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IN THE DISTRICT COURT OF GUAM

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

CIVIL CASE NO. 02-00022

**ORDER
RE: AMENDMENT NUMBER ONE TO
DISBURSEMENT PROCEDURES**

The court has reviewed the request concerning the adoption of Amendment Number One to the Disbursement Procedures for the Citibank Trust Account from the Receiver, Gershman, Brickner & Bratton, Inc. (“the Receiver”), attached hereto as Exhibit A. This proposed amendment was prepared by GBB and is necessary so that the existing Disbursement Procedures for the Citibank Trust Account (*see* Docket No. 376) conform to the process recommended by the Receiver and Bond Counsel for the Government of Guam. The proposed amendment was submitted for review to Bond Counsel for the Government of Guam, the Bureau of Budget Management and Research, the Department of Administration, the Office of the Public Auditor, the Office of the Attorney General, the U.S. Department of Justice, and Citibank, the Trustee of the Account. GBB now requests the court approve the amendment.

Having reviewed the submission, the court **HEREBY APPROVES** Amendment Number One to the Disbursement Procedures for the Citibank Trust Account.

IT IS SO ORDERED.



**/s/ Frances M. Tydingco-Gatewood
Chief Judge
Dated: Aug 11, 2009**



August 10, 2009

The Honorable Frances Tydingco-Gatewood
Chief Judge
District Court of Guam
520 West Soledad Avenue
Hagatna, Guam 96910

Re: Approval of Amendment Number 1 to Disbursement Procedures for the Citibank Trust Account

Dear Judge Tydingco-Gatewood:

The Disbursement Procedures for the Citibank Trust Account approved by your Order of March 10, 2009, require that the Disbursement Procedures “may be modified or amended only with the approval of the Court”. To facilitate the Government’s effort to issue Section 30 backed bonds to finance the Consent Decree projects, the Court issued an Order, dated April 14, 2009, providing, in part, that “The trustee appointed by the Government in connection with the bonds to finance the Consent Decree projects shall work cooperatively with Citibank, N.A. in its role as Trustee for the Receiver throughout the period of construction”.

The attached amendment to the Disbursement Procedures is needed to conform the Disbursement Procedures to the process recommended by the Receiver, Bond Counsel and the Government of Guam and to satisfy the Court’s requirement that the parties work cooperatively in this matter. The proposed amendment has been submitted for review to the following parties:

1. Bond Counsel for the Government of Guam
2. The Bureau of Budget and Management Research;
3. The Department of Administration;
4. The Office of the Public Auditor;
5. The Office of the Attorney General;
6. The U.S. Department of Justice; and
7. Citibank.

The attached amendment includes all of the suggestions we received from the reviewing parties.

Government of Guam
Department of Public Works, Solid Waste Management Division
542 North Marine Corps Drive, Tamuning, Guam 96913
Phone: (671) 646-4379, Ext. 201 or 212
www.GuamSolidWasteReceiver.org
www.gbbinc.com

The Honorable Frances Tydingco-Gatewood

August 10, 2009

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We respectfully request the approval of the Court for the attached procedures.

Thank you.

Sincerely,



David L. Manning
Receiver Representative

Attachment

c.c. Mr. Harvey Gershman, President
Gershman, Brickner and Bratton, Inc.



SOLID WASTE
MANAGEMENT
CONSULTANTS
R E C E I V E R

Gershman, Brickner & Bratton, Inc.
8550 Arlington Blvd., Suite 304
Fairfax, Virginia 22031

Amendment Number One
to the

Disbursement Procedures

for the
Citibank Trust Account

August 10, 2009



Submitted to the
District Court of Guam

Pursuant to its Order of January 2, 2009

Disbursement Procedures for the Trust Account

This document amends the procedures (“Disbursement Procedures”) for making disbursements from the account (“Trust Account”) holding monies in trust for the Government of Guam by Citibank, N.A. Guam (“Trustee” or “Citibank”) for use by Gershman, Brickner & Bratton, Inc. (“Receiver”) in its capacity as Receiver for the Solid Waste Management Division of the Department of Public Works of the Government of Guam. The amendment is required to assure that these procedures are consistent with the requirements of the Government of Guam Limited Obligation (Section 30) Bonds, Series 2009A issued in June, 2009.

Background

In an Order dated March 10, 2009, the Court approved Disbursement Procedures governing the Receiver’s expenditure of funds provided by the Government of Guam to pay for expenditures required to achieve compliance with the Consent Decree. The Disbursement Procedures may only be modified or amended with the approval of the Court.

In a subsequent Order, dated April 14, 2009, the Court ordered that “The trustee appointed by the Government in connection with the bonds to finance the Consent Decree projects shall work cooperatively with Citibank, N.A. in its role as Trustee for the Receiver throughout the period of construction”. To effectuate the intent of the Court’s Order, the Receiver worked cooperatively with the Government of Guam’s Finance Team, including its bond counsel, to provide for a procedure that would meet the requirements of the bond indenture in a manner that is consistent with the Court’s Order.

Under the approach agreed to in this matter, bond proceeds in the Citibank Trustee Account will be segregated into a sub-account. This will begin upon the Court’s approval and will result in the transfer to the sub-account of the \$20,000,000 which was received from the Government of Guam’s loan from the Bank of Guam in January 2009, less capital expenditures made from these funds through the date of the transfer of funds. Reimbursement to the sub-account will be made using a requisition form developed by the Government of Guam’s Bond Counsel, a copy of which is attached. When the balance of the sub-account falls below \$10,000,000, the sub-account will be replenished

from bond proceeds held by the bond trustee in the bond trustee's construction account.

The Citibank Construction Sub-Account

The Receiver shall establish a Construction Sub-Account with Citibank to be titled the "Citibank Construction Subaccount" and transfer thereto the \$20,000,000 which was received from the Government of Guam's loan from the Bank of Guam in January 2009, less capital expenditures made from these funds through the date of the transfer of funds. Funds deposited to this sub-account shall be used exclusively for Consent Decree projects in accordance with the requirements of Government of Guam Limited Obligation (Section 30) Bonds, Series 2009A. The documentation and review periods for expenditures shall be consistent with those set out in the Disbursement Procedures approved by the Court's Order of March 10, 2009. The Construction Sub-Account shall be reimbursed for expenditures from the proceeds of Government of Guam Limited Obligation (Section 30) Bonds, Series 2009A in the manner described in the Supplemental Indenture dated June 1, 2009 relating to Government of Guam Limited Obligation (Section 30) Bonds, Series 2009A. When the balance of the sub-account falls below \$10,000,000, the sub-account will be replenished from bond proceeds held by the bond trustee in the bond trustee's construction account.

Funds remaining in the initial Citibank account established by the Receiver may be used for any Consent Decree purpose as authorized by Orders of the District Court of Guam.

This amendment to the court approved procedures will not result in Citibank NA Guam (Trustee) having any discretionary or subjective decision-making responsibility. Replenishment requests or procedures to the sub account shall be the responsibility of Gershman, Brickner & Bratton, Inc. (Receiver) as so stated on the Supplemental Indenture relating to the Government of Guam Limited Obligation (Section 30) Bonds, Series 2009A. Citibank NA Guam (Trustee) shall strictly follow and abide by all other provisions outlined in the Court approved Financial Service Agreement dated January 5, 2009 and the original Disbursement Procedures dated March 10, 2009, as amended.

Attachment

EXHIBIT B

FORM OF

REQUISITION OF THE RECEIVER

SUPPLEMENTAL INDENTURE

Dated as of June 1, 2009

Relating to

\$202,425,000

Government of Guam

Limited Obligation (Section 30) Bonds,

Series 2009A

EXHIBIT B
FORM OF
REQUISITION OF THE RECEIVER

[Date]

TO: BANK OF GUAM, as Trustee and Depositary

Pursuant to Section 14.04 of the Indenture, dated as of June 1, 2009, by and among the Government, the Bank of Guam, as trustee and depositary (the "Trustee") and U.S. Bank National Association, as co-trustee, paying agent and registrar (the "Co-Trustee") and as supplemented by a Supplemental Indenture, dated as of June 1, 2009, by and among the Government, the Trustee and the Co-Trustee (together, the "Indenture"), providing for the issuance of the Government of Guam Limited Obligation (Section 30) Bonds, Series 2009A (the "Bonds"), the undersigned hereby requests reimbursement from the Series 2009A Construction Account of the Project Costs of the Series 2009A Project indicated on Schedule I attached hereto, all of which were previously paid from the Citibank Construction Subaccount.

The requested reimbursement is to be made to the Citibank Construction Subaccount. Also indicated on Schedule I is the amount of each Project Cost to be reimbursed and the purpose for which such Project Cost was incurred, and attached hereto are invoices, receipts or other evidence verifying the amount and purpose of each such Project Cost.

Each obligation listed on Schedule I was previously paid from the Citibank Construction Subaccount or from the trust account entitled "GBB the Receiver for Government of Guam DPW SWMD" established by Citibank, N.A. Guam for use by the Receiver in accordance with the orders of the District Court of Guam in *United States of America vs. Government of Guam*, Civil Case No. 02-00022, and each such payment constitutes a proper and lawful charge against the Series 2009A Construction Account.

Unless otherwise specified herein or unless the context otherwise requires, all capitalized terms used in this Request of the Receiver shall have the meanings specified in the Indenture.

IN WITNESS WHEREOF, I have executed this Request as of the date first above written.

David L. Manning
Receiver

SCHEDULE I
to
Request of the Receiver

<u>Amount to be Paid</u>	<u>Purpose for Which Incurred</u>
\$	