

**RESOLUTION**

**RESOLUTION RATIFYING AND CONFIRMING FOIA EXCLUSION DETERMINATION MADE BY EXECUTIVE DIRECTOR**

**WHEREAS**, the Southeastern Public Service Authority of Virginia ("SPSA") has received an unsolicited proposal pursuant to the Virginia Public-Private Education Facilities and Infrastructure Act ("PPEA") from Covanta Energy Corporation ("Covanta") for the purchase of SPSA's waste-to-energy facilities in Portsmouth, Virginia (the "Facilities"); and

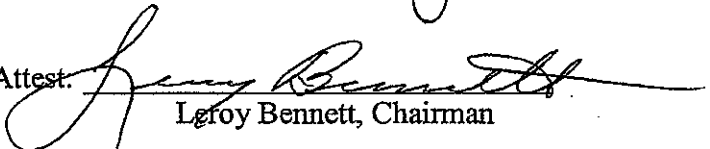
**WHEREAS**, by resolution adopted on June 5, 2008, SPSA's Board (the "Board") accepted the Covanta Proposal for conceptual phase consideration and review and authorized the Executive Director with the assistance of staff to review and accept any additional PPEA proposals for the purchase of the Facilities ("Additional Proposals"); and

**WHEREAS**, under the PPEA and the Guidelines, SPSA may exclude certain records from the provisions of the Virginia Freedom of Information Act ("FOIA") upon making a written determination as provided therein; and

**WHEREAS**, the Executive Director has made such a determination and the Board desires to ratify and confirm that determination.

**NOW THEREFORE BE IT RESOLVED**, the Board hereby ratifies and confirms the Executive Director's determination set forth in the attached document dated July 3, 2008 entitled "FOIA Exclusion Determination Under PPEA" and joins in the making of the Executive Director's determination under the applicable provision of the Virginia Freedom of Information Act, Va. Code § 2.2-3705.6(11)(a), that if the records described therein are made public prior to the execution of an interim or a comprehensive agreement, the financial interest or bargaining position of SPSA will be adversely affected.

Adopted this 23 day of July, 2008

Attest.   
Leroy Bennett, Chairman

## FOIA Exclusion Determination Under PPEA

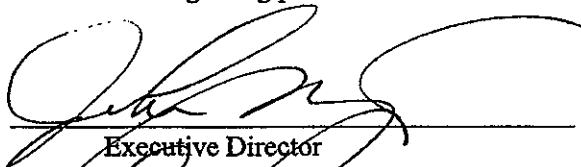
The Southeastern Public Service Authority of Virginia ("SPSA") has received an unsolicited proposal pursuant to the Virginia Public-Private Education Facilities and Infrastructure Act ("PPEA") from Covanta Energy Corporation (the "Covanta Proposal") for the purchase of SPSA's waste-to-energy facilities in Portsmouth, Virginia (the "Facilities"). By resolution adopted on June 5, 2008, SPSA's Board accepted the Covanta Proposal for conceptual phase consideration and review and authorized the Executive Director with the assistance of staff to review and accept any additional PPEA proposals for the purchase of the Facilities ("Additional Proposals").

In accordance with the provisions of the Virginia Freedom of Information Act ("FOIA"), specifically Va. Code § 2.2-3705.6(11)(a), SPSA hereby determines that if the following records prepared by SPSA, its staff, its outside advisors or consultants exclusively for the evaluation and negotiation of the Covanta Proposal and the Additional Proposals (the "Proposals") are made public prior to the execution of an interim or a comprehensive agreement, the financial interest or bargaining position of SPSA will be adversely affected:

- (1) All staff memoranda, evaluations, reports, financial information or projections, or other records reflecting or constituting negotiations, discussions, or consideration concerning the Proposals;
- (2) All evaluations, reports, memoranda, financial information or projections, or other records prepared by SPSA's consultants or attorneys; and
- (3) All correspondence, notes and other records related to the documents described in paragraphs (1) and (2) and to records provided by all parties making Proposals that are excluded from FOIA under Va. Code § 2.2-3705.6(11)(b).

All of the records made subject to the determination hereunder shall include all such records (i) in electronic or paper format and (ii) existing at this time and/or generated hereafter.

SPSA anticipates that the purchase of the Facilities will be highly competitive and extensively negotiated with multiple prospective purchasers. SPSA also anticipates that the terms of the Proposals will vary and will require specific analysis to evaluate which proposal, if any, best serves the interest of SPSA and, by extension, the public generally. If prospective purchasers were permitted to review SPSA's internal records relating to the negotiation, discussion, or consideration of individual Proposals or permitted to review records relating to Proposals made by competing prospective purchasers, that review would likely affect adversely SPSA's financial interest or its bargaining position.

  
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Executive Director  
Date: July 3, 2008

Acknowledged & Filed

  
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Purchasing Administrator