

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

Blue Sheet No. 20050628

1. ACTION REQUESTED/PURPOSE: Waive formal procurement procedures and approve and authorize the Chairman to sign a Definitive Agreement between Lee County and Covanta Energy, Inc, the current operator of the County Waste to Energy facility, providing for the costs and responsibilities of the Parties for Engineering Oversight, Construction Management and Start-Up of the Waste to Energy Third Unit Expansion Project.

2. WHAT ACTION ACCOMPLISHES: Establishes a formal agreement providing the roles, costs, and responsibilities for the County and Covanta Energy, Inc. for the design, construction, and start-up of the Waste to Energy Expansion Project. This Definitive Agreement was developed pursuant to the Memorandum of Understanding (MOU) previously approved by the BOCC.

3. MANAGEMENT RECOMMENDATION: Staff recommends approval.

| | | |
|--|---|---|
| 4. Departmental Category: 8 ABA | | 5. Meeting Date: 09-27-2005 |
| 6. Agenda: <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On | 7. Requirement/Purpose: (specify) | |
| | <input type="checkbox"/> Statute | |
| | <input type="checkbox"/> Ordinance | |
| | <input checked="" type="checkbox"/> Admin. Code | 4-4 |
| | <input type="checkbox"/> Other | |
| | | 8. Request Initiated: Commissioner _____ Department Public Works Division Solid Waste By: Lindsey J. Sampson |

9. 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.

On January 18, 2005, pursuant to the Boards direction of 11-25-03 (both Blue Sheets attached), the BOCC approved a Memorandum of Understanding (MOU) outlining the basic roles and responsibilities of the Parties for the design, construction and start-up of the WTE Expansion Project. The MOU also provided that a Definitive Agreement would be established to provide detailed information relating to the respective Party's responsibilities and other contract conditions.

For additional information, please refer to the attached memo dated 6/15/04.

Funds are available in: 2009 23401 02 506510

10. Review for Scheduling:

| Department Director | Purchasing or Contracts | Human Resources | Other | County Attorney | Budget Services | County Manager/P.W. Director |
|------------------------|-------------------------|-----------------|---------------|-----------------|-----------------|------------------------------|
| <i>J. J. J. 5.5.05</i> | <i>AS/S</i> | N.A. | <i>5/5/05</i> | <i>5/5/05</i> | <i>5/5/05</i> | <i>5/5/05</i> |

11. Commission Action:

Approved
 Deferred *Until 06-28-05. ON 06-28-05 DEFERRED TO 08-09-05. ON 08-09-05 DEFERRED TO 09-27-05.*
 Denied
 Other

Rec. by CoAtty
Date: 5/5/05
Time: 2:35
Forwarded To: *Co. Admin 5/5/05*

RECEIVED BY COUNTY ADMIN
5-5-05 MP.
3:30
COUNTY ADMIN FORWARDED TO: *11*
5/5/05
4:30pm.

From: Lindsey Sampson
To: Carney, Shirley; DeSalvo, Richard; Geren, Patricia
Date: 8/8/05 11:57AM
Subject: Re: BOCC 8/9/05 Mtg, Admin Agenda 8.A

Kathy, Dick,

Please defer Admin Agenda Item 8.A (BS # 2005 0628) until the September 27, 2005 BOCC Mtg.

Both Covanta, Inc., and Lee County, the Parties to the subject agreement, require additional time to resolve issues related to specific conditions of this agreement.

Thank you

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

CC: Kantor, Brigitte; Murphy, Debra; Owen, David

From: Lindsey Sampson
To: Geren, Patricia
Date: 6/24/05 6:22PM
Subject: BOCC 6/28/05 Mtg, ReCap Item for Admin Agenda 8.A

Kathy

Please defer Admin Agenda Item 8.A (BS # 2005 0628) until the August 9, 2005 BOCC Mtg.

On May 17, 2005 the Board approved an amendment to the Covanta Interim Development Agreement to allow the County and Covanta to further negotiate a "Definitive Agreement" allowing these negotiations to continue until August 9, 2005. Therefore, the subject bluesheet should also have been deferred until 8/09/05.

Lindsey

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

CC: Kantor, Brigitte; Lavender, James; Owen, David

*on recap
6-28-05
JMC*

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.

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.

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

ABA

3. MEETING DATE: *01-18-2005*

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:

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

6. REQUESTOR OF INFORMATION:

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

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

| A DEPARTMENT DIRECTOR | B PURCH. OR CONTRACTS | C HUMAN RESOURCES | D OTHER | E COUNTY ATTORNEY | F BUDGET SERVICES | | | | G COUNTY MANAGER |
|-------------------------------|-------------------------------|-------------------------|------------------------------|-------------------------------|-------------------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| | | | | | GA | UM | Risk | GC | |
| <i>[Signature]</i> 6-14-04 | <i>Cindy Hopak</i> 6/16/04 | N/A | <i>DAD</i> 6/16/04 N/A | <i>[Signature]</i> 6/16/04 | | <i>[Signature]</i> 6/17/04 | <i>[Signature]</i> 6/17/04 | <i>[Signature]</i> 6/17/04 | <i>[Signature]</i> 6-16-04 |

10. COMMISSION ACTION:

- APPROVED
 - DENIED
 - DEFERRED *to 08-03-04 / on 08-03-04*
 - OTHER
- ON 06-29-04*

| | |
|-------------------------------|---------------------|
| RECEIVED BY COUNTY ADMIN | <i>[Signature]</i> |
| DATE | <i>6/16/04</i> |
| TIME | <i>4:35 PM 2004</i> |
| COUNTY ADMIN FORWARDED TO: | <i>[Signature]</i> |
| DATE | <i>6/17/04</i> |
| TIME | <i>2:00</i> |

On 12-21-04 - Deferred To 01-18-05
On 08-28-04
Referred to 09-21-04. On 09-21-04 - Defund
for 1 week to 09-28-04. On 09-28-04 - Defund
Indefinite

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

**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) Construction Management. 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-through 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 Permit 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 |

| | | | |
|--|----------------------------|-----------|-------------------------------|
| | 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>3,797,198</u> |
| | Total Not to Exceed | \$ | <u>7,768,816</u> |
| | | | (Including 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 contractor 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 25 2003

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY **BLUE SHEET NO: 20031343**

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

ASA

3. MEETING DATE:

11-25-2003

4. AGENDA:

- URGENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK-UP
- 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 Johnson, Solid Waste Director
 DATE:

Lindsey Johnson 11/17/03

7. BACKGROUND:

On September 30, 2003, the Governor and Cabinet, sitting at 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 |
|---------------------------------------|-----------------------------|-------------------------|------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|
| | | | | | OM | OM | BWA | GC | |
| <i>11/10/03</i> <i>[Signature]</i> | <i>N.A.</i> | <i>N.A.</i> | | <i>[Signature]</i> <i>11/10/03</i> | <i>[Signature]</i> <i>11/12/03</i> | <i>[Signature]</i> <i>11/13/03</i> | <i>[Signature]</i> <i>11/13/03</i> | <i>[Signature]</i> <i>11-12-03</i> | <i>11/20/03</i> <i>[Signature]</i> |

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by Colsty
 Date: *11/10/03*
 Time: *8:00 AM*
 Forwarded To:
11/20/03 9:10 AM

RECEIVED BY
 COUNTY ADMIN *PM*
11/12/03
10:55 am 11/12/03
 COUNTY ADMIN
 FORWARDED TO
11/20/03

Patricia Geren - BOCC Mtg of 5/17/05, Admin Agenda Item 8.a

From: "Lindsey J. Sampson" <sampsolj@leegov.com>
To: <gerenpk@leegov.com>
Date: 5/16/05 2:13 PM
Subject: BOCC Mtg of 5/17/05, Admin Agenda Item 8.a
CC: <OWEND@leegov.com>, <SCOOVERT@leegov.com>, <LAVENDJH@leegov.com>, <KANTORBX@leegov.com>

Kathy

Pls request to defer this item until 6/28/05. There are several conditions of this agrmt. requiring further negotiations between Covanta and the County.

Thank You,
Lindsey Sampson

Sent from my BlackBerry Wireless Handheld

*OK Lindsey
05-16-05
[Signature]*