



CONSOLIDATED COMMISSION ON UTILITIES
Guam Power Authority | Guam Waterworks Authority
P.O. Box 2977 Hagatna, Guam 96932 | (671)649-3002 | guamccu.org

RESOLUTION NO. 33-FY2017

**RELATIVE TO APPROVING THE TERMS OF THE PROPOSED SETTLEMENT
IN THE CLAIM AGAINST THE GUAM WATERWORKS AUTHORITY BY
JACQUELINE MESA ALSO REFERENCED
AS GWA GOVERNMENT CLAIM NO. 2017-005**

WHEREAS, under 12 G.C.A. § 14105, the Consolidated Commission on Utilities (“CCU”) has plenary authority over financial, contractual and policy matters relative to the Guam Waterworks Authority (“GWA”); and

WHEREAS, the Guam Waterworks Authority (“GWA”) is a Guam Public Corporation established and existing under the laws of Guam; and

WHEREAS, the Government Claims Act 5 G.C.A. §6206 requires approval of the Board for all other claims in excess of Three Thousand Dollars (\$3,000.00), excluding motor vehicle damage and personal injury claims less than \$15,000; and

WHEREAS, on April 15, 2017 manhole number 807 was surcharging. GWA personnel arrived at approximately noon to attempt to clear the line. After failed attempts to clear the sewer line of Fats, Oil and Grease (FOG), rocks and gravel, the RPM on the jetter hose was raised causing the subsequent sewer overflow into the residence of Mr. Alfred John D. Mesa (150 Redondo Catan Dededo, Guam), where Jacqueline Mesa resides causing personal property damage (SEE EXHIBIT “A”); and

WHEREAS, on April 18, 2017 Jacqueline Mesa (“Claimant”), daughter of Mr. Alfred John D. Mesa and who resides at 150 Redondo Catan Dededo, Guam filed a claim against GWA

1 in the amount of Six Thousand Five Hundred Five Dollars (\$6,505.00) for personal property
2 damages and loss of wages, (SEE EXHIBIT "B"); and
3

4 **WHEREAS**, after review of the claim, GWA has determined that GWA should
5 compensate the Claimant for personal property damages sustained and loss of wages totaling
6 Four Thousand Two Hundred Sixty Five Dollars and Forty Five Cents (\$4,265.45), of which
7 Three Thousand Dollars (\$3,000.00) was issued to Claimant on April 18, 2017 for immediate
8 needs (SEE EXHIBIT "C"). The Claimant further acknowledged that the Three Thousand
9 Dollars (\$3,000.00) would be made part of and thereby deducted from the final settlement offer
10 (SEE EXHIBIT "D");
11

12 **WHEREAS**, GWA believes the proposed settlement and method of payment to be fair
13 and reasonable; and
14

15 **WHEREAS**, the Consolidated Commission on Utilities finds that this proposed
16 settlement is just and reasonable considering the circumstances.
17

18 **NOW THEREFORE, BE IT RESOLVED**, the Consolidated Commission on Utilities
19 does hereby find, authorize and approve the following:
20

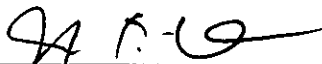
- 21 1. The recitals set forth above constitute the findings of the CCU.
- 22 2. Ms. Jacqueline Mesa sustained personal property damages and loss of wages as a
23 result of a sewage over flow into the home she resides in, 150 Redondo Catan
24 Dededo, Guam on April 15, 2017.
- 25 3. Ms. Jacqueline Mesa has provided proof to GWA of the damages sustained in the
26 amount of Four Thousand Two Hundred Sixty Five Dollars and Forty Five Cents
27 (\$4,265.45).
- 28 4. That GWA may pay the Claimant the remaining amount of One Thousand Two
29 Hundred Sixty Five Dollars and Forty Five Cents (\$1,265.45) following the execution
30 of the Release and Settlement Agreement (EXHIBIT "E").
- 31 5. The CCU finds the offer fair and reasonable under the circumstances.
32

6. The GWA GM is authorized to sign all documents necessary to settle the claim as approved by the CCU.

RESOLVED, that the Chairman certifies and Board Secretary attests to the adoption of the Resolution.

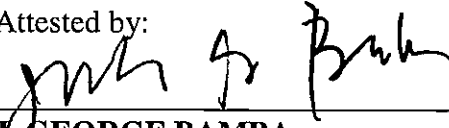
DULY and REGULARLY ADOPTED AND APPROVED this 23rd day of May, 2017.

Certified by:



JOSEPH T. DUENAS
Chairperson

Attested by:



J. GEORGE BAMBA
Secretary

I, J. George Bamba, Board Secretary for the Consolidated Commission on Utilities, as evidenced by my signature above do hereby certify as follows:

The foregoing is a full, true and accurate copy of the resolution duly adopted at a regular meeting by the member of the Guam Consolidated Commission on Utilities, duly and legally held at a place properly noticed and advertised at which meeting a quorum was present and the members who were presented voted as follows:

AYES:	<u>4</u>
NAYS:	<u>0</u>
ABSTENTIONS:	<u>0</u>
ABSENT:	<u>1</u>

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GUAM WATERWORKS AUTHORITY

"Better Water, Better Lives."

Gloria B. Nelson Public Service Building | 688 Route 15 | Mangilao, Guam 96913

Tel: (671) 300-6846

Issues for Decision

Resolution No. 33-FY2017

Relative to Approving the Terms of the Proposed Settlement in the Claim Against the Guam Waterworks Authority by Jacqueline Mesa also Referenced as Government Claim GWA GC No. 2017-005

What is the project's objective and is it necessary and urgent?

On April 15, 2017 a sewer overflow caused personal property damage and loss of wages for Ms. Mesa. As a result of the sewer overflow Ms. Mesa filed a Government Claim against GWA for damages in the amount of \$6,505.00.

Where is the location?

150 Redondo Catan Dededo, Guam

How much will it cost?

The recommendation for settlement is \$4,265.45, which includes the replacement cost value of the personal property damaged in addition to Ms. Mesa's loss of wages for 13 hours missed from work (April 15th and April 17th). A \$3,000.00 check was issued on April 17, 2017 and received by Ms. Mesa for the immediate needs of her family. The remaining amount of One Thousand Two Hundred Sixty Five and 45/100 Dollars (\$1,265.45) will be due and payable to the Claimant following the execution of the Release and Settlement Agreement. The claimant has agreed to the recommended settlement and has signed the Release.

When will it be completed?

This claim will be completed after the Release and Settlement Agreement has been approved by the CCU, then forwarded to the Office of the Attorney General and the Office of the Governor for their review and signature.

What is the funding source?

Revenue funded

EXHIBIT "A"

















Office of the Attorney General of Guam

590 S. Marine Corps Dr., Ste. 706, Tamuning, Guam 96913



Dear Claimant:

Pursuant to the Government Claims Act (Public Law 17-29), the government has six (06) months to investigate and either grant, settle or deny your claim. If you are claiming property damage to a motor vehicle involved in an accident, we will make a determination on this part of your claim within thirty (30) days pursuant to Public Law 25-130, provided you furnish us with all the documents necessary to process your claim.

Although most claims require the full six (06) months for review and final decision, smaller claims usually take less time than larger ones; however, they are considered equally. If after six (06) months your claim has not been settled or you have not been notified by our office that your claim was denied, you may institute an action in the Superior Court of Guam for money damages.

Additional questions on the status of this claim should be directed to the undersigned.

Thank you in advance for your cooperation.

Sincerely,

GABRIELA P. R. RIPPEL
Interim Assistant Claims Officer

I have read and fully understand the above.

Print Name:

Jacqueline Mesa

Signature:

Date:

04.17.17





Office of the Attorney General of Guam

590 S. Marine Corps Dr., Ste. 706, Tamuning, Guam 96913



CLAIM AGAINST THE GOVERNMENT

(Please complete the form in its entirety. **DO NOT** leave any portions blank. Write "N/A" or "None" where appropriate.)

1. Name of Claimant: Jacqueline Mesa.
2. Mailing Address: P.O. Box 9650 Dededo GU 96912.
Home/Work Address: 150 Redondo Catlan Dededo GU 96929
3. Home Telephone: 637-8077. Work Telephone: 646-8018
4. Amount of Damages you are claiming: \$ 1505.00
5. Any other relief you are claiming: (Work) Employment Guam Coal. Act. # 107.25.
6. Government Agency Responsible: Guam Water Works Authority
7. Date Claim arose: April 15, 2017.
8. Your statement of facts upon which you base your claim. Attach extra sheet(s) if necessary.
On the day of April 15, 2017, Guam Waterworks was conducting a routine main hole flush. Upon these routine discharges occurred causing sewage back-up that lead into residential lines causing overflow to the bathrooms and bedroom.
9. Attach a copy of all documents pertaining to your claim, such as a police report, accident report or a contract.
10. The lowest estimate of repair is \$ 6000.00.
11. I have the following insurance covering this claim: NONE.
12. I am the real party in interest except for the following parties who have an interest in this claim:
NONE
13. I have received the following compensation/repairs from other parties: NONE.
14. Name, address, and telephone of attorney representing claimant, if any:
N/A.

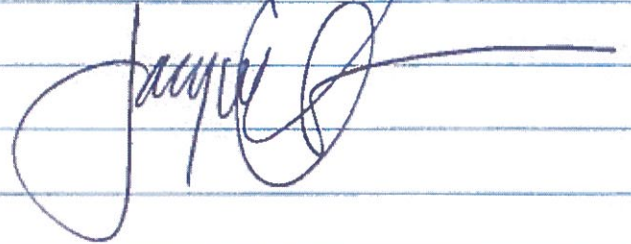
All notices will be sent to your mailing address above or if you have an attorney, to your attorney's address. If you want to change the address at which you will receive notices, you must file, in writing, a change of address with the Claims Officer.

I, Jacqueline Mesa., declare under penalty of perjury that the foregoing is true and correct.
Date 04-17-17 Claimant's Signature [Signature]

Cont. For #8.

Advanced Management came to clean out the
bathrooms & bedroom. Guam Waterworks
wastewater employees helped clear out all the
damaged items. They were the last ones to
leave the property to make sure that the
area was clear. We appreciate all their help.

Thank-you.

A handwritten signature in dark ink, appearing to read "Jayce", with a large, stylized loop and a long horizontal stroke extending to the right.

personal property. Nicole C. Guamwaterworks.org 787-4998.
Nicole. Guam. 787-4998

(kitchen / Restroom.)

2014	Mattress Queen \$ 600.00.	
2014	Countertops (2x) \$ 200.00 ea.	(2014) tubeware salad mixer \$40.00
2014	Med Chest \$ 50.00.	(2015) tubeware mix \$ 70.00.
2014	blankets (7x) \$ 250.00 (all)	(2017) underwear \$ 150.00.
2014	pillows (2x) \$ 60.00. (both)	
2014	Rugs 5x7 (3x) 200.00 ea.	Total \$ 6505.00.
2017	rug 3x4 \$ 50.00	
2017	door mat rugs (2x) *30.00	Guam Coil Air Sales +
2017	Restroom Rug (4x) \$ 50.00 (all)	Service
2014	toilet seat cover \$ 15.00.	04-15-17 5 hrs.
2019	Luggage (2x) \$ 211.00.	04-17-17 8 hrs.
2015	vacuum \$ 107.00.	Hourly \$ 8.25.
2010	Trashcan (big) \$ 70.00.	Total \$ 107.25.
2014	Restroom trashcans (small) \$ 70.00 (all)	
2014-2017	Hamper (5x) \$ 70.00 (all)	
2017	Trays \$ 700.00.	Tracieline Mesa
2010	Stool (small) \$ 90.00	687-5162 / 687-8077.
2011	Ward chest \$ 400.00.	
2011	Lamp \$ 100.00.	
2011	Battery charger \$ 200.00.	
2014	drawer cart \$ 40.00.	
2014-2017	Baby sandals \$ 150.00.	
2014-2017	Women Sandals \$ 200.00.	
2015	Purses \$ 200.00.	

EXHIBIT "C"

GUAM WATERWORKS AUTHORITY
P.O. BOX 3010 HAGATNA, GUAM 96932
TEL: (671) 300-6861 / 6849

GENERAL FUND ACCOUNT

HAGATNA BRANCH
BANK OF GUAM
HAGATNA BRANCH
101-511
1214

Check No. 073291

04/18/17
00073291

PAY THREE THOUSAND AND 00/100 *****

TO THE ORDER OF

AMOUNT
\$*****3,000.00

JACQUELINE MESA
150 REDONDO CATAN
DEDEDO GU 96912

TWO SIGNATURES REQUIRED OVER \$10,000

⑈073291⑈ ⑆121405115⑆ 06010014149⑈

GUAM WATERWORKS AUTHORITY P.O. Box 3010 Hagatna, Guam 96932

INVOICE DATE INVOICE NUMBER
04/18/17

073291

REMITTANCE ADVIC

Stub 1 of 1

APR 2017 C 041817 SEWAGE OVERFLOW DEDEDO

3,000.00	3,000.00
-----	-----
3,000.00	3,000.00

Jacqueline Mesa
04.18.17.

GUAM WATERWORKS AUTHORITY
P.O. BOX 3010
HAGATNA, GU 96932

073291

JACQUELINE MESA
150 REDONDO CATAN
DEDEDO GU 96912



GUAM WATERWORKS AUTHORITY

"Better Water. Better Lives."

Gloria B. Nelson Public Service Building | 688 Route 15, Mangilao, Guam 96913

P.O. Box 3010, Hagatna, Guam 96932

Tel. No. (671) 300-6846/48 Fax No. (671) 648-3290

Ms. Jacqueline Mesa
150 Redondo Catan
Dededo, Guam 96912

Dear Ms. Mesa:

The Guam Waterworks Authority has responded to your complaint of sewage back-up into your home. I understand that you will be filing a claim against GWA for damages incurred. GWA will investigate and respond to your claim as quickly as possible and as required by law.

To expedite relocation into your home, GWA is providing you \$3,000 for your immediate needs. Your acceptance of this payment prior to a completed investigation is your acknowledgement that this amount will be reduced from any offer in the event a settlement of your claim is considered.

Again, GWA will work as quickly as possible to complete its investigation and address your claim accordingly. My staff will contact you for further information as necessary. Otherwise, you may contact Nicole Ballesta-Quan at 300-6038 should you need information. Thank you very much.

Sincerely,

MIGUEL C. BORDALLO, P.E.
General Manager

ACCEPTED:

JACQUELINE MESA

DATE:

04.18.17. *Jacqueline Mesa.*

EXHIBIT "E"

RELEASE AND SETTLEMENT AGREEMENT

KNOWN TO ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of Four Thousand Two Hundred Sixty-Five and 45/100 Dollars (\$4,265.45) money of the United States, Jacqueline Mesa, whose residence address is #150 Redondo Catan Dededo, Guam 96929 and whose mailing address is P.O. Box 9350 Dededo, Guam 96912 (Hereafter referred to as "Releasor"), do by these presents, remise, release and forever discharge the Guam Waterworks Authority, a public corporation organized and existing under the laws of Guam, whose address is 688 Route 15 Mangilao, Guam 96913 (Hereafter referred to as "Releasee"), its agents, servants, officers, and employees, and each of them, and all other persons, firms, corporations, insurers, associations, or partnerships having any interest in or in any way connected with said Releasees, of all claims and demands for damages of every kind and nature whatsoever, and whether now known or unknown, by reason of or arising from that certain incident more particularly described in the Government Claim GWA GC File No. 2017-005 filed by Releasors with the Guam Waterworks Authority on April 18, 2017 and attached herein as Exhibit A.

In further consideration of the payment of Four Thousand Two Hundred Sixty-Five and 45/100 Dollars (\$4,265.45), the Releasor does hereby knowingly, voluntarily, and expressly waive the benefits of the provisions of 18 GCA § 820602, which reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

The Releasor further declares and represents and hereby agrees that this Release and Settlement Agreement expresses a full and complete settlement of a liability claimed and denied, and that regardless of the adequacy of the compensation, this Release and Settlement Agreement is intended to avoid litigation, and that there is absolutely no promise, inducement or agreement on the part of the Releasee to make any payment or do any act or thing other than what is expressly stated and clearly agreed to herein, and that this Release and Settlement Agreement are contractual and not a mere recital.

Releasors acknowledge having received and accepting check number 073291 in the amount of \$3,000.00 for her family's immediate needs as a result of the sewer overflow, which affected the home she was residing in. Releasors further acknowledge that the \$3,000.00 would be made part of and thereby deducted from the final settlement offer.

Releasors further jointly and severally agree to indemnify, defend and hold harmless Releasee, its agents, servants and employees, and each of them, and all other persons, firms, corporations, associations, or partnerships, having any interest in, or in any way connected with said Releasee, from and against any and all loss, liability, and expenses of whatsoever kind or nature, including but not limited to attorney's fees which may arise from the assertion by Releasors or any third party of any claim against anyone arising out of the incident and occurrence that are the basis of the Government Claim GWA GC File No. 2017-005 attached as Exhibit A herein.

The Releasor hereby declares that they have read the foregoing Release and Settlement Agreement and that they have executed the same of their own free will and accord.

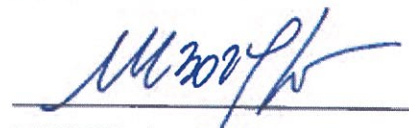
This Release and Settlement Agreement consists of three (3) pages, each of which has been initialed by the Releasor and Releasee at the lower left corner, and the Releasor has retained a copy of the Release and Settlement Agreement.



Dated this 08 day of May 2017.

FOR RELEASOR:


JACQUELINE MESA, Claimant

FOR RELEASEE:


MIGUEL C. BORDALLO, P.E.,
General Manager
Guam Waterworks Authority

GWA: 
J. Mesa: 

SETTLEMENT OF GOVERNMENT CLAIM APPROVED BY:

THE HONORABLE EDDIE BAZA CALVO
Governor of Guam
DATE:

APPROVED AS TO FORM AND LEGALITY:

ELIZABETH BARRETT-ANDERSON
Attorney General of Guam
DATE:

GWA: 
J. Mesa: