RESOLUTION NO. 34-FY2017

RELATIVE TO APPROVING THE TERMS OF THE PROPOSED SETTLEMENT IN THE CLAIM AGAINST THE GUAM WATERWORKS AUTHORITY BY ALFRED JOHN D. MESA ALSO REFERENCED AS GWA GOVERNMENT CLAIM NO. 2017-006

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 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) causing real property damage to two bathrooms and one bedroom, Exhibit "A"; and

WHEREAS, on April 24, 2017 Mr. Alfred John D. Mesa ("Claimant"), legal homeowner of 150 Redondo Catan Dededo, Guam filed a claim against GWA in the amount of Fourteen Thousand Dollars ($14,000) for real property damages, Exhibit "B"; Mr. Mesa has submitted three quotes with L.G. Manlutac Construction being the lowest, Exhibit "C"; and
WHEREAS, after review of the claim, GWA has determined that GWA should compensate the Claimant for real property damages sustained totaling Thirteen Thousand Thirty Dollars ($13,030.00) of which $3,000.00 was issued to Claimant on May 15, 2017 Check Number 073523 for immediate needs, Exhibit “D.” The Claimant further acknowledged that the $3,000.00 would be made part of and thereby deducted from the final settlement offer, Exhibit “E”;

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

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

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

1. Mr. Alfred John D. Mesa sustained real property damages as a result of a sewage overflow into his residence, 150 Redondo Catan Dededo Guam on April 15, 2017.
2. Mr. Alfred John D. Mesa has provided proof to GWA of the damages sustained in the amount of Thirteen Thousand Thirty Dollars ($13,030.00).
3. That GWA may pay the Claimant the remaining amount of Ten Thousand Thirty Dollars ($10,030.00) following the execution of a Release and Settlement Agreement (Exhibit F).
4. The CCU finds the offer fair and reasonable under the circumstances.
5. 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.
DULLY AND REGULARLY ADOPTED AND APPROVED this 23rd day of May, 2017.

Certified by:  

[Signature]
JOSEPH T. DUENAS  
Chairperson

Attested by:  

[Signature]
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: 4

NAYS: 0

ABSTENTIONS: 0

ABSENT: 1
Issues for Decision

Resolution No. 34-FY2017
Relative to Approving the Terms of the Proposed Settlement in the Claim Against the Guam Waterworks Authority by Alfred John D. Mesa also Referenced as Government Claim GWA GC No. 2017-007

What is the project's objective and is it necessary and urgent?
On April 15, 2017 a sewer overflow caused real property damage to Mr. Mesa’s home. As a result of the sewer overflow Mr. Mesa filed a Government Claim against GWA in the amount of $14,000.00 for damages sustained to two bathrooms and one bedroom.

Mr. Mesa has provided three quotes from contractors with the lowest quote coming from L.G. Manlutac Construction in the amount of $13,350.00. Pursuant to 5 G.C.A. §6206 the Release and Settlement Agreement requires the Attorney General of Guam and the Governor to approve before the settlement check can be issued.

Mr. Mesa’s wife is currently undergoing chemotherapy so it is urgent to expedite the process.

Where is the location?
150 Redondo Catan Dededo, Guam

How much will it cost?
The recommendation for settlement is $13,030.00, which excludes the replacement of the toilet bowl and tank as both could be disinfected.

Mr. Mesa received a check in the amount of $3,000.00 on May 15, 2017 for immediate needs. Therefore, the remaining settlement amount would be $10,030.00.

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
Bathroom #1
Bathroom #2
Bedroom #1
Hallway of Bathroom #2 (which leads into bedroom #1)
CLAIM AGAINST THE GOVERNMENT

1. Name of Claimant: Alfred J. B. Mesa
2. Mailing Address: 4-14 Bighorn Dr. Dededo Caun 96912
   Home/Work Address: 170 Kedondi Drive Dededo Gu 96939
3. Home Telephone: 687-6877
   Work Telephone:
4. Amount of Damages you are claiming: $14,570.10
5. Any other relief you are claiming: No
6. Government Agency Responsible: Guam Waterworks Authority
7. Date Claim arose: April 15, 2017
8. Your statement of facts upon which you base your claim: On the day of April 15, an Guam Waterworks was conducting a routine
   water test. Upon testing, an invalid results occurred causing
   water to back up that led into residential lines. Causing overflow
   to the basements and street.
9. Attach a copy of all documents pertinent to your claim, such as a police report, accident report or a contract.
10. The lowest estimate of repair is $14,570.10
11. I have the following insurance covering this claim: No
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:

   Alfred J. B. Mesa.

   Date: 04-17-17

   Claimant's Signature: [Signature]

   Guam Waterworks Authority

   Received by P. H. Wor [Signature]

   Apr 24, 2017

   801-3130 • www.guawater.com • www.guawater.net
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,

[Signature]
GABRIELA P. R. RIPPEL
Interim Assistant Claims Officer

I have read and fully understand the above.

Print Name: [Signature]
Signature: [Signature]
Date: 04-10-17
L.G. MANLUTAC CONSTRUCTION
GENERAL CONTRACTOR
P.O. Box 11002 Tamuning, Guam, 96931
Tel. # 653-0776, Fax # 898-0776, Cell # 488-8018
E-mail: manlutacguam@teleguam.net

JOB PROPOSAL

PROPOSAL SUBMITTED TO:  
Name: Mr John, Mary, Jackie Mesa
150 Redondo Katan, Dededo
Tel. # (671) 637-8077
Fax # (671)

Attention: Mr John Mesa

We are pleased to submit our cost proposal for the above reference project as follow:

SCOPE OF WORKS:

1. As Per Attach Owner Scope Works

TOTAL LABOR and MATERIALS ---- $13,350.00

All materials are guaranteed to be as specified. All works to be completed in Substantial Workmanlike manner for the sum of ($ 13,445.00 ) THIRTEEN THOUSAND THREE HUNDRED FIFTY DOLLARS ONLY.

Respectfully,

[Signature]

Lamberto G. Manlutac
Owner
Scope of Work: John Mesa/Mary Mesa/Jackie Mesa
Hse #150 Redondon Katan Dededo
Home #637-8077

Bathroom #1  $5,100.00

- Reseal grout on floor tiles
- Remove and replace Plastic shower stall
- Remove and Replace Lavatory sink/Cabinet
- Remove and Replace Toilet bowl/tank
- Remove and Replace 9 feet X 5 feet of vinyl tile

Bathroom #2  $3,650.00

- Reseal grout on floor tiles
- Remove and replace lavatory Sink/Cabinet
- Remove and replace Toilet bowl/tank
- Remove and replace bathroom wooden door

Bedroom #1  $3,100.00

- Remove and Replace 13 feet X 13 feet vinyl Tile
- Replace Wooden closet doors
- Replace base board
- Replace wooden bedroom door
- Remove and replace 5 feet X 5 feet of vinyl tile on Hallway between bathroom and bedroom

Disposal fee: $1,100
ACDC
Asian Construction Development Corporation
P.O. Box 2662 GMF, 96921 Tel # 632 - 2105, Fax # 632 - 2129, Cell (671) 486 - 7355

Date: April 21, 2017

To: John, Mary and Jackie Mesa
150 Redondon Katan
Dededo, Guam 96929
Tel. #: 637-8077
Fax #: 

Re: Improvement of Two Bath room and Tiles Replacement of Bed Room

Attention: Mr. John, Mary and Jackie Mesa

Dear Sir/Madam

We are pleased to submit our cost proposal for the supply of Labor, Materials, Equipment and Supervision. We offer you FORTY SIX HUNDRED ($14,600.00)

SCOPE OF WORKS

Please see the attached Scope of Owner Furnish

Thank you for this business opportunity and we are looking forward to professionally servicing Guam Waterworks Authority.

Respectfully Submitted:

[Signature]
Marcelo M. Moises
Operation Manager

[Stamp: Received by General Manager's Office, April 21, 2017]
Scope of Work: John Mesa/Mary Mesa/Jackie Mesa

Hse #150 Redondon Katan Dededo

Home #637-8077

Bathroom #1 — $3,387.00

- Reseal grout on floor tiles
- Remove and replace Plastic shower stall
- Remove and Replace Lavatory sink/Cabinet
- Remove and Replace Toilet bowl/tank
- Remove and Replace 9 feet X 5 feet of vinyl tile

Bathroom #2 — $3,957.00

- Reseal grout on floor tiles
- Remove and replace lavatory Sink/Cabinet
- Remove and replace Toilet bowl/tank
- Remove and replace bathroom wooden door

Bedroom #1 — $3487.60

- Remove and Replace 13 feet X 13 feet vinyl Tile
- Replace Wooden closet doors
- Replace base board
- Replace wooden bedroom door
- Remove and replace 5 feet X 5 feet of vinyl tile on Hallway
  between bathroom and bedroom

Disposal fee: — $1,769.60
Date: April 21, 2017

Proposal # 17-035

To: Mr. & Mrs. John and Mary Torres
Phone #: 637-8077
Email:
Re: Hse # 150 Redondon Katan Repair Dededo.

SCOPE OF WORK:

Bedroom # 1
1. Reseal grout on floor tiles
2. Remove and replace plastic shower stall.
3. Remove and replace lavatory sink / cabinet.
4. Remove and replace 9 feet x 5 feet of vinyl tile.

Bedroom # 2
5. Reseal grout on floor tiles.
6. Remove and replace lavatory sink / tank.
7. Remove and replace bathroom wooden door.

Bedroom # 1
8. Remove and replace 13 feet x 13 feet vinyl tile.
9. Replace wooden closet doors.
10. Replace baseboards.
11. Replace wooden bedroom door.
12. Remove and replace 5 feet x 5 feet of vinyl tile on hallway between bathroom and bedroom.
13. Clean up and disposal of construction debris.

Labor and Materials.................................................................$13,948.00

Thank you for this business opportunity and we look forward to professionally servicing you.

Sincerely,

Ronald C. Ocampo
Project Manager
GUAM WATERWORKS AUTHORITY
P.O. BOX 3010 HAGATNA, GUAM 96932

GENERAL FUND ACCOUNT

HAGATNA BRANCH
BANK OF GUAM
HAGATNA BRANCH
101-311
1211
1214

Check No. 073523
05/12/17
00073523

PAY
THREE THOUSAND AND 00/100

AMOUNT
$3,000.00

TO THE ORDER OF

ALFRED JOHN D. MESA
P.O. BOX 9350
DEDEDO GU 96929

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

073523 REMITTANCE ADV

GWA CLAIM 051117 SEWAGE OVERFLOW

ALFRED JOHN D. MESA

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

ALFRED JOHN D. MESA
P.O. BOX 9350
DEDEDO GU 96929
May 12, 2017

Mr. Alfred John D. Mesa
150 Redondo Catan
Dededo, Guam 96912

Dear Mr. Mesa:

The Guam Waterworks Authority has responded to your complaint of sewage back-up into your home. To expedite some of the repairs to your home, GWA is providing you $3,000 for immediate needs to assist you in addressing the damage as a result of the sewer overflow. Your acceptance of this payment is your acknowledgement that this amount will be deducted from any settlement funds arising out of your claim.

GWA has recently concluded its investigation and the Release and Settlement Agreement you signed will have to be presented and approved by the Consolidated Commission on Utilities (CCU) on May 23, 2017. Upon approval from the CCU, the Release and Settlement Agreement will require the signature of the Attorney General of Guam and the Governor.

Again, GWA will work as quickly as possible to obtain the necessary approvals and signatures needed to complete the Government Claims process. 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:  
ALFRED JOHN D. MESA

DATE:
RELEASE AND SETTLEMENT AGREEMENT

KNOWN TO ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of Thirteen Thousand Thirty and 00/100 Dollars ($13,030.00) money of the United States, Alfred John D. Mesa, whose residence address is #150 Redondo Catan Dededo, Guam 96929 (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. 2017-006 filed by Releasors with the Guam Waterworks Authority on April 24, 2017 and attached herein as Exhibit A.

In further consideration of the payment of Thirteen Thousand Thirty and 00/100 Dollars ($13,030.00), 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 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. 2017-006 attached as Exhibit A herein.

Releasors acknowledge having received and accepting check number 073523 in the amount of $3,000.00 for his family’s immediate needs as a result of the sewer overflow, which affected his home. Releasors further acknowledge that the $3,000.00 would be made part of and thereby deducted from the final settlement.

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 _____ day of __________ 2017.

FOR RELEASOR:

________________________________________
ALFRED JOHN D. MESA, Claimant

FOR RELEASEE:

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

GWA: _____
A.J.D. 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: