



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: January 6, 2021

Department: Public Works Agenda Planning Date: 12/31/20 Time required: 5 mins

Audio/Visual aids: N/A

Contact: James Wharton-Hess Phone: 503-566-4139

Department Head Signature: Brian Mill

TITLE: Consider approval of Amendment #6 to the Service Agreement with Covanta Marion, Inc.

Issue, Description & Background: Amendment #6 allows Covanta Marion, Inc. to contract directly with firms for metal recovery. Currently, only Marion County may contract with metal recovery firms. The resulting metal revenue split due to Covanta Marion, Inc. and Marion County does not change as a result of this amendment.

Financial Impacts: N/A

Impacts to Department & External Agencies: Approval of this amendment will allow the County to reduce administrative complexity while retaining its same share of metal recovery revenue.

Options for Consideration: 1) Approve Amendment #6 to Contract #PW-1022-14 2) Withhold approval of Amendment #6 to Contract #PW-1022-14

Recommendation: Public Works staff recommends approval of Amendment #6 to Contract #PW-1022-14

List of attachments: Amendment #6 to Contract #PW-1022-14

Presenter: Brian May, Environmental Services Division Manager

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to: James Wharton-Hess, jwhartonhess@co.marion.or.us



# Contract Review Sheet

**Contract #: PW-1022-14** \_\_\_\_\_

Person Sending: **James Wharton-Hess** Department: **Public Works**

Contact Phone #: **(503) 566-4139** Date Sent: **Thursday, December 17, 2020**

- Contract  
  Amendment# \_\_\_  
  Lease  
  IGA  
  MOU  
  Grant (attach approved grant award transmittal form)

Title: **Amendment 6 to Contract for Services for Energy from Waste Facility** \_\_\_\_\_

Contractor's Name: **Covanta Marion, Inc.** \_\_\_\_\_

Term - Date From: **Upon Signature** Expires: **Jul 1, 2021**

Contract Total: \_\_\_\_\_ Amendment Amount: \_\_\_\_\_ New Contract Total: \_\_\_\_\_

Source Selection Method: \_\_\_\_\_ # \_\_\_\_\_

**Additional Considerations (check all that apply)**

- |   |   |
|---|---|
| <input type="checkbox"/> Board Order# _____   | <input type="checkbox"/> Feasibility Determination (attach approved form)           |
| <input checked="" type="checkbox"/> Incoming Funds  | <input type="checkbox"/> Federal Funds (attach sub-recipient / contractor analysis) |
| <input type="checkbox"/> Independent Contractor (LECS) approval date: _____                 | <input type="checkbox"/> Reinstatement (attach written justification)               |
| <input type="checkbox"/> Insurance Waiver (attach)  | <input type="checkbox"/> Retroactive (attach written justification)                 |
| <input type="checkbox"/> CIP# _____ (required for all goods /software greater than \$5,000) |   |

**Description of Services or Grant Award:**

**Amendment #6 to the Contract with Covanta Marion, Inc. allows Covanta Marion, Inc. to contract directly with third-party firms for metal recovery. Currently, only Marion County may contract with metal recovery firms under the contract. The resulting metal revenue split due to Covanta Marion, Inc. and Marion County does not change as a result of this amendment.**

**FOR FINANCE USE**

Date Finance Received: \_\_\_\_\_ BOC Planning Date: \_\_\_\_\_ Date Legal Received: \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**REQUIRED APPROVALS:**

_____ Finance - Contracts	_____ Date	_____ Risk Manager	_____ Date
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_____ Legal Counsel	_____ Date	_____ Chief Administrative Officer	_____ Date
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Date \_\_\_\_\_  To be filed    Added to Finance Table

Date \_\_\_\_\_ Returned to department for signature

AMENDMENT NO. 6 TO THE SERVICE AGREEMENT FOR THE SUPPLY AND PROCESSING OF  
SOLID WASTE

This is Amendment No. 6, dated as of the \_\_\_ day of \_\_\_\_, \_\_\_\_\_, to the Service Agreement for the Supply and Processing of Solid Waste, dated September 11, 2013 (as amended, the "Service Agreement"), between Marion County, Oregon ("County") and Covanta Marion, Inc. ("Company").

WHEREAS, the parties desire to amend the Service Agreement to allow the Company to contract with a third-party vendor for the transportation and sale of ferrous metals recovered at the Facility located in Brooks, Oregon.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Company and the County, intending to be legally bound, agree that the Service Agreement shall be amended as follows:

Section 5.01 is amended to read as follows:

County shall be responsible for removing from the Facility and associated transportation, reuse or disposal of all Process Residue, excluding all ferrous metal separated by the Ferrous Metal Recovery System and non-ferrous metal that the Company recovers at the Facility from Waste or Process Residue, as described in Section 6.05. Such removal, transport, reuse and disposal shall be accomplished in accordance with all applicable federal, state and local codes, rules and laws and regulations regulating such material, its transportation, reuse and disposal. Except as provided in Section 6.06, the Company has no financial interest with respect to Process Residue removed from the Facility by or at the direction of the County.

Section 5.02(b) is amended to read as follows:

In the event the Ferrous Metal Recovery System is operating but does not meet the Ferrous Removal Guarantee for such period, the Company shall pay the County at the end of the Contract Year for the loss of Gross Revenue for such period, an amount equal to the product of (i) a number derived by subtracting one from the fraction formed by dividing the Ferrous Removal Guarantee in Schedule 2 by the Tested Ferrous Recovery Percentage for such period, (ii) the total tons of ferrous metal recovered during such period and (iii) the average Gross Revenue per ton received by the Company for the total tons of ferrous metal sold during such period. For the purposes of this Section 5.02, "Gross Revenue" means the total revenue received by the Company for sale of recovered ferrous metal, and "Net Revenue" means Gross Revenue minus (x) all direct costs incurred by the Company in transporting the recovered ferrous metal and (y) an \$11,972.88 portion of the Facility's monthly operation and maintenance expense due to the County, which amount is stated as of July 1, 2013 and shall be escalated each Contract Year in accordance with Schedule 8 of this Agreement. Net Revenue shall be shared in accordance with Section 6.06.

Section 6.06 is amended to read as follows:

The FC Credit shall be determined as follows:

- (a) For any Contract Year in which Net Revenue (as defined in section 5.02) is a positive amount, the County and the Company shall divide the Net Revenue equally between them ("Ferrous Metals Credit") in conjunction with the Company's statement for the Service Fee for a given Billing Period.

(b) For any Contract Year in which Net Revenue (as defined in section 5.02) is a negative amount, revenue due to County shall be equal to Gross Revenue (as defined in Section 5.02) minus an amount retained by the Company equal to all direct costs incurred by the Company in transporting the recovered ferrous metal during the Contract Year.

(c) Subject to Section 6.17, the Company may elect to use a third party vendor for transportation and sale of ferrous metals recovered at the Facility.

All other terms of the Service Agreement shall remain in full force and effect.

IN WITNESS THEREOF, the parties hereto have signed this Amendment No. 6 the day and year first above written.

COVANTA MARION, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

MARION COUNTY BOARD OF COMMISSIONERS APPROVED AS TO FORM

By: \_\_\_\_\_  
Chair

By: \_\_\_\_\_  
Marion County Legal Counsel

By: \_\_\_\_\_  
Commissioner

By: \_\_\_\_\_  
Marion County Contracts

By: \_\_\_\_\_  
Commissioner

RECOMMENDED BY  
By: Brian Niehl  
Marion County Public Works