

REQUÊTE

RESIDUAL WASTE TREATMENT – RESTORATION OF PREFERRED BIDDER ORIGINALLY SELECTED

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation SHEWETH THAT:-

1. On 30th July 2009, after consideration of a Report dated 29th May 2009 of the Public Services Department (Billet d'État XX of 2009), the States resolved *inter alia*:

“To agree to the appointment of Suez Environnement as the Preferred Bidder for the design build and operation of a residual waste treatment facility as detailed in that Report.”

2. Following that Resolution, your Petitioners understand that the Public Services Department and Suez Environnement (“Suez”) progressed their discussions, as required, to the stage at which Suez had made its application to obtain planning consent from the Environment Department. Significant costs have been incurred by both Suez and the States of Guernsey pursuant to the States Resolutions culminating in those on Billet d'État XX of 2009.
3. On 25th and 26th February 2010, the States of Deliberation debated a Requête signed by Deputy Kuttelwascher and six other Members of the States in Billet d'État IV of 2010, the prayer of which petitioned the States “to instruct the Public Services Department to return to the States to seek authorisation for the execution of a final contract with Suez Environnement for the design build and operation of a residual waste treatment facility”. Deputy Lowe moved an amendment (“the Lowe amendment”) to substitute the proposition to read:

- “1. To rescind the Resolutions on Billet d' État No. XX of 2009.
2. To rescind Resolutions 4 and 5 on Billet d'État No. I of 2007.
3. To direct the Public Services Department to give written notice to Suez Environnement of the States’ decision to withdraw its status as Preferred Bidder and to withdraw from the procurement process.
4. To direct the Public Services Department to return to the States as soon as practicable with a Report setting out proposals for a revised strategy for disposing of solid waste.”

4. Following considerable debate on the Lowe amendment, the States voted in favour of it by 21 votes to 20 votes, with six abstentions. Five of the six Members who abstained are the members of the Environment Department.

Before the final vote on the Article relating to the Requête, an amendment moved by Deputy Matthews resulted in there being a fifth proposition directing the Policy Council to ascertain from the States of Jersey the most beneficial contractual terms on which the States of Jersey will agree to import and dispose of waste exported from Guernsey and to report to the States thereon as soon as practicable.

5. Your Petitioners are of the view that some or all of the members of the Environment Department believed that, because of their involvement in determining the planning application submitted by Suez, they had no option but to abstain from voting on the Lowe amendment. Your Petitioners understand that there was no absolute legal or procedural bar preventing any member of the Environment Department from exercising his or her entitlement to vote for or against the Lowe amendment, albeit that there would be consequences flowing from doing so in relation to their participation in the planning process. Your Petitioners further understand that a number of Members of the States have reflected on the consequences arising from the States' vote on the Lowe amendment and consider that if a fresh vote were now taken on the issue the conclusion might be different.
6. Your Petitioners are greatly concerned that the decision of the States to withdraw the status of Suez as Preferred Bidder and to end the procurement process has, and will continue to have, a significant and long-lasting impact on Guernsey. This impact is both reputational and financial and will, in the view of your Petitioners, adversely affect future procurement exercises.
7. Your Petitioners further believe that reaching a decision to end the procurement process with Suez through the involvement of only 41 of the 47 Members reflects poorly on the democratic processes of the States. Given the significant financial and potential legal consequences of the vote on the Lowe amendment, which will result in long-term consequences for the public and local industry, in the interests of absolute clarity, your Petitioners believe that a fresh vote is desirable in order to ascertain whether or not a majority of Members agree with the direction in which the waste strategy has been taken as a result of the Lowe amendment.
8. Your Petitioners are aware that the Public Services Department has, as directed, complied with Resolution 3 arising from the Lowe amendment and given the written notice required to Suez. However, your Petitioners believe that there is an opportunity to restore the position of Suez as the States' Preferred Bidder with a view to closing the contract with Suez on mutually acceptable terms.
9. Your Petitioners believe that it is in the interests of the States to re-visit the question of whether the Suez option for the design build and operation of a residual waste treatment facility, as previously agreed, is the most appropriate solution for Guernsey as soon as practicable, and with a view to there being full participation of all Members of the States in reaching such an important

decision.

THESE PREMISES CONSIDERED, YOUR PETITIONERS humbly pray that the States may be pleased to resolve:

- (a) to rescind Resolutions 1, 2, 4 and 5 on Article 14 of Billet d'État No. IV of 2010;
- (b) to re-affirm the principles of the Procurement Strategy as set out in section 14 of Billet d'État No. I of 2007 and the steps taken thereunder;
- (c) to direct the Public Services Department to negotiate with Suez Environnement with a view to restoring (i) that entity's status as the Preferred Bidder for the design build and operation of a residual waste treatment facility as detailed in Billet d'État No. XX of 2009 and (ii) the contractual position in accordance with the letter of intent between the States and Suez as it was prior to February 2010; and
- (d) to reinstate Resolutions 2, 3 and 4 on Billet d'État No. XX of 2009.

AND YOUR PETITIONERS WILL EVER PRAY

GUERNSEY

This 8th day of March 2010

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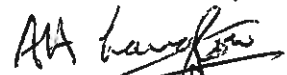
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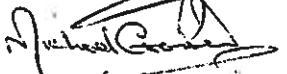
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