

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20041489

1. REQUESTED MOTION:

ACTION REQUESTED: Consider and approve mediated settlement in County's favor for \$20,000 in Case No. 04-2022CA, Lee County v. USA Recycling, et al.

WHY ACTION IS NECESSARY: Settlements of lawsuits involving the County must be approved by the Board of County Commissioners at a regularly scheduled Board of County Commissioners' meeting.

WHAT ACTION ACCOMPLISHES: County receives an equitable monetary settlement and dismisses the case subject to completion of agreed payment schedule by Defendant.

2. DEPARTMENTAL CATEGORY: COMMISSION DISTRICT # A12A	3. MEETING DATE: 11-30-2004
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4. AGENDA: <input type="checkbox"/> CONSENT <input checked="" type="checkbox"/> ADMINISTRATIVE <input type="checkbox"/> APPEALS <input type="checkbox"/> PUBLIC <input type="checkbox"/> WALK ON <input type="checkbox"/> TIME REQUIRED:	5. REQUIREMENT/PURPOSE: (Specify) <input type="checkbox"/> STATUTE <input type="checkbox"/> ORDINANCE <input type="checkbox"/> ADMIN. CODE <input checked="" type="checkbox"/> OTHER Settlement	6. REQUESTOR OF INFORMATION: A. COMMISSIONER _____ B. DEPARTMENT County Attorney C. DIVISION Litigation/Gen. Sycs. BY: [Signature] Jack N. Peterson/Scott S. Coovert Assistant County Attorneys
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7. BACKGROUND:
On or about September 6, 2002, USA. Recycling, L.L.C., opened for business in Lee County. The primary business of USA Recycling is accepting construction/demolition debris for recyclable material and transferring the remaining waste to a landfill.

A brief factual timetable:

- December 26, 2002, USA Recycling was fined by Lee County Utilities(LCU) pursuant to Lee County Resolution 02-07-44 for an unauthorized connection to a fire hydrant.

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8. MANAGEMENT RECOMMENDATIONS:
Approve the mediated settlement as articulated.

9. RECOMMENDED APPROVAL:
Approve mediated settlement.

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
	N/A	N/A	N/A	[Signature]	QA [Signature]	QM [Signature]	RISK [Signature]	GC [Signature]	[Signature]

10. COMMISSION ACTION:

- _____ APPROVED
- _____ DENIED
- _____ DEFERRED
- _____ OTHER

RECEIVED BY
 COUNTY ADMIN: [Signature]
 11/16/04
 3:35 pm 507
 COUNTY ADMIN
 FORWARDED TO: [Signature]
 11/16/04
 2:00 pm

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2. March 31, 2003, LCU was notified by a former USA Recycling employee of an irregular underground pipe connection to the LCU water system.

3. April 1, 2003, LCU field crew arrived at the USA Recycling property site and discovered an elaborate under/above ground piping system which bypassed the water meter and connected into the LCU water system. LCU photographed the irregular pipe connections. At this time, LCU field crew also observed that the water meter was not spinning while employees of USA Recycling were spraying water from two large hoses on construction/demolition debris to control the dust and dirt in the air.

4. LCU and the County Attorney Office were unable to negotiate a financial settlement with USA Recycling. The County Attorneys Office filed a lawsuit against USA Recycling for the unauthorized commercial/industrial water usage during 2002 and 2003. Agreement was reached at mediation to settle the matter for \$20,000 to be paid over the next six months. County Attorney Office will monitor completion of payment schedule.

Lee County Utilities staff and County Attorney recommend approval.