

BOARD OF DIRECTORS

*Francisco G. Santos, Chairman
Nathan T. Taimanglo, Vice Chairman
Isa Marie C. Koki, Board Secretary
Dorothy P. Harris, Member*



Resolution No. 2021-34

RELATIVE TO DIRECTING THE GENERAL MANAGER TO EXERCISE AUTHORITY TO TAKE ANY AND ALL ADMINISTRATIVE AND/OR CRIMINAL ACTIONS NECESSARY PURSUANT TO OAG OPINION DATED NOVEMBER 9, 2021 RE REQUEST FOR OPINION ON RETROACTIVE SALARY ADJUSTMENTS FOR FORMER MANAGEMENT AT THE PORT AUTHORITY OF GUAM

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE PORT AUTHORITY OF GUAM:

WHEREAS, on July 15, 2020, the Office of Public Accountability (“OPA”) released OPA Report No. 20-04, relative to Unclassified Employees’ Pay Raises and Bonuses at the Port Authority of Guam (“PAG”), after receiving a request from the Office of the Attorney General (“OAG”) to review potential violations of the Open Government Law in relation to employee compensation within autonomous agencies; and

WHEREAS, the OPA, in a similar matter, requested that the OAG review pay increase adjustments given to former and current executives of another Government of Guam autonomous agency, to determine whether any upward payments were made in violation of Guam laws prohibiting retroactive compensation; and

WHEREAS, on February 9, 2021, the PAG asked the OAG to review legality of certain salary adjustments for former PAG management from 2012 through 2018; and

WHEREAS, on November 1, 2021, the OAG issued an Opinion Memorandum that directly addressed the Port’s inquiry regarding the validity of the pay adjustments in question, to wit: “Do the pay adjustments . . . constitute evidence of an illegal retroactive salary adjustment under Guam law?” *See Pay Raises Granted to Former and Current GHURA Executive Directors and Deputy Directors, Op. Att’y Gen. No. OPA 20-0375 (Nov. 1, 2021);* and

WHEREAS, on November 9, 2021, the PAG received the Opinion Memorandum issued by the OAG in response to the PAG’s request for Opinion on Retroactive Salary Adjustments of Former Management at the PAG, wherein the OAG enclosed the GHURA Opinion and directed PAG Legal Counsel to determine the validity and legality of the PAG Board of Directors’ (“BOD”) past actions with respect to former General Managers Joanne Brown’s salary adjustments and best practices moving forward; and

WHEREAS, Title 4 GCA § 2103.14 provides, “[n]o unclassified employee or officer of the government of Guam may receive a retroactive pay increase unless specifically authorized by statute.” *See 4 GCA § 2103.14 (Retroactive Pay);* and

WHEREAS, Title 4 GCA § 6218.1 further provides, “[w]henever a classified or unclassified employee of the Government of Guam, including all departments, agencies and instrumentalities, whether or not autonomous, receives an increase in pay resulting from step increase, pay range increase, promotion or any other cause, such increase in pay shall not be retroactive from the date of its authorization unless so specified by law. Any person who authorizes a pay raise which is retroactive in violation of this Section shall be guilty of a misdemeanor.” *See 4 GCA § 6218.1 (Prohibition on Retroactive Pay Raise);* and

WHEREAS, based on PAG in-house legal review, and with the guidance provided by both the OPA’s Performance Audit and the OAG’s Opinion Memorandum, it appears that salary adjustments for former PAG General Manager Joanne Brown were applied retroactively in violation of Title 4 GCA § 2103.14 (Retroactive Pay) and Title 4 GCA § 6218.1 (Prohibition on Retroactive Pay Raises).

WHEREAS, it is the duty of the General Manager to ensure the protection of ratepayer funds, particularly with regard to the misuse and misappropriation of public funds; and

WHEREAS, the PAG must confirm and calculate any and all retroactive payments resulting from any and all salary adjustments to the former PAG management from December 2012 through December 2018, and seek any and all administrative and/or criminal actions necessary pursuant to the OAG’s Opinion Memorandum and Guam law; and

NOW THEREFORE BE IT RESOLVED, that the Board of Directors, hereby directs the PAG General Manager to exercise authority to take any and all administrative and/or criminal actions necessary pursuant to OAG Opinion dated November 9, 2021 re Request for Opinion on Retroactive Salary Adjustments for Former Management at the Port Authority of Guam

RESOLVED, the Chairman certify to, and the Secretary attest to, the adoption hereof.

PASSED AND ADOPTED BY A MAJORITY VOTE BY THE BOARD OF DIRECTORS THIS 24th DAY OF NOVEMBER, 2021.

**FRANCISCO G. SANTOS
CHAIRMAN, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM**

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**ISA MARIE C. KOKI
SECRETARY, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM**

