LEE COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY BLUE SHEET NO: 20040814 1. REQUESTED MOTION: ACTION REQUESTED: Waive formal procurement procedures and approve and authorize the Chairman to sign a Memorandum of Understanding ("MOU") between Lee County and Covanta Energy, Inc, the current operator of the County Waste to Energy facility, that outlines services, costs, and responsibilities of the Parties for Engineering Oversight, Construction Management and Start-Up of the Waste to Energy Third Unit Expansion Project. WHY ACTION IS NECESSARY: Purchases /contracts greater than \$50,000 require Board approval. <u>WHAT ACTION ACCOMPLISHES</u>: Establishes an interim written understanding of the roles, costs, and responsibilities for the County and Covanta Energy, Inc. for the design and construction and of the Waste to Energy Expansion Project (third unit). This MOU will be replaced with a definitive agreement within the next year. 2. DEPARTMENTAL CATEGORY: SOLID WASTE 3. MEETING DATE: COMMISSION DISTRICT #: CW 4. AGENDA: 5. REQUIREMENT/PURPOSE: 6. REQUESTOR OF INFORMATION: CONSENT (Specify) A. COMMISSIONER: B. DEPARTMENT: _ X ADMINISTRATIVE STATUTE Lee County-Public Works C. DIVISION/SECTION: Solid Waste Division APPEALS ORDINANCE PUBLIC X ADMIN, CODE AC4-4 Lindsey Sampson, Solid Waste Director WALK ON OTHER DATE: TIME REQUIRED: 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 construction of the third unit and operate the entire expanded facility for an agreed upon extended number of years in the definitive agreement to 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 have negotiated 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. This Agreement has Covanta participating in the design and construction in such a manner that Covanta can provide the desired levels of operating guarantees the County will require upon completion of the construction project. - continued on page 2 -8. MANAGEMENT RECOMMENDATIONS: 9. RECOMMENDED APPROVAL C n \mathbf{E} DEPARTMENT PURCH. OR HUMAN COUNTY BUDGET COUNTY DIRECTOR CONTRACTS RESOURCES OTHER ATTORNEY SERVICES MANAGER MM 6/17 Risk GC N/A RECEIVED BY

S:\BLUESHEETS\COVANTAMEMOOFUNDERSTANDINGEXPANSIONPROJECT.DOC-6/16/04 9:02 PA Br 12-21-04-Deferred to 01-18-05

APPROVED

DEFERRED to 08-03-04

DENIED

10. COMMISSION ACTION:

8-24-04 500 Deferred to 09-21-04. On 09-21-04- Defend for week to 09-28-04. On 09-28-04- Defend

COUNTY ADMIN:

COUNTY ADMIN FORWARDED TO:

4:35 pm 51

Background continued:
The MOU 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 6/15/04.
Funds are available in: 20092340102.506510



INTEROFFICE MEMORANDUM FROM

SOLID WASTE DIVISION

Phone: (239) 338-3302 Fax: (239) 338-3304

Date: June 15, 2004

TO: Board of County Commissioners From: Lindsey J. Sampson, P.E.

Director Kindsy Sampon

SUBJECT: Waste to Energy Expansion Project,

Covanta's Responsibilities and Compensation for Project Development & Permit Assistance, Engineering Oversight, Construction Management And

Facility Start-Up

The Solid Waste Division has been working with Covanta to establish appropriate and reasonable fees for Covanta to perform the subject work. Covanta's role and responsibilities have been divided into four phases summarized as follows:

1) Project Development and Permit Assistance. Covanta was a key participant with the County during the two-year permitting process. Covanta's technical personnel supplied a large amount of emissions data from various sources that the County and its consultants used in the permit application. Covanta attended most of the meetings held in Tallahassee with the DEP and furnished the County/DEP with relevant cost data for various pollution control equipment scenarios. Covanta researched industry information in order to provide DEP with a "real world" perspective on waste to energy advancements, practicalities, and practices.

Covanta has canvassed prospective equipment vendors and installation contractors in preparing a preliminary detailed cost estimate for the Lee Project. Covanta has solicited and continues to solicit vendor/contractor interest in this project in order to ensure that the County receives qualified competitive bids for construction.

Covanta has developed, for the County's approval, a preliminary and final basis of design for the project. This extensive engineering document will provide the Design Engineer with the technical requirements and basis to prepare the plans and specifications.

Covanta participated in the County's Competitive Negotiation Process for the selection of, and contract negotiation for the Design Engineer. Covanta has provided appropriate and valuable information resulting in the detailed scope of services for the Design Engineering work. Covanta has continued to support the County in order to finalize a contract for this important service.

2) Engineering Oversight. Covanta will assist the County by reviewing and commenting on all work performed by the Design Engineer. Covanta will make suggestions for the County/Engineer's consideration related to plant operating requirements and performance

guarantees. Covanta will review the Engineer's plans and specifications to ensure economical construction and operations and ensure the proper integration of new systems to existing plant operations and facilities. Covanta will participate during this phase such that Covanta will be able to provide the County with operating and environmental guarantees that are at least as stringent as the current production guarantees and more stringent environmentally. Covanta will oversee the Engineer's procurement documents for all plant equipment and assist in facilitating County direct purchases.

- 3) <u>Construction Management</u>. Covanta will perform construction management services for the County including the assembly of contract documents for competitive vendor and contractor procurement by the County. Covanta will schedule and manage all contractors and vendors during construction. Covanta will review and make recommendations regarding any change order requests. Covanta will oversee all construction activities and certify the progress, completeness, and correctness of the work. Covanta will review and certify construction requests for payments. Covanta will perform construction management services in order to complete the expansion project economically and expeditiously.
- 4) Facility Start-Up. Covanta will supply all start-up labor, management, materials and equipment specific to start-up activities, test, and place into service all equipment of the expansion project (excluding vendor/contractor start-up personnel). Covanta will conduct performance testing and coordinate and oversee environmental testing. The cost of environmental testing, utilities, and reagents for the new unit will be handled as County pass-though costs. Covanta will report on any problems or defects with the equipment and manage any corrections required of the Contractor. Covanta will demonstrate the performance of the expansion facility prior to the County's acceptance.

The services and responsibilities summarized herein are more fully described in detail in the Draft Memorandum of Understanding provided by the County Public Works Department and the County Attorney's Office. The Solid Waste Division recommends payment for these services and responsibilities (shown below) as a maximum amount. Some additional refinement / reduction of these costs may take place prior to the Board's meeting of 6/29/04 but the total amount will not exceed the amounts as follows:

1) Project Development and P	ermit Assistance:	
	Not to Exceed	\$ 903,695
2) Engineering Oversight:		
	Not to Exceed	\$ 1,858,482
3) Construction Management:		
	Not to Exceed	\$ 376,635
	Plus Lump Sum	\$ 3,218,000
4) Start-Up and Testing:		
	Not to Exceed	\$ 333,623

Board of County Commissioners June 15, 2004 Page 3 of 3

Plus Lump Sum	\$	579,198
5) Travel and Expenses for all performed services:		
Not to Exceed	\$	149,183
6) Authorized Outside Consultants:		
Not to Exceed	\$	350,000
Total Not to Exceed	\$	3,971,618
Total Lump Sum	<u>\$_</u>	<u>3,797,198</u>
Total Not to Exceed	\$	7,768,816
	(In	cluding Lump Sum Payments)

All of the pricing listed above as "Not to Exceed" (NET) are contracted professional services for project management, technical support, and project oversight. Services performed will be invoiced to Lee County on an hourly fee basis with supporting documents and substantiated. Scope items be changed and fees may be reallocated among the specific NTE work phases upon authorization/approval by the Division, but the total NTE amount will remain \$3,971,618. All of the pricing included shall be firm for the length of the project and will not escalate providing contractor mobilization commences on or before July 1, 2005.

Included in the services for the Project Development phase is a sum of \$671,569 that compensates Covanta for permitting assistance services project development, and work directed toward selection of the Design Engineer through February 29, 2004. This amount reflects unescalated 2002 and 2003 dollars and can be invoiced by Covanta upon approval of the Memorandum of Understanding.

The Lump Sum pricing for construction management shall be invoiced to the County over a period of 22 months (equally) beginning with constructor mobilization on the project. The Lump Sum pricing for start-up services will be invoiced to Lee County over a period of 3 months (equally) beginning with the initial "firing" of the furnace.

The Solid Waste Division believes that the financial arrangement summarized herein represents appropriate and equitable compensation for the management and oversight services and responsibilities for the expansion project. I will be glad to provide more details or respond to any questions.

Cc: Jim Lavender, Public Works Director
Don Stilwell, County Manager
David Owen, Chief Assistant County Attorney

REC'D NOV 2 5 2003

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.

WILY 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".

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COMMISS	IENTAL CATEC	ORY: SOLID W	YASTE H	8H	3. MEETING D	11-25-a	2003
L AGENDA:		S. REQUIREMENT/PURPOSE		<u> </u>	6. REQUESTOR OF INFORMATION		
CONSENT X. ADMINISTE APPEALS PUBLIC WALK ON TIME REQUI		(Specify)STATULEORDINANCADMIN.CO _XOTHER	-	B.	A. COMMISSIONER: B. DEPARTMENT:		
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			9. RECOMM	ENDED APPRO	OVAL.		
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10/03 MAXIL	N.A.	N.A.	Č	110/03	3.17 03 H/3/	Risk GC	10/0/03
COMMISS	ON ACTION:					All and the second	'
APPROVED DENIED DEFERRED OTHER			Rec. by CoAtt, Date: 1/10/0 Time: cv 100) 	RECEIVED BY COUNTY ADMIN (M) 1//2/0.3 10:55		
				Formarded To:		W 5.70	



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 Lindsey & Sampson

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

Mr. Jim Lavender November 6, 2003 Page 2 of 3

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 though 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 hid 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

Mr. Jim Lavender November 6, 2003 Page 3 of 3

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

BOARD OF COUNTY COMMISSIONERS CARRYOVER AGENDA ITEMS

MEETING DATE: September 28, 2004

CO # DESCRIPTION

CO #1 ACTION REQUESTED:

Board to determine and award the appropriate pay-for-performance increases for the Contract Employees (County Manager, Chief Hearing Examiner, and Hearing Examiner) based on the individual evaluations completed by each Commission member.

WHY ACTION IS NECESSARY:

To remain consistent with the County philosophy of pay-for-performance throughout the entire employee team.

WHAT ACTION ACCOMPLISHES:

This will reinforce the fact the Board supports pay-for-performance throughout the organization regardless of the employee's level, and it rewards the Contract Employees for their performance and contributions to the organization in fiscal year 2003-2004. (#20041085-Human Resources)

REASON FOR WALK ON:

Directed at the 09-21-04 BOCC meeting.

CO #2 ACTION REQUESTED:

Waive formal procurement procedures and approve and authorize the Chairman to sign a Memorandum of Understanding ("MOU") between Lee County and Covanta Energy, Inc, the current operator of the County Waste to Energy facility, that outlines services, costs, and responsibilities of the Parties for Engineering Oversight, Construction Management and Start-Up of the Waste to Energy Third Unit Expansion Project.

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 and construction and of the Waste to Energy Expansion Project (third unit). This MOU will be replaced with a definitive agreement within the next year. (#20040814-Solid Waste)

REASON FOR WALK ON:

Directed at the 09-21-04 BOCC meeting.

BOARD: ALBION COY JANES JUDAH ST. CERNY COMMISSION RECEPTION DESK DONALD STILWELL, COUNTY MANAGER BILL HAMMOND, DEPUTY COUNTY MANAGER HOLLY SCHWARTZ, ASSISTANT COUNTY MANAGER

ANTONIO MAJUL, BUDGET SERVICES BOB GRAY, DEPUTY COUNTY ATTORNEY JIM LAVENDER, PUBLIC WORKS LISA PIERCE, MINUTES DEPT PUBLIC RESOURCES OFFICE

> Distributed by: Kathy Geren Division of Public Resources Phone: 335-2215

MEMORANDUM FROM THE OFFICE OF COUNTY ATTORNEY

		DATE: December 20, 2004
то:	Libby Walker, Director	FROM:
	Public Resources	David M. Owen
	and	Chief Assistant County Attorney
	Kathy Geren	
	Public Resources	
RE:	ADMINISTRATIVE AGENDA IT MEETING OF DECEMBER 21, 2	
	Ladies;	

Please defer the above item to the Board's meeting of Tuesday, January 18, 2005. Negotiations are not completed, but are on-going. Finalization of the MOU should be accomplished by the January 18th meeting.

Thanks.

DMO/dm

xc: Board of County Commissioners

Donald D. Stilwell, County Manager

James Lavender, Director, Public Works Administration

on recap 12-20-94

Lindsey Sampson

To: Date: Geren, Patricia 9/27/04 4:06PM

Date: Subject:

BOCC Regular Mtg of 9/29/04, Carry-Over Item No. 2

Kathy,

We request that the subject carry over item #2 be deferred indefinately. The SW Division has submitted a walk-on agenda item referring to an "Interim Development Agreement" that will bridge the County's negotiations with Covanta and secure the original pricing for the Martin equipment.

on recorby

Lindsey

Lindsey J. Sampson Lee County Solid Waste Division sampsolj@leegov.com Ph. 239-338-3302 Fax 239-461-5871

CC:

Bennett, Margie; Kantor, Brigette; Lavender, James; Owen, David

C0#2

From:

Lindsey Sampson Geren, Patricia

To: Date:

9/15/04 7:33PM

Subject:

BOCC Mrg 9/21/04, Pls Defer Admin Agenda Items A.8.a and A.8.b till 9/28/04

Kathy,

The County Att'y's office and the Solid Waste Division requests that the subject Admin Agenda items scheduled for 9/21/04 be deferred for one week.

We would like to have all 5.Board members in attendance at the meeting, if possible, and we have developed one final "bridging" document that we are expecting Covanta (contractor) to execute within the next several days.

Thank You Lindsey

Lindsey J. Sampson Lee County Solid Waste Division sampsolj@leegov.com Ph. 239-338-3302 Fax 239-461-5871

CC:

Waste Division
v.com
02
71

Kantor, Brigette; Lavender, James; Owen, David

Lindsey Sampson

To:

Dist5, Albion 8/23/04 10:51PM

Date: Subject:

Defer Item A.8(a) for MTG.OF 8/24/04-PLS.EMAIL DIST.5 & CC ME. THX

Commissioner,

This Memorandum of Understanding provides for regular updates and routines to the County from and by Covanta.

However, because of delays caused by Hurricane Charley as well as certain final details related to financial assurances by the Contractor (Covanta), we are requesting an additional deferral of this agenda item until September 21, 2004.

on recap

Lindsey

Lindsey J. Sampson Lee County Solid Waste Division sampsolj@leegov.com Ph. 230 338 3302

Ph. 239-338-3302 Fax 239-461-5871

>>> Pete Winton 08/23/04 02:11PM >>> ADMINISTRATIVE AGENDA 8(A)

Is there expected routine updates and reports to Lindsey Sampson and to the County Manager for reasonable oversight of this contract?

Pete Winton
Assistant to the County Manager
Lee County Administration
wintonpx@leegov.com
Phone: (239) 335-2777

FAX: (239) 335-2262

CC: Geren, Patricia; Lavender, James; Owen, David; Winton, Pete

Lindsey Sampson

To:

Geren, Patricia 7/23/04 8:53AM

Date: Subject:

Blue Sheet 2004 0814, MOU with Covanta

Kathy,

Please defer the subject agenda item to August 24, 2004 to provide additional time for the County and Contractor to finalize contract negotiations.

Lindsey

Lindsey J. Sampson Lee County Solid Waste Division sampsolj@leegov.com Ph. 239-338-3302 Fax 239-461-5871

CC:

Kantor, Brigette; Lavender, James; Owen, David

HERP For

08-03-04 BOCC Mtg.

on recap 01-29-04

Lindsey Sampson

To:

Geren, Patricia 6/23/04 6:15PM

Date: Subject:

Defer Agenda Item A.8.a, BOCC 6/29/04

Kathy,

Please defer the subject agenda item "Covanta/Lee MOU" to the August 3, 2004 BOCC meeting.

Lindsey

Lindsey J. Sampson Lee County Solid Waste Division sampsolj@leegov.com Ph. 239-338-3302

Ph. 239-338-3302 Fax 239-461-5871

CC:

Lavender, James; Owen, David; Treshler, Joseph

on recap