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

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

This is to certify that **Substitute Bill No. 35-31 (COR), "AN ACT TO *AMEND* §12000 OF CHAPTER 12 OF TITLE 12, GUAM CODE ANNOTATED; TO *AMEND* §1921 OF CHAPTER 19 OF TITLE 1, GUAM CODE ANNOTATED; AND TO *REPEAL* §§51103(b) AND 51118 OF CHAPTER 51, AND TO *REPEAL* ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10, GCA, AND *REENACT* THEM UNDER A NEW CHAPTER 51A, TITLE 10, GCA, RELATIVE TO ESTABLISHING THE GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION",** was on the 4th day of April, 2011, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 7th day of April, 2011, at 09:50 o'clock A.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

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

Bill No. 35-31 (COR)
As substituted by the Committee on Youth, Cultural Affairs, Procurement, General Government Operations and Public Broadcasting, and amended on the Floor.

Introduced by:

T .C. Ada
R. J. Respicio
B. J.F. Cruz
V. Anthony Ada
F. F. Blas, Jr.
Chris M. Duenas
Sam Mabini, Ph.D.
Judith P. Guthertz, DPA
T. R. Muña Barnes
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Dennis G. Rodriguez, Jr.
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Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *AMEND* §12000 OF CHAPTER 12 OF TITLE 12, GUAM CODE ANNOTATED; TO *AMEND* §1921 OF CHAPTER 19 OF TITLE 1, GUAM CODE ANNOTATED; AND TO *REPEAL* §§51103(b) AND 51118 OF CHAPTER 51, AND TO *REPEAL* ARTICLE 3, ARTICLE 4, ARTICLE 6, ARTICLE 7, ARTICLE 8 AND ARTICLE 9 OF CHAPTER 51 OF TITLE 10, GCA, AND *REENACT* THEM UNDER A NEW CHAPTER 51A, TITLE 10, GCA, RELATIVE TO ESTABLISHING THE GUAM SOLID WASTE AUTHORITY, AN AUTONOMOUS, PUBLIC CORPORATION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the history of the government of Guam's (GovGuam) violation of the Clean Water Act dates back to 1986, when the United States Environmental Protection Agency issued an administrative order directing the island's Department of Public Works to cease the discharge of leachate from the *Ordot* Dump. Twenty-four (24) years later, the *Ordot* Dump, the island's only municipal site for solid waste disposal, continues to leach contaminants, posing an environmental and health hazard. A Consent Decree was approved by the U.S. District Court of Guam in February 2004, yet compliance with its mandates has been minimal. GovGuam's commitment to comply with the Consent Decree was not enough to rectify the island's solid waste crisis. Consequently, on March 17, 2008, Gershman, Brickner & Bratton, Inc. (GBB), solid waste management consultants, was appointed as Receiver by the District Court of Guam to achieve the government's compliance with the Clean Water Act as set forth in the Consent Decree. GBB has full power and authority to enforce the terms of the Consent Decree to include assumption of the functions, powers and authority of the Solid Waste Management Division of the Department of Public Works insofar as they affect GovGuam's compliance with the Consent Decree.

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

I Liheslaturan Guåhan intends to place the GSWA under the governance of a Board of Directors appointed by *I Maga'lahi* (the Governor) and subject to the advice and consent of *I Liheslatura* (the Legislature).

Section 2. Transition Liaison. Upon the enactment of this Act, *I Maga'lahi* (the Governor) *shall* initiate procedures for the appointment of members to the GSWA Board of Directors, and *shall* submit said nominations to *I Liheslatura* (the Legislature) within ninety (90) days. Within thirty (30) days of empanelment, the Board *shall* establish a liaison with the Receiver, Gershman, Brickner & Bratton, Inc., and begin discussions preliminary to achieving the objective of GovGuam's eventual resumption of all functions, responsibilities and authority for solid waste management and operations, and the governance thereof.

Section 3. A new Chapter 51A is hereby *added* to Title 10, Guam Code Annotated, to read:

"CHAPTER 51A

GUAM SOLID WASTE AUTHORITY

Article 1. General Provisions

Article 2. Guam Solid Waste Authority Revenue Bonds

Article 3. Solid Waste Operations Fund

Article 4. Annual Contract for Scrap Removal

Article 5. Contract for Collection of Recyclable Paper

Article 6. Municipal Recycling Program

Article 7. Recycling Enterprise Zone

Article 1

General Provisions

§51A101. Short Title.

§51A102. Definitions.

§51A103. Continuation of Existence.

§51A104. Powers and Duties of the Authority.
§51A105. Governance of the Authority.
§51A106. General Manager (GM).
§51A107. Assistant GM: Operations and Technical Support.
§51A108. Assistant GM: Administration.
§51A109. Chief Financial Officer.
§51A110. Other Officers.
§51A111. Employees.
§51A112. Acquisition of Existing Systems, Employees and Debt.
§51A113. Exemption from Taxation, and In Lieu Payments.
§51A114. General Operations.
§51A115. Accounting and Expenditures.
§51A116. Annual Budget.
§51A117. Employment.

§51A101. Short Title.

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

§51A102. Definitions. As used in this Chapter, *unless* otherwise indicated:

(a) *Authority* means the Guam Solid Waste Authority (GSWA).

(b) *General Manager (GM)* means the General Manager of GSWA.

(c) *Best public interest* means any activity which: lessens the demand for landfill sites, conserves land resources and serves to

insure proper, cost effective, and environmentally sound disposal of solid waste; and, does *not* pose health risks to human life or endanger plant and animal life.

(d) *Board* means the Board of Directors of the Guam Solid Waste Authority (GSWA).

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

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

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

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

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

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

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

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

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

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

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

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

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

(r) *Hardfill* means a method of compaction and earth cover of solid wastes other than those containing garbage or other putrescible (putrescent) waste, including, but *not* limited to, demolition material, and like materials not constituting a health or

nuisance hazard, where cover need *not* be applied on a per day used basis. *No* combustible materials *shall* be deposited in a hardfill.

(s) *Combustible Materials* means any solid or liquid that may be ignited.

(t) *Combustible Solids* is defined in Title 49 of the Code of Federal Regulations, Chapter 1, Subtitle B, Part 173.124, and are those solids capable of igniting and burning.

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

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

(1) hazardous waste is defined in the Solid Waste Disposal Act, 42 USC '6901, et seq., as amended, replaced or superseded and the regulations implementing same;

(2) a hazardous substance is defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC § 9601, et seq.;

(3) hazardous material, the disposal of which is regulated by the Toxic Substances Control Act, 15 USC ' 2601, et seq., as amended, replaced or superseded, and the regulations implementing same;

(4) special nuclear or by-products material within the meaning of the Atomic Energy Act of 1954;

(5) pathological, infectious or biological waste;

(6) treated as hazardous waste or as a hazardous substance under applicable law;

(7) requires a hazardous waste or similar permit for its storage, treatment, incineration of disposal;

(8) may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

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

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

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

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

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

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

(bb) *Person* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, or any agency, department, or instrumentality of the Federal or local government, or any other legal representatives, agents or assigns.

(cc) *Plan* means the interim or final Solid Waste Management Plan (SWMP) prepared and adopted by the GEPA in accordance with the Administrative Adjudication Law.

(dd) *Plasma torch heating technology* means converting electrical energy into heat energy producing clean fuel gas and recyclable slag.

(ee) *Plasma Remediation In-Situ Materials* (PRISM) means a plasma torch technology process that melts down and converts landfill material into slag and fuel gas.

(ff) *Pollution* means the condition caused by the presence in the environment of substances of such character and in such quantities that the quality of the environment is impaired or rendered offensive to life.

(gg) *Processing* means any method, system or other treatment designed to change the physical, chemical or biological character or composition of any solid waste. This includes the neutralization of any hazardous waste; the rendering of any hazardous waste non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume; or any other activity or processing

designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous.

(hh) *Recyclable materials* includes the following materials discarded from households, businesses, commercial and industrial establishments, hotels, and government, agricultural, landscaping, yard maintenance and military operations which may be reused, or for which a market exists:

(1) *aluminum* means any product manufactured of aluminum or aluminum alloy;

(2) *battery* means any lead acid battery or dry cell battery discarded on Guam, independent of intended use;

(3) *biomass* means any large biomass source, such as trees, wood, grass, hedge cuttings, jungle growth, yard waste and sewage sludge;

(4) *construction debris* means the materials from building construction;

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

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

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

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

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

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

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

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

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

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

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

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

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

(nn) *Sanitary landfilling* means an engineered method of disposing of solid waste on land in accordance with Federal and local laws and regulations in a manner that protects the environment by spreading the waste in thin layers, compacting it to the smallest

practical volume, and covering it with approved material at the end of each working day.

(oo) *Separation* means the systematic division of solid waste into designated components.

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

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

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

(ss) *Solid waste management facilities* means any facility, or any machinery, equipment, vehicles, structures or any part of accessories thereof installed or acquired for the primary purpose of collection, transportation, storage, recycling, processing or disposal of

solid waste, and *shall* include sanitary landfills, resource recovery facilities, or plasma torch.

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

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

(vv) *Solid Waste Management System (SWMS)* means the entire system covered in the SWMP and designated by the Director for the storage, collection, generation, transportation, processing, recycling, plasma torch and disposal of solid waste within Guam.

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

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

(yy) *Transfer station* means any intermediate waste facility in which solid waste collected from any source is temporarily deposited and stored while awaiting transportation to another solid waste management facility.

§51A103. Continuation of Existence. The Solid Waste Management Division, a sub-entity of the Department of Public Works *shall* continue in existence as an autonomous, public corporation now referred to as the Guam Solid Waste Authority (GSWA).

§51A104. Powers and Duties of the Authority. The Authority

shall have and exercise each and all of the following powers:

(a) administer those powers listed under this Chapter 51A, Title 10 of the Guam Code Annotated;

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

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

(d) establish and modify from time to time, with approval of the Public Utility Commission (PUC), reasonable rates and charges for the collection, transportation, disposal, storage, recycling and processing of solid waste to recover the full cost of providing solid waste management services, and collect money from customers using such services. Similarly, the Authority *shall* establish and modify from time to time, with the approval of the Public Utilities Commission, reasonable rate and charges for servicing of debt obtained to undertake capital improvements to solid waste management;

(e) enter into contracts and execute all instruments necessary or convenient in the exercise of its powers, adopt a seal, and sue or be sued in its own corporate name;

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

(g) enter into contracts with the government of Guam or with the United States for loans or grants;

(h) employ, retain or contract for the services of qualified solid

waste management specialists or experts, as individuals or as organizations, to provide technical advice and assistance;

(i) adopt such rules and regulations as may be necessary for the exercise of the powers and performance of the duties conferred or imposed upon the Authority or the Board by this Act;

(j) control, operate, improve, equip, maintain, repair, renew, replace, reconstruct, alter and insure that the solid waste management system is compliant with any applicable zoning, building, environmental and health regulations of Guam; and

(k) do any and all other things necessary to the full and convenient exercise of the above powers;

(l) enter into public-private partnerships for solid waste management facilities and operations, the closure and beneficial use of the *Ordot* Landfill site, source reduction, recycling, composting, resource recovery, waste reduction and transfer stations. This duty *shall* also address construction debris or demolition waste, metallic debris, white goods, tires and green waste and hazardous waste contracts;

(m) organize, plan for, secure and manage resources and promote the implementation of the Solid Waste Management Plan;

(n) evaluate and promote capital improvements and maintenance programs to the solid waste management system;

(o) address the necessity for a facility for the shredding of tires for recycling or for use as rubberized asphalt;

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

(q) address the necessity for a facility for the recycling of scrap metals, including discarded vehicles, appliances and equipment, e-waste

such as T.V monitors, computers, and televisions, including shredding for containerization or other shipment;

(r) require the preparation of any necessary environmental impact assessments or environmental impact reports, and plans for any mitigation measures;

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

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

(u) adopt rules and regulations governing selection, compensation, promotion, performance evaluation, disciplinary action and other terms and conditions of employment affecting *certified technical and professional* personnel, subject to the provisions of the Administrative Adjudication Act. Such rules and regulations *shall* provide for the employment and retention of persons on the basis of merit, and *shall* include an orderly and systematic method of recruitment and the establishment of a list of qualified applicants. *Certified Technical and Professional* personnel are defined as personnel employed by the Guam Solid Waste Authority who are professional engineers, attorneys, and other licensed professionals. Compensation for all other personnel *shall* remain consistent with compensation plans and pay scales as determined by law.

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

§51A105. Governance of Authority. All powers vested in the Authority, *except* as provided herein, *shall* be exercised by a GWSA Board of Directors comprised of five (5) members appointed by *I Maga'lahi* (the Governor) with the advice and consent of *I Liheslatura* (the Legislature). A majority of the members *shall* constitute a quorum. The official vote of the majority of members *shall* be required for a decision of the Board. The Board may adopt Rules and Regulations pursuant to AAL governing the conduct of its affairs.

§51A106. General Manager (GM).

(a) The Board *shall* appoint a General Manager, who *shall* be its chief executive officer and *shall* serve at its pleasure. The General Manager *shall*, at a minimum, possess the following qualifications:

(1) a combined minimum of six (6) years of documented experience successfully managing a solid waste management system of similar size as the GSWA system, and

(2) graduation from an accredited institution of higher education with a Bachelors degree in Business Management, Engineering Management, Engineering Technology or Civil Engineering.

(b) The Board *shall* fix the General Manager's compensation, notwithstanding any other provision of law. The General Manager *shall* manage the construction, maintenance, operation and administration of business affairs of the Authority.

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

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

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

(1) to enforce all rules and regulation of the Authority;

(2) to attend all meetings of the Authority and submit a general report of the affairs of the Authority;

(3) to keep the Board advised as to the needs of the Authority, to approve demands for the payment of obligations of the Authority, and to approve expenditures and collection of revenue within the purposes and amounts authorized by the annual budget;

(4) to prepare, or cause to be prepared, all plans and specifications for the constructions of work by the Authority in accordance with the annual budget;

(5) to select and appoint the employees of the Authority, *except* as otherwise provided by this Chapter, and to plan, organize, coordinate and control the services of such employees in the exercise of the powers of the Authority under the general direction of the Board;

(6) to cause to be published within one hundred twenty (120) days from the end of each fiscal year a financial report, which *shall* include an annual financial audit pursuant to §1908 and §1909 of

Chapter 19, Title 1 Guam Code Annotated. This report should present the result of operations for the preceding fiscal year and the financial status of the Authority on the last day thereof. The publication *shall* be made in the manner provided by the Board; and

(7) to perform such other and additional duties as the Board may require.

§51A107. Assistant General Manager: Operations and Technical Support.

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

(a) The Assistant General Manager for Operations and Technical Support *shall* be entitled to receive compensation as recommended by the General Manager, and approved by the Board.

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

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

§51A108. Assistant General Manager: Administration.

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

(a) The Assistant General Manager for Administration *shall* be

entitled to receive compensation as recommended by the General Manager, and approved by the Board.

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

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

§51A109. Chief Financial Officer. The Board may appoint a Chief Financial Officer, who *shall* be a Certified Public Accountant. The Board *shall* fix the Chief Financial Officer's compensation. The Chief Financial Officer *shall* have full charge and control of the fiscal, business and accounting operations of the Authority, subject to the supervision of the Board.

§51A110. Other Officers.

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

(b) The Secretary *shall* have charge of all records and minutes of the Commission.

(c) The Attorney, who must have been admitted to practice in Guam, *shall* advise the Board and the General Manager on all legal matters to which the Authority is a party or in which the Authority is legally interested and may represent the Authority in connection with legal matters before *I Liheslatura* (the Legislature), boards and other agencies of the

government of Guam. The Attorney General *shall* represent the Authority in litigation concerning the affairs of the Authority provided that he may delegate this duty to the Attorney of the Authority, with respect to any such litigation.

§51A111. Employees. All employees of the Authority *shall* be eligible for all insurance, retirement, worker's compensation and other benefits as extended to employees of the government of Guam, and *shall* be employees of the government of Guam for the purposes of the application of all civil service laws and personnel rules and regulations that apply to government of Guam employees, inclusive of all scales, tables and schedules for compensation. With respect to compensation, this Section shall *not* apply to the compensation of the General Manager, Assistant General Manager: Administration, Assistant General Manager: Operations and Technical Support, Secretary, Attorney or the Chief Financial Officer.

§51A112. Acquisition of Existing Systems, Employees and Debt. Ninety (90) days after the effective date of this Act the Authority *shall* assume in writing from the Department of Public Works, Solid Waste Management Division:

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

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

(c) Each government of Guam employee assigned to the

Department of Public Works, Solid Waste Management Division at the date of the transfer pursuant to statute *shall* be transferred to the Authority. All classified and unclassified employees occupying solid waste technicians positions *shall* be classified.

§51A113. Exemption from Taxation, and In Lieu Payments. As an instrumentality of the government of Guam, the Authority and all property acquired by or for the Authority and all revenues and income therefrom are exempt from taxation by the government of Guam, or by any political subdivision or public corporation thereof and from all taxes imposed under the authority of *I Liheslaturan Guåhan* (the Guam Legislature), or with respect to which *I Liheslatura* (the Legislature) is authorized to grant exemption.

§51A114. General Operations. Rates for Services. The Authority *shall* apply to the Public Utilities Commission (PUC) for establishment of its rates for its services including, but *not* limited to:

(a) Operating Costs:

(1) *Layon* Landfill

(2) Commercial Transfer Stations

(3) Retail Transfer Stations

(4) Residential Trash Collection

(5) Bulky and Metallic Waste collection

(6) Recycling

(7) Customer Service and Education

(8) Equipment Maintenance

(9) Household Hazardous Waste

(10) Administration

(b) Reserve Fund Costs:

(1) Debt Service

(2) Equipment Replacement

(3) New Cell Development

(4) Closure of Cells

(5) Post Closure Care

§51A115. Accounting and Expenditures.

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

(b) The Board *shall* authorize, by means of the annual budget, payment of demands against the Authority resulting from the exercise of its powers under this Act if:

(1) the purposes and amounts of such demands are projected in the budget, expressed in terms of major account groups of the Uniform System of Accounts, which has been adopted by the Board after receiving recommendations from the General Manager; and

(2) the specific demands which are made are approved by the Board before payment.

(c) The Board *shall* employ, in accordance with the appropriate procurement laws and the annual budget, a firm of locally licensed, independent Certified Public Accountants who *shall* annually examine the financial status and workings of the Authority for the previous fiscal year. Said firm *shall* submit *no later than* February 1st of each year, a written report on the financial status and workings of the Authority during the previous fiscal year to *I Maga'lahen Guåhan* [Governor], the General Manager, and *I Liheslaturan Guåhan. I Maga'lahen Guåhan* and *I Liheslaturan Guåhan* may request special reports within thirty (30) days after the end of each fiscal quarter. The financial information presented in the reports required by this Section *shall* be in accordance with the Uniform

System of Accounts adopted by the Board. Claims against the Guam Solid Waste Authority *shall* be submitted to the Attorney General of Guam in accordance with the Government Claims Act.

§51A116. Annual Budget. For the purposes of Chapter 51A of Title 10 of the Guam Code Annotated, the term *annual budget* means a balanced budget for expenditures of the Guam Solid Waste Authority for a fiscal year to be funded by the anticipated revenues and other funds to be received and expended for the same fiscal year, submitted by the Authority to *I Liheslaturan Guåhan* (the Guam Legislature) and approved by Law for the next fiscal year.

§51A117. Employment.

(a) Pursuant to the provisions of Title 4 GCA §§4105 and 4106, the Board *shall* establish rules and regulations regarding selection, promotion, performance evaluation, demotion, suspension and other disciplinary action for the employees of the Authority which *shall* be transmitted to *I Liheslaturan Guåhan* [Legislature] to be ratified. All contracts for the hiring of off island employees *shall* conform to the provisions of Title 4 GCA §§6501 and 6501.1.

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

the Authority's employees.

(c) Notwithstanding any other provisions of law, neither the General

Manager, Assistant General Managers, Secretary nor Chief Financial Officer, of the Authority *shall* be within the classified service of the government of Guam but *shall* be hired, compensated and employed under the terms and conditions fixed by, and at the pleasure of the Board.

Article 2

Guam Solid Waste Authority Revenue Bonds

§51A201. Authorization of Indebtedness Through GEDA.

§51A202. Guam Economic Development Authority as Central Financial Manager.

§51A203. Evidence of Transfers Filed at the Department of Land Management.

§51A204. Statutory Approval Required for Sale.

§51A205. Acceptance of Payments, Installation Applications and Service/Repair Requests via the Internet.

§51A201. Authorization of Indebtedness through GEDA. The Guam Economic Development Authority (GEDA) may obtain funds through the issuance of bonds or other obligations on behalf of the Authority.

(a) Bonds or Notes. Accordingly, the Authority, through GEDA, with the approval of *I Maga'lahen Guåhan* and *I Liheslaturan Guåhan* is authorized to incur indebtedness, and to issue bonds or notes therefor, secured by a pledge of all or any portion of the revenues of the Authority, to establish and facilitate the Solid Waste Management Plan, and collection, transportation, storage, recycling, processing or disposal of solid waste, which *shall* include sanitary

landfills and resource recover facilities.

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

(c) Short Term Borrowing. Pursuant to GEDA, the Authority may incur indebtedness with the approval of *I Maga'lahi* (the Governor) for any lawful purpose for a term *not* exceeding five (5) years; provided, that such indebtedness *shall* be subject and subordinate to any contractual obligation of the Authority to the holders of any bonds issued pursuant to Subsections (a) or (b) of this Section. The principal of and interest of any such short term borrowing may be repaid from revenues, or if incurred for a purpose for which bonds may be issued, from revenues or from the proceeds of sale of bonds.

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

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

§51A202. Guam Economic Development Authority as Central

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

§51A203. Evidence of Transfers Filed at the Department of Land Management. Transfer of real property interests pursuant to this Act, including, but *not* limited to, fee estates, easements and land use rights evidenced by easements, leases and licenses, *shall* be filed in the form of deeds or assignments signed by *I Maga'lahen Guåhan* in good form containing specific property descriptions, lot numbers and map numbers, at the Department of Land Management within three hundred sixty (360) days of the effective date of this Act. Any transfer *not* filed within such time frame *shall* lapse and be of no further force and effect unless re-initiated or authorized by separate statutory legislation authority. Any subsequent easements or transfers of property from the government of Guam, including the *Chamorro* Land Trust Commission, *shall* be in the form of deeds or assignments in good form containing specific property descriptions, lot numbers and map numbers, recorded at the Department of Land Management.

§51A204. Statutory Approval Required for Sale. Notwithstanding any of the provisions of this Act, specific legislative statutory approval *shall* be required prior to sale, transfer or lease of any real property assets or lands of the Guam Solid Waste Authority. Nothing herein *shall* be construed as such approval. In addition, notwithstanding any other

provision contained herein, the provisions of Title 1 GCA § 1800 *shall* be applicable to the Guam Solid Waste Authority.

§51A205. Acceptance of Payments, Installation Applications and Service/Repair Requests via the Internet.

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

(1) acceptance of online payments;

(2) application for installation of new and additional services, and

(3) requests for service and repair.

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

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

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

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

Section 4. §51118 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed* and *reenacted* under Article 3, Chapter 51A, Title 10 Guam Code Annotated, and shall read:

"ARTICLE 3

SOLID WASTE OPERATIONS FUND

§51A301. Solid Waste Operations Fund.

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

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

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

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

(e) **PUC Rate-making.** The Public Utilities Commission of Guam [PUC] is hereby authorized to establish, amend and approve, in accordance with Chapter 12 of Title 12, Guam Code Annotated, all commercial, government and residential tipping and user fees [including without limitation a self-drop fee, a variable residential tipping fee and, collectively referred to as 'tipping fees'], which when established *shall* replace those previously created by law. Tipping fees authorized and established by PUC *shall* be based on volume and on an analysis of operations costs, including those cost components specifically listed under Title 10 GCA §51114A. PUC is empowered to undertake a focused management audit of the existing operations of the Guam Solid Waste Authority. In performing its duties under this Section, PUC *shall* have the full authority and powers conferred

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

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

Section 5. Article 3 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed* and *reenacted* under Article 4, Chapter 51A, Title 10 Guam Code Annotated, and shall read:

"ARTICLE 4

ANNUAL CONTRACT FOR SCRAP REMOVAL

§51A401. Contract to Remove Scrap.

§51A402. Biennial Contract.

§51A403. Environmental Impact Study.

§51A404. Conformity to Waste Removal Regulations.

§51A405. Reports.

§51A401. Contract to Remove Scrap.

The General Manager, after duly advertising for a request for proposals for the removal of scrap metal, *shall* enter into a contract with any interested business organization, either local or off-island, to collect and remove from Guam scrap metal. The successful offeror may *not* be charged for the scrap metal but *shall* post a performance bond equal to seventy percent (70%) of contract value to assure contract completion of the removal

project within twenty-four (24) months from receiving from the General Manager a Notice to Proceed. A "Scrap Metal" for the purpose of this Article means abandoned vehicles and other abandoned metal implements of which the Authority has jurisdiction and the right to dispose. In so disposing of such scrap metal, the General Manager shall *not* charge any fees to the owner of the same.

§51A402. Biennial Contract.

The General Manager *shall* advertise for and execute such a contract every two (2) years with any qualified party on the same terms as are set out in §51401A of this Article.

§51A403. Environmental Impact Study.

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

§51A404. Conformity to Waste Removal Regulations.

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

§51A405. Reports.

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

(a) total type and amount of scrap metals, batteries and other potentially hazardous residual material referenced in §51404A;

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

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

Section 6. Article 4 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed* and *reenacted* under Article 5, Chapter 51A, Title 10 Guam Code Annotated, and shall read:

"ARTICLE 5

CONTRACT FOR COLLECTION OF RECYCLABLE PAPER

§51A501. Contract to Accept and Collect Recyclable Paper.

§51A502. Biennial Contract.

§51A503. Conformity to All Laws and Rules and Regulations.

§51A504. Reports.

§51A501. Contract to Accept and Collect Recyclable Paper.

The Authority, in accordance with the applicable procurement laws, and after advertising for a request for proposals (RFP) for the collection of recyclable paper, *shall* enter into a two (2) - year contract with any qualified local interested business or nonprofit organization, to accept and collect recyclable paper to include newsprint, office paper and magazines from the public, and to implement a plan to prevent them from entering Guam's waste stream. The qualified local business or nonprofit organization *shall* have

active recycling experience and knowledge in Guam. The RFP *shall* include the requirement that the prospective contractor accepts and pays for all recyclable paper, to include newsprint, office paper and magazines offered by the public. The successful offeror *shall* be one who bids the highest amount per pound to be paid to the public for the recyclable paper for the duration of the contract term. The successful offeror may *not* be charged for the recyclable paper but *shall* post a performance bond equal to seventy percent (70%) of contract value to assure contract completion of the recyclable paper collection project within twenty-four (24) months from receiving from the General Manager a Notice to Proceed.

§51A502. Biennial Contract.

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

§51A503. Conformity to All Laws and Rules and Regulations.

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

§51A504. Reports.

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

(a) total type and amount of paper recycled;

(b) cost comparison of the cost of the paper-recycling program versus landfill disposal of paper, or any less-than-conventional methods of paper waste reduction; and

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

Section 7. Article 6 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed* and *reenacted* under Article 6, Chapter 51A, Title 10 Guam Code Annotated, and shall read:

"ARTICLE 6

MUNICIPAL RECYCLING PROGRAM

§51A601. Definitions.

§51A602. Creation of Municipal Recycling Proceeds Fund for Each Village.

§51A603. Creation of the Municipal Recycling Program.

§51A604. Authorization for Municipal Planning Councils to Use the Proceeds from the Sale of Recyclable Materials for Village Needs.

§51A601. Definitions.

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

(a) *GEPA* means the Guam Environmental Protection Agency.

(b) *Recycling* means the process by which recovered resources are transformed into new products in such a manner that products lose their initial identity, as defined in § 51102 (18) of Chapter 51 of Title 10 of the Guam Code Annotated.

(c) *Recyclable materials* means materials which still have useful physical or chemical properties after serving a specific purpose for the same or other purpose. Recyclable materials are as follows:

(1) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium, sealed types for power backup);

(2) automobiles, buses, and trucks or any form of motorized vehicle;

(3) tires (passenger/commercial);

(4) enameled white goods;

(5) home appliances (other small appliances that are *not* considered enameled white goods);

(6) glass and plastic bottles;

(7) foam padding;

(8) lead;

(9) metals (ferrous/non-ferrous);

(10) organic material (i.e., tree trimmings, palm fronds, grass, food waste, soiled cardboard);

(11) paper products;

(12) wood pallets and scrap wood;

(13) construction and demolition debris ('C&D');

(14) x-ray film;

(15) automobile oil and fluids;

(16) Freon and other refrigerant gases;

(17) electronic waste (i.e., computers, circuit boards, televisions, and portable phones);

(18) heavy equipment; and

(19) other recyclable materials deemed recyclable by GEPA pursuant to the Rules and Regulations.

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

§51A602. Creation of Municipal Recycling Proceeds Fund for Each Village.

There is hereby established a Municipal Recycling Proceeds Fund for each municipality which *shall* be maintained separate and apart from any other funds, including the General Fund of the government of Guam, and independent records and accounts *shall* be maintained in connection therewith. The proceeds from the sale of recyclable materials collected, in accordance with the Municipal Recycling Program, from each village *shall* be deposited in the respective Municipal Recycling Proceeds Fund. All revenue deposited in each Municipal Recycling Proceeds Fund shall *not* be commingled with General Fund monies and *shall* be kept in a separate bank account. All proceeds from fees collected in accordance with §51703A of this Chapter *shall* be deposited in the Municipal Recycling Proceeds Fund for the respective village and used exclusively for the purposes authorized in §51704 of this Chapter. The Municipal Planning Council of each municipality *shall* administer the Municipal Recycling Proceeds Fund for its municipality which *shall* be subject to audits by the Public Auditor.

§51A603. Creation of the Municipal Recycling Program.

There is hereby created a Municipal Recycling Program within the Guam Solid Waste Authority to promote recycling on the municipal level in

partnership with the village mayors. The program *shall* incorporate the following components:

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

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

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

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

§51A604. Authorization for Municipal Planning Councils to Use the Proceeds from the Sale of Recyclable Materials for Village Needs.

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

Section 8. Article 7, of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed* and *reenacted* under a new Article 7, Chapter 51A, Title 10 Guam Code Annotated, and shall read:

"ARTICLE 7

RECYCLING ENTERPRISE ZONE

§51A701. Definitions.

§51A702. Establishment of Recycling Enterprise Zone.

§51A703. Eligibility of Recycling Companies for use of the Recycling Enterprise Zone.

§51A701. Definitions.

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

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

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

(c) *Recycling company* means any business licensed by the Department of Revenue and Taxation, and has been issued a permit as required in § 51104 of Chapter 51, Title 10 of the Guam Code Annotated by the Guam Environmental Protection Agency (GEPA) to conduct business on Guam and that specifically commits eighty percent (80%) of its operations to recycling.

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

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

(1) batteries (i.e., lead-acid, portable computer batteries, nickel-cadmium, sealed types for power backup);

(2) automobiles, buses, and trucks or any form of motorized vehicle;

(3) tires (passenger/commercial);

(4) enameled white goods;

(5) home appliances (other small appliances that are *not* considered enameled white goods);

(6) glass and plastic bottles;

(7) foam padding;

(8) lead;

(9) metals (ferrous/non-ferrous);

(10) organic material (i.e., tree trimmings, palm fronds, grass, food waste, soiled cardboard);

(11) paper products;

(12) wood pallets and scrap wood;

(13) construction and demolition debris ('C&D');

(14) x-ray film;

(15) automobile oil and fluids;

(16) freon and other refrigerant gases;

(17) electronic waste (i.e., computers, circuit boards, televisions, and portable phones);

(18) heavy equipment; and

(19) other recyclable materials deemed recyclable by GEPA pursuant to the Rules and Regulations.

§51A702. Establishment of Recycling Enterprise Zone.

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

§51A703. Eligibility of Recycling Companies for use of the Recycling Enterprise Zone.

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

Section 9. Article 8 and Article 9, of Chapter 51, Title 10 Guam Code Annotated are hereby *repealed* and *reenacted* without change under a new Article 8 and Article 9, Chapter 51A, Title 10 Guam Code Annotated.

Section10. §1921 of Title 1, Chapter 19 Guam Code Annotated is hereby *amended* to read as follows:

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

The Public Auditor is specifically authorized to supervise audits, or at the Public Auditor's discretion, perform audits, of autonomous agencies and instrumentalities of the government of Guam, inclusive of, but *not limited to*, the Guam Visitors Bureau (GVB), the Guam Economic Development Authority (GEDA), the Port Authority of Guam (PAG), the A.B. Won Pat International Airport Authority, Guam (WPIAA), the University of Guam (UOG), the Guam Community College (GCC), the Guam Memorial Hospital (GMHA), the Guam Housing Corporation (GHC), the Guam Housing and Urban Renewal Authority (GHURA), the Guam Power Authority (GPA), the Guam Waterworks Authority (GWA), the Guam Telephone Authority (GTA), the Government of Guam Retirement Fund GGRF), and the Guam Solid Waste Authority (GSWA).

The Public Auditor is authorized to supervise audits of all funds in excess of Three Hundred Thousand Dollars ($300,000.00) for a single fiscal year from the government of Guam that are given in grant or subsidy to non-profit or profit-making groups, inclusive of GVB. The Public Auditor is authorized to audit the hiring practices, manpower levels and staffing patterns of all departments, agencies and bureaus of the Executive Branch of the government of Guam, and to determine and report to *I Maga'lahen Guåhan* [Governor], *I Liheslaturan Guåhan* [Legislature] and the Public

Utilities Commission (*PUC*), as appropriate, on the necessity and applicability of employment levels and categories to the department or agency's purpose and function, as well as draw comparisons with similar entities located elsewhere."

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

"**§12000. Definitions.**

As used in this Chapter:

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

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

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

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

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

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

Section 12. Subsection (b) of §51103 of Chapter 51, Title 10 Guam Code Annotated is hereby *repealed.*

Section 13. Transition to the Guam Solid Waste Authority; Effective Date. The provisions of this Act *shall* take effect upon ninety (90) days after the date of enactment.

Section 14. Severability. *If* any provision of this law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall *not* affect other provisions or applications of this law which can be given effect without the invalid provisions or application, and to this end the provisions of this law are severable.