

WALK ON #4

LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
 AGENDA ITEM SUMMARY BLUE SHEET NO: 20041259

1. REQUESTED MOTION:

**ACTION REQUESTED:** Waive formal procurement procedures and approve and authorize the Chairman to sign an Interim Development Agreement between Lee County and Covanta Energy, Inc, the current operator of the County Waste to Energy facility, that describes services, costs, and responsibilities of the Parties for Engineering Oversight and related project activities for the Waste to Energy Third Unit Expansion Project, prior to establishing a formal Memorandum of Understanding and a Definitive Agreement.

**WHY ACTION IS NECESSARY:** Purchases /contracts greater than \$50,000 require Board approval.

**WHAT ACTION ACCOMPLISHES:** Establishes an interim written understanding of the roles, costs, and responsibilities for the County and Covanta Energy, Inc. for the design of the Waste to Energy Expansion Project (third unit). This Interim Development Agreement will be replaced with a an MOU and/or a Definitive Agreement.

2. DEPARTMENTAL CATEGORY: SOLID WASTE  
 COMMISSION DISTRICT #: CW

3. MEETING DATE: 09-28-2004

4. AGENDA:

- CONSENT
  - ADMINISTRATIVE
  - APPEALS
  - PUBLIC
  - WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

- (Specify)
- STATUTE
  - ORDINANCE
  - ADMIN. CODE AC4-4
  - OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER:
  - B. DEPARTMENT: Lee County-Public Works
  - C. DIVISION/SECTION: Solid Waste Division
- BY: Lindsey Sampson, Solid Waste Director  
 DATE: [Signature]

7. BACKGROUND: Lee County and Covanta Energy, Inc. are Parties to a long-term Service Agreement whereby Lee pays Covanta to operate and maintain the County's waste to energy facility (WTE). The term of the Agreement is twenty years and runs through November of 2014. Covanta was the original contractor of the present Waste to Energy facility as "Ogden Martin". Lee County has decided to expand the WTE by adding a third municipal waste combustion unit and a second turbine-generator. It is prudent and appropriate to have Covanta participate in the engineering and design of the third unit and operate the entire expanded facility for an agreed upon extended number of years in the definitive agreement follow. For the operation of the third combustion unit, the County will require certain operating and maintenance standards and guarantees similar to the conditions established for the original facility.

Pursuant to the Boards direction of 11-25-03 (Blue Sheet attached), the Public Works Department and the County Attorney's Office are in the process of negotiating a Memorandum of Understanding that establishes certain responsibilities and costs for the County and Covanta for permit assistance, design, construction and start-up of the WTE Expansion Project.

- Continued on page 2 -

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL

A DEPARTMENT DIRECTOR	B PURCH. OR CONTRACTS	C HUMAN RESOURCES	D OTHER	E COUNTY ATTORNEY	F BUDGET SERVICES				G COUNTY MANAGER
					OA	OM	Risk	GC	
[Signature] 9-27-04	Cindy Logan by Calloway 9/27/04	N/A	DAO 9/27/04 N/A	[Signature] 9/27/04	[Signature] 9-27-04	[Signature] 9/27/04	[Signature] 9/27/04	[Signature] 9/27/04	[Signature] 9-27-04

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty

Date: 9/27/04

Time: 3:50

Forwarded To:

RECEIVED BY  
 COUNTY ADMIN: [Signature]  
 9/27/04  
 4:05 pm  
 COUNTY ADMIN  
 FORWARDED TO: [Signature]  
 9/27/04  
 4:32 pm

**BLUE SHEET NO: 20041259**

**Background continued:**

Prior to the MOU, Staff is advising an Interim Development Agreement that will maintain a guaranteed price for the Martin GmbH stoker grate for the third unit.

This Interim Development Agreement will be replaced with a definitive agreement within the next year to provide a final contract for all construction and operations matters.

For additional information, please refer to the attached memo dated 9/27/04.

Funds are available in: 2009 23401 02 506510

**From:** Lindsey Sampson  
**To:** Geren, Patricia  
**Date:** 9/27/04 5:04PM  
**Subject:** Re: Two Walk-On Blue Sheets

Kathy,

The "Covanta" Walk On is required in order to allow the "Martin Stoker" Carry Over to Proceed. The "Stoker" Agreement was contingent on the "Covanta MOU" Carry Over that has now been indefinitely deferred. The "Interim Development Agreement" allows the Stoker purchase to be initiated.

The Peterson Organics Walk On is necessary because the Purchase Order amount will exceed \$50,000 prior to normal scheduling of this agenda item. The services were negotiated during one of the County's Emergency Order extensions, but the PO was not issued during the Emergency period. It is now necessary to have Board approval for these expenditures.

Lindsey

Lindsey J. Sampson  
Lee County Solid Waste Division  
[sampsolj@leegov.com](mailto:sampsolj@leegov.com)  
Ph. 239-338-3302  
Fax 239-461-5871

>>> Patricia Geren 09/27/04 04:37PM >>>  
Lindsey,

Why do these have to be walk ons??? There are no memos attached to the bluesheets with the reason. Thanks!!

Kathy

Patricia K. (Kathy) Geren  
Administrative Specialist  
Public Resources  
[gerenpk@leegov.com](mailto:gerenpk@leegov.com)  
Phone: 239-335-2215  
FAX: 239- 335-2449

>>> Lindsey Sampson 09/27/04 02:48PM >>>  
Margie,

Attached is two BS's and one memo that attaches to the Covanta BS.

David O. is aware of the Covanta BS, etc. He will be in Court for the next hour+.

Please walk around and get to Lee Cares ASAP. I thank you very much.

Lindsey

Lindsey J. Sampson  
Lee County Solid Waste Division  
[sampsolj@leegov.com](mailto:sampsolj@leegov.com)  
Ph. 239-338-3302



**INTEROFFICE MEMORANDUM  
FROM  
SOLID WASTE DIVISION  
Phone: (239) 338-3302 Fax: (239) 338-3304**

**Date:** September 27, 2004

**TO:** Board of County Commissioners

**From:** Lindsey J. Sampson, P.E.  
Director

**SUBJECT: WTE Expansion Project,  
Interim Development Agreement with Covanta Lee, Inc.**

The County Public Works Department and the County Attorney's office have been diligently negotiating a Memorandum of Understanding with Covanta regarding the design and construction of the WTE Expansion Project. Final conditions of this agreement yet to be completed regard certain guarantees expected of Covanta particularly related to emission levels required by the PSD permit. Such guarantees are anticipated to be necessary as part of the Engineer's Report to be written prior to the County issuing revenue bonds for financing the project.

The County is faced with making a decision regarding the purchase of the Martin GmbH stoker grate and combustion control system that is a crucial part of the expansion project. Martin GmbH is the German company that provided the initial stokers for the facility and staff has recommended similar equipment from this company for the expansion. Martin is solely represented in the United States by Covanta through a licensing agreement. This purchase is valued in excess of \$6 million and the price is firm only until September 30, 2004.

In order to secure the Martin pricing and delivery, the County and Covanta have jointly developed an Interim Development Agreement for the expansion project that will allow the Parties to proceed with the Martin stoker purchase order. Additionally, this agreement requires both Parties to negotiate in good faith in order to establish a mutually acceptable Memorandum of Understanding and/or a Definitive Agreement that will satisfy all requirements for both Parties.

Cc: Jim Lavender  
David Owen

**LEE COUNTY BOARD OF COUNTY COMMISSIONERS**  
**AGENDA ITEM SUMMARY** **BLUE SHEET NO: 20031341**

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Authorize the Solid Waste Division, Division of Budget Services, and the County Attorney's Office to proceed with all necessary administrative activities related to requesting proposals for design services, negotiating management services with Covanta, and finalizing a recommended financing plan(s) for the design and construction of the Waste To Energy Expansion Project, third combustion unit, in accordance with the attached memo.

**WHY ACTION IS NECESSARY:** Board's review and authorization requested by staff.

**WHAT ACTION ACCOMPLISHES:** Allows staff to negotiate and draft various professional service agreements, planning documents and financing plans for the Board's future consideration. All documents and staff recommendations will be presented to the BOCC on separate "Blue Sheets".

**2. DEPARTMENTAL CATEGORY:** SOLID WASTE  
**COMMISSION DISTRICT #:** CW

A8A

**3. MEETING DATE:** 11-25-2003

**4. AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:**

- (Specify)
- STATUTE
  - ORDINANCE
  - ADMIN. CODE
  - OTHER

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER:
- B. DEPARTMENT: Lee County-Public Works
- C. DIVISION/SECTION: Solid Waste Division
- BY: Lindsey Sampson, Solid Waste Director

DATE: Lindsey J. Sampson 11/17/03

**7. BACKGROUND:**

On September 30, 2003, the Governor and Cabinet, sitting as the Power Plant Siting Board approved the Final Order of Certification for Lee County's planned third combustion unit expansion project at the WTE facility. On October 13, 2003, the Florida DEP issued Lee County a PSD permit allowing the construction and operation of the third combustion unit. Since that time, County staff has reviewed several alternate design/construction scenarios that may be used by the County for a project of this magnitude, complexity, and uniqueness.

The attached memo provides an outline of staff's proposed design, procurement, construction, and management plan for the construction, acceptance testing and final acceptance of the third combustion unit at the WTE facility.

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL**

A DEPARTMENT DIRECTOR	B PURCH. OR CONTRACTS	C HUMAN RESOURCES	D OTHER	E COUNTY ATTORNEY	F BUDGET SERVICES				G COUNTY MANAGER
					OA	OM	Risk	GC	
11/10/03 <i>[Signature]</i>	N.A.	N.A.		<i>[Signature]</i> 11/12/03	P.M. 11/12/03	J.M. 11/13/03	58 11/13/03	18 11-12-03	11/20/03 <i>[Signature]</i>

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by ColAtty

Date: 11/10/03

Time: 8:00 AM

Forwarded To:  
Budget  
11/12/03 P.M.

RECEIVED BY  
COUNTY ADMIN: P.M.

11/12/03

10:55 AM SGT

COUNTY ADMIN  
FORWARDED TO:

11/13/03



Lee County  
SOUTHWEST FLORIDA

INTEROFFICE MEMORANDUM  
FROM  
SOLID WASTE DIVISION  
Phone: (239) 338-3302 Fax: (239) 338-3304

Date: November 6, 2003

TO: Mr. Jim Lavender, Director  
Public Works Department

From: Lindsey J. Sampson, P.E.  
Director

**SUBJECT: WTE Expansion  
Design, Procurement, and Construction Management**

During several meetings, individually and collectively, with David Owen, Stuart Broom, and Covanta Lee, Inc., we have discussed several alternate scenarios that may be feasible for the County to follow for managing the design/construction of the WTE expansion project. Because of Covanta's present and potentially future financial situation, it has been determined that the responsibility and full risk allocation included in the construction agreement for the original facility would not be possible for the expansion project. Additionally, we determined that there are financial advantages for the County to have a larger participatory role in the design/construction of the expansion taking into consideration the County's experience with the WTE facility and several other large, complex construction projects during the past 10 years.

The following narrative provides additional details and suggestions based on our previous discussions, for managing this project. This scenario includes significant roles for both Lee County and Covanta for the procurement, oversight, and management of the design and construction activities.

Summary and Advantages

The suggested design/procurement/construction system envisions the County performing most or all major procurement functions with substantial technical assistance provided to the County by Covanta Lee, Inc. as the Construction Manager (CM). Covanta will be the primary project coordinator responsible for design oversight, construction management and construction oversight. This arrangement will require all construction contractors and equipment suppliers to provide payment/performance bonds in favor of the County for the full value of the services, equipment and materials provided. This avoids the occurrence of double performance bond costs that commonly occurs on CM projects and provides the bonding directly to the County.

There are several benefits of this method of design and construction.

- Covanta has personnel with knowledge and expertise in the design, construction, and operation of WTE facilities.
- The County will obtain financial assurance from the contractors and suppliers and will

not have to rely on Covanta to provide all financial security for the project.

- The project will benefit from certain 'design standards' already established and proven by Covanta and the schedule can be fast-tracked by utilizing such standards.
- Covanta's participating role will negate any concerns by Covanta (or the County) regarding Covanta's ability to financially guarantee production and environmental performance of the third combustion unit project.
- There will be minimal duplication of efforts. The responsibilities held and activities performed by Covanta would normally be provided either by contractors or consultants.
- Acceptance testing and operation transition will be more easily accomplished given Covanta's substantial role during design and construction.

#### Roles and Responsibilities

Covanta will participate in the project by providing to the County (and design engineer) technical information regarding equipment and material specifications, preferred equipment layout, instrumentation and piping requirements, etc., that is, "design oversight". Covanta will also provide services by supplying and/or reviewing bid packages, scopes of services, etc. for the procurement of equipment and construction services. It is anticipated that the design engineer will release drawings and specifications in such a sequence that the construction will be phased in through the use of 5 (+/-) construction packages, i.e., portions of the work will be bid out before completing all of the engineering detailed design. Covanta will review each phase/bid package to ensure its completeness and constructability, and that there are no conflicts or duplications with other portions of the work. Covanta will also provide value engineering of the engineering design.

The County and Covanta will conduct its standard (two-step) CN process for the selection of a design engineering company that will be responsible for all 'expansion project' engineering. This service will include detailed drawings and specifications for the project. The engineer will receive input from Covanta regarding equipment, equipment layout, material specifications and value engineering items and incorporate such reasonable items into the detailed design.

The design engineer, Covanta, and the County will cooperate and coordinate efforts to issue bid packages structured such that construction activities can commence and continue without interruption, based upon the phased design services. The County will advertise the construction bid packages in its normal fashion. Covanta will provide substantial assistance in securing interest and participation in the bid process from qualified contractors. The construction bidding process will include certain pre-qualification requirements prior to, or simultaneously with, the bid submittals. Covanta will assist the County in the establishment

and review of all such pre-qualification activities.

Covanta will be the County's Construction Manager to ensure complete construction/contractor scheduling and coordination. Covanta will review and approve contractors' submittals, shop drawings, invoices, work product, and all other construction related activities prior to the County's acceptance of these items. Covanta, in conjunction with the County, will review and evaluate change orders, design changes, and additional work items, etc., during the construction process. Covanta will hold regular construction coordination and status meetings with the contractors, subcontractors, County staff and consultants. The Solid Waste Division will also provide additional personnel to perform construction oversight and be cognizant of all design and construction activities and issues.

It is anticipated that the purchase of certain major equipment will be made directly by the County. This will reduce the cost of the project by eliminating the payment of the corresponding state sales taxes for such equipment. It may be preferable to have the respective contractors include the cost of the equipment as part of their initial bids, including sales tax. Then, after the equipment has been submitted and approved by the County, as part of each contractor's submittal process, the specific equipment purchase orders may be assigned to the County for direct purchase and a corresponding (deductive) change order issued by the Contractor to the County. This procedure, if utilized, will be incorporated into the original contract documents.

#### Project Funding

The County has requested PFM and Malcolm Pirnie to review the assets and liabilities of the Solid Waste Enterprise Fund. This study will project the capital requirements for the expansion project and for other future solid waste projects required for continued operations. Projections will be made for at least the next ten years. The study will establish a recommended level of debt service for the expansion project based on maintaining the Division's service level, financial stability, service fees, operating and planning reserve funds, and anticipated future capital needs.

Cc: Don Stilwell  
Jim Yeager  
David Owen  
Tony Majul  
Jim Lewin