

**BCC Meeting: July 10, 2019
Research Notes**

**Item No. 8F21
File No. 191268**

Researcher: IL Reviewer: PGE

RESOLUTION WAIVING FORMAL BID PROCEDURES PURSUANT TO SECTION 5.03(D) OF THE HOME RULE CHARTER AND SECTION 2-8.1(B)(1) OF THE CODE OF MIAMI-DADE COUNTY BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT AND AUTHORIZING ACCESS OF COMMONWEALTH OF VIRGINIA CONTRACT NO. E194-75548 FOR THE PURCHASE OF 140 LOW-FLOOR 40 FOOT COMPRESSED NATURAL GAS BUSES WITH GILLIG, LLC AND NEW FLYER OF AMERICA, INC. FOR THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS IN A TOTAL AMOUNT UP TO \$80,938,454.00 FOR THE CURRENT TERM EXPIRING MAY 31, 2019 AND ONE-YEAR OPTION TO RENEW TERM; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION, AND EXTENSION PROVISIONS, PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE DOCUMENTS NECESSARY TO ACCESS SAME AND EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38; AND AUTHORIZING THE USE OF CHARTER COUNTY SURTAX FUNDS FOR SUCH PURPOSES

ISSUE/REQUESTED ACTION

Whether the Board should approve waiver of formal bid procedures to access a Commonwealth of Virginia contract for the purchase of 140 Low-Floor 40-foot compressed natural gas (CNG) buses with Gillig, LLC and New Flyer of America, Inc., in a total amount up to \$80,938,454.00 for the Department of Transportation and Public Works.

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Internal Services Department (ISD)

This item was brought before the Transportation and Finance (TAF) Committee on June 12, 2019 and was forwarded to BCC without a recommendation. Prior to the item being waived the following exchange took place:

- Prior to the conclusion of the discussion on this item, multiple commissioners questioned the process by which these buses were being procured via the Commonwealth of Virginia Contract. Specifically, they questioned why DTPW and ISD were awarding the majority of the bus purchases to New Flyer (\$578,500) instead of Gillig considering that Gillig was charging a lower amount per bus unit (\$576,000).
- DTPW director Alice Bravo, stated that New Flyer had offered a \$5,000 credit for maintenance and training, and when this credit was factored in, the price went down from \$578,000 to \$573,000.
- The Gillig representative stated that Gillig could match the credit that New Flyer had given the County.
- Members of the committee questioned the integrity of the process as it relates to bus receivership and placing these buses into circulation considering that a lag time existed for customization and potential retrofitting of the buses.
- DTPW staff stated that the problems that existed before concerning shaking of the buses while in motion have been resolved.
- The committee requested that OCA conduct a study as to the certification of new buses in other jurisdictions outside of the State of Florida.

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- Director Bravo advised that the reason New Flyer was awarded 100 buses and not 40 was because of the delivery schedule. The New Flyer option allowed to get these buses on the ground much sooner than with Gillig.

ANALYSIS

The purpose of this item is for the County to acquire 140 CNG powered Low-Floor 40-foot buses, 40 from Gillig, LLC (Gillig) and 100 from New Flyer of America, Inc (New Flyer). The Commonwealth of Virginia issued a formal request for sealed proposals (RFP #194-193) for the purpose of establishing one or more Master Agreements through negotiations with experienced and qualified firms for the provision of quality low floor transit buses. The resultant Virginia contract pre-qualifies contractors to compete to provide CNG buses to public entities as a menu or schedule-type award. The three (3) pre-qualified suppliers are as follows:

Manufacturer	Price	Model
Gillig	\$576,987.00	BRT Plus
New Flyer	\$578,589.74	Xcelsior XN40
Nova Bus Co.	\$577,254.00	LFS40

Due to the fact that the Virginia contract was not competed, but established a menu of pricing from several bus manufacturers, the County cannot process a procurement action to access a non-competed menu. In accordance with the Miami-Dade County, ISD Internal Procedures Manual, "Pursuant to Implementing Order 3-38, Master Procurement, the County can access a competitively awarded contract as described in the Policy Statement above. The authority to award an accessed contract follows the same authority to award a competitive contract." Instead, DTPW can change their request to a Bid Waiver. The Internal Procedures Manual, Section 4 - Bid Waiver, Sole Source or Legacy Contracts, states: "It is the policy of Miami-Dade County to purchase goods and services using full and open competition. However, a contract for goods or services can be awarded without formal competitive bidding when it is determined to be in the best interest of the County. The best interest determination is based on justifiable conditions. Such non-competitive contracts include awards made through a Bid Waiver (BW) or Sole Source (SS) process. A BW process refers to any award made without competitive bidding."

ISD intends to access the Commonwealth of Virginia contract (RFP No. E194-193), which was issued on May 31, 2016. The solicitation provided for selection of two or more proposers deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the RFP. After negotiations with each of the three proposers: Gillig, New Flyer, and Nova Bus Co., the resultant Virginia contract for 40-foot CNG buses was established. Pursuant to County procurement procedures, the County can access a competitively procured contract. The County can access this type of contract through a bid waiver to take advantage of the Virginia contract's economy of scale pricing and accelerated delivery schedule to meet DTPW's needs.

DTPW has experience with CNG buses and will not require a pilot bus nor will bus operators require additional training. The County is not purchasing any buses from Nova Bus Co. (Nova) as Nova requires a "pilot bus" to be produced, delivered and evaluated prior to production, and would not be able to make delivery in accordance with DTPW's delivery needs. According to the current delivery schedule, the buses will be delivered by March 2020. The manufacturer buses are broken down as follows:

Manufacturer	Quantity of buses delivered
Gillig	40
New Flyer	100

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Note that the County has had a commercial history with both of these firms, the County has previously purchased 120 CNG powered buses from Gillig pursuant to Resolution No. R-1262-18, (Lynx Contract) and the County has also previously purchased 64 hybrid buses from New Flyer pursuant to Resolution No. R-564-15.

This procurement will replace buses that have exceeded their useful life. According to the mayoral memo, DTPW suggests that the longer the old fleet is in use, the higher the cost to maintain. DTPW has confirmed that fueling capabilities exists at County depots to accommodate all CNG buses being purchased.

The fiscal impact for this purchase is \$80,938,454 for 140 CNG buses. The current term of the Commonwealth of Virginia contract expires on May 31, 2019; however, Virginia has already advised that one year options to renew will be exercised prior to the current contract's expiration. According to the mayoral memo, it is in the best interest of the County to procure these 140 CNG buses as a non-compete to achieve the best value for DTPW by taking advantage of Virginia's economy of scale pricing and accelerated delivery schedule to meet its needs for the County's CNG program pursuant to Resolution No. R-419-14. Note that this program is for DTPW, ISD, the Department of Solid Waste and the Water and Sewer Department, it is not a Countywide policy.

On December 4, 2018, through Resolution R-1258-18, the Board directed the County Mayor to exercise the option in the Master Developer Agreement to construct a third CNG Fueling Facility at the Northeast Bus Depot, and procure additional CNG buses. Negotiations for construction of the Northeast Bus Depot are expected to conclude by Summer 2019, according to the mayoral memo.

Board-Approved CNG Buses Chronology

On January 2017 the contract with Trillium LLC established the purchase of 300 CNG buses via Resolution No. R-35-17. On January 23, 2019 a purchase order through the Lynx contract for 120 CNG buses was approved via Resolution No. R-99-19. DTPW's current board-approved CNG bus fleet totals 420. With the approval of this item, DTPW's CNG bus fleet would total 560 CNG buses. Full delivery of the buses is anticipated by February 2020.

Current DTPW Bus Fleet by Fuel Type

Diesel	CNG	Hybrid	Electric	Total
205	420	137	0	762

*Note that there is a procurement underway for 33 electric buses for DTPW. That negotiation is currently under the Cone of Silence.

OCA conducted a review of the awarded vendors on July 1, 2019:

Vendor	Sunbiz	Tax Collector	West Law
Gillig LLC	Active: Principal Address: 451 Discovery Drive, Livermore, CA 94551	No profile	No Adverse cases
New Flyer of America, Inc.	Active: Principal Address: 6200 Glenn Carlson Dr., St. Cloud, MN 56301-8852	No profile	No Adverse cases

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Summary of Findings

During the TAF meeting, there was discussion related to New Flyer providing a \$5,000 credit toward bus parts, resulting in a lower price per CNG bus, compared to Gillig's price. Gillig charges roughly \$577,000 per bus and New Flyer charges roughly \$578,500; however, according to DTPW, New Flyer offers DTPW a \$5,000 credit, resulting in an adjusted price per bus of \$573,500. The DTPW director explained that the credit equates to receipt of training for equipment and parts and that the credit is available until it is exhausted per bus or banked as \$500,000 credit toward recently purchased fleet (100 CNG Buses). The representative from Gillig stated that the company could match the \$5,000 New Flyer credit.

OCA discussed the \$5,000 credit at length with DTPW Director Alice Bravo on July 1, 2019. She explained that the \$5,000 credit offered by Gillig was contingent on the County purchasing a minimum of 100 buses from Gillig. The County is purchasing 40 buses from Gillig not 100 and therefore the \$5,000 credit offered by Gillig is not applicable. The Gillig \$5000.00 credit was not included in their initial proposal, but was first offered at the TAF.

Regarding the New Flyer \$5,000 credit, DTPW provided an amended price change summary sheet in which Reference No. 35 depicts a \$5,000 purchase credit to be used for spare parts, extended warranties, training and publications. The 5,000 dollar credit is referenced in a letter to DTPW from New Flyer of America dated April 18, 2019 with a subject line stating "Quotation for One Hundred (100) Heavy Duty Low-floor Compressed Natural Gas (CNG) Transit buses" under the section titled "Part and Deliverables Credit", the letter is attached to this note. It is unclear whether the amended price change sheet reflecting the New Flyer \$5,000.00 credit has binding contractual implications.

Furthermore, OCA inquired on the rationale behind purchasing 100 buses from New Flyer rather than Gillig, since Gillig original offered the lower price. The DTPW Director advised that the reason New Flyer was awarded the majority of the bus purchases is because New Flyer provides an expedited delivery schedule. Gillig will begin delivery of buses on October 2019 while New Flyer will begin in November 2019. Complete delivery is forecasted to be finalized by March 1, 2020 while Gillig's delivery schedule is slated to end March 22, 2020, **a 21 day difference**. To summarize Gillig is a local corporation who's buses are estimated to be \$1,600.00 less per bus but with a final delivery date of 21 days later than New Flyer.

At the TAF committee meeting, Commissioner Eileen Higgins requested that OCA conduct a survey on the timeline comparison for the certification of brand new buses, from the government entities receipt of the bus to placement of the bus into service. The chart below shows the comparison by Jurisdiction.

Jurisdiction	Time from delivery to full operation
City of Fresno, Department of Transportation	30-44 days
City of Houston	21-30 days
Miami-Dade County Department of Transit and Public Works	14 days
New York, NY Mass Transit Authority	Pending (City contacted OCA on 06/19/2019, OCA followed up on July 3, 2019)
Palm Beach County, FL	30-44 days
City of San Antonio	16 days
City of King County (Seattle), WA	90 days

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DEPARTMENTAL INPUT:

The following questions were asked to the Internal Services Department on May 16, 2019.

- Can CNG fueling stations for buses be used also for garbage trucks that are powered by CNG?
Yes we may fuel Solid Waste trucks after taking care of logistics. (Response provided by DTPW)
- Is the maintenance for these newly acquired buses going to be done by DTPW staff or will be hiring a third party vendor to provide maintenance? **DTPW staff will maintain the buses once out of warranty. During warranty the vendors have staff at the garages performing warranty work also DTPW staff performs warranty work and get reimbursed (Response provided by DTPW)**
- What is the average cost per diesel gallon equivalent (DGE) for CNG fuel? **\$1.25 per gallon as of April 2019**
- How many CNG fueling facilities exist in Miami-Dade County? Are any more going to be built? And if so how many? **2 Stations currently providing CNG Fuel: Central Division, 3300 NW 32 avenue 33142 and Coral Way Division, 2775 SW 74th Avenue 33155. DTPW currently has Trillium LLC constructing 2 CNG fuel stations at these locations and Florida City Gas (FCG) is providing the fuel. Cost were originally calculated to be at Central (\$17M) and Coral Way (cost \$14.94 M) respectively. A new CNG station is planned for Northeast division. We are currently in the negotiation stages with TECO Gas Company and Trillium corporation. This division will initially have 180+ CNG buses there, but it can support approximately 260 buses if necessary.**
- How many buses comprise our bus fleet? How many more CNG buses need to be purchased to completely overhaul our bus fleet? **Total fleet 762, CNG buses are currently 255 arrived 245 placed into service. DTPW is set to receive 420 CNG Buses by May 2020. Another order of 140 CNG Buses will be presented to the BCC for approval to purchase during a June 2019 meeting. If this is item passes, then Department of Transportation and Public Works will have a total of 560 CNG Buses out of a fleet of 762 during 2020 calendar year. DTPW also has 137 Hybrid (Diesel /Electric buses).**
- What is the lifespan of these CNG buses? **The standard life of the bus is 12 years or 500,000 miles. (Response provided by DTPW)**
- Has transit procured or entertained the possibility of procuring Electric buses? **Procurement for 33 Electric powered vehicles with an option to purchase 42 additional vehicles is under the Cone of Silence.**

APPLICABLE LEGISLATION/POLICY

Section 5.03(D) of the Home Rule Charter governs Contracts for public improvements and purchases of supplies, materials, and services other than professional shall be made whenever practicable on the basis of specifications and competitive bids. Formal sealed bids shall be secured for all such contracts and purchases when the transaction involves more than the minimum amount established by the Board of County Commissioners by ordinance.

https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH_ART5ADORPR_S5.03FIAD

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Section 2-1 of the Code of Miami-Dade County, (Rules of Procedure), Provides the Rules of Procedures for the Board of County Commissioners; provides that items approved at committee meetings recommending the award or rejection of contracts for public improvements and purchases of supplies, materials, and services (including professional services) shall not be subject to the four-day rule; establishes that approvals to exercise OTR terms do not require committee review.

https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-1RUPRCOCO

Section 2-8.1 of the Code of Miami-Dade County (Contracts and Purchases Generally) applies to all contracts for public improvements and purchases of all supplies, materials and services other than professional services and (1) requires formal sealed bids for purchases over \$250,000.00; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by Implementing Order (I.O.) and approved by the Board.

https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.1COPUGE

Resolution No. R-187-12, adopted February 21, 2012, directs the County Mayor to include due diligence information in memoranda recommending certain contract awards.

<http://intra/gia/legistarfiles/MinMatters/Y2012/120287min.pdf>

Resolution No. R-477-18, adopted May 1, 2018, directs the County Mayor to disclose to the Board the reasons goods and services are not being procured through local businesses when the recommendation is to award a contract to a non-local vendor or to establish a prequalification pool where less than 75 percent of the pool members are local businesses.

<http://intra/gia/matter.asp?matter=180822&file=true&yearFolder=Y2018>

Resolution No. R-419-14, adopted April 1, 2014, authorizing the County Mayor to advertise a Request for Proposals (RFP) for a compressed natural gas (CNG) program.

<http://www.miamidade.gov/govaction/matter.asp?matter=140812&file=true&fileAnalysis=false&yearFolder=Y2014>

Resolution No. R-564-15, adopted June 30, 2015, approved purchase of up to 64 hybrid buses from New Flyer of America Inc., in the amount of \$71,387,000 for a five year term.

<http://www.miamidade.gov/govaction/matter.asp?matter=150352&file=true&fileAnalysis=false&yearFolder=Y2015>

Resolution No. R-9919, adopted January 23, 2019, approved Purchase Order No. POMT 1900555 with Gillig LLC in the amount of \$69,210,520.00 for the purchase of 120 Low-Floor 40-foot compressed Natural Gas (CNG) buses through the Central Florida Regional Transportation authority D/B/A/ Lynx Contract No. 14-C09.

<http://www.miamidade.gov/govaction/matter.asp?matter=190042&file=true&fileAnalysis=false&yearFolder=Y2019>

Resolution No. R-35-17, adopted January 24, 2017, approved an award of a master developer agreement, contract no. 00096, compressed natural gas program for DTPW to Trillium Transportation Fuels, LLC in a total amount not to exceed \$428,773,000.00 for an initial ten-year term with an option to renew up to ten(1) years.

<http://www.miamidade.gov/govaction/matter.asp?matter=162416&file=true&fileAnalysis=false&yearFolder=Y2016>

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Resolution No. R-1262-18, adopted December 4, 2018, directed the County Mayor to issue a purchase order pursuant to the Central Florida Regional Transportation Authority D/B/A Lynx Contract No.14-C09 for the purchase of compressed natural gas buses to replace metrobuses that have reached their useful life span of 12 years and/or 500,000 miles of service in a number up to the maximum amount of available funds budgeted for this purpose in FY 2018-2019.
<http://www.miamidade.gov/govaction/matter.asp?matter=182875&file=false&fileAnalysis=false&yearFolder=Y2018>

Resolution No. R-1258-18, adopted December 4, 2018, directing the County Mayor to exercise the option subject to Board approval, in master developer agreement, Contract No. RFP-00096, with Trillium Transportation Fuels, LLC., to construct a compressed natural gas (CNG) fueling facility at the Northeast Bus Depot and to procure additional CNG buses in order to operate CNG buses from the Northeast Bus depot.

<http://www.miamidade.gov/govaction/matter.asp?matter=182862&file=true&fileAnalysis=false&yearFolder=Y2018>

Implementing Order No. 3-38 provides the County's processes and procedures for the purchase of goods and services. The I.O. outlines: the roles and responsibilities of the Internal Services Department; the methods of purchasing goods and services; the authority to award and modify contracts; and the requirements for access contracts, emergency purchases, bid waivers, confirmation purchases and sole sources.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf>