

WALK ON #1

ATY

Lee County Board of County Commissioners  
Agenda Item Summary

Blue Sheet No. 20050004

1. **REQUESTED MOTION:**

**ACTION REQUESTED:** Approve a First Amendment to the Interim Development Agreement between Covanta, Inc. and Lee County for the construction of the Third Unit to the Waste-to-Energy Facility.

**WHY ACTION IS NECESSARY:** The Memorandum of Understanding (MOU) contemplated to be completed by December 21, 2004 was not completed, thereby requiring an extension of time for its completion.

**WHAT ACTION ACCOMPLISHES:** Revises the completion date for the MOU to January 25, 2005.

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

3. **MEETING DATE:**  
01-11-2005

4. **AGENDA:**  
 CONSENT  
 ADMINISTRATIVE  
 APPEALS  
 PUBLIC  
 WALK ON  
**TIME REQUIRED:**

5. **REQUIREMENT/PURPOSE:**  
(Specify)  
 STATUTE  
 ORDINANCE  
 ADMIN. CODE  
 OTHER Agreement

6. **REQUESTOR OF INFORMATION:**  
A. COMMISSIONER  
B. DEPARTMENT County Attorney  
C. DIVISION General Services  
BY: David M. Owen  
Chief Assistant County Attorney  
*[Signature]*

7. **BACKGROUND:**  
As part of the on-going processes for the construction of the new Third Unit to the Waste-to-Energy Facility, the County entered into an "Interim Development Agreement" with Covanta, Inc., the proposed Construction Manager (C-M) for the project on September 28, 2004. The Interim Development Agreement contemplated that the MOU for Covanta as the C-M for the project would be completed by December 21, 2004. Inasmuch as that date was not achievable for a variety of reasons, the Parties agreed to extend the completion date for the MOU to January 25, 2005. The First Amendment to the Interim Development Agreement memorializes the agreed-upon extension to the date for the MOU.

8. **MANAGEMENT RECOMMENDATIONS:**

9. **RECOMMENDED APPROVAL:**

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	N/A	<i>[Signature]</i> 1/3/05	OA	OM	RISK	GC	<i>[Signature]</i> 1-4-05
					1/3/05	1/4/05	1/4/05	1/4/05	

10. **COMMISSION ACTION:**

APPROVED  
 DENIED  
 DEFERRED  
 OTHER

RECEIVED BY  
COUNTY ADMIN: *[Signature]*  
1/3/05  
3:40pm  
COUNTY ADMIN  
FORWARDED TO: *[Signature]*  
1/4/05  
4pm

CO. ATTY. 1/3/05  
FORWARDED  
TO CO. ADMIN.  
*[Signature]*

**BOARD OF COUNTY COMMISSIONERS**  
**WALK ON AGENDA ITEMS**  
**MEETING DATE: January 11, 2005**

**WO #      DESCRIPTION**

**WO #1      ACTION REQUESTED:**

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**WHY ACTION IS NECESSARY:**

The Memorandum of Understanding (MOU) contemplated to be completed by December 21, 2004 was not completed, thereby requiring an extension of time for its completion.

**WHAT ACTION ACCOMPLISHES:**

Revises the completion date for the MOU to January 25, 2005. (#20050004-County Attorney)

**REASON FOR WALK ON:**

To expedite the County's execution of the Amendment entered into just prior to the holidays.

**BOARD: ALBION HALL JUDAH JANES ST. CERNY  
COMMISSION RECEPTION DESK  
DONALD STILWELL, COUNTY MANAGER  
WILLIAM HAMMOND, DEPUTY COUNTY MANAGER  
HOLLY SCHWARTZ, ASSISTANT COUNTY MANAGER  
PETE WINTON, ASSISTANT COUNTY MANAGER**

**ANTONIO MAJUL, BUDGET SERVICES  
BOB GRAY, DEPUTY CO ATTORNEY  
JAMES LAVENDER, PUBLIC WORKS  
PUBLIC RESOURCES OFFICE  
LISA PIERCE, MINUTES**

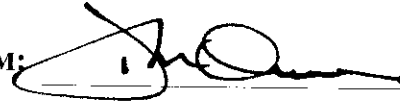
**DATE AND TIME DISTRIBUTED: 01-04-05 4:15 PM**

**MEMORANDUM  
FROM THE  
OFFICE OF COUNTY ATTORNEY**

DATE: January 3, 2005

TO: Elizabeth Walker, Director  
Public Resources

FROM:



David M. Owen  
Chief Assistant County Attorney

and

Kathy Geren  
Public Resources

**RE: WALK-ON ITEM FOR JANUARY 11, 2005 REGULAR  
BOARD OF COUNTY COMMISSIONERS' MEETING**

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Bluesheet No. 20050004 needs to be scheduled on the January 11, 2005 Agenda as a walk-on item in order to expedite the County's execution of the Amendment entered into just prior to the holidays.

The Amendment is simply for a short extension of time for a forthcoming Memorandum of Understanding between the County and Covanta, Inc..

Thanks.

DMO/dm

Enclosure

xc: Robert W. Gray, Deputy County Attorney  
Donald D. Stilwell, County Manager  
James Lavender, Director, Public Works Administration  
Lindsey Sampson, P.E., Director, Solid Waste Management

**FIRST AMENDMENT TO INTERIM DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO INTERIM DEVELOPMENT AGREEMENT (this "Amendment") is dated as of December 20, 2004, by and between Lee County, Florida ("County") and Covanta Lee, Inc. ("Covanta") (together, the "Parties").

WHEREAS, the Parties have entered into an Interim Development Agreement dated as of September 28, 2004 (the "Interim Development Agreement"); and

WHEREAS, the Parties have determined that it is in their mutual best interests to amend the Interim Development Agreement in accordance with the terms herein.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and promises hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound agree to the following amendment to the Interim Development Agreement:

1. **Amendment.** The reference to "December 21, 2004" in the first sentence of Paragraph 5(B) under the heading "Understanding" is hereby deleted and replaced with "January 25, 2005."
2. **Entire Agreement.** All remaining terms and conditions of the Interim Development Agreement, except as expressly amended herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be duly executed and delivered by their duly authorized representatives on the day and year first above written.

ATTEST:

*Dee L. Pierce*  
Deputy Clerk

LEE COUNTY, FLORIDA

By: *[Signature]*  
Name: Douglas S. Cerny  
Title: Chairman

ATTEST:

*Sheila Buder*

COVANTA LEE, INC.

By: *[Signature]* STB  
Name: SCOTT W. WHITNEY  
Title: SENIOR VICE PRESIDENT

APPROVED AS TO LEGAL FORM AND CONTENT

*[Signature]*

OFFICE OF THE LEE COUNTY ATTORNEY

