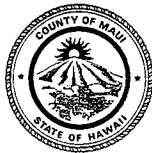


JOSIAH K. NISHITA
County Clerk



OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

RECEIVED

MARGARET C. CLARK
Deputy County Clerk

2019 APR -5 PM 3:42

**OFFICE OF THE
COUNTY COUNCIL**

April 5, 2019

Honorable Keani Rawlins-Fernandez, Chair
Economic Development and Budget Committee
Council of the County of Maui
Wailuku, Hawaii 96793

Dear Chair Rawlins-Fernandez:

Respectfully transmitted is a copy of COUNTY COMMUNICATION NO. 19-159, from Councilmember Rawlins-Fernandez, transmitting a proposed resolution entitled "AUTHORIZING THE COUNCIL CHAIR TO CONDUCT A FISCAL AND PERFORMANCE REVIEW OF THE USE, MANAGEMENT, AND EXPENDITURE OF PUBLIC FUNDS FOR ANAERGIA SERVICES LLC-RELATED PROJECTS", that was referred to your Committee by the Council of the County of Maui at its meeting of April 5, 2019.

Also attached is a copy of the resolution which was approved as to form and legality from the Corporation Counsel.

Respectfully,

A handwritten signature in black ink, appearing to be "J. Nishita", written over a horizontal line.

JOSIAH K. NISHITA
County Clerk

/lks

Enclosures

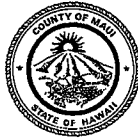
cc: Director of Council Services

Council Chair
Kelly T. King

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Riki Hokama
Alice L. Lee
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Maria E. Zielinski

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

March 28, 2019

RECEIVED
2019 MAR 28 PM 4:11
OFFICE OF THE
COUNTY CLERK

The Honorable Kelly T. King
Council Chair
County of Maui
Wailuku, Hawaii 96793

Dear Chair King:

**SUBJECT: FISCAL AND PERFORMANCE REVIEW OF ANAERGIA
SERVICES LLC-RELATED PROJECTS (PAF 19-115)**

May I request the attached proposed resolution, entitled "AUTHORIZING THE COUNCIL CHAIR TO CONDUCT A FISCAL AND PERFORMANCE REVIEW OF THE USE, MANAGEMENT, AND EXPENDITURE OF PUBLIC FUNDS FOR ANAERGIA SERVICES LLC-RELATED PROJECTS," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink, appearing to read "Keani N.W. Rawlins-Fernandez".

KEANI N.W. RAWLINS-FERNANDEZ
Councilmember

paf:cmn:19-115c

Attachment

COUNTY COMMUNICATION NO. 19-159

Resolution

No. _____

AUTHORIZING THE COUNCIL CHAIR TO CONDUCT A FISCAL AND PERFORMANCE REVIEW OF THE USE, MANAGEMENT, AND EXPENDITURE OF PUBLIC FUNDS FOR ANAERGIA SERVICES LLC-RELATED PROJECTS

WHEREAS, pursuant to Subsection 3-6(6) of the Revised Charter of the County of Maui (1983), as amended ("Charter"), the Council has the authority to conduct investigations of the operation of any department or function of the County and any subject upon which the Council may legislate; and

WHEREAS, the County of Maui has entered into two contracts with subsidiaries of Anaergia Services LLC ("Anaergia")—Maui Resource Recovery Facility, LLC ("MRRF"), and Maui All Natural Alternative, LLC; and

WHEREAS, in response to Request for Proposals 12-13/P32, the County selected Anaergia, which in turn formed MRRF to finance, plan, design, permit, construct, own, operate, and maintain an Integrated Waste Conversion and Energy Project, intended to be located on privately owned real property in the vicinity of the Central Maui Landfill at One Pulehu Road, Puunene, Maui, Hawaii; and

WHEREAS, according to the Maui County Integrated Waste Conversion and Energy Project Services Agreement dated January 8, 2014 (Contract M1016), MRRF's facility is intended to be a "Resource Recovery Facility" and will receive and convert Acceptable Waste and Landfill Gas into Fuel, Renewable Energy, or other marketable commodities, thereby diverting a significant percentage of waste from disposal in the Landfill; and

WHEREAS, the Agreement sets forth various terms for compensation between the parties; and

WHEREAS, the Agreement identifies a term of twenty years from the Commercial Operation Date, defined as the date upon which full

Resolution No. _____

commercial operation of MRRF's Facility's primary project components and processes commence; and

WHEREAS, the Council commissioned a study to assess and evaluate the Solid Waste Management Division, Department of Environmental Management, as an outgrowth of questions raised during the Fiscal Year 2015 budget process; and

WHEREAS, one of the questions posed was to "[a]ssess whether implementation of the Maui County Integrated Waste Conversion and Energy Project (Contract M1016) will result in a net cost savings to the County compared to current operating practices"; and

WHEREAS, the "Review & Assessment of the Solid Waste Division," prepared by CB&I Environmental and Infrastructure, Inc. and dated March 7, 2016, made two principal findings on the question: (1) the Department of Environmental Management's analysis projected the Waste-to-Energy project would result in cost savings of approximately \$916,500 per year (versus the current landfill); and (2) CB&I believes the cost savings projected were overstated, and the project will result in higher costs of \$835,000 per year; and

WHEREAS, The Maui News subsequently reported on the audit findings on March 10, 2016, and March 16, 2016, noting a concern voiced by a Councilmember that the waste-to-energy agreement had been proposed by the administration as a "no-cost" contract, thereby obviating the need for council approval; and

WHEREAS, the Agreement has twice been amended since its execution, in February 2017, and November 2017, respectively, with the latter amendment providing a time extension for performance; and

WHEREAS, at a June 19, 2018 meeting of the Council's Infrastructure and Environmental Management Committee, the Committee was advised that there is a standard non-appropriations clause in the contract that would allow the contract to be canceled if the funds were not appropriated by the Council; and

WHEREAS, in response to Request for Proposals 15-16/P98, the County entered into a Services Agreement for Electrical Energy Generation and Sludge Drying (Contract C6207) with Maui All Natural Alternative,

Resolution No. _____

LLC, dated February 14, 2017, for the design, construction, operation, and maintenance of a gas turbine system with sludge dryer for the Wailuku-Kahului Wastewater Reclamation Facility at 281 Amala Place, Kahului, Hawaii, under a power purchase agreement; and

WHEREAS, the term of the Services Agreement is twenty years from the Operations Commencement Date, defined as the actual date of commencement of operations under the Services Agreement; and

WHEREAS, a fiscal and performance review of the use, management, and expenditure of public funds relating to the scope and purpose of these Anaergia-related projects would provide an understanding of the progress made in their completion and the anticipated effectiveness of the projects, and a basis for the public and the Council to consider whether appropriating additional funds toward the projects is in the best interests of the County; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby authorizes the Council Chair to contract for a fiscal and performance review of the use, management, and expenditure of public funds for Anaergia Services LLC-related projects; and
2. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, and the Director of Environmental Management.

APPROVED AS TO FORM AND LEGALITY

Deputy Corporation Counsel
County of Maui

paf:cmn:19-115a

Resolution

No. _____

AUTHORIZING THE COUNCIL CHAIR TO
CONDUCT A FISCAL AND PERFORMANCE
REVIEW OF THE USE, MANAGEMENT, AND
EXPENDITURE OF PUBLIC FUNDS FOR
ANAERGIA SERVICES LLC-RELATED PROJECTS

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Resolution No. _____

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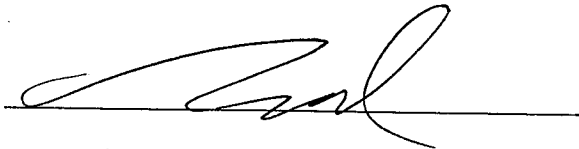
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APPROVED AS TO FORM AND LEGALITY



Deputy Corporation Counsel
County of Maui

paf:cmn:19-115a

