



*I Mina'Trentai Kuåttro Na Liheslaturan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
228-34 (LS)	Dennis G. Rodriguez, Jr. Joe S. San Agustin	AN ACT TO ADD NEW SUBSECTIONS 75122(c)(21) AND 75122(c)(21)(A) TO CHAPTER 75 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO APPROVING AN AMENDMENT TO AN EXISTING LICENSE AGREEMENT WITH THE CHAMORRO LAND TRUST COMMISSION (CLTC), AND TO PROVIDE AN ANNUAL CONTINUING APPROPRIATION FROM THE RECYCLING REVOLVING FUND TO PROVIDE PAYMENT FOR A PRIOR YEAR OBLIGATION RESULTING FROM A 2001 LICENSE AGREEMENT EXECUTED BY CLTC FOR 25,000 METRIC TONS OF METALLIC	1/11/18 2:07 p.m.						

*I MINA'TRENTAI KUATTRO NA LIHESLATURAN GUÅHAN*  
2018 (SECOND) Regular Session

Bill No. 028 -34 (LS )

Introduced by:

Dennis G. Rodriguez, Jr.   
Joe S. San Agustin 

**AN ACT TO ADD NEW SUBSECTIONS 75122(c)(21) AND 75122(c)(21)(A) TO CHAPTER 75 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO APPROVING AN AMENDMENT TO AN EXISTING LICENSE AGREEMENT WITH THE CHAMORRO LAND TRUST COMMISSION (CLTC), AND TO PROVIDE AN ANNUAL CONTINUING APPROPRIATION FROM THE RECYCLING REVOLVING FUND TO PROVIDE PAYMENT FOR A PRIOR YEAR OBLIGATION RESULTING FROM A 2001 LICENSE AGREEMENT EXECUTED BY CLTC FOR 25,000 METRIC TONS OF METALLIC WASTE REMOVAL FROM THE ISLAND OF GUAM.**

2018 JAN 11 PM 2:07 C.S.

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1. Legislative history and intent.** *I Liheslaturan Guåhan* determines that in order to bring closure to a Seven Million Five Hundred Thousand Dollar (\$7,500,000) liability resulting from the collection and shipment of a minimum of 25,000 metric tons of junk cars, other metallic waste and old tires off the island for work satisfactorily completed more than a decade ago enactment of a new statute is required.

This license agreement established an ongoing legally binding contract entered into between the Chamorro Land Trust Commission (CLTC) and Ko'Ku Recycling in 2001. CLTC stated in the license agreement that it had "been determined and agreed to be in excess of 25,000

1 metric tons.” The CLTC recognized in March, 2006 that “based upon a  
2 recent inspection of Lot. 10122-15, Dededo, better known as the Dededo  
3 Metallic Waste Station, it appears that the property has been substantially  
4 cleared of metallic waste.” Moreover, Mr. Benny C. Bello, President of  
5 Ko’Ku Recycling, Inc. and Attorney Frederick J. Horecky have presented  
6 shipping receipts to the Legislature indicating that Ko’Ku recycling has  
7 removed approximately 50,000 metric tons of junk cars, other metallic waste  
8 and old tires from CLTC’s property and shipped them off the island.  
9 Consequently, if Mr. Bello did not agree to only be compensated for the first  
10 25,000 metric tons of metallic waste removal, this Government of Guam  
11 liability could have been upwards of \$15,000,000.

12 CLTC is able to absorb \$1,600,000 in the form of credit in lieu of cash  
13 payment from the Licensee since that amount is what is projected that the  
14 Licensee will pay in total lease payments over the course of this amended  
15 agreement. Given that it would be difficult, if not impractical, for the CLTC  
16 to issue rental credit as compensation to Licensee to satisfy the remaining  
17 \$5,900,000 liability, the Recycling Revolving Fund (RRF) has been  
18 identified as an available source to provide for the remaining balance.  
19 However, such payments would have to be spread out over a ten-year period  
20 since the RRF currently generates \$2.9M annually. The Environmental  
21 Protection Agency (EPA) confirms that \$590,000 can be allocated annually  
22 for a ten-year period to meet the remaining \$5,900,000, and such allocation  
23 of funds is in concert with the RRF’s mandates. Furthermore, legislative  
24 precedent was set in Fiscal Year 2009 wherein the RRF was used to pay all  
25 prior year obligations. The work, at that time, involved an island-wide  
26 collection and off-island disposal of abandoned vehicles, white goods, tires,

1 and batteries program pursuant to GSA Bid No. 038-05. Specifically,  
2 §51304 of Chapter 51, Article 3, Title 10 GCA, provides:

3 *“In Fiscal Year 2009 the Administrator shall expend*  
4 *monies from the Recycling Revolving Fund to first pay*  
5 *any remaining unpaid debt including any and all prior*  
6 *year obligations related to GSA 038-05 before any other*  
7 *expenditures are made to ensure that all previous*  
8 *accounts have been satisfied accordingly.”*

9 *I Liheslatura* further determines that in the course of resolving this  
10 debt, there remains an opportunity to statutorily mandate a nexus between  
11 CLTC and the Environmental Protection Agency (EPA) to support regional  
12 recycling initiatives, a green waste plan, including the construction of a  
13 regional composting facility, and disaster debris management (participation  
14 by non-government agencies, educational institutions, and non-profit  
15 organizations licensed in Guam which promote the learning, training, and  
16 assistance in waste reduction, reuse, recovery or recycling within our island  
17 community.

18 **Section 2. Statutory Approval of an amendment to Existing**  
19 **CLTC License Agreement.** New Subsections 75122(c)(21), and 75122  
20 (c)(21)(A) are hereby added to Chapter 75, Title 21, Guam Code Annotated,  
21 to read:

22 **“(21). Statutory Approval of an amendment to Existing License**  
23 **Agreement Relative to Lot. No. 5219-1-1, Barrigada, Guam; and to**  
24 **Establish CLTC Credit in Lieu of Cash Payment Resulting from the**  
25 **provisions of §75122(c)(21)(A), *Infra.* The Chamorro Land Trust**  
26 **Commission (CLTC) shall execute, *in toto*, the following First Amendment**  
27 **to a CLTC License Agreement for Lot. No. 5219-1-1, Barrigada, Guam:**

1 FIRST AMENDMENT TO CHAMORRO LAND TRUST  
2 COMMISSION LICENSE AGREEMENT

3 THIS FIRST AMENDMENT is entered into on this  
4 day of 2017, by and between the Chamorro Land Trust  
5 Commission, whose mailing address is Post Office Box 2950,  
6 Hagatna, Guam 96932 (“Licensor”) and Ko’Ku Recycling,  
7 whose mailing address is Post Office Box 25158 GMF, Guam  
8 96921 (“Licensee”).

9 RECITALS

10 WHEREAS, Licensor and Licensee previously entered  
11 into a License Agreement regarding Lot No. 5219-1-1,  
12 Barrigada, Guam, a true and correct copy of which is attached  
13 hereto as Exhibit “1”; and

14 WHEREAS, in accordance with said license agreement,  
15 Licensee is authorized to conduct business related to solid  
16 waste management, processing, recycling, disposal and a  
17 storage facility, so long as all uses are legal and conforming;  
18 and

19 WHEREAS, parties wish to clarify certain matters set  
20 forth in the License Agreement.

21 NOW, THEREFORE, in consideration of the mutual and  
22 dependent promises set forth herein, the parties hereto agree as  
23 follows:

24 I. Except as expressly agreed to in writing in this  
25 First Amendment, all provisions in the License Agreement  
26 between the parties, attached hereto as Exhibit “1”, will remain  
27 fully binding and in full force and effect.

1                   2. Pursuant to Section II, TERM, of the License  
2                   Agreement, the parties agree that the “initial term” of the  
3                   License Agreement shall be deemed to have commenced on  
4                   September 4, 2005.

5                   3. In Section V of the License Agreement,  
6                   COMPENSATION, the parties agreed that Licensee would  
7                   receive certain credit in exchange for rental payments for all  
8                   cleanup work; conducted by Licensee on Lot No. 10122-15,  
9                   and that the amount of the credit would be based upon work  
10                  performed on Lot No.10122-15, including but not limited to the  
11                  removal of metallic waste and other items. Licensor has already  
12                  agreed that Licensee is entitled to credit for the removal of at  
13                  least 25,000 metric tons from Lot No. 10122-15. In accordance  
14                  with the formula set forth in Section V, Licensor and Licensee  
15                  hereby agree that the total amount of credit currently due  
16                  Licensee for work completed pursuant to Section V is  
17                  \$7,500,000. A total of \$1,600,000 will be made available in the  
18                  form of a CLTC credit, and shall be an offset in favor of  
19                  Licensee against any rental payments that would otherwise be  
20                  due to Licensor under this License Agreement, as amended, or  
21                  any other CLTC property available for lease or license  
22                  agreement, provided, however, that such lease or license  
23                  agreement be mutually agreed to by the CLTC and the  
24                  Licensee. Given that it would be difficult, if not impractical, for  
25                  the CLTC to issue rental credit as compensation to Licensee to  
26                  satisfy the remaining \$5,900,000 liability, the Recycling  
27                  Revolving Fund (RRF) has been identified as an available

1 source to provide for the remaining balance. However, such  
2 payments would have to be spread out over a ten-year period  
3 since the RRF currently generates \$2.9M annually. Therefore,  
4 both the CLTC and the Licensee acknowledge herein that the  
5 balance of \$5,900,000 will be provided for by way of a  
6 continuing appropriation from the RRF, over a 10-year period  
7 and without any interest applied by the Licensee because of  
8 delayed payment. The agreed upon calculation of the credit due  
9 Licensee is set forth in the document attached hereto is Exhibit  
10 "2". Benny B. Bello and Licensee further agree that the license  
11 for Lot 10122-15 is terminated with respect to Bello and  
12 Licensee. Bello and Licensee are released from any further  
13 responsibility or liability for such lot.

14 4. Licensee shall be authorized to conduct the  
15 following business activities on the real property, Lot 5219-1-1,  
16 Barrigada; solid waste processing facility, solid waste  
17 management disposal and recycling, hard fill, storage and  
18 warehousing, operation of construction office and storage and  
19 sales of construction and building materials and equipment, and  
20 lay down yard.

21 5. Licensee will immediately continue with its efforts  
22 to clean and remediate the property. Within sixty (60) days  
23 from approval of this Amendment, Licensee will provide a  
24 detailed plan to the CLTC indicating how the property will be  
25 cleaned and remediated. Licensee will submit periodic reports  
26 to the CLTC, no less than quarterly, indicating its progress in  
27 fulfilling its obligations under the license agreement. A sum of

1 \$300,000 resulting from cash payments appropriated from the  
2 Recycling Revolving Fund shall be held in trust by the  
3 Environmental Protection Agency (EPA) and such funds shall  
4 be released by EPA to contractors, selected by the Licensee, to  
5 implement an EPA approved plan prepared and submitted by  
6 the Licensee to remediate this property. Upon EPA's  
7 certification of satisfactory completion of the remediation work  
8 for this property, EPA shall release any remaining balances to  
9 the Licensee.

10 6. CLTC and Licensee may negotiate for the  
11 exchange of another property, in substitution of the property  
12 licensed herein. Any such substitution must be mutually agreed  
13 upon by the parties. In the event that the parties agree to the  
14 substitution of another property, the credit currently due to  
15 licensee shall be transferable to such other property.

16 7. All provisions in the License Agreement, except as  
17 expressly modified herein, shall remain in full force and effect.

18 8. Licensee will provide insurance coverage in  
19 accordance with the original license.

20 9. Licensee shall pay any applicable real estate  
21 taxes.'

22 **(A). Statutory Creation of CLTC credit.** There is hereby  
23 established CLTC credit of \$1,600,000 to be used by the Licensee in  
24 lieu of cash payments to CLTC, and in order to satisfy the terms and  
25 conditions of Subsection 75122(c)(21), *Supra*. Such CLTC credits  
26 established herein shall NOT be assignable to a third party or parties  
27 and shall only be used by the Licensee against any rental payments



1 that would otherwise be due to Licensor under the amended License  
2 Agreement, pursuant to this Act. Furthermore, such CLTC credits  
3 established herein shall remain valid and lawfully binding until fully  
4 redeemed pursuant to this Act, and shall be honored by the CLTC  
5 accordingly.”

6 **Section 3. Continuing appropriation beginning on October 1,**  
7 **2017 until October 1, 2027.** A new Subsection 51303(a)(6) is added to §  
8 51303 of Article 3, Chapter 51 of Title 10, Guam Code Annotated to read:

9 “(6) Beginning in Fiscal Year 2018 and for ten  
10 consecutive fiscal years thereafter through Fiscal Year 2027,  
11 Five Hundred Ninety Thousand Dollars (\$590,000.00) shall be  
12 appropriated annually to fund a prior year obligation authorized  
13 in § 75122(C)21 of Chapter 75 of Title 21, Guam Code  
14 Annotated.”

15 **Section 4. Creation of a nexus between CLTC and the**  
16 **Environmental Protection Agency (EPA).** The CLTC and EPA are  
17 mandated to develop a joint plan which identifies available CLTC  
18 properties, which are free and clear and suitable to support regional  
19 recycling initiatives, green waste plan, including the construction of a  
20 regional composting facility and disaster debris management. This joint plan  
21 shall seek to establish public/private partnerships between the Government  
22 of Guam and non-government organizations, public or private educational  
23 institutions, or nonprofit organizations licensed in Guam aimed at promoting  
24 the learning, training, and assistance in waste reduction, reuse, recovery or  
25 recycling within our island community. This joint plan shall be submitted, in  
26 a legislative bill format, by *I Maga'låhen Guåhan* to the Speaker of *I*

1 *Liheslaturan Guãhan* no later than 120 calendar days from the enactment of  
2 this Act.

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