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February 27, 2013

Raymond S. Tenorio  
Lieutenant Governor of Guam  
Ricardo J. Bordallo Governor's Complex  
Adelup, Guam 96910

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Re: Use of Bond Proceeds to Pay the Condemnation Judgment

Dear Lieutenant Governor Tenorio:

By your letter of February 22, 2013, you have asked a number of questions concerning the interpretation and application of certain provisions of the Indenture, dated as of June 1, 2009, by and among the Government of Guam, the Bank of Guam, as Trustee, and U.S. Bank National Association, as Co-Trustee, relating to Government of Guam Limited Obligation (Section 30) Bonds (the "General Indenture"), and the Supplemental Indenture, dated as of June 1, 2009, specifically relating to the Government of Guam Limited Obligation (Section 30) Bonds, Series 2009A (the "Supplemental Indenture"). Capitalized terms used in this letter have the respective meanings given to such terms in the General Indenture and the Supplemental Indenture.

The questions relate to the judgment in the Government's condemnation action to acquire land upon which the landfill financed by the Series 2009A Bonds has been and is being built (the "Judgment"). For ease of reference, we will reiterate and answer your questions in the order in which your February 22 letter poses them.

1. *Whether the Judgment is a Project Cost as that term is defined in the Indenture.*

Yes. The Judgment establishes the cost of land upon which the Series 2009A Project is being built and "payment of the Judgment" would therefore be payment of a portion of the cost of the acquisition and construction of the portion of the System constituting a new municipal solid waste disposal facility to be located in the Layon area . . .", i.e., a portion of the "Series 2009A Project" within the meaning of the Supplemental Indenture. As such, it is a cost chargeable to the capital account of the Series 2009A Project within the meaning of the Indenture definition of the term "Project Costs".

2. *Whether the judgment is a Series 2009A Project Cost as that term is defined in the Supplemental Indenture.*

Yes, as described in the answer to Question 1.

3. *Whether the Judgment is a judgment "applicable to or affecting" the Series 2009A Bonds as described in Section 6.08 of the Indenture.*



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No. The security for the Bonds is designed so that the results of acquisition, construction and operation of the Series 2009A Project (the Layon landfill and the closure of Ordot Dump, collectively) do not affect the Bonds, because the Bonds are secured by a pledge of, and payable solely from, Section 30 Revenues. Debt service on the Series 2009A Bonds is not payable from System Revenues, although a portion of such debt service is incidentally reimbursable to the Government from revenues of the System. See Article 15 of the Supplemental Indenture. In addition, Section 14.06 of the Supplemental Indenture permits the Supplemental Indenture provisions relating to the System Revenues, the System Revenue Fund and the Funds and accounts therein to be amended in any respect without the consent of any Bondowners. One of the purposes for designing the security for the Bonds in this fashion was to permit the proceeds of Bonds issued under the Indenture to be used for purposes other than the System.

4. *Whether the Indenture or the Supplemental Indenture requires the Government to pay the Judgment under any covenant or other contractual obligation.*

No. For the same reason as described in the answer to Question 3, the Indenture does not have any covenants relating to the acquisition, construction, maintenance or operation of the Series 2009A Project.

5. *Whether the Government is in violation of either the Indenture or the Supplemental Indenture for failure to pay the Judgment.*

No. Again, for the same reasons as described in the answers to Questions 3 and 4.

6. *Whether the Bond Trustee could declare a default under the Indenture and/or Supplemental Indenture as a result of the Government's failure to pay the Judgment.*

No. Again, for the same reasons as described in the answers to Questions 3 and 4.

7. *Whether an action or proceeding initiated by the former landowners to enforce the Judgment could serve as grounds for the Bond Trustee to declare a default.*

No. Again, for the same reasons as described in the answers to Questions 3 and 4.

8. *Whether a writ of execution or other order issued by the Superior Court of Guam to enforce payment of the Judgment or reversion of title to the landowners could constitute a default under Section 7.01(A)(4) of the Indenture.*



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No. Such a writ or order would not constitute approval of a petition for reorganization or the assumption of custody or control of the Government or of the whole or any substantial part of its property under a law for the relief or aid of debtors.

9. *What effect a notice of default issued under the Section 7.01(A)(3) of the Indenture or Section 7.01(A)(4) of the Indenture would have on the Series 2009A Bonds.*

The answer to this question is likely moot, given the answers to Questions 3 through 8, but if the Government were in default in the observance of any covenant, agreement or condition in the Indenture (other than a payment or bankruptcy default), a notice given by the Trustee, the Co-Trustee, a Credit Provider or the Owners of not less than 25% in aggregate principal amount of the Bonds at the time Outstanding would trigger the commencement of a 30 day cure period, after which, if the Government were still in default, the Trustee, the Co-Trustee and/or the Owners of the Bonds could exercise the remedies provided by law and by the Indenture, including declaring the principal of all of the Bonds to be due and payable immediately under Section 7.02(A) of the Indenture. None of the Indenture remedies, however, would interfere with the acquisition, construction, maintenance or operation of the Series 2009A Project or the payment of the costs of the Series 2009A Project with moneys in the Series 2009A Construction Account held under the Indenture.

10. *Whether the attached form of joint requisition complies with the requirements of the Indenture and Supplemental Indenture.*

Yes, if the following sentence were added: "Each such payment is a proper and lawful charge against the Series 2009A Construction Account." As specified by the definition of the term, a "Joint Requisition" must be executed on behalf of the Government either by the Governor or by "such other person as may be designated and authorized by the Governor to execute such instruments". If a Joint Requisition is presented to the Trustee that is signed by a person other than the Governor, the Trustee may request documentation of the Governor's authorization of such person. If it is signed by you as Acting Governor, it is possible that the Trustee will request documentation of the circumstances under which you are so acting.

Please let me know if you have any further questions in this regard.

Very truly yours,

A handwritten signature in blue ink that reads "Stanley J. Dirks".  
Stanley J. Dirks