Memorandum

MIAMI-DADE COUNTY

Date: May 17, 2016

Agenda Item No. 3(B)(1)

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Non-Exclusive Vehicle Fueling Services Agreement with the City of North Miami

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Recommendation
It is recommended that the Board of County Commissioners (Board) ratify the Non-Exclusive Vehicle Fueling Services Agreement (Agreement) between the City of North Miami (City) and Miami-Dade County (County) for non-exclusive use of the City's vehicle fueling station for Compressed Natural Gas (CNG) truck tractors.

Scope
The impact of this item is countywide in nature. These truck tractors transport refuse to and from the County's Resources Recovery Facility (Waste-to-Energy Plant), transfer stations, and active landfill sites.

Fiscal Impact/Funding Source
The Department anticipates spending no more than $275,000.00 in a single fiscal year. The funding source will be from the Department of Solid Waste Management (DSWM) Proprietary Funds (Index Code PWED0NETSOP0).

Track Record/Monitor
This Agreement will be managed by Danny Diaz, DSWM Fleet Manager, and monitored by Michael Fernandez, Assistant Director for DSWM Disposal Operations.

Delegated Authority
The Mayor or designee is authorized to enforce the terms of the agreement. However, all options to renew require approval of the Board.

Background
On May 5, 2015, the Board approved Resolution R-388-15, which increased the Department's allocation for up to 10 CNG truck tractors. Five (5) truck tractors were ordered with deliveries to the County beginning in February 2016.

The DSWM truck tractors will be part of a pilot program that is anticipated to transition the County's heavy fleet to CNG. The pilot program provides the County with the opportunity to closely monitor vehicle performance and fuel savings associated with CNG truck tractors. There are currently no available County CNG Fueling Stations. The attached Non-Exclusive Vehicle Fueling Services Agreement with the City will allow DSWM to utilize the City's facilities located at 1855 NE 142 Street in North Miami. The City will provide DSWM with quarterly fueling receipts/tickets that include the date of service, time of service, and amount of fuel dispensed.

The Department's pilot program is separate from the advertisement of two (2) solicitations seeking firms to design, build, operate, and maintain countywide CNG facilities and infrastructure. This separate advertisement is currently in the evaluation process and under the Cone of Silence.

The term of the Agreement will be for 12 months and have three (3), 12-month options to renew upon approval of the Board.

Alina T. Hudak
Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: May 17, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 3(B)(1)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Statement of social equity required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

✓ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 3(B)(1)
5-17-16

RESOLUTION NO. _____

RESOLUTION RATIFYING THE EXECUTION BY THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE OF A NON-EXCLUSIVE VEHICLE FUELING SERVICES AGREEMENT WITH THE CITY OF NORTH MIAMI IN THE AMOUNT OF $275,000.00

WHEREAS, on October 26, 2015, the City of North Miami and Miami-Dade County entered into a non-exclusive vehicle fueling services agreement, pursuant to Section 2-9 of the Code of Miami-Dade County, for the City to make its Compressed Natural Gas ("CNG") fueling station located at 1855 NE 142nd Street, North Miami, available to the Department of Solid Waste Management; and

WHEREAS, Miami-Dade County, through its Department of Solid Waste Management desires to purchase on an as needed basis, CNG from the City, in the amount of up to two hundred seventy-five thousand dollars ($275,000.00) without any obligation to spend the entire amount in any twelve month period; and

WHEREAS, Sections 2-9 and 2-10 of the Miami-Dade County Code permit the County Mayor to enter into contracts on behalf of the County with municipalities and other governmental units for joint performance of a governmental function for a period not to exceed one year subject to ratification by the Board of County Commissioners; and

WHEREAS, the Agreement contains three (3) renewal options of twelve (12) months each, which may be exercised upon approval by the Board for each renewal option; and

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board ratifies the non-exclusive Agreement between Miami-Dade County and the City of North Miami which allows the Department of Solid Waste Management to utilize the City's Fueling Station located at 1855 NE 142nd Street, North Miami, to fuel compressed natural gas truck tractors, in the form attached hereto and made part hereof; based on Section 2-10 of the Code of Miami-Dade County, the County Mayor shall seek approval of this Board to exercise any options to renew.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman
Esteban L. Bovo, Jr., Vice Chairman

Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of May, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. D.F.

Daniel Frastai

CITY OF NORTH MIAMI
NON-EXCLUSIVE VEHICLE FUELING SERVICES AGREEMENT

THIS NON-EXCLUSIVE VEHICLE FUELING SERVICES AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2015, between the City of North Miami, a Florida municipal corporation, located at 776 NE 125th Street, North Miami, FL 33161("City") and Miami-Dade County, through its Public Works and Waste Management Department, having its principal office at 2525 NW 62nd Street, 5th Floor, Miami, FL 33147 ("Miami-Dade County"). The City and Miami-Dade County shall collectively be referred to as the "Parties", and each may individually be referred to as a "Party".

RECITALS

WHEREAS, the City has a fueling facility located at 1855 NE 142nd Street, North Miami, capable of dispensing diesel and unleaded fuel as well as compressed natural gas ("CNG") for City owned vehicles ("Motor pool"); and

WHEREAS, Miami-Dade County desires to purchase on an as needed basis, CNG from the City, in the amount of up to Two Hundred Seventy Five Thousand Dollars ($275,000.00), without any obligations of having to spend the entire amount. This Agreement will only cover a number of service vehicles owned by Miami-Dade County.

NOW THEREFORE, in consideration of the mutual terms and conditions set forth herein and other good and valuable consideration, the Parties hereto agree as follows:

1. SCOPE OF AGREEMENT

1.1 Upon request by Miami-Dade County, the City shall allow Miami-Dade County service vehicles to enter the Motor pool fueling facility and allow Miami-Dade County employees to fuel Miami-Dade County service vehicles. Fueling shall be permitted according to an agreed schedule approved by the City.

1.2 Miami-Dade County and the City shall each designate a representative to carry out the responsibilities for the direction and administration of this Agreement.

1.3 The City shall provide Miami-Dade County with fueling receipts/tickets on a quarterly basis that include, at a minimum: date of service, time of service, and amount of fuel dispensed.

2. TERM OF THE AGREEMENT

2.1 This Agreement shall become effective upon execution by both Parties and shall remain in effect for twelve (12) months after execution, unless sooner terminated pursuant to Section 3 below. The Parties shall have three (3) options to renew this Agreement in writing, each option to last twelve (12) months, on a year-by-year basis.

3. TERMINATION

3.1 Either Party may terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to the other Party.

4. BILLING/METHOD OF PAYMENT

4.1 The City shall bill Miami-Dade County the actual costs incurred by the City per British Thermal Units (BTUs) of CNG, plus a ten (10) percent administrative fee and a twenty (20) percent fee for additional operating expenses. In addition, the City reserves the right to pass through to Miami-Dade County the apportioned amount of any emergency surcharges for fuels dispensed to Miami-Dade County, which are charged to the City by third parties, suppliers or governmental entities. Miami-Dade County shall pay all invoices in accordance with the Local Government Prompt Payment Act under Chapter 218, Part VII, Florida Statues (2015).

5. NOTICES

5.1 All notices, requests, demands, consents, approvals and other communications which are required to be served or given, shall be in writing and shall be sent by registered mail or certified U.S. mail, return receipt requested, and addressed to the Party to receive such notices, as follows:

To Miami-Dade County:	Director of the Department of Public Works and Waste Management 2525 NW 62nd St., 5th Floor Miami, FL 33147
With a copy to:	County Attorney Miami-Dade County 111 NW 1st Street Miami, FL 33128
To the City:	City Manager City of North Miami 776 N.E. 125th Street North Miami, FL 33161
With a copy to:	City Attorney City of North Miami 776 North East 125th Street North Miami, FL 33161
With a copy to:	Capital Project Manager City of North Miami 776 North East 125th Street North Miami, FL 33161

6. FORCE MAJEURE

6.1 A "Force Majeure Event" shall mean an act of God, act of governmental body or military authority, fire, explosion, power failure, flood, storm, hurricane, sink hole, other natural disasters, epidemic, riot or civil disturbance, war or terrorism, sabotage, insurrection, blockade, or embargo. In the event that either Party is delayed in the performance of any act or obligation pursuant to or required by the Agreement by reason of a Force Majeure Event, the time for required completion of such act or obligation shall be extended by the number of days equal to the total number of days, if any, that such Party is actually delayed by such Force Majeure Event. The Party seeking delay in performance shall give notice to the other Party specifying the anticipated duration of the delay, and if such delay shall extend beyond the duration specified in such notice, additional notice shall be repeated no less than monthly so long as such delay due to a Force Majeure Event continues. Any Party seeking delay in performance due to a Force Majeure Event shall use its best efforts to rectify any condition causing such delay and shall cooperate with the other Party to overcome any delay that has resulted.

7. MISCELLANEOUS PROVISIONS

7.1 No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

7.2 All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with this Agreement, shall survive final payment, completion and acceptance of the fueling services and termination or completion of this Agreement.

7.3 Should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect or limitation of its use.

7.4 This Agreement constitutes the sole and entire agreement between the Parties. No modification or amendments to this Agreement shall be binding on either Party unless in writing and signed by both Parties.

7.5 This Agreement shall be construed and enforced according to the laws of the State of Florida. Venue in any proceedings between the Parties shall be in Miami-Dade County, Florida.

7.6 This Agreement shall be binding upon the Parties herein, their heirs, executors, legal representatives, successors and assigns.

7.7 In the event of any dispute arising under or related to this Agreement, the prevailing party shall be entitled to recover all actual attorney fees, costs and expenses incurred by it in connection with that dispute and/or the enforcement of this Agreement, including all such actual attorney fees, costs and expenses at all judicial levels, including appeal, until such dispute is resolved with finality.

7.8 Nothing contained in this Agreement is any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Chapter 768, Florida Statutes (2015).

7.9 This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same Agreement.

7.10 This Agreement contains the entire Agreement between the Parties. The Parties represent that in entering into this Agreement, they have not relied on any previous oral or implied representation, inducements or understandings of any kind or nature. No modifications shall be effective unless in writing and signed by both Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective proper officers duly authorized the day and year first written above.

ATTEST:

By: _____
Miami-Dade County Attorney

Print Name: Danny Frustai approved as to form and legal sufficiency only

Date: 10/21/15

Miami-Dade County, Florida: "**Miami-Dade County**"

By: _____
Miami-Dade County Mayor

Print Name: A. Hudale

Date: 10/26/15

ATTEST:

By: _____
Michael A. Etienne
City Clerk

City of North Miami, a Florida municipal Corporation: "**City**"

By: _____
Arthur H. Sorey, III
Interim City Manager

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
Roland C. Galdos
Interim City Attorney