GWA RESOLUTION NO. 15-FY2020

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF GUAM WATERWORKS AUTHORITY WATER AND WASTEWATER SYSTEM REVENUE BONDS AND/OR REFUNDING BONDS, APPROVING FORMS OF RELATED DOCUMENTS, AGREEMENTS AND ACTIONS, AND AUTHORIZING THE EXECUTION AND DELIVERY THEREOF

WHEREAS, Article 2, Chapter 14, Title 12 of the Guam Code Annotated (the “Act”) authorizes Guam Waterworks Authority (the “Authority”) to issue revenue bonds to raise funds for the purpose of acquiring, constructing, improving, equipping, maintaining, repairing, renewing, replacing, reconstructing or insuring the System (as that term is defined in the Act), or any part thereof, or for the purpose of redeeming or retiring any such bonds or any other prior obligations of the Authority, or for any combination of such purposes, in accordance with and subject to the requirements and limitations set forth in the Act; and

WHEREAS, this Consolidated Commission on Utilities (the “Commission”) has determined that there exists a need for certain additions and improvements to the System, including certain water production, treatment and distribution projects, certain wastewater collection and treatment projects, and certain electrical projects, contained in the Authority’s Capital Improvement Plan (collectively, the “Projects”), that a certain number of the Projects requiring immediate financing are for Court Order (approximately forty million dollars), potential Consent Decree (approximately thirty nine million dollars), and water loss control (approximately twelve million dollars), and has determined that it is in the public interest for the Authority to issue bonds pursuant to the Act for such purposes; and

WHEREAS, the Authority has informed this Commission that the opportunity has arisen to issue refunding bonds to redeem or otherwise retire a portion of the outstanding Guam
Waterworks Authority Water and Wastewater System Revenue Bonds, Series 2013 (the “Prior Bonds”) for debt service savings; and

WHEREAS, the Authority has determined it is necessary and desirable to issue one or more series of Guam Waterworks Authority Water and Wastewater System Revenue Bonds to finance the Projects (as more particularly defined in Section 2, “New Bonds”) and to redeem or otherwise retire a portion of the Prior Bonds (as more particularly defined in Section 2, “Refunding Bonds” and collectively with the New Bonds, the “Bonds”); and

WHEREAS, the Authority has previously made and entered into an Indenture dated as of December 1, 2005 (as previously supplemented and amended, the “General Indenture”), by and among the Authority, Bank of Guam, as trustee (the “Trustee”) and U.S. Bank National Association, as co-trustee (the “Co-Trustee”), which authorized one or more series of Guam Waterworks Authority Water and Wastewater System Revenue Bonds; and

WHEREAS, there has been presented to this meeting the form of a seventh supplemental indenture (Exhibit A), by and among the Authority, the Trustee and the Co-Trustee (the “Supplemental Indenture” and, together with the General Indenture, the “Indenture”), pursuant to which the Authority proposes to issue the Bonds in one or more series; and

WHEREAS, the Authority previously has executed a Master Continuing Disclosure Agreement with Digital Assurance Certification, L.L.C., as dissemination agent (the “Dissemination Agent”), dated as of December 1, 2005, which authorized one or more supplemental continuing disclosure agreements to be entered into in connection with the issuance of one or more series of bonds; and

WHEREAS, there has been presented to this meeting the form of a supplemental continuing disclosure agreement (the “Continuing Disclosure Agreement”) (Exhibit B), by and between the Authority and the Dissemination Agent, in connection with the Bonds; and

WHEREAS, there has been presented to this meeting the form of a bond purchase agreement (the “Bond Purchase Agreement”) (Exhibit C), between the Authority and Citigroup
Global Markets Inc., as representative (the “Representative”) of itself and Barclays Capital, Inc., as underwriters (together, the “Underwriters”), relating to the sale of the Bonds; and

WHEREAS, the Supplemental Indenture, the Continuing Disclosure Agreement and the Bond Purchase Agreement are collectively referred to herein as the “Bond Documents”; and

WHEREAS, there has been presented to this meeting the form of preliminary official statement of the Authority (the “Preliminary Official Statement”) (Exhibit D) relating to the Bonds;

WHEREAS, the Authority has commissioned and presented to this meeting a draft of the Consulting Engineers Report (Exhibit E), pursuant to the Indenture, to support the issuance and sale of the Bonds; and”

WHEREAS, the Authority has requested or will request the Guam Economic Development Authority (“GEDA”) to approve the issuance and sale of the Bonds pursuant to the Act and Section 50103(k) of Title 12, Guam Code Annotated;

WHEREAS, the Authority is authorized to request that the Public Utilities Commission of Guam (the “PUC”) approve the issuance of the Bonds pursuant to the Act;

WHEREAS, in accordance with the Act, the authorization provided by this resolution to sell and issue the Bonds has been approved by I Liheslaturan Guahan (the “Legislature”) pursuant to the terms and conditions set forth in Public Law No. 28-71, as amended by Public Law Nos. 30-145 and 32-069 (collectively, the “Legislation”);

NOW, THEREFORE, BE IT RESOLVED, by Consolidated Commission on Utilities as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. Issuance of one or more series of additional Bonds from time to time, pursuant to the Act and the General Indenture as supplemented by the Supplemental
Indenture to be designated as “Revenue Bonds” or “Revenue Refunding Bonds” as appropriate (or as otherwise designated by the Supplemental Indenture, as finally executed) is hereby authorized (i) in an aggregate principal amount not to exceed $134,000,000 to finance the Projects, to pay costs of issuance, to pay for credit enhancement, if any, to pay for capitalized interest, and to fund a deposit to a debt service reserve fund, if any (the additional bonds authorized to be issued for such purposes, the “New Bonds”), plus (ii) with respect to the Prior Bonds, in a principal amount not to exceed a principal amount sufficient to provide funds for the redemption or retirement of such Prior Bonds, plus the related costs of issuance and of such redemption or retirement (the additional bonds authorized to be issued for such purposes, the “Refunding Bonds”). Such Bonds shall be issued in such series and at such amounts and at such times as the Chair of the Commission, the Vice-Chair of the Commission or the General Manager of the Authority (the “Designated Officers”) deem appropriate, provided that such Bonds have a final maturity not later than 30 years from their date of issuance with respect to the New Bonds, and not later than the final maturity of the Prior Bonds with respect to the Refunding Bonds, bear interest at such rate or rates and are sold for such price or prices not exceeding any limitation established by the Legislation, and are issued and sold pursuant to the Indenture and otherwise in compliance with the provisions of the Act.

The Bonds shall be limited obligations of the Authority payable solely from revenues and other assets of the Authority pledged for such purpose and shall not be a debt or liability of the Government of Guam.
The Chair of the Commission and the appropriate officials of the Authority are hereby authorized and directed, subject to the approval of the PUC, to execute and countersign, for and on behalf and in the name of the Authority and under its seal, the Bonds, in an aggregate principal amount not to exceed the amount authorized hereby, in accordance with the Indenture.

Section 3. The form of Preliminary Official Statement presented to this meeting is hereby approved, with such additions, changes and modifications as the Designated Officers may approve upon consultation with legal counsel, such approval to be conclusively evidenced by the execution thereof or of a certificate deeming final the Preliminary Official Statement for purposes of Rule 15c2-12 of the Securities and Exchange Commission by one or more of the Designated Officers, who are each hereby authorized and directed, subject to the approval of the PUC, to execute the same and to authorize the Underwriters to distribute such Preliminary Official Statement to potential purchasers of the Bonds and other interested parties. The Designated Officers are also hereby authorized to execute and cause to be delivered a final Official Statement to purchasers of the Bonds and other interested parties, with such additions, changes and modifications from the Preliminary Official Statement as the Designated Officers may approve upon consultation with staff and legal counsel, such approval to be conclusively evidenced by the execution and delivery of the final Official Statement by one or more of the Designated Officers. The Underwriters are hereby authorized to cause the Official Statement to be delivered to the purchasers of the Bonds and to be distributed in preliminary form in connection with the marketing and sale of the Bonds.
Section 4. The Bond Documents presented to this meeting are hereby approved, with such additions, changes and modifications as the Designated Officers may approve upon consultation with legal counsel, such approval to be conclusively evidenced by the Bond Documents executed by such Designated Officers, who are each hereby severally authorized and directed, subject to the approval of the PUC, to execute the same.

Section 5. The Designated Officers are hereby authorized to approve such bond insurance, surety bond (including a surety bond which may substitute for a deposit in a bond reserve fund under the Indenture) or other supplemental security arrangements for the Bonds as are approved by the Designated Officers, and to approve any other similar agreements deemed by the Designated Officers to be necessary or appropriate in connection therewith.

Section 6. The appropriate officials of the Authority are hereby authorized and directed to do any and all things and to execute and deliver any and all documents, certificates, notices, directions, consents and agreements which they may deem necessary or advisable in order to effectuate the purposes of this resolution, including without limitation, closing documents and certificates, including a tax certificate, an escrow agreement, amendments to any existing agreements and any documents or agreements necessary in order to obtain credit enhancement for the Bonds or the obligations of the Authority with respect thereto.

Section 7. All actions heretofore taken by the officers, representatives or agents of the Authority in connection with the issuance and sale of the Bonds are hereby ratified, confirmed and approved.
Section 8. The Bonds shall not be issued without the approval of the Guam Public Utilities Commission in accordance with the Act and Chapter 12 of Title 12, Guam Code Annotated, and shall be in all respects subject to such approval and to the terms and conditions of the approval of GEDA, and to the terms and conditions of the Legislation.

Section 9. This resolution shall take effect from and after its adoption.

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

DULY AND REGULARLY ADOPTED, this 28th day of January 2020.

Certified by:  

Attested by:

JOSEPH T. DUENAS  
Chairperson

MICHAEL T. LIMTIACO  
Secretary

SECRETARY'S CERTIFICATE

I, Michael T. Limtiaco, Board Secretary of 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 members 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 present voted as follows:

AYES:  

NAYS:  

ABSTENTIONS:  

ABSENT: