



**GWA RESOLUTION NO. 28-FY2021**

**RELATIVE TO ADDITIONAL BORROWING AUTHORITY AND ESTABLISHMENT  
OF COMMERCIAL PAPER PROGRAM**

**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**, GWA has all but exhausted its current borrowing authority and will need to plan for the next tranche of CIP projects in the Master Plan and, in particular, plan for those projects that are likely to be part of the upcoming Consent Decree with the US Environmental Protection Agency (USEPA); and

**WHEREAS**, GWA will seek authorization for additional financing of up to \$300 Million to fund these critical projects to comply with the Federal Clean Water Act and the Safe Drinking Water Act as well as to improve service to our ratepayers and efficiency in our Agency; and

**WHEREAS**, in GWA Docket 19-08 FY20 Rate Decision, the Guam Public Utility Commission (PUC) ordered GWA to undertake various analytical studies, including Financing & Alternatives to Bond Issuance, to support an FY2022 Comprehensive Review and Update to GWA’s Five-Year Financial Plan; and

**WHEREAS**, the Capital Financing Alternative Study was submitted as required to the PUC on March 31, 2021; and

1           **WHEREAS**, the Capital Financing Alternatives Study and the FY20 Rate Decision  
2 recognize as part of an integrated financing strategy, given favorable markets conditions, a Tax-  
3 Exempt Commercial Paper (TECP) Program could be used for the short-term financing of  
4 project construction and other qualified project costs; and

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6           **WHEREAS**, short-term construction period financing could allow GWA to borrow at  
7 lower, short term interest rates closer to the time of cash disbursement and issue permanent long-  
8 term bonds closer to the end of project construction; and

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10           **WHEREAS**, short term borrowing will generally lower near-term debt service  
11 requirements; and

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13           **WHEREAS**, while issuance of TECP is allowed under Guam law, legislative  
14 authorization in addition to approvals from the Consolidated Commission on Utilities, Guam  
15 Economic Authority and Public Utilities Commission are required; and

16  
17           **WHEREAS**, Bond Counsel has provided draft legislation to establish a GWA  
18 Commercial Paper Program (Exhibit A);

19  
20           **NOW BE IT THEREFORE RESOLVED**, the Consolidated Commission on Utilities  
21 does hereby approve the following:

- 22           1. The recitals set forth above hereby constitute the findings of the CCU.
- 23           2. The CCU finds that funding should be identified for the next set of projects in  
24           the Master Plan and in particular those projects likely to be included in the  
25           upcoming USEPA Consent Decree.
- 26           3. The CCU finds that a TECP Program, given appropriate market conditions,  
27           could be advantageous by reducing debt service requirements.
- 28           4. The CCU hereby authorizes GWA management to seek all legislative  
29           authorization needed for the establishment of a TECP Program.
- 30           5. The CCU hereby authorizes GWA management to seek legislative  
31           authorization for short term TECP financing and corresponding long term

Bond financing of up to \$300 million for GWA's approved capital improvement program.

6. The CCU hereby further authorizes the management of GWA to seek the necessary approvals from the Guam Economic Development Authority and the Public Utilities Commission for additional authorization to finance up to \$300 million as well as the establishment of a Commercial Paper Program.

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

**DULY AND REGULARLY ADOPTED**, this 28<sup>th</sup> day of September 2021.

Certified by:

Attested by:



**JOSEPH T. DUENAS**

**MICHAEL T. LIMTIACO**

Chairperson

Secretary

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**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:

\_\_\_\_\_ 4

NAYS:

\_\_\_\_\_ 0

ABSENT:

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ABSTAIN:

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***I MINA 'TRENTAI SAIS NA LIHESLATURAN GUÅHAN***  
**2021 (FIRST) Regular Session**

**Bill No. \_\_\_\_\_-36 ( )**

Introduced by:

**AN ACT TO (1) AMEND §14235 TO CHAPTER 14, TITLE 12, TO TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO CREATING A COMMERCIAL PAPER PROGRAM FOR THE BENEFIT OF THE GUAM WATERWORKS AUTHORITY, AND (2) APPROVE THE TERMS AND CONDITIONS OF THE ISSUANCE OF GUAM WATERWORKS AUTHORITY REVENUE BONDS, AND RELATED MATTERS**

1           **BE IT ENACTED BY THE PEOPLE OF GUAM.**

2           **Section 1. Legislative Findings and Policy.** [to come]

3           **Section 2.** §14235 of Chapter 15, Title 12, Guam Code Annotated is hereby  
 4 amended and restated as follows:

5           “§14235. Short Term Borrowing; **Commercial Paper Program; Refunding Bonds;**  
 6 **Revenue Bonds.**

7           (a) Pursuant to the agency of GEDA, the Board may at any time or from time to  
 8 time, by resolution adopted by a majority of the members of the Board, authorize the  
 9 Authority to incur indebtedness, including lines-of-credit, with the approval of *I*  
 10 *Maga'lahi* (the Governor), for any lawful purpose for any period not exceeding ten (10)  
 11 years evidenced by contract with any person. Any such indebtedness shall be incurred  
 12 subject and subordinate to any contractual obligation of the Authority to the holders of  
 13 any bonds and the principal thereof and interest thereon may be repaid:

14           (1) from revenues; or

1 (2) if incurred for a purpose for which bonds may be issued,  
2 from revenues or from the proceeds of sale of bonds.

3 ~~The total cumulative amount borrowed pursuant to this Section shall not exceed~~  
4 ~~Thirty Million Dollars (\$30,000,000.00).~~ Notwithstanding any other provision of law, the  
5 indebtedness specified herein shall not be subject to taxation by the government of Guam.

6 (b) Approval of Guam Waterworks Authority Short Term Indebtedness. *I*  
7 *Liheslaturan Guåhan*, pursuant to § 50103 of Chapter 50, Title 12, Guam Code  
8 Annotated, hereby approves the terms and conditions of short term debt to be issued by  
9 the Guam Waterworks Authority (GWA) pursuant to § 14235, Article 2, Chapter 14, Title  
10 12, Guam Code Annotated, in one (1) or more series or issues (together with any related  
11 reimbursement obligations); provided that the issuance, terms and conditions of the debt,  
12 the indenture or loan agreement pursuant to which the bonds are to be issued, and any  
13 reimbursement agreement shall have been approved by the Guam Public Utilities  
14 Commission, and further provided that such debt may be issued in the principal amount  
15 necessary to fund GWA's required operating account and operating reserve account  
16 balances, to pay past due operating expenses incurred by GWA, to provide interim  
17 financing for a portion of the costs of the moratorium project as defined in § 14241(g),  
18 Article 2, Chapter 14, Title 12, Guam Code Annotated, and to pay expenses incurred in  
19 connection with the issuance of such debt not already included in an existing  
20 appropriation for or in the regular budget of any government agency or instrumentality  
21 or public corporation providing any service in connection with the issuance of such  
22 bonds, but not to exceed an aggregate principal amount of Thirty Million Dollars  
23 (\$30,000,000). Such debt shall have a final maturity not later than ten (10) years after its  
24 date of issuance, shall bear interest at such rate or rates and be sold for such price or prices  
25 as may be approved by the Guam Public Utilities Commission, and shall have such other  
26 terms and conditions as are consistent with the requirements and limitations provided in  
27 said § 14235.

1           **(c) Approval of Guam Waterworks Authority Commercial Paper Program. I**  
2 ***Liheslaturan Guåhan*, pursuant to § 50103 of Chapter 50, Title 12, Guam Code**  
3 **Annotated, hereby approves the terms and conditions of a borrower or financing**  
4 **program referred to as commercial paper CP to be issued by GWA pursuant to §**  
5 **14235(a), Article 2, Chapter 14, Title 12, Guam Code Annotated. From time to time**  
6 **the CP may be issued in one (1) or more series or issues (together with any related**  
7 **reimbursement obligations); provided that the issuance, terms and conditions of the**  
8 **CP, the indenture, trust agreement and/or issuing and paying agent agreement**  
9 **pursuant to which the CP is to be issued, and any reimbursement agreement, dealer**  
10 **agreement and/or issuing and paying agreement shall have been approved by the**  
11 **Guam Public Utilities Commission and the Guam Consolidated Commission on**  
12 **Utilities, and further provided that such CP may be issued in the principal amount**  
13 **from time to time necessary to provide interim financing for projects identified in**  
14 **GWA’s Capital Improvement Program as approved by the Guam Consolidated**  
15 **Commission on Utilities, to [fund GWA’s required operating account and operating**  
16 **reserve account balances, to pay past due operating expenses incurred by GWA],**  
17 **and to pay expenses incurred in connection with the issuance of such CP but not to**  
18 **exceed an aggregate principal amount of outstanding at any time of Three Hundred**  
19 **Million Dollars (\$300,000,000.00). Such CP shall have a final maturity not later than**  
20 **270 days after its date of issuance, shall bear interest at such rate or rates and be**  
21 **sold for such price or prices in such parameters as may be approved by the Guam**  
22 **Public Utilities Commission and the Guam Consolidated Commission on Utilities,**  
23 **and shall have such other terms and conditions as are consistent with the**  
24 **requirements and limitations provided in said § 14235.**

25           **(d) Approval of Guam Waterworks Authority Refunding Bonds to Refinance**  
26 **Commercial Paper. I *Liheslaturan Guåhan*, pursuant to § 50103 of Chapter 50, Title**  
27 **12, Guam Code Annotated, hereby approves the issuance and sale GWA of fixed**

1 rate revenue bonds in one or more series or issues from time to time to refinance  
2 outstanding CP issued pursuant to Section 14235(c) of Article 2, Chapter 14, Title  
3 12, Guam Code Annotated; provided that the issuance, terms and conditions of the  
4 refinancing bonds shall have been approved by the Guam Public Utilities  
5 Commission and the Guam Consolidated Commission on Utilities, and that the sale  
6 of the bonds shall be approved by the Board of Directors of GEDA; and further  
7 provided that such refinancing bonds shall have a principal amount sufficient to  
8 provide funds for the payment of all CP to be refinanced thereby (the “prior CP”)  
9 and in addition for the payment of all expenses incident to the calling, retiring or  
10 paying of such prior CP and the issuance of such refinancing bonds, including:  
11 (i) the difference in amount between the par value of the refinancing  
12 bonds and any amount less than par for which the refinancing bonds are sold;  
13 (ii) any amount necessary to be made available for the payment of  
14 interest upon such refinancing bonds from the date of sale thereof to the date  
15 of payment of the prior CP or to the date upon which the prior CP will be paid  
16 pursuant to the call thereof or agreement with the holders thereof;  
17 (iii) the premium, if any, necessary to be paid in order to call or retire  
18 the prior CP and the interest accruing thereon to the date of the call or  
19 retirement; and  
20 (iv) any additional amount needed to provide for a deposit to the debt  
21 service reserve in connection with the issuance of the refinancing bonds;  
22 and further provided that such refinancing bonds shall be issued in compliance with  
23 the provisions of Chapter 14 of Title 12 of the Guam Code Annotated, and further  
24 provided that all obligation of the Authority to pay debt service on, and the  
25 redemption price of, the prior CP shall be discharged concurrently with the issuance  
26 of the refinancing bonds.



**Section 3. Approval of Guam Waterworks Authority Revenue Bonds.**

(a) The Guam Legislature, *I Liheslaturan Guåhan*, pursuant to Section 50103 of Title 12 of the Guam Code Annotated, hereby approves the issuance and sale by the Authority of revenue bonds pursuant to Article 2, Chapter 14, Title 12, Guam Code Annotated (the “Act”) in one or more series or issues, from time to time; provided that the issuance, terms and conditions of the bonds shall have been approved by the Guam Public Utilities Commission, and further provided that such bonds shall have a principal amount not to exceed Three Hundred Million Dollars (\$300,000,000.00), shall have maturity dates not to exceed [forty (40)] years from the respective issuance dates thereof, shall bear interest at such rate or rates and shall be sold for such price or prices as shall result in a net yield to the bondholders not exceeding \_\_\_\_\_ percent (\_\_\_\_%) per annum, and shall be issued and sold in the manner, for the purposes and subject to the requirements and limitations provided in Article 2, Chapter 14, Title 12, Guam Code Annotated. In order to be able to take advantage of Build America Bonds, or other a federally subsidized bond program, net yield to the bondholders shall be calculated by subtracting any interest subsidy amounts to be received from the United States in connection with such bonds from the amount of interest to be paid to bondholders. In addition, such bonds shall be issued for the purpose of [(1) financing capital improvement projects referenced in the Authority’s master plan from time to time], (2) financing capitalized interest with respect to the bonds, (3) funding a reserve fund deposit with respect to the bonds, and/or (3) paying expenses relating to the authorization, sale and issuance of such new bonds, including without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds.

1           (b)    The Authority shall undertake his best efforts to cause a portion of any bonds  
2 issued referenced above, to be offered for sale in Guam, as well as in other jurisdictions,  
3 if and to the extent that such offer and any sales resulting from such offer do not increase  
4 the cost to the Authority of issuing and repaying such bonds.

5           **Section 4. Severability.** If any provision of this Act or its application to any person  
6 or circumstance is found to be invalid or contrary to law, such invalidity *shall* not affect  
7 other provision or applications of this Act which can be given effect without the invalid  
8 provisions or application, and to this end the provision of this Act are severable.”

9           **Section 5. Enactment.** This act *shall* become effective upon enactment.