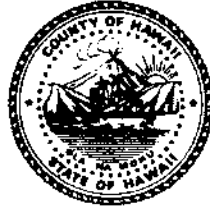


From the office of -  
Council Member  
District 3 - Hilo and Puna



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2017 APR - 3 PM 12: 39  
COUNTY CLERK  
COUNTY OF HAWAII

TO: Valerie T. Poindexter, Chair  
and Members of the Hawai'i County Council

FROM: ~~SM/LR~~ Sue Lee Loy, Council Member

DATE: April 3, 2017

Subject: Proposed Amendments to Resolution No. 135: Resolution Urging the Honorable Mayor Harry Kim to Rescind the Termination of the Contract Issued Pursuant to the Request for Proposal No. 3298: For Furnishing and Implementing an Organics Diversion Program in East Hawai'i and West Hawai'i for the Department of Environmental Management to Best Meet Hawai'i County's Solid Waste Management Goals.

Please find attached proposed amendments to Resolution No. 135. The proposed amendments are illustrated below in Ramseyer format with respect to the contents of Resolution No. 135. A draft copy of Resolution No. 135, Draft 2, is attached with these additional amendments incorporated therein.

1. Resolution No. 135 is amended by inserting five new clauses as the eighth through twelfth clauses to read as follows:

"WHEREAS, Appendix 2 of the Contract identifies Tax Map Keys: (3)-2-1-013:142, 160, 161, and 163 as the proposed location of the East Hawai'i Organics Facility; and

WHEREAS, the Keaukaha-Pana'ewa Farmers Association opposes the proposed location of the East Hawai'i Organics Facility; and

WHEREAS, the Office of Hawaiian Affairs, in a letter to the Chief of the Solid Waste Division of the Department of Environmental Management dated December 12, 2016, raised objections to the proposed "Finding of No Significant Impact" for the Draft Environmental Assessment for the organics facility, "primarily due to the project's proximity to communities in which our beneficiaries live and work, and an absence of serious study of cumulative impacts and planned projects"; and

WHEREAS, the Department of Hawaiian Home Lands, in a letter to the Mayor dated January 23, 2017, opposes the proposed location of an East Hawai'i Organics Facility because it "poses a significant threat to the health and well-being of our Pana'ewa beneficiaries"; and

Comm. No. 191.1  
Ref. To: PT Council  
Ref. Date APR 05 2017

WHEREAS, Senator Kaiali'i Kahele and Representative Chris Todd, in a letter to the Council dated March 20, 2017, write that the concerns of residents in close proximity to the facility "must be addressed and there are alternate sites in East Hawai'i" to locate the project; and"

2. Resolution No. 135 is amended by inserting the following clause after the enacting clause:

"**BE IT FURTHER RESOLVED** that the County is urged to seek agreement with the contractor to build the East Hawai'i Organics Facility in a location other than the parcels identified in Appendix 2 of the Contract."

SLL/ps  
Att.

**RESOLUTION URGING THE HONORABLE MAYOR HARRY KIM TO RESCIND THE TERMINATION OF THE CONTRACT ISSUED PURSUANT TO THE REQUEST FOR PROPOSAL NO. 3298: FOR FURNISHING AND IMPLEMENTING AN ORGANICS DIVERSION PROGRAM IN EAST HAWAI'I AND WEST HAWAI'I FOR THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT TO BEST MEET HAWAI'I COUNTY'S SOLID WASTE MANAGEMENT GOALS.**

**WHEREAS**, in December 2007, the County Council adopted Resolution No.356-07 incorporating the Principles of Zero Waste as a long-term goal for the County of Hawai'i; and

**WHEREAS**, in May 2008, the County Council adopted Resolution No. 624-08, which funded a \$50,000 study on the County's Zero Waste policy espoused by Resolution No. 356-07; and

**WHEREAS**, in January 2009, the County Council adopted Resolution No. 826-08 urging the Department of Environmental Management to develop an ordinance and implement a plan to prohibit food, paper, and compostable organics from Hawai'i County landfills by 2012; and

**WHEREAS**, the County of Hawai'i's 2009 Integrated Resources and Solid Waste Management Plan found that 54% (114,000 tons) of Waste disposed at County landfills is organic materials that could be recycled, thereby preserving valuable landfill space; and

**WHEREAS**, in 2013, the County established greenwaste and organics diversion operation sites referred to as the West Hawai'i Organics Facility adjacent to the West Hawai'i Sanitary Landfill and the East Hawai'i Organics Facility adjacent to the Hilo Sanitary Landfill, where greenwaste and untreated wood pallets are processed into mulch; and

**WHEREAS**, on May 6, 2015, the County Council adopted Resolution No. 126-15 authorizing the payment of funds for a later fiscal year and of a multi-fiscal year agreement for furnishing organic waste diversion operations in West Hawai'i and East Hawai'i for the Department of Environmental Management; and

**WHEREAS**, the County entered into a ten (10) year Service Agreement (the Contract) that began on July 1, 2016, to provide an organic waste diversion program in East Hawai'i and West Hawai'i for the Department of Environmental Management that involves sanitizing and partially composting mulch to control invasive species; and

**WHEREAS**, Appendix 2 of the Contract identifies Tax Map Keys: (3)-2-1-013:142, 160, 161, and 163 as the proposed location of the East Hawai'i Organics Facility; and

**WHEREAS**, the Keaukaha-Pana'ewa Farmers Association opposes the proposed location of the East Hawai'i Organics Facility; and

**WHEREAS**, the Office of Hawaiian Affairs, in a letter to the Chief of the Solid Waste Division of the Department of Environmental Management dated December 12, 2016, raised objections to the proposed "Finding of No Significant Impact" for the Draft Environmental Assessment for the organics facility, "primarily due to the project's proximity to communities in

which our beneficiaries live and work, and an absence of serious study of cumulative impacts and planned projects”; and

**WHEREAS**, the Department of Hawaiian Home Lands, in a letter to the Mayor dated January 23, 2017, opposes the proposed location of an East Hawai‘i Organics Facility because it “poses a significant threat to the health and well-being of our Pana‘ewa beneficiaries; and

**WHEREAS**, Senator Kaiali‘i Kahele and Representative Chris Todd, in a letter to the Council dated March 20, 2017, write that the concerns of residents in close proximity to the facility “must be addressed and there are alternate sites in East Hawai‘i” to locate the project; and

**WHEREAS**, on February 16, 2017, the Mayor notified the organic waste diversion program Contractor that the County was pursuing a “Termination for Convenience” of the service agreement to take effect on June 30, 2017; and

**WHEREAS**, Sections 10.10 and 10.29 of the Contract, and Section 15 of the County’s Special Provisions, permit the Contracting Officer to make modifications to the Contract; and

**WHEREAS**, the Environmental Assessment for the in-vessel Composting Facility identified in the Contract, which is required before finalizing the site for the in-vessel Composting Facility, has not yet been completed; and

**WHEREAS**, Article VIII, Section 8.1 of the Contract provides for modification to the Composting Facilities Design-Build Date, which may be extended due to the occurrence of an “Uncontrollable Circumstance”; and

**WHEREAS**, on February 16, 2017, the Director of Finance submitted for introduction to the Council Resolution No. 101-17, which authorizes the payment of funds of a later fiscal year and a multi-fiscal year agreement for furnishing greenwaste diversion operations in West Hawai‘i and East Hawai‘i for the Department of Environmental Management; and

**WHEREAS**, on March 21, 2017, Environmental Management Committee members reviewed a confidential and privileged report referenced by the Mayor in his testimony at the March 7, 2017, Environmental Management Committee meeting; and

**WHEREAS**, several members of the Environmental Management Committee found the cost analysis within this report to be flawed; and

**WHEREAS**, on March 21, 2017, the Environmental Management Committee was not provided with any information to support the Mayor’s statements claiming the Contract did not meet the County’s 2009 Solid Waste Management Goals, as provided in his testimony during the March 7, 2017, Environmental Management Committee meeting; and

**WHEREAS**, on March 21, 2017, the Finance Committee, sent a strong, unified message to the Mayor by voting unanimously to forward Resolution No. 101-17 to the Council with a negative recommendation; now, therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAII** that it urges the Mayor to rescind the “Termination for Convenience” notice to the Contractor, dated Feb. 16, 2017, to best insure that the County’s solid waste management goals are achieved.

**BE IT FURTHER RESOLVED** that the County is urged to seek agreement with the contractor to build the East Hawai’i Organics Facility in a location other than the parcels identified in Appendix 2 of the Contract.

**BE IT FURTHER RESOLVED** that the Council of the County of Hawai’i urges the Mayor to work with the Contractor to make mutually agreeable modifications to the Contract’s Composting Facilities Design-Build Date and adjust Contract pricing as needed to reflect the new timeline.

**BE IT FINALLY RESOLVED** that the County Clerk shall transmit a copy of this resolution to the Honorable Mayor Harry Kim, the Director of Environmental Management, and the Director of Finance.