



GWA RESOLUTION NO. 31-FY2023

GPA RESOLUTION NO. FY2023-20

**RELATIVE TO APPROVING THE PROCUREMENT OF CONFLICT(S) AND
ASSISTANT LEGAL COUNSEL(S) FOR THE CCU, GUAM POWER AUTHORITY
AND THE GUAM WATER AUTHORITY**

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 Power Authority ("GPA") and the Guam Waterworks Authority ("GWA"); and

WHEREAS, the GPA and GWA (both hereinafter referred to as "GPWA") are Guam Public Corporations established and existing under the laws of Guam; and

WHEREAS, pursuant to the enabling laws of GPA at 12 G.C.A §8112 (a) and (d) and GWA at 12 G.C.A. §14109 (a) and (c) the CCU has broad authority to hire and appoint an attorney and any assistants who shall serve at the pleasure of the Board and who shall advise the Board and the General Manager's of the respective utilities on all legal matters to which the utilities are a party or are legally interested; and

WHEREAS, the use of the word "appoint" provides the CCU authority to choose a legal counsel based on any criteria established by the Board; and

WHEREAS, the CCU has a longstanding policy of receiving the majority of its legal services through the use of in-house attorneys, however, the CCU has found that from time-to-time in order to accommodate vacations, deployments, conflicts of interest, increased workloads, and specialized practices it has become necessary to retain an alternate attorney to serve as an alternate, interim, or conflicts Counsel; and

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1 **WHEREAS**, notwithstanding the Authority of the CCU to “appoint” a counsel and any
2 assistants, the CCU has chosen to select its alternate, interim, or conflicts Counsel through a
3 competitive procurement process which maximizes competition in the selection process; and
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5 **WHEREAS**, the most recent professional services agreement with Law Office of
6 Vincent Leon Guerrero expired May 17, 2023, and both GPA and GWA intend to issue a joint
7 Request for Proposals, on behalf of the CCU, to contract an alternate, interim, and conflicts
8 Counsel pursuant to the Guam Procurement Regulations as soon as is practicable; and
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10 **WHEREAS**, the Request for Proposals shall solicit and invite proposals for temporary
11 legal services from individual attorneys and firms to become the CCU’s and the GPA and
12 GWA’s alternate, interim, and/or conflicts Counsel; and
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14 **WHEREAS**, the RFP shall include the intent of the CCU, GPA, and GWA to contract its
15 alternate, interim, and/or conflicts Counsel(s) for a three-year term with two one-year options to
16 extend; and
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18 **WHEREAS**, both the procurement and the contract of the CCU’s alternate, interim, and
19 conflicts counsel shall be reviewed by the Office of the Attorney General pursuant to 5 G.C.A.
20 §5150, if applicable, and 5 G.C.A. §5121 (b) and *GIAA v. Moylan*, 2005 Guam 5, requiring that
21 no contract for the services of legal counsel shall be executed without the approval of the
22 Attorney General “as to legality and form”; and
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24 **NOW THEREFORE BE IT RESOLVED**; by the Consolidated Commission on
25 Utilities, it does hereby approve and authorize the following:

- 26 1. The General Managers of the Guam Power Authority and the Guam Waterworks
27 Authority are hereby authorized to issue an RFP for professional legal services for
28 the CCU, GWA, and GPA to serve in the capacity as alternate, interim, and/or
29 conflicts Counsel.
- 30 2. The proposed contract resulting from the RFP requires compliance with all Guam
31 Procurement Laws and final CCU approval.

