


*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
350-34 (COR)	Dennis G. Rodriguez, Jr.	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.	9/13/18 1:33 p.m.						

**I MINA'TRENTAI KU'ATTRO NA LIHESLATURAN GU'AHAN  
2018 (SECOND) Regular Session**

Bill No. 350 -34 (COR )

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 SEP 13 PM 1:33

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

**Section 1. Legislative history and intent.** *I Liheslaturan Gu'ahan* 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 Re-

1 cycling in 2001. CLTC stated in the license agreement that it had “been determined  
2 and agreed to be in excess of 25,000 metric tons.” The CLTC recognized in March,  
3 2006 that “based upon a recent inspection of Lot. 10122-15, *Dededo*, better known  
4 as the Dededo Metallic Waste Station, it appears that the property has been sub-  
5 stantially cleared of metallic waste.” Moreover, Mr. Benny C. Bello, President of  
6 Ko’Ku Recycling, Inc., and Attorney Frederick J. Horecky have presented ship-  
7 ping receipts to the Legislature indicating that Ko’Ku Recycling, Inc. has removed  
8 approximately 50,000 metric tons of junk cars, other metallic waste and old tires  
9 from CLTC’s property and shipped them off the island. Consequently, if Mr. Bello  
10 did not agree to only be compensated for the first 25,000 metric tons of metallic  
11 waste removal, this Government of Guam liability could have been upwards of  
12 \$15,000,000.

13 CLTC is able to absorb \$1,600,000 in the form of credit in lieu of cash pay-  
14 ment from the Licensee since that amount is what is projected that the Licensee  
15 will pay in total lease payments over the course of this amended agreement. Given  
16 that it would be difficult, if not impractical, for the CLTC to issue rental credit as  
17 compensation to Licensee to satisfy the remaining \$5,900,000 liability, the Recy-  
18 cling Revolving Fund (RRF) has been identified as an available source to provide  
19 for the remaining balance. However, such payments would have to be spread out  
20 over a ten-year period since the RRF currently generates \$2.9M annually. The En-  
21 vironmental Protection Agency (EPA) confirms that \$590,000 can be allocated an-  
22 nually 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 precedent  
24 was set in Fiscal Year 2009 wherein the RRF was used to pay all prior year obliga-  
25 tions. The work, at that time, involved an island-wide collection and off-island dis-  
26 posal of abandoned vehicles, white goods, tires, and batteries program pursuant to  
27 GSA Bid No. 038-05. Specifically, 10 GCA § 51304, provides:

1 “In Fiscal Year 2009 the Administrator shall expend monies from the  
2 Recycling Revolving Fund to first pay any remaining unpaid debt in-  
3 cluding any and all prior year obligations related to GSA 038-05 be-  
4 fore any other expenditures are made to ensure that all previous ac-  
5 counts have been satisfied accordingly.”

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

9 “(21). Statutory Approval of an amendment to Existing License  
10 Agreement Relative to Lot. No. 5219-1-1, Barrigada, Guam; and to Establish  
11 CLTC Credit in Lieu of Cash Payment Resulting from the provisions of §  
12 75122(c)(21)(A), *Infra*. The Chamorro Land Trust Commission (CLTC) shall exe-  
13 cute, *in toto*, the following First Amendment to a CLTC License Agreement for  
14 Lot. No. 5219-1-1, Barrigada, Guam:

15 FIRST AMENDMENT TO CHAMORRO LAND TRUST COMMISSION  
16 LICENSE AGREEMENT

17 THIS FIRST AMENDMENT is entered into on this \_\_\_\_\_ day of \_\_\_\_\_  
18 2017, by and between the Chamorro Land Trust Commission, whose mailing ad-  
19 dress is Post Office Box 2950, Hagåtña, Guam 96932 (“Licensor”) and Ko’Ku Re-  
20 cycling, whose mailing address is Post Office Box 25158 GMF, Guam 96921 (“Li-  
21 icensee”).

22 RECITALS:

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

26 WHEREAS, in accordance with said license agreement, Licensee is author-  
27 ized to conduct business related to solid waste management, processing, recycling,

1 disposal and a storage facility, so long as all uses are legal and conforming; and

2 WHEREAS, parties wish to clarify certain matters set forth in the License  
3 Agreement.

4 NOW, THEREFORE, in consideration of the mutual and dependent promis-  
5 es set forth herein, the parties hereto agree as follows:

6 1. Except as expressly agreed to in writing in this First Amendment, all  
7 provisions in the License Agreement between the parties, attached hereto as Exhib-  
8 it "1", will remain fully binding and in full force and effect.

9 2. Pursuant to Section II, TERM, of the License Agreement, the parties  
10 agree that the "initial term" of the License Agreement shall be deemed to have  
11 commenced on September 4, 2005.

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

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

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

17 5. Licensee will immediately continue with its efforts to clean and reme-  
18 diate the property. Within sixty (60) days from approval of this Amendment, Li-  
19 icensee will provide a detailed plan to the CLTC indicating how the property will  
20 be cleaned and remediated. Licensee will submit periodic reports to the CLTC, no  
21 less than quarterly, indicating its progress in fulfilling its obligations under the li-  
22 cence agreement. A sum of \$300,000 resulting from cash payments appropriated  
23 from the Recycling Revolving Fund shall be held in trust by the Environmental  
24 Protection Agency (EPA) and such funds shall be released by EPA to contractors,  
25 selected by the Licensee, to implement an EPA approved plan prepared and sub-  
26 mitted by the Licensee to remediate this property. Upon EPA's certification of sat-  
27 isfactory completion of the remediation work for this property, EPA shall release

1 any remaining balances to the Licensee.

2 6. CLTC and Licensee may negotiate for the exchange of another prop-  
3 erty, in substitution of the property licensed herein. Any such substitution must be  
4 mutually agreed upon by the parties. In the event that the parties agree to the sub-  
5 stitution of another property, the credit currently due to licensee shall be transfera-  
6 ble to such other property.

7 7. All provisions in the License Agreement, except as expressly modi-  
8 fied herein, shall remain in full force and effect.

9 8. Licensee will provide insurance coverage in accordance with the orig-  
10 inal license.

11 9. Licensee shall pay any applicable real estate taxes.’

12 (A) Statutory Creation of CLTC credit. There is hereby established  
13 CLTC credit of \$1,600,000 to be used by the Licensee in lieu of cash payments to  
14 CLTC, and in order to satisfy the terms and conditions of Subsection 75122(c)(21),  
15 Supra. Such CLTC credits established herein shall NOT be assignable to a third  
16 party or parties and shall only be used by the Licensee against any rental payments  
17 that would otherwise be due to Licensor under the amended License Agreement,  
18 pursuant to this Act. Furthermore, such CLTC credits established herein shall re-  
19 main valid and lawfully binding until fully redeemed pursuant to this Act, and shall  
20 be honored by the CLTC accordingly.”

21 **Section 3. Continuing appropriation beginning on October 1, 2018**  
22 **until October 1, 2028.** A new Subsection 51303(a)(6) is *added* to § 51303 of Arti-  
23 cle 3, Chapter 51 of Title 10, Guam Code Annotated to read:

24 “(6) Beginning in Fiscal Year 2019 and for ten consecutive fiscal years  
25 thereafter through Fiscal Year 2028 Five Hundred Ninety Thousand Dollars  
26 (\$590,000.00) shall be appropriated annually to fund a prior year obligation au-  
27 thorized in § 75122(C)21 of Chapter 75, Title 21, Guam Code Annotated.”

1           **Section 4. Severability.** If any provision of this Act or its application to  
2 any person or circumstance is found to be invalid or contrary to law, such invalidi-  
3 ty *shall not* affect other provisions or applications of this Act that can be given ef-  
4 fect without the invalid provisions or application, and to this end the provisions of  
5 this Act are severable.

6           **Section 5. Effective Date.** This Act *shall* become effective upon enact-  
7 ment.