOSHUA F. TENORIO  
Lt. Governor of Guam

IRVIN L. SLIKE  
General Manager



WHEREAS, funding for the equipment is available and will be made from funds available to Guam through the federal American Rescue Plan Act (ARPA), U.S. Public Law No. 117-2; and

**THEREFORE, BE IT HEREBY RESOLVED** by the Board of Directors as the Governing Body of the Guam Solid Waste Authority authorizes Management to petition the Public Utilities Commission (PUC) to review and approve both GSWA's award to Far East Equipment for two (2) ea. Side Loading Refuse Trucks and GSA's purchase order to Worldwide Enterprise Inc. for two (2) ea. Rear Loading Refuse Trucks on behalf of the Guam Solid Waste Authority and in accordance with the PUC's Contract Review Protocol.

Ayes: 4

Nays: 0

Absent: 1

Abstain: 0

Upon said roll call, the text of the foregoing was duly enacted as a Resolution of the Board of Guam Solid Waste Authority, Guam, on the 26<sup>th</sup> day of October 2023.

**GUAM SOLID WASTE AUTHORITY  
BOARD OF DIRECTORS**

  
\_\_\_\_\_  
Andrew Gayle, Chairman

**ATTEST:  
ALICIA FEJERAN, CLERK**

BY:   
\_\_\_\_\_

  
\_\_\_\_\_  
Margaret Denney, Secretary







# GUAM SOLID WASTE AUTHORITY

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Lt. Governor of Guam

IRVIN L. SLIKE  
General Manager



GSWA BOARD RESOLUTION NO. 2024-003

## **GSWA Board Resolution No. 2024-003 AUTHORIZING THE GUAM SOLID WASTE AUTHORITY MANAGEMENT TEAM TO ESTABLISH A TCD, TREASURY BILLS, AND/OR MONEY MARKET ACCOUNT FOR LAYON LANDFILL**

**WHEREAS**, the Guam Solid Waste Authority management team and Board of Directors recognize the need to manage surplus funds effectively, including funds allocated for the Layon Landfill; and

**WHEREAS**, the GSWA management team has deemed it necessary and in the best interest of the authority to open a Time Certificate of Deposit (TCD), Treasury Bills and/or Money Market account specifically for the Layon Landfill to earn interest income and enhance the overall financial management of the landfill; and,

**WHEREAS**, the Guam Solid Waste Authority Management Team is formally requesting authorization from the GSWA Board of Directors to submit an application for the establishment of either a TCD (Time Certificate of Deposit), Treasury Bills, and/or Money Market account on behalf of the Authority; and

**WHEREAS**, the investments will be Federal Deposit Insurance Corporation (FDIC) insured; and,

**THEREFORE, BE IT HEREBY RESOLVED** that the Board of Directors, as the Governing Body of the Guam Solid Waste Authority, does hereby approve and authorize the following actions:

- 1. The General Manager of GSWA is authorized to open Time Certificate of Deposit (TCD), Treasury Bills, and/or Money Market accounts with various banks and credit unions that offer the best rates on behalf of the Authority, which may require the establishment of a checking or savings account. Management is hereby granted the discretion and authority to take any and all necessary actions, including but not limited to negotiating terms, signing necessary documents, and transferring funds, in order to efficiently and effectively open and manage these accounts to the best advantage of the Authority.**
- 2. U.S. Treasury Bills and TCDs are to be renewed upon maturity until the time they are needed for disbursement.**
- 3. The following GSWA personnel are authorized to sign financial instruments including checks, bank transfers, and other transaction documents and to authorize other types of payments on behalf of the Authority:**

**IRVIN L. SLIKE, General Manager**

**KATHRINE B. KAKIGI,  
Comptroller**

**ALICIA FEJERAN, Chief of  
Administration**





# GUAM SOLID WASTE AUTHORITY



**LOURDES A. LEON GUERRERO**  
Governor of Guam

**JOSHUA F. TENORIO**  
Lt. Governor of Guam

**IRVIN L. SLIKE**  
General Manager

GSWA BOARD RESOLUTION NO 2024-003

- 4. **The management shall periodically report to the Board of Directors on the status of the investments made, including the interest income earned and the overall performance of the account(s).**
- 5. **Proper Signatory requirements shall be followed where applicable.**

Ayes: 3

Nays: 0

Absent: 2

Abstain: 0

Upon said roll call, the text of the foregoing was duly enacted as a Resolution of the Board of Guam Solid Waste Authority, Guam, on the 26<sup>th</sup> day of October 2023.

**GUAM SOLID WASTE AUTHORITY  
BOARD OF DIRECTORS**

  
**Andrew Gayle, Chairman**

  
**Margaret Denney, Secretary**

**ATTEST:  
ALICIA FEJERAN, CLERK**

BY: 



**Guam Solid Waste Operations Fund**  
**Operating Budget Revenues, Expenditures, Reserves**  
**As of September 30, 2023**  
 Unaudited

Unaudited

	Annual Budget Operations	FY2023 Excess Revenues	Carryover ARPA	FY23 ARPA	Total Budget	September Budget	September 2023	Variance	% Variance	YTD Budget	YTD	Variance	% Variance
<b>Revenues:</b>													
Commercial Fees (Large)	9,318,705			0	9,318,705	791,452	1,201,795	410,344	52%	9,318,705	11,008,769	1,690,064	18.1%
Others - Government/Commercial Fees	788,267			0	788,267	66,949	168,961	102,012	132%	788,267	2,102,919	1,314,653	166.8%
Residential Collection Fees, net 3% Bad Debt	7,881,596			0	7,881,596	669,396	652,725	-16,671	-2%	7,881,596	7,867,793	(13,802)	-0.2%
Host Community Fees	327,003			0	327,003	27,773	38,748	10,975	40%	327,003	375,780	48,777	14.9%
Other Revenues	435,289			0	435,289	36,970	37,160	190	1%	362,542	419,893	57,350	15.8%
Interest Income	0			0	0	0	118	118	n/a	0	1,264	1,264	n/a
Prior Year Revenues	0			0	0	0	0	0	n/a	0	107,816	107,816	n/a
<b>Total revenues</b>	<b>18,750,848</b>		<b>0</b>	<b>0</b>	<b>18,750,860</b>	<b>1,592,539</b>	<b>2,099,507</b>	<b>506,968</b>	<b>32%</b>	<b>18,678,113</b>	<b>21,884,234</b>	<b>3,206,121</b>	<b>17.2%</b>
ARPA Budget Allocation	0		9,008,811	3,000,000	12,008,811	119,177	119,177	0	0%	3,473,564	3,473,564	0	0.0%
Transfer In - Recycling Revolving Fund	400,000				400,000	33,333	33,333	0	0%	400,000	400,000	0	0.0%
<b>Total Revenues/Transfers In/ARPA Allocation</b>	<b>19,150,848</b>		<b>9,008,811</b>	<b>3,000,000</b>	<b>31,159,674</b>	<b>1,745,049</b>	<b>2,252,018</b>	<b>506,968</b>	<b>29%</b>	<b>22,551,677</b>	<b>25,757,798</b>	<b>3,206,121</b>	<b>14.2%</b>
<b>Expenditures by Object:</b>													
Salaries and wages	3,402,888			0	3,402,888	387,768	376,082	(11,686)	-3%	3,402,888	3,388,155	(14,733)	-0.4%
<b>Contractual services:</b>													
Layon Operator	1,800,000	332,111		2,000,000	4,132,111	364,505	364,505	0	0%	4,132,111	4,104,944	(27,167)	-0.7%
Layon Monitoring	766,672		8,811	0	775,483	56,983	58,750	1,767	3%	775,483	772,778	(2,705)	-0.3%
Harmon Hauler Station Operations	2,560,000	500,000		1,000,000	4,060,000	338,390	338,390	0	0%	4,060,000	4,028,599	(31,401)	-0.8%
Ordot Postclosure care	2,000,000			0	2,000,000	166,667	166,667	0	0%	2,000,000	2,000,004	4	0.0%
Recycling Programs	861,807			0	861,807	71,817	15,666	(56,152)	-78%	861,807	672,632	(189,175)	-22.0%
GEPA Appropriation	202,992			0	202,992	0	0	0	0%	202,992	0	(202,992)	-100%
Contractual Employees	1,305,000			0	1,305,000	130,579	130,579	0	0%	1,305,000	1,299,283	(5,717)	-0.4%
Vehicle Maintenance	716,926			0	716,926	59,744	10,766	(48,978)	-82%	716,926	665,091	(51,835)	-7.2%
PUC/Rate Study Consultant/Legal Expenses/Ordot Expenses	154,000			0	154,000	12,833	0	(12,833)	-100%	154,000	99,000	(55,000)	-35.7%
Others	348,722		1,080,000	0	1,428,722	29,060	19,859	(9,201)	-32%	348,722	340,128	(8,595)	-2.5%
<b>Total contractual services:</b>	<b>10,716,119</b>	<b>832,111</b>	<b>1,088,811</b>	<b>3,000,000</b>	<b>15,637,041</b>	<b>1,230,579</b>	<b>1,105,183</b>	<b>(125,396)</b>	<b>-10%</b>	<b>14,557,041</b>	<b>13,982,459</b>	<b>(574,582)</b>	<b>-3.9%</b>
Receiver	50,000	600,000		0	50,000	55,000	55,000	0	0%	650,000	654,447	4,447	0.7%
Travel	24,000			0	24,000	0	0	0	0%	24,000	14,485	(9,515)	-39.6%
Supplies	530,000			0	530,000	44,167	35,536	(8,630)	-20%	530,000	539,658	9,658	1.8%
Vehicle Supplies	354,342			0	354,342	31,216	31,216	0	0%	354,342	311,264	(43,078)	-12.2%
Worker's compensation	0			0	0	0	0	0	0%	0	0	0	0.0%
Drug testing	2,000			0	2,000	167	0	(167)	-100%	2,000	1,614	(386)	-19.3%
Equipment	34,034			0	34,034	0	0	0	0%	34,034	33,517	(517)	-1.5%
Utilities - power	117,053			0	117,053	9,754	8,847	(907.15)	(0.09)	117,053	116,612	(441)	-0.4%
Utilities - water	13,214			0	13,214	1,101	833	(268)	-24%	13,214	9,904	(3,310)	-25.0%
Communications	59,531			0	59,531	5,913	5,913	0	0%	59,531	57,487	(2,045)	-3.4%
Capital outlays	100,000		7,920,000	0	8,020,000	119,177	119,177	0	0%	564,753	464,753	(100,000)	-17.7%
Miscellaneous	270,042			0	270,042	22,504	18,600	(3,903)	-17%	270,042	254,289	(15,753)	-5.8%
Reserves - Layon Landfill	200,000			0	200,000	16,667	16,667	0	0%	200,000	200,000	0	0.0%
Transfers to Host Community Fund	300,000			0	300,000	25,000	38,748	13,748	55%	300,000	375,780	75,780	25.3%
Transfer out to General Fund (Debt Service), Cell 3 Expenses	2,997,625			0	2,997,625	249,802	253,833	4,031	2%	2,997,625	3,045,854	48,229	1.6%
Other Expenditures	5,001,842	0	7,920,000	0	12,921,841	525,467	529,371	3,904	1%	5,466,594	5,425,216	(41,378)	-0.8%
<b>TOTAL EXPENDITURES:</b>	<b>19,170,848</b>	<b>1,432,111</b>	<b>9,008,811</b>	<b>3,000,000</b>	<b>32,011,770</b>	<b>2,198,814</b>	<b>2,065,636</b>	<b>(133,177)</b>	<b>-6%</b>	<b>24,076,524</b>	<b>23,450,277</b>	<b>(626,247)</b>	<b>-2.6%</b>
Excess (deficiency) of revenues over (under expenditures)													
							<b>186,381</b>				<b>2,307,521</b>		
Less: Court Order Interest Payment/Carry Over Encumbrances/Expenditures:											<u>1,846,092</u>		
											<b>461,429</b>		

Summary of Carry over Encumbrances:	Total Encumbrance	Payments	Balance
Transfer for Interest Payment - OPCC	0	1,694,934	-1,694,934
Layon Monitoring	66,271	60,270	6,001
GEPA	34,754	34,754	0
Other Contractual	82,886	56,133	26,753
<b>Note:</b>	<u>183,911</u>	<u>1,846,092</u>	<u>-1,662,181</u>

This report is based on preliminary month end numbers and is subject to change based on DOA updates and accounting adjustments.  
 ARPA Funds revenues are allocated based on when they are expended.  
 Carry over encumbrances such as contracts and purchase orders funded by prior year receipts but expended this fiscal year.  
 Bad debt expense was based on FY2022 write off approximately 3% of Residential Revenues.  
 Public Law 36-107 allocated to GEPA \$202,992 to fund duties and responsibilities related to the closure, monitoring and opening of the island's landfill.  
 P.L. 36-107 allocated \$18,750,860 to fund GSWA's budget.  
 P.L. 36-115 allocated \$400,000 to from the Recycling Revolving Fund to GSWA to fund the Residential Recycling Program and is a continuing appropriation.

**GUAM SOLID WASTE AUTHORITY FUNDS**

**FUND BALANCE as of September 30, 2023**

*Unaudited*

	Operational Fund	Ordot Post Closure Fund	Total
Fund Balance, September 30, 2022,	6,510,856	3,617,812	10,128,668
<i>Add: Revenues/Other Sources:</i>	25,757,798	2,001,158	27,758,957
<i>Transfers In- SWOF</i>	0	1,694,934	1,694,934
	25,757,798	3,696,092	29,453,891
<i>Less: Expenditures/Reserves:</i>	-23,450,277	-2,039,492	-25,489,769
<i>Transfers Out - OPCC</i>	-1,694,934	0	-1,694,934
<i>Carry Over Encumbrances</i>	-151,158	0	-151,158
	-25,296,369	-2,039,492	-27,335,861
<i>Net Operating Budget</i>	461,429	1,656,601	2,118,030
<i>Add back:</i>			
<i>Capital Outlay - Equipment Replacement reserves set asides</i>	0	0	0
<i>Layon Reserves</i>	200,000	0	200,000
<b>Total Net change in Fund Balance</b>	<b>661,429</b>	<b>1,656,601</b>	<b>2,318,030</b>
Ending Fund Balance, September 30, 2023 (unaudited)	7,172,285	5,274,413	12,446,698

Solid Waste Operations Fund  
 Operating Balance Sheet  
 As of September 30, 2023 and September 30, 2022  
 (Unaudited)

	As of 30-Sep-23	As of 30-Sep-22	Change	% Change
<b>ASSETS</b>				
Cash and cash equivalents, unrestricted	5,689,047	6,002,579	-313,532	-5%
Cash and cash equivalents, restricted	5,963,590	4,737,594	1,225,996	26%
Receivables, net:		0		
Tipping Fees	4,284,151	3,146,002	1,138,149	36%
Due from other funds		0		
Due from component units		0		
Deposits and other assets		0		
Total assets	<u>15,936,788</u>	<u>13,886,175</u>	<u>2,050,612</u>	15%
<b>LIABILITIES AND FUND BALANCES (DEFICIT)</b>				
<b>Liabilities:</b>				
Accounts payable	0	0	0	
Accrued payroll and other	1,334,298	1,487,282	-152,984	-10%
Due to component units	0	0		
Due to other funds	2,107,614	2,270,225	-162,611	-7%
Deferred revenue	0	0	0	
Deposits and other liabilities	48,177	0	0	
Total liabilities	<u>3,490,090</u>	<u>3,757,507</u>	<u>-267,417</u>	-7%
<b>Fund balance (deficit):</b>				
Restricted, OPCC	5,274,413	3,617,810	1,656,603	46%
Committed	0	0	0	
Assigned	7,172,285	6,510,858	661,427	10%
Unassigned	0	0	0	
Total fund balance (deficit)	<u>12,446,698</u>	<u>10,128,668</u>	<u>2,318,030</u>	23%
Total liabilities and fund balances (deficit)	<u>15,936,788</u>	<u>13,886,175</u>	<u>2,050,612</u>	15%

Note:

This report is based on preliminary month end numbers and is subject to change based on DOA updates and accounting adjustments.

Operating Budget Revenues, Expenditures

As of September 30, 2023

Unaudited

	FY2023 Actuals to Date	FY2022 Actuals to Date	Variance	% Increase (Decrease)
<b>Revenues:</b>				
Commercial Fees (Large)	11,008,769	9,127,106	1,881,663	20.6%
Others - Government/Commercial Fees	2,102,919	865,497	1,237,422	143.0%
Residential Collection Fees (net 3%)	7,867,793	7,807,752	60,041	0.8%
Host Community Fees	375,780	323,689	52,091	16.1%
Other Revenues	419,893	460,259	-40,367	-8.8%
Interest Income	2,418	1,586	832	52.5%
Prior Year Revenues	107,816	201,076	-93,260	-46.4%
<b>Total Revenues</b>	<b>21,885,388</b>	<b>18,786,965</b>	<b>3,098,423</b>	<b>16.5%</b>
ARPA Budget Allocation	3,473,564	2,360,149	1,113,415	47.2%
Transfers In- Reimb from Cell 3	0	850,194	-850,194	-100.0%
Transfers In - Recycling Revolving Fund	400,000	0	400,000	n/a
Total Other Resources/Transfers In	3,873,564	3,210,343	663,221	20.7%
<b>Total Revenues/Other Resources/Transfers In:</b>	<b>25,758,953</b>	<b>21,997,307</b>	<b>3,761,645</b>	<b>17.1%</b>
<b>Expenditures by Object:</b>				
Salaries and wages - regular	2,174,209	1,601,058	573,150	35.8%
Salaries and wages - overtime	357,482	185,865	171,618	92.3%
Salaries and wages - fringe benefits	856,464	666,445	190,019	28.5%
	3,388,155	2,453,368	934,787	38.1%
<b>Contractual services:</b>				
Layon Operations	4,104,944	3,755,578	349,366	9.3%
Layon Others	833,048	522,010	311,038	59.6%
Harmon Hauler Station Operations	4,028,599	3,371,595	657,004	19.5%
Ordot Postclosure care (OPCC)	2,039,492	2,533,056	-493,564	-19.5%
Recycling/Other Programs	672,632	1,068,500	-395,868	-37.0%
GEPA Appropriation	34,754	165,246	-130,492	-79.0%
Contractual Employees	1,299,283	1,439,794	-140,511	-9.8%
Vehicle Maintenance	665,091	1,091,144	-426,053	-39.0%
PUC/Legal Expenses	99,000	101,000	-2,000	-2.0%
Other Contractual	396,261	361,047	35,214	9.8%
<b>Total Contractual</b>	<b>14,173,102</b>	<b>14,408,970</b>	<b>-235,865</b>	<b>-1.6%</b>
Receiver	654,447	347,996	306,450	88.1%
Travel	14,485	11,421	3,064	26.8%
Supplies	539,658	494,644	45,014	9.1%
Vehicle Supplies	311,264	0	311,264	n/a
Worker's compensation	0	0	0	n/a
Drug testing	1,614	434	1,181	272.4%
Equipment	33,517	25,963	7,554	29.1%
Utilities - power	116,612	106,990	9,622	9.0%
Utilities - water	9,904	15,472	-5,568	-36.0%
Communications	57,487	53,079	4,408	8.3%
Capital outlays	464,753	188,760	275,993	146.2%
Miscellaneous	254,289	381,192	-126,903	-33.3%
Reserves	0	0	0	n/a
Transfers to Host Community Fund	375,780	323,690	52,090	16.1%
Transfer out to General Fund (Debt Service), Cell 3 Expe	3,045,854	3,044,146	1,708	0.1%
Other Expenditures	5,225,215	4,645,789	579,427	12.5%
<b>TOTAL EXPENDITURES:</b>	<b>23,440,920</b>	<b>21,856,125</b>	<b>1,584,799</b>	<b>7.3%</b>
Excess (deficiency) of revenues over (under expenditures	2,318,030	141,182	2,176,848	1541.9%
Other financing sources (uses),				
Transfers in from other funds	0	0	0	
Transfers out to other funds	0	0	0	
Total other financing sources (uses), net	0	0	0	
Net Change in Fund Balance:	<b>2,318,030</b>	<b>141,182</b>	<b>2,176,848</b>	1541.9%
Beginning Fund Balance, 09-30 (unaudited)	10,128,668	9,987,486	141,182	1.4%
Ending Fund Balance, September (unaudited)	12,446,698	10,128,668	2,318,030	22.9%

Note:

This report is based on preliminary month end numbers and is subject to change based on DOA updates and accounting adjustments.



**TYPHOON MAWAR**  
**Typhoon related Revenues and Government Reimbursement**  
**May 29, 2023 to September 2023**

Site	Period	May 29 to June 30	July	August	September	Total
DPW Typhoon Waste/Sites	06/05 to 09/30	161,280.77	97,222.85	19,359.79	84,876.87	362,740.28
Mayor's Typhoon Waste	05/29 to 06/30	10,024.98	0.00	0.00	0.00	10,024.98
Commercial Typhoon Waste	05/29 to 06/30	272,871.07	0.00	0.00	0.00	272,871.07
Residential Typhoon Waste	05/29 to 06/11	0.00	628,300.00	0.00	0.00	628,300.00
Residential Transfer Stations	05/29 to 06/11	0.00	77,550.00	0.00	0.00	77,550.00
PFM/Commercial	08/04 to 09/30	0.00		23,782.79	45,574.02	69,356.81
ECC/Commercial	08/04 to 09/30	0.00	0.00	383,218.49	224,404.90	607,623.39
Typhoon Revenues/Reimbursement Grand Total:		444,176.82	803,072.85	426,361.07	354,855.79	2,028,466.53

**FEMA APPLICATION Project # 728981**  
**TYPHOON MAWAR Emergency Protective Measures**

Layon Operator Excess Tonnage	150,266.25
Hauler Only Transfer Station Excess Tonnage	120,157.42
Containers for additional trash	3,075.00
Overtime Labor	17,327.26
Total Actual Costs:	<u>290,825.93</u>

Estimated Costs:	
Layon Operator Excess Tonnage	138,856.00
Hauler Only Transfer Station Excess Tonnage	94,285.90
Debris monitoring overtime	33,042.59
	<u>266,184.49</u>

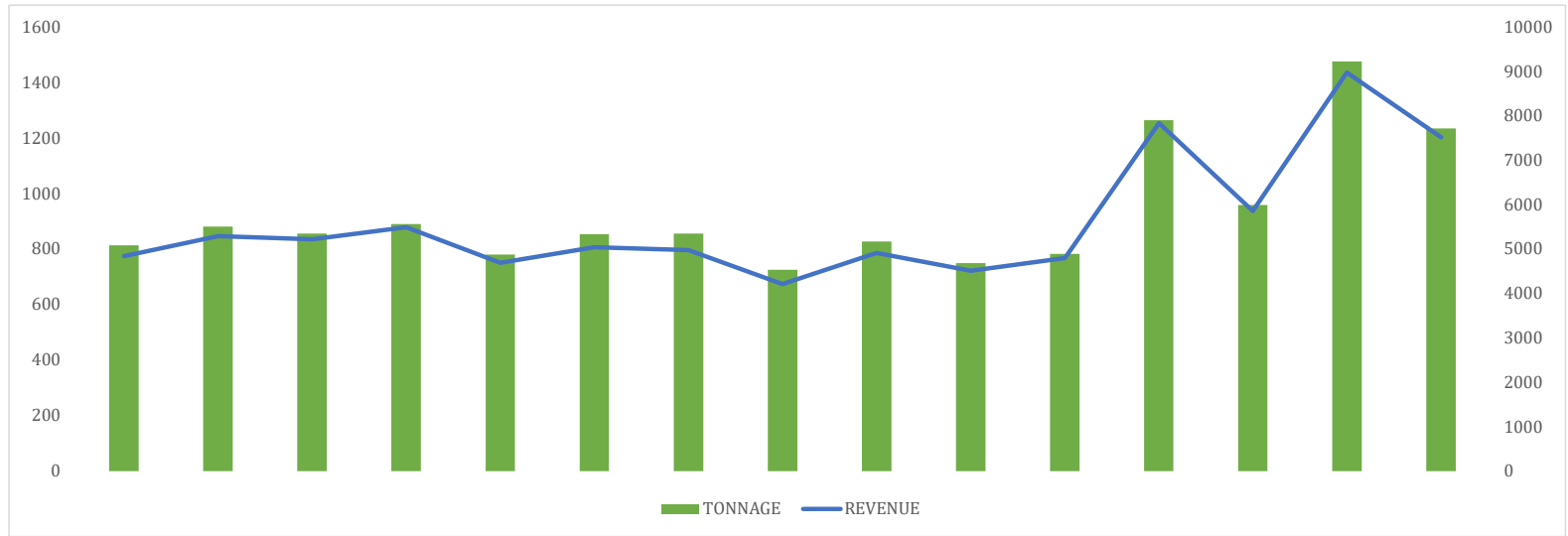
Total Projected Costs:	<u>557,010.42</u>
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90% FEMA Share	501,309.38
10% GSWA Share	55,701.04

Net Funds to GSWA:	<u>501,309.38</u>
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**Commercial/Military Revenue & Tonnage**  
**Period July 2022 - September 2023**  
**Fifteen (15) months**

	JULY	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEP
TONNAGE	5,084	5,508	5,347	5,562	4,874	5,333	5,350	4,536	5,169	4,683	4,889	7,898	5,994	9,225	7,717
REVENUE \$	\$ 774	\$ 846	\$ 835	\$ 879	\$ 750	\$ 806	\$ 796	\$ 674	\$ 786	\$ 722	\$ 768	\$ 1,254	\$ 937	\$ 1,436	\$ 1,202

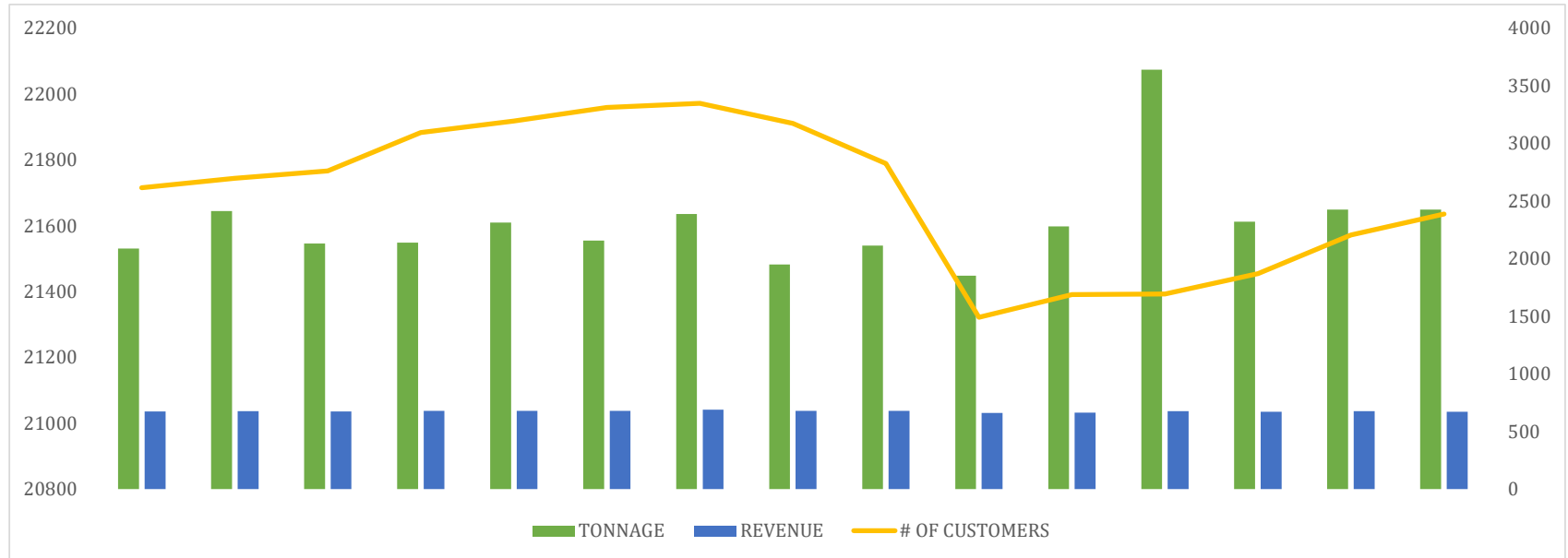


Note: Typhoon Mawar Commercial Tonnage 1,557.75

**Residential Revenue & Tonnage  
Period July 2022 - September 2023**

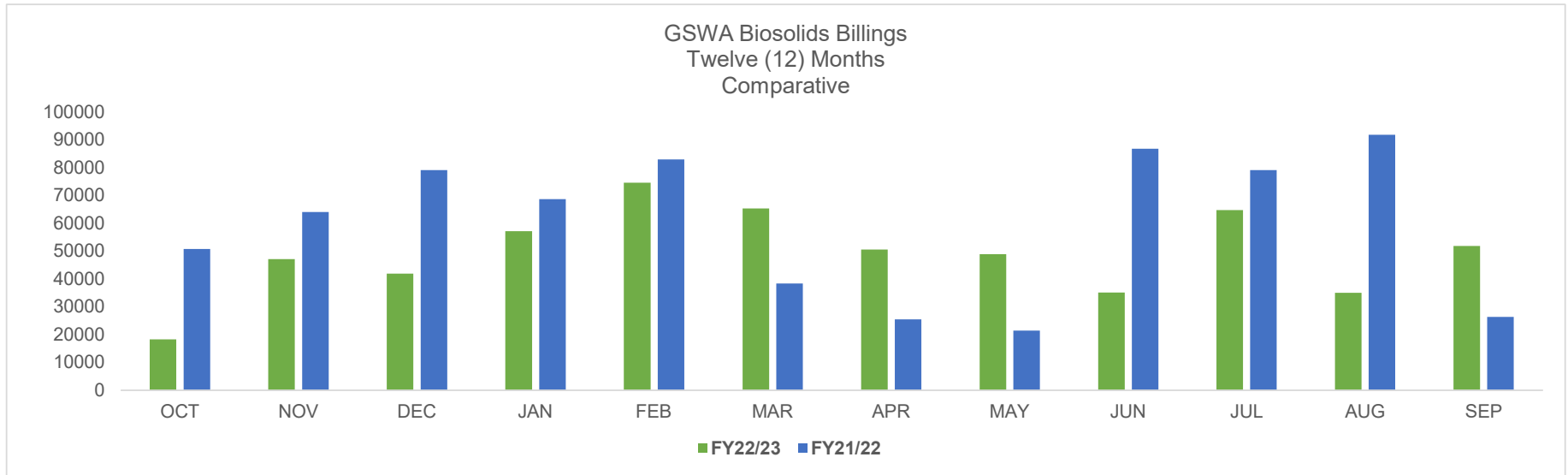
**Fifteen (15) months**

AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEP
2,414	2,133	2,141	2,314	2,160	2,389	1,951	2,114	1,854	2,281	3,643	2,323	2,428	2,428
\$ 677	\$ 675	\$ 681	\$ 680	\$ 681	\$ 690	\$ 681	\$ 679	\$ 663	\$ 664	\$ 678	\$ 672	\$ 677	\$ 673
21,745	21,767	21,884	21,919	21,960	21,972	21,912	21,790	21,322	21,391	21,393	21,455	21,573	21,636



**Guam WaterWorks Authority Biosolids  
Billings Comparative  
Twelve (12) Months Comparative**

	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
FY22/23	\$ 18,316	\$ 47,135	\$ 41,967	\$ 57,200	\$ 74,600	\$ 65,312	\$ 50,589	\$ 48,860	\$ 35,164	\$ 64,783	\$ 35,015	\$ 51,868
FY21/22	\$ 50,803	\$ 64,098	\$ 79,087	\$ 68,668	\$ 82,964	\$ 38,424	\$ 25,468	\$ 21,457	\$ 86,755	\$ 79,091	\$ 91,761	\$ 26,430



Stockpile of sludge in a temporary drying bed that will likely be disposed during this fiscal year estimated to be around \$340,000.

We are expecting a estimated decrease between 50% to 70% of the Northern District plant for the remainder of the fiscal year.

**KEY INDICATORS**  
**As of September 30, 2023**

Indicators	Target	Jul-23	Aug-23	Sep-23
Days in Cash	90	54	69	72
Collection Ratio				
* Month to Date	98%	81%	94%	99%
* Year to Date	98%	93%	101%	94%
Account Receivable Days	60	80	78	77
Account Payable Days	45	25	49	Pending
Residential Customers	21,691	21455	21573	21636
Trucks Procured/Purchased - FY2022	3	3	3	3
Trucks Procured/Purchased - FY2023	10	6	7	7
Plastic	5%	0%	0%	Pending
Contamination Rate	25.0%	83%	94%	Pending

Note: DPW Typhoon waste paid on October 2023.

**Special Report of the Receiver  
to the Board of Directors of the Government of Guam  
Guam Solid Waste Authority**

**Ordot Dump Post Closure Operations Information  
*United States of America v. Government of Guam (Civil Case No. 02-00022)***

Prepared for:



Submitted by:



Gershman, Brickner & Bratton, Inc.  
8300 Boone Boulevard, Suite 500  
Vienna, VA 22182

For the U.S. District Court of Guam



October 23, 2023

Please Print on Recycled Paper

**Special Report of the Receiver  
to the Board of Directors of the Guam Solid Waste Authority**

**Ordot Dump Post Closure Operations Information  
in Connection with the Consent Decree in  
*United States of America v. Government of Guam* in Civil Case No. 02-00022**

**A. The Reason for this Special Report**

During the recent months, the Receiver, at the direction of the Court, has been working with the Parties (GovGuam, GSWA, GEPA, USEPA, and DOJ) to address and resolve open issues regarding the Consent Decree and to develop a plan to terminate the Receivership. This special report is intended to respond to questions that have arisen at meetings of the Board of Directors of the Guam Solid Waste Authority (“GSWA”) and to clarify the record regarding certain matters discussed at previous Board meetings.

The Receiver continues to work diligently and skillfully in the interests of the people of Guam regarding the Guam solid waste management system. The remaining tasks of the Receiver include: the completion of ongoing investigations into changed conditions at the closed Ordot Dump (“Dump”) and submitting or causing the submittal of other Party’s administrative and legal filings, ultimately leading to the transfer of the Dump and its operations and maintenance to GSWA.

By way of background, the Receiver caused the Dump to be closed for receiving municipal solid waste on August 31, 2011. After the new fully compliant Layon landfill was completed under the direction of Receiver. For over 50 years (and possibly longer), the Dump, which had no controls to prevent the spread of leachate, was operating without regard for its environmental impacts (some of which violated environmental laws). The mitigation of those adverse impacts began and has continued since the Receiver took over its operations in 2008. The Dump stopped receiving solid waste in 2011, at which time the Receiver proceeded with design/permitting and construction of the facilities needed to close the Dump so that it would comply with current laws and regulations. Construction of the closure facilities was completed in March 2016, and the construction management contractor then began operating and maintaining the Dump until a contractor for operations and maintenance was engaged through a public procurement and began the initial seven-year term of the contract on June 1, 2018.

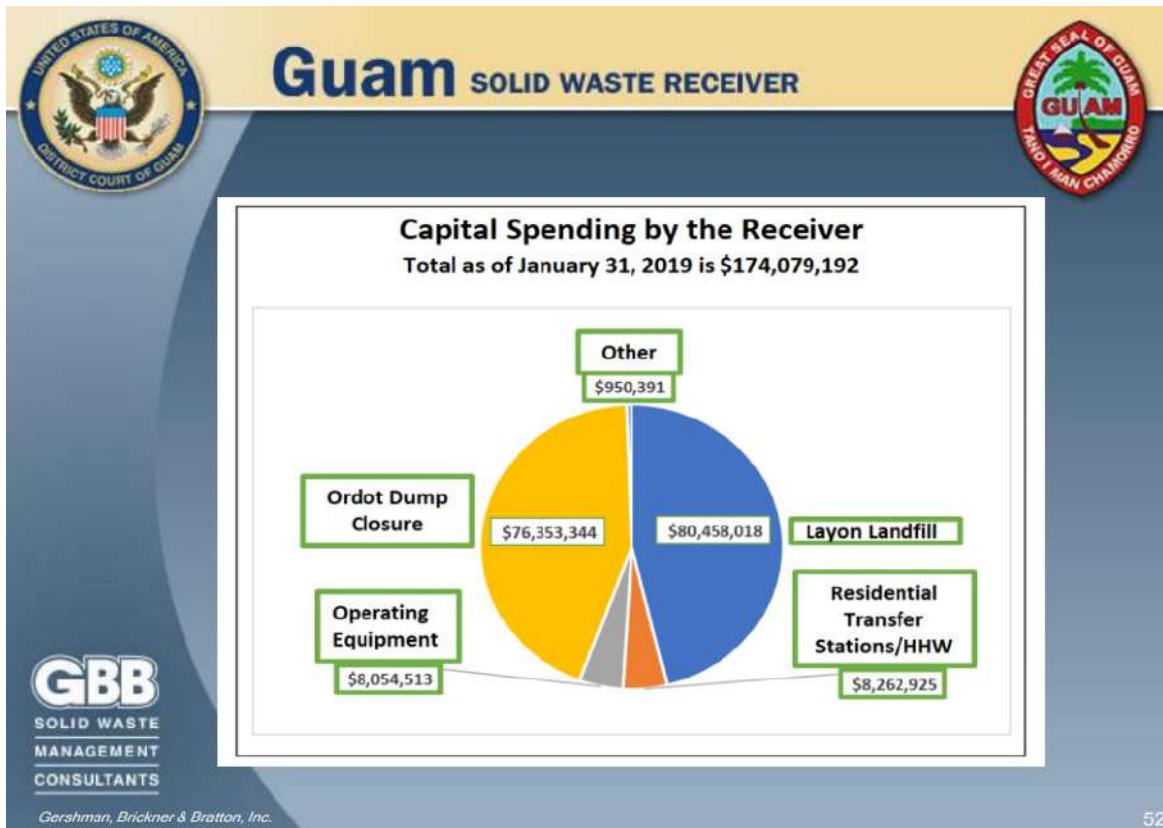
To date, under the Receivership, over \$174 million in capital expenditures have been devoted to various projects to fix, upgrade, and develop new facilities and processes for the Guam solid waste management system. The following slide from the Receiver’s presentation to the Court on March 6, 2019,<sup>1</sup> summarizes those capital expenditures.<sup>2</sup>

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<sup>1</sup> <https://www.guamsolidwastereceiver.org/pdf/1865.pdf> at slide 52.

<sup>2</sup> The Receiver maintains a web page ([www.guamsolidwastereceiver.org](http://www.guamsolidwastereceiver.org)) that explains the Receivership and includes all the reports that the Receiver has presented to the Court.





**B. Responses to Questions Raised**

**1. Why did the Receiver structure the procurement of the Ordot Dump Closure Facility operations and maintenance contract with one party and not split it up into parts?**

Procuring the operations and maintenance contract scope of services as one contract provides for the opportunity of economies of scale in shared labor and equipment resources for efficiency and greater opportunity for lower cost. However, the RFP was structured to give the Receiver the flexibility to have opted to select different proposers for different portions of the work instead of awarding it to one proposer. It was clear from the proposals received that the bidders' proposal structures relied on getting the entire work in the RFP and not splitting the work with another contractor.

**2. How many proposals were submitted to the Receiver in response to the Ordot Dump Closure Facility operations RFP when issued in June 2017?**

The RFP was initially issued in June 2017. After no responses were received to the initial solicitation, the Receiver conducted a competitive negotiation process in September 2017, and invited six (6) entities to participate in the competition for the work. Those entities were:

- Brown and Caldwell
- EA Engineering, Science and Technology, Inc. PBC.
- GGH Corp.
- Guahan Waste
- Galaide Professional Services, Inc.
- LMS (Landscape Management Systems)

Only two (2) of the above entities submitted proposals.

**3. How have the Ordot Dump Closure Facility operator's (Brown and Caldwell) base contract costs changed from the beginning of its contract and why?**

Initially, it was expected that there would be a decrease in monitoring costs following the quarterly monitoring needed to establish baseline groundwater standards for the site. In 2018, USEPA replaced its technical consultant following a dispute between USEPA and GEPA. The new USEPA technical consultant advised that more monitoring be performed, which increased the expenses of the project. The changes to the sampling included:

- Requiring all quarterly groundwater sampling to be performed for at least an additional eight (8) quarters, *i.e.*, two (2) years;
- Increasing the analyte list that was to be sampled and analyzed at the laboratory;
- Increasing the number of groundwater wells to be sampled by 40% (an additional four (4) wells); and
- Requiring additional quality assurance protocol levels not previously required by the prior consultant.

Costs also increased significantly during and since the COVID-19 pandemic for shipping samples as the result of significant logistics delays, requiring in some cases resampling efforts. Typhoon events and other heavy weather events, or conditions unplanned for in normal operations, also increased costs. The addition of the Soil Vapor Extraction (SVE) program also increased costs. There have also been some decreases in costs resulting from: the early completion (by two (2) years) of the wetland monitoring program required by the Army Corps of Engineers for the successful establishment of wetland vegetation. Also, in 2023, the quarterly groundwater well monitoring was reduced in frequency to semi-annual monitoring. These additional costs and others to the scope of services for the contractor resulted in change orders which amounted to a total of approximately \$1,928,719.42 over the initial five (5) years of the contract.<sup>3</sup>

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<sup>3</sup> The additional work and services required included, but were not limited to: hardening of leachate collection and secondary containment; biological assessment; emergency Services required before, during and after typhoons; heavy weather response support; Pond 1 embankment repair; tree removal; enhanced LCRS monitoring; non-scope water sampling; additional maintenance allowance; facility topographic survey; perimeter access road repair; stormwater swale repair; gate valve replacement in WLIT; environmental monitoring; leachate flow study; leachate surface discharge study; and seep monitoring.

The Receiver has been diligent in tracking and managing expenses and costs resulting in annual savings. Also, the Receiver incorporated a segmented annual inflation escalation methodology in the Brown and Caldwell contract using blended indices that resulted in savings of over \$1 million over the past five (5) years. The table below compares actual adjusted base contract values to what the base contract costs would have been if a 100% CPI adjustment were applied.

Contract Year		Base Contract Value	Annual Inflation Escalation (based on blended Indices)	Contract Costs if Annual CPI Applied	Actual Annual Inflation Adjustment Difference
2018-2019	Year 1 (Adjusted Price)	\$ 800,732		\$ 800,732	
2019-2020	Year 2	\$1,270,536	2.35%	\$1,263,122	2.95%
2020-2021	Year 3	\$1,122,067	1.41%	\$1,280,932	-11.69%
2021-2022	Year 4	\$1,137,452	2.77%	\$1,316,414	1.37%
2022-2023	Year 5	\$1,169,360	7.75%	\$1,418,436	2.81%
2023-2024	Year 6	\$1,053,258	4.78%	\$1,486,237	-9.93%
Total		\$6,553,405		\$7,565,873	

**4. What are the inflation adjustments in the Ordot Dump Closure Facility operator contract based on and why?**

The inflation adjustments required in the Ordot Dump Closure Facility operator contract apply to the following expenses (collectively referred to as the “LEF Expenses”):

- Labor expense
- Equipment expense; and
- Fuel expense.

The LEF Expenses are adjusted based on the Employment Cost Index (ECI) for Labor (Category: Production, Transportation, and Moving Material)<sup>4</sup>, the Construction Machinery & Equipment category of the Producer Price Index (PPI),<sup>5</sup> and the Gasoline Fuel Series PPI from the U.S. Bureau of Labor Statistics.<sup>6</sup> The contract adjustment methodology was used to reflect the cost drivers more accurately for post closure care operations than would a holistic and generalized cost index for the everyday consumer.

<sup>4</sup> <https://fred.stlouisfed.org/series/CIS2020000500000>

<sup>5</sup> <https://fred.stlouisfed.org/series/WPU112>

<sup>6</sup> <https://fred.stlouisfed.org/series/WPU0571>

**5. *When leachate quantities at the Ordot Dump Closure Facility were increasing after 2018, what was the Receiver doing about it?***

In 2017, even before the leachate quantities began increasing in 2018, the Receiver initiated a root-cause analysis to be developed in response to an isolated overflow event. The analysis included an evaluation to confirm leachate system design capacity. Also in 2017, USEPA noted that leachate volumes appeared to be exceeding the closure design established for the leachate collection and removal system (“LCRS”) and requested a re-evaluation of design in a root-cause analysis. From late 2017 through June 2018, the Receiver worked to put in place additional measures to minimize the potential for releases from the LCRS system, such as procuring a Supervisory Control and Data Acquisition system (“SCADA”). Also, the Receiver continued to gather data to report on LCRS Capacity through late 2018, to comply with USEPA’s November 2017 request. The first draft of the root cause analysis was completed in November 2017. Thereafter, the report was expanded to include an LCRS Capacity Evaluation.

The first draft of the expanded analysis was completed in November 2018. Following comments received from USEPA and ongoing consultation, a second draft of LCRS Capacity Evaluation report was submitted in February 2019. USEPA, having maintained close consultation with the Receiver, which was providing leachate generation data for discussion, issued comments to the February 2019, Draft of the LCRS Capacity Evaluation. USEPA’s comments were addressed in a March 22, 2019, revised version of the LCRS Capacity Evaluation report in which the data gathered and evaluated to date indicated the facility design capacity was adequate to manage the anticipated design flows, which included anticipated clean groundwater entering the system. Additionally, the report identified possible recommendations for reducing the groundwater entering the system. The USEPA directed that further data be collected on the leachate system.

Additional data continued to be collected from mid-2019 through early 2022, on leachate flow and precipitation as part of routine facility operations to further understand trends. In May 2022, USEPA began to engage the Receiver to discuss the apparent increasing trend in leachate volumes and approaches to further the investigation, which continued until October 2022, and led to the November 2022 joint site investigation. During this entire time, from September 2018 through October 2022, there were no documented releases of leachate or leachate-contaminated groundwater from the facility. From November 2022 through present, the Receiver conducted an investigation into the increasing trend of leachate through December 2022 and then the subsequent correlation of a significant decrease in average monthly leachate flows since the GWA water main repairs in late December 2022. Since then, the Receiver continues to gather data and is reporting this data regularly to GSWA, GEPA and US EPA.

**6. *How significant are the leachate releases that have occurred at the Ordot Dump Closure Facility?***

Relative to the leachate that has been collected and treated from the Ordot Facility, the leachate releases were insignificant as to amount. There were four (4) separate leachate release events since the Dump closure. The table below summarizes the leachate releases in comparison to the total volume of leachate

collected and treated during the year of the release. The two largest releases resulting from Typhoon Mawar and Typhoon Manghut represented at most 0.1% and 0.3%, respectively.<sup>7</sup>

Release Event Date	Estimated Release (Gallons)	Total Yearly Flow (Gallons)	Percentage of Release relative to total Monthly flow
Sept. 13, 2017	6,000	8,500,000	<0.1%
Oct. 18, 2017	7,300	8,500,000	<0.1%
Sep. 11, 2018 (Typhoon Manghut)	40,000 – 50,000	18,400,000	0.2 – 0.3%
May 25, 2023 (Typhoon Mawar)	9,000 – 43,000	32,000,000*	0.03 – 0.1%

\* This total is one year from June 2022 – May 2023.

The Sept. 2017 release was caused by a pipe break at the pump station resulting from a contractor’s maintenance work and the release was immediately secured. The Oct. 2017 release was the result of a combination of a power outage and the backup generator running out of fuel, with no one being able to reach the facility in time due to a workforce shortage. These issues have been mitigated through additional staff redundancy and the installation of controls to remotely monitor and manage the system. In Sept. 2018, the system was overwhelmed by the high flows from Typhoon Manghut, well beyond the design capacity of the system. There was also a pipe mechanical joint failure that contributed to the issue which has been corrected. In May 2023, the system again came under extreme conditions during Typhoon Mawar, which tripped off the power to the pumps. We are in the process of hardening the system so that this type of event does not occur again. The goal is to have zero releases, and the Receiver’s team has reduced the chance for combinations of events to cause releases and will continue to look for added changes to the system to increase its resilience to extreme adverse conditions.

**7. Why do leachate flows temporarily increase when rainfalls occur?**

It is normal for groundwater levels to rise in response to precipitation events. The Dump is an unlined landfill with municipal solid waste materials resting on the bedrock surface. As the water table rises in response to precipitation, this groundwater potentially contacts the waste and leachate, picking up contaminants. The leachate collection trenches included in the design of the closure took this into account and were properly sized to collect this leachate. The design expected that leachate volumes would increase as a response to seasonal precipitation changes, and storm events, and would have to be collected and treated as leachate.

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<sup>7</sup> It should be noted that “0.3%” is equal to .003, which is three (3) thousandths of the total yearly flow, a very small portion of the total.

**8. What were the historical Brown and Caldwell costs for operating the Ordot Dump Closure Facility in the post-closure period? What major changes did USEPA/GEPA require to be made? What were the additional costs for complying with those changes?**

The chart below lists the Brown and Caldwell operations costs for the first six (6) contract years. Note that although the costs increased significantly between years one and two, since then the costs remained relatively flat or slightly decreased and they always remained below the year two (2) level, as shown below.

Year 1*	Year 2	Year 3	Year 4	Year 5	Year 6
2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2024
\$800,732	\$1,270,536	\$1,088,336	\$1,097,742	\$1,169,360	\$1,053,259

\*The Ordot Dump Post-Closure Care operating year is June 1 to May 31.

The major additions that USEPA required are addressed in the response to question No. 3. The cost for complying with the additional requirements and changes, which are primarily related to additional data gathering for the purposes of complying with the Consent Decree as interpreted by USEPA, differ from year to year depending on the myriad of requirements and direction given year to year to the Receiver by the USEPA to gather more information. For example, when USEPA's new consultant came on board in 2018, new monitoring requirements increased the cost of operation by about \$400,000 between Years 1 and 2. While some initial requirements dropped off, it was not until Year 6 operations that groundwater monitoring is now aligned with most landfills for monitoring frequency with semi-annual events.

**9. Why did the Receiver have additional Ordot Dump post-closure cost estimates prepared in 2022 that range from \$56 million to \$87 million?**

During 2021 and 2022, the costs for operating the Ordot Dump Post-Closure Facility had significantly increased and the post-closure account fund balance was declining much faster than the deposits account increased. The increased costs were primarily driven by the increased quantities of leachate collected and pumped to GWA for treatment. The large quantities combined with the high treatment rate were the primary reasons the projections were so much greater than earlier estimates. The projections estimated the post-closure operating cost through 2046, the end of the post-closure 30-year period, using escalation rates based on recent experience. Separate escalation rates were used based on current experience for inflation, power purchases, and leachate treatment. The escalation rate for leachate treatment was over 6%, based on recent GWA rate experience. As required by regulation, if significant changes in costs are experienced, the cost estimate should be updated in advance of the five-year update requirement. In 2021, the official post-closure cost in the Ordot Dump Facility operating permit prepared by the Receiver was approximately \$28 million (2021\$). The updated projections shared with the parties in June 2022 had revised cost estimates ranging from \$56 million to as high as \$87 million. These projections were prepared with the assistance of PFM Financial Advisors LLC (PFM). The primary reasons these estimates were so much greater than the 2021 estimate was:

- i. Increasing leachate quantities year over year since 2018;
- ii. The then high rate charged for leachate treatment;
- iii. The high escalation rate assumption on future rate increases for leachate treatment; and
- iv. The need for additional groundwater monitoring requirements as directed by USEPA.

Since the time the GWA leaks have been fixed (late December 2022), leachate treatment volumes have continued to decline. Additionally, in August 2023, the Guam Public Utilities Commission approved a reduced specific rate for leachate treatment which is significantly lower than the previous rate, effective August 1, 2023. With this new information and reduction in leachate treatment rate, the Receiver estimates that Ordot Facility costs for calendar year 2023 will be approximately \$1.15 million, rather than over \$2 million per year previously experienced, and results in the cost of post-closure (through 2046) to be closer to the Receiver's 2021 estimate of approximately \$28 million.

These projections were also used to calculate alternative monthly payments that would fully fund these higher post-closure cost projections. At that time, the Receiver was presenting alternative approaches for funding and financial assurance to the Parties.

**10. What is the Receiver's current estimate for 2023 costs to operate the Ordot Dump Closure Facility? 2024?**

For Operational Year 2023-2024, the estimated costs to operate the Ordot Dump Closure Facility is \$1,053,258.95. The Operational year for Ordot is June 1 through May 31.

**11. For Operational Year 2024-2025, the estimated costs to operate the Ordot Dump Closure Facility have not been developed at this time but active ongoing discussions are proceeding apace to have a budget developed in April of 2024. What is the Receiver's estimate of:**

**i. The inflation payments that GSWA will be required to make for 2023, 2024, and 2025?**

The USEPA has directed the Receiver during the Meet & Confer discussions that at the time the current monthly payments by GSWA to the Ordot Dump Post-Closure fund ends, in August 2026, as ordered by the Court, GSWA would be required to make a balloon payment of the then calculated Ordot Dump Post Closure amount to fully fund the Trust Fund. And, in calculating that amount, the 2019 Post Closure Cost estimate (\$27,740,327) would continue to be increased by the escalation rate required in RCRA regulations, *i.e.*, the Gross National Product Deflator Index, and that an annual inflation payment be made to the Ordot Dump Post-Closure Trust Fund. The Receiver has prepared the following calculations which present the actual values of the inflation payments for 2022 and 2023 which USEPA and GEPA directed be made and the Court has ordered be made.<sup>8</sup> (It is, of course, not possible to accurately predict future inflation rates.) The table also includes PFM's estimate of future inflation payments GSWA would be

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<sup>8</sup> ECF 1992 (Order Post-May 10, 2023 Status Hearing) at pp. 2 & 3.

required to make based on multiplying the estimated GNP Deflator value to the most recent escalated Post Closure Cost. USEPA’s method uses the increasing values for the Post Closure Cost as the years of the post-closure period move forward. (Note: The Receiver has asked that the Post Closure Cost be adjusted based on current experience and the number of years left in the post-closure cost period, *i.e.*, a decreasing number of years. USEPA has stated that it is premature to use this approach until more data and time goes by to observe the effect of the GWA leak fixes and the results of the seeps and leachate analysis.)

Year	Post Closure Cost Estimate As Inflated	GNP Deflator	Inflation Payment
2021	\$27,740,327		
2022	\$29,436,343	6.114%	\$1,696,016*
2023	\$31,322,256	6.407%	\$1,885,913*
2024	\$33,044,980	5.500%**	\$1,722,724**
2025	\$34,532,004	4.500%**	\$1,487,024**
2026	\$35,913,284	4.000%**	\$1,381,280**

\* Payments already made by GSWA.

\*\*Estimated by PFM.

***ii. The balloon payment GSWA would be required to make to fully fund the Ordot Dump Closure Facility post closure Trust Fund when the current monthly payments end in August 2026?***

With PFM’s assistance, the Receiver has also estimated the balloon payment amount using USEPA’s methodology for calculating the inflation payment and estimating interest income and updated increasing post-closure cost estimate, as inflated. The table below presents those calculations and shows that the balloon payment, if made in 2026, following the end of the currently court-ordered monthly payments in August 2026, to be \$19,562,242.



**Ordot Dump Trust Fund Status Projection Model (As of September 28, 2023)**

		2023	2024	2025	2026
Trust Fund Beginning Balance		\$ 4,118,900	\$ 8,608,133	\$ 11,622,253	\$ 14,443,369
<b>Credits</b>					
	GSWA Monthly Payments through August 2026	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ 1,333,333
	GSWA Inflation Payments**	\$ 3,561,734	\$ 1,722,724	\$ 1,487,024	\$ 1,381,280
	GWA Credit Payment(s)***		\$ -		
	Interest Income (estimated)	\$ 85,229	\$ 338,512	\$ 420,681	\$ 320,609
<b>Total, Credits</b>		<b>\$ 5,646,963</b>	<b>\$ 4,061,236</b>	<b>\$ 3,907,705</b>	<b>\$ 3,035,222</b>
<b>Debits</b>					
	Annual Post Closure Costs (Updated Receiver Estimate, inflated*)	\$ 1,157,730	\$ 1,047,117	\$ 1,086,589	\$ 1,127,548
<b>Trust Fund Ending Balance</b>		<b>\$ 8,608,133</b>	<b>\$ 11,622,253</b>	<b>\$ 14,443,369</b>	<b>\$ 16,351,042</b>
	Post Closure Cost (2021 value increased by annual GNP Price Deflator)	\$31,322,256	\$ 33,044,980	\$ 34,532,004	\$ 35,913,284
	<b>GSWA Balloon Payment</b>	<b>\$ 22,714,122</b>	<b>\$ 21,422,727</b>	<b>\$ 20,088,635</b>	<b>\$ 19,562,242</b>

Key: Real Values Estimates

	2023	2024	2025	2026
*Inflation Applied to Annual Post Closure Costs	3.77%	Based on the average Guam CPI Annual Percent Change (2001-Q1 2023)		
**GNP Price Deflator Assumption (per year)		5.50%	4.50%	4.00%
*** No credit has been included for additional amounts the Receiver has claimed are owed by GWA, currently estimated at \$2,650,222. Such GWA payments would result in lowering the balloon payment.				

**12. Why can't the Receivership end sooner rather than later?**

The requirements for full termination of the Receivership are complex, and certain tasks must be completed and disagreements among the Parties resolved before the process can be completed. The Court order establishing the Receivership stated the following regarding the termination of the Receivership:

This appointment shall be for the period necessary to achieve compliance with the Consent Decree, unless: (a) The Receiver recommends termination of this Order as no longer necessary, or modification thereof, and said termination or modification is accepted by this court; (b) The

Receiver requests to be relieved and such request is approved by this court; (c) This Order is otherwise modified or terminated by this court.<sup>9</sup>

Ultimately, it is the Court's decision to order the full termination of the Receivership. The Court has stated that the Receiver is best suited to deal with the tasks associated with the post-closure care plan for the Ordot Dump, which has a remaining significant requirement to be fulfilled in order to achieve compliance with the Consent Decree. Therefore, the Receivership will need to continue in the meantime.

Among the items that must be addressed are:

- i. There are two (2) Technical Memos that the Receiver submitted to the USEPA in 2021 to be part of the post-closure permit application that USEPA has not commented on to date, and needs to do so in order for the application to be complete.
- ii. A trust agreement approved by USEPA and GEPA regarding funds for post-closure care costs needs to be finalized and executed;
- iii. RCRA-compliant post-closure care financial assurance must be provided, which will necessitate certain contracts to be in place before the termination of the Receivership;
- iv. Funds must be transferred from the Ordot Dump Post-Closure Care Reserve Account (managed by the Receiver) to a post-closure cost trust fund for which a bank is trustee and GSWA is the manager;
- v. The Receiver must determine that GSWA is able and prepared to take over responsibility for the monitoring and supervision of the operator performing post-closure work at the Dump, and complete the technical work relating to the Ordot Dump Post-Closure Care Plan, both of which are currently performed by the Receiver;
- vi. Any services required from consultants and contractors to complete the work must be paid from the Ordot Dump Post-Closure Care Reserve Account managed by the Receiver;
- vii. All remaining contracts to which the Receiver is a party, *i.e.* the Independent Engineer Contract and the Ordot Dump Operator Contract must be assigned to an appropriate successor;
- viii. The ongoing investigation of seeps at the site, the increase in leachate generation that occurred in 2018-2022, and the identification of possible remedies if needed must be completed; and
- ix. The issues regarding the requirements of the Consent Decree including that all discharges from the Ordot Dump cease and that such cessation be certified must be resolved.

Efforts to resolve these and other issues continue to the present, and the Parties have frequently been meeting and conferring about them as ordered by the Court. The Parties have worked to accomplish tasks and resolve disagreements, although none of the remaining issues is easy to resolve. The Receiver believes that the Parties have generally worked cooperatively and in good faith to resolve them. The Receiver understands that GovGuam/GSWA's interests may not be fully aligned with USEPA, GEPA, and DOJ

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<sup>9</sup> ECF No. 239 (Order Re Appointment of Receivership) at p. 17.

because of their roles in interpreting and enforcing the Consent Decree. Based on progress to date, Receiver believes that the remaining issue should be resolved without significant delay.

In March 2023, GovGuam requested the Receiver sign a tolling agreement regarding possible claims against the Receiver.<sup>10</sup> The Receiver refused to sign the tolling agreement and denied any liability for the alleged claims. See ECF No. 1982 at 2. Furthermore, the Receiver has immunity from liability for the alleged claims pursuant to the Order appointing the Receiver. *Id.* The request and the threatened lawsuit created an obstacle to the Court-ordered Meet and Confer process which is intended to enable the Parties to resolve all issues and the Receivership to perform its work. Because a request that a party sign a tolling agreement is a clear signal that a lawsuit is intended, GovGuam ignored the obvious intent of Section III(B)(4) of the Court Order Appointing the Receiver, before asking the Receiver to sign it, as that provision states:

The Receiver is responsible solely to this court. 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.

ECF No. 239 at pp. 17-18.

There are two major issues posed by GovGuam's request. First, as noted above, the request for a tolling agreement ignores the requirement that GovGuam obtain the Court's permission before filing a claim against the Receiver, especially given that the order so strictly limits any party's right to sue the Receiver.<sup>11</sup>

Second, given that the Court's order requires the Court's permission to file suit against the Receiver, it would have been appropriate and prudent for GovGuam to seek the Court's permission before taking an action that indicated that a suit against Receiver was likely. If for no other reason, asking the Court's position might have provided GovGuam with an indication of whether it could file such a suit before engaging in the additional effort it claims is necessary.

Perhaps most important, GovGuam's threat to sue the Receiver, which it has not withdrawn, undermines the trust and confidence necessary to share information and work together transparently and cooperatively, which is what is needed to enable the Receiver to finish its remaining tasks expeditiously.

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<sup>10</sup> A tolling agreement extends the time after which it is too late to file suit. known as the statute of limitations. As a practical matter, a tolling agreement enables a party that believes it may have a claim against another party but is not yet have sufficient information to do so to delay filing without having a suit foreclosed by the statute of limitations. Thus, a tolling agreement is strong evidence of a party's intent to sue the party being asked to sign the agreement.

<sup>11</sup> It should be noted that GovGuam, in trying to justify the request for a tolling agreement indicated that the Receiver may have engaged in an act that was not "done in compliance with [the] Order" merely because the actual expenses of implementing the closure and post closure operations of the Ordod Dump were higher than the Receiver's initial estimates. If that argument were valid, it would render the Court's grant of immunity essentially meaningless. Even after the Receiver raised this issue, GovGuam refused to ask the Court's permission to file suit and refused to withdraw its request that the Receiver sign the tolling agreement.

**13. What is the Receiver doing now to prepare GSWA for transition of Ordot Dump Closure Facility responsibilities?**

In September 2023, the GSWA Board of Director Chair Andrew Gayle and members of the Receiver team met and agreed that GSWA and the Receiver find ways to work more closely now to help prepare GSWA for the eventual ending of the Receivership and transfer of those duties, as follows:

- i. The Receiver would attend all future GSWA Board meetings and report on the status of the Ordot Dump Post-Closure matters.
- ii. Chris Lund, Receiver Representative in charge of the Ordot Dump Post-Closure Facility, would work with GSWA.
- iii. Irv Slike, GSWA's General Manager, will review the operating costs of the Ordot Dump Post-Closure Facility and explore areas where costs reductions can be implemented under the Brown & Caldwell Operations Contract for this coming year and the next, the last two (2) years of the initial seven (7) year term contract.
- iv. If GSWA would like the Operations Contract re-procured and not extend the Brown & Caldwell contract, the Receiver, working closely with GSWA, will initiate the procurement process to select a contractor for future years.
- v. The Receiver will work with the GSWA Controller, Kathy Kakigi, in setting up the new Bank of Guam account that would allow for the earning of higher levels of interest income from the Ordot Dump Post Closure funds. Ms. Kakigi's involvement will make transitioning this account to GSWA easier as well as provide the Receivership with the benefit of her financial experience in selecting the investments for the fund.

The above efforts were initiated in September 2023.

**14. What was the financial condition of GSWA when the administration and operations (except for the Ordot Dump Closure Facility) were turned over?**

At the GSWA March 23, 2023, Board Meeting, there was discussion regarding the financial condition in which the Receiver left GSWA., when it turned over responsibilities not related to the closure of the Dump.<sup>12</sup>

At the time the Receiver turned over the administration and operations of the Guam solid waste management system to GSWA on April 29, 2019, in connection with the partial termination of the Receivership by the Court, there were significant funds left in various accounts, including reserve accounts, that the Receiver had set up during its administration of the system. As reported in the Receiver's Special Report regarding the transition,<sup>13</sup> the following table lists the bank accounts then

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<sup>12</sup> See link to video at 1:04 time stamp: [GSWA Board Meeting - March 23, 2023, 1:00 PM - GovGuam.tv | Live Stream + Videos Broadcasts for the Government of Guam organizations.](#)

<sup>13</sup> <https://www.guamsolidwastereceiver.org/pdf/1851.pdf> at p. 7.

controlled by the Receiver, their balances as of January 31, 2019, and the Receiver’s recommendation to the Court as to the control of these accounts post-Receivership to the GSWA:

<b>Bank Accounts Currently Controlled by the Receiver</b>			
<b>Account Name</b>	<b>Bank or Other Financial Entity</b>	<b>Balance January 31, 2019</b>	<b>Recommended Post-Receivership Control</b>
GSWA Utility Account Sweep Account	Bank of Guam	\$ 354,108.66	GSWA
GSWA Utility Account <sup>10</sup>	Bank of Guam	\$ -	GSWA
GBB, Receiver for the Guam Solid Waste Authority	Bank of Guam	\$ 323,870.00	GSWA
Construction Subaccount	Bank of Guam	\$ 13,356.56	GSWA
System Operations and Maintenance Account	Bank of Guam	\$ 1,757,690.65	GSWA
System Surplus Account	Bank of Guam	\$ 1,314,568.11	GSWA
Reserve for Unfunded Expense	Bank of Guam	\$ 413,424.52	GSWA
Host Community Premium Surcharge Account	Bank of Guam	\$ 95.38	GSWA
New Cell Dev Account	Bank of Guam	\$ 360,808.94	GSWA
Cell Closure Account	Bank of Guam	\$ 360,808.94	GSWA
Layon Post-Closure Care Account <sup>11</sup>	Bank of Guam	\$ 721,617.11	GSWA
Equipment Replacement Account	Bank of Guam	\$ 1,398,345.71	GSWA
ANZ Bank Tipping Fee Account	ANZ Bank - Guam	\$ 995,325.50	GSWA
Bank Pacific Tipping Fee Account	Bank Pacific	\$ 123,781.06	GSWA
PayPal <sup>12</sup>	PayPal	\$ 31,560.09	GSWA
Ordot Dump Post-Closure Care Reserve	Bank of Guam	\$ 6,129,490.19	Trustee

<sup>10</sup> The GSWA Utility Account is the Tipping Fee Account at the Bank of Guam. The GSWA Utility Sweep Account is an interest-bearing account into which the tipping fees, almost all of which are residential fees, are transferred each day.

<sup>11</sup> The name of this account is Post-Closure Care Account. The word Layon is added to distinguish this account from the Ordot Post-Closure Care Reserve account.

<sup>12</sup> The Receiver is the Administrator of the PayPal Account. This will need to be changed to the person designated by GSWA. The funds deposited to this account are automatically transferred to the System Operations and Maintenance Account on a weekly basis.

The table above confirms there were numerous accounts set up by the Receiver that totaled approximately \$14.2 million. In particular, it should be noted that the following reserve funds were in the listed accounts:

- New Cell Dev(elopement) Account (for Layon Landfill) - \$360,808.94;
- Cell Closure Account (for Layon Landfill) - \$360,808.94;
- Layon Post-Closure Care Account - \$721,617.11;
- Equipment Replacement Account - \$1,398,345.71; and
- Ordot Dump Post-Closure Care Reserve - \$6,129,490.19.

When the Receivership started, none of these accounts and funds existed.<sup>14</sup> Any implication that it was the duty of the Receiver to fund the GSWA with substantially more than necessary to continue operations

<sup>14</sup> <https://www.guamsolidwastereceiver.org/pdf/1851.pdf> at pp. 6 & 7.

and to establish funds intended to cover future costs is baseless. In fact, the financial structure established by the Receiver more than adequately funded both current operations and reserve funds, although the amount required to be in the Post-Closure Care Reserve was and is the subject of ongoing discussions. After the partial transition from the Receiver to GSWA, it became GSWA's responsibility to continue to evaluate future needs and to develop mechanisms to obtain the necessary funding for future costs.

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We thank the GSWA Board for its consideration of our views in this matter.

I declare under penalty of perjury under the laws of Guam and the United States that the foregoing is true and correct.

Dated this 23<sup>rd</sup> day of October 2023.



Harvey W. Gershman  
Receiver Representative