

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

Blue Sheet No. 20050820

1. ACTION REQUESTED/PURPOSE:

Conduct a TEFRA Public Hearing on Tuesday, June 28, 2005, at 5:00 p.m., and adopt two County Resolutions;
1. Approving the proposed Project and the issuance of Lee County Tax-Exempt Revenue Bonds for the construction of the Third Unit to the Lee County Waste-to-Energy Facility, and **2.** approving reimbursement of certain costs relating to the capital improvements that were and will be incurred prior to the issuance of the Bonds.

2. WHAT ACTION ACCOMPLISHES:

A public TEFRA hearing is necessary prior to the issuance of tax exempt bonds to finance the construction of the Third Unit to the Lee County Waste-to-Energy Facility per Section 127(f) of the Internal Revenue Code, and for the reimbursement of certain prior expenditures made preceding the issuance of the Bonds relating to the Project.

3. MANAGEMENT RECOMMENDATION:

Approve the adoption of the two Resolutions.

4. Departmental Category:

5:00 #4

5. Meeting Date:

06-28-2005

6. Agenda:

7. Requirement/Purpose: (specify)

8. Request Initiated:

<input type="checkbox"/> Consent	<input type="checkbox"/> Statute	<input type="checkbox"/> Federal IRS Req.
<input type="checkbox"/> Administrative	<input type="checkbox"/> Ordinance	
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code	
<input checked="" type="checkbox"/> Public 5:00 p.m.	<input checked="" type="checkbox"/> Other	
<input type="checkbox"/> Walk-On		

Commissioner	
Department	Solid Waste
Division	
By:	Lindsey Sampson, P.E. Director.

Lindsey Sampson

9. Background:

The Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") requires that a public hearing be held prior to the County's issuance of Tax-Exempt Revenue Bonds to finance the costs for the construction of the Third Unit to the Lee County Waste-to-Energy Facility, and for reimbursement of costs incurred prior to the Bond issue.

The TEFRA Hearing is required under the Internal Revenue Code (IRC) Section 127(f) any time "Private Activity Bonds" are issued for solid waste disposal activities. "Private Activity Bonds" as defined by the IRS, are tax-exempt revenue bonds in which a private operator is either involved in ownership and/or the operation of the facility in which the new bond revenues will be used. Bonds previously issued by the County, other than those used to finance the Airport and the original Resource Recovery Project, are not characterized as "Private Activity Bonds" by the IRS and are not subject to TEFRA Public Hearings.

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>J. Mundy 6/13/05</i>	NA	NA		<i>[Signature]</i> 6/13/05	<i>[Signature]</i> 6/13/05	<i>[Signature]</i> 6/13/05	<i>[Signature]</i> 6/13/05	<i>[Signature]</i> 6/13/05	

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN:	<i>[Signature]</i>
	<i>6/13/05</i>
COUNTY ADMIN FORWARDED TO:	<i>[Signature]</i>
	<i>6/13/05</i>

RESOLUTION NO.

A RESOLUTION APPROVING THE ISSUANCE BY LEE COUNTY, FLORIDA OF ITS SOLID WASTE SYSTEM REVENUE BONDS, SERIES 2005A TO FINANCE CERTAIN CAPITAL IMPROVEMENTS RELATING TO THE COUNTY'S SOLID WASTE SYSTEM; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Lee County, Florida (the "County") desires to issue its Solid Waste System Revenue Bonds, Series 2005A (the "Bonds") in an amount not to exceed \$85,000,000 in order to finance certain capital improvements to the County's solid waste system (the "Project"); and

WHEREAS, the County desires to approve, for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended, the issuance of its Bonds in order to finance the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION 1. AUTHORITY. This resolution is adopted pursuant to the laws of the State of Florida.

SECTION 2. FINDINGS. The County hereby finds, determines and declares as follows:

A. Notice of a public hearing to be held on the date hereof, inviting comments and discussion concerning the issuance of the Bonds and the Project, was published in the June 9, 2005 edition of the Fort Myers News Press, a newspaper of general circulation in Lee County, Florida, at least 14 days prior to the date of such public hearing. The proof of publication of such notice is on file with the Clerk of Courts.

B. A public hearing was held on the date hereof, during which comments and discussions concerning the issuance of the Bonds and the Project was requested, and any concerned persons were heard.

C. The Board of County Commissioners is the elected legislative body and has jurisdiction over the entire area in which the Project is located.

SECTION 3. APPROVAL. For purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended, the County hereby approves the issuance of the Bonds and the Project.

SECTION 4. EFFECTIVE DATE. This resolution shall become effective immediately upon its adoption.

DULY ADOPTED this 28th day of June, 2005.

**BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA**

Chairman

ATTEST:
CHARLIE GREEN, CLERK

Deputy Clerk

(SEAL)

APPROVED AS TO FORM:

Office of the Lee County Attorney

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA REGARDING REIMBURSEMENT OF CERTAIN COSTS RELATING TO THE ACQUISITION AND CONSTRUCTION OF VARIOUS SOLID WASTE CAPITAL IMPROVEMENTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Lee County, Florida (the "County") has incurred and/or will incur various costs in relation to the acquisition and construction of various solid waste capital improvements; and

WHEREAS, the County has determined it is in its best interest to reimburse such costs from proceeds of tax-exempt debt; and

WHEREAS, the United States Department of Treasury has issued various regulations in regard to reimbursement of governmental costs through the issuance of tax-exempt debt;

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION 1. It is the intent of the County to reimburse various costs and expenditures relating to the acquisition and construction of various solid waste capital improvements. A description of such capital improvements is attached as Exhibit A. The County has paid for, and/or reasonably anticipates that it will pay for, such costs and expenditures from moneys on deposit in the solid waste system reserve fund of the County. It is reasonably expected that reimbursement of such costs and expenditures shall come from the issuance of tax-exempt debt which is not expected to exceed \$85,000,000 aggregate principal amount. The expenditures to be reimbursed shall be consistent with the County's budgetary and financial policy as being the type of expenditures which shall be paid on a long-term basis.

SECTION 2. The County shall comply with all applicable law in regard to the public availability of records of official acts by public entities such as the County, including making this Resolution available for public inspection.

SECTION 3. It is the intent of the County that the purpose of this Resolution is to meet the requirements of Treasury Regulations Section 1.150-2 and to be a declaration of official intent under such Section.

SECTION 4. This Resolution shall take effect immediately upon its adoption.

DULY ADOPTED, in Regular Session, this 28th day of June, 2005.

(SEAL)

**BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA**

Chairman

ATTEST:

Clerk

Approved as to Form and Legal Sufficiency:

Office of the Lee County Attorney

EXHIBIT A

Design and construction of a municipal solid waste combustion unit and all ancillary equipment and improvements related thereto.