

Memorandum



(Public Hearing 6-4-13)

Date: May 21, 2013
To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

Agenda Item No. 5(F)

From: Carlos A. Gimenez
County Mayor 

Subject: Ordinance Authorizing the Issuance of \$4.245 Billion of Additional Water and Sewer Revenue Bonds to Fund the Cost of the Water and Sewer Department's Capital Improvement Plan and Amending Ordinance 93-134 to Increase the Rate Covenant

Recommendation

It is recommended that the Board of County Commissioners (Board) enact the accompanying Ordinance (2013 Ordinance) which authorizes the issuance of up to \$4.245 billion of Water and Sewer System Revenue Bonds to:

- fund the cost of the Water and Sewer Department's capital improvement plan set forth in Exhibit "A" to the 2013 Ordinance (Authorized Projects); and
- change the requirement of the Water and Sewer Department to maintain Net Revenues (i.e. Operating Revenues minus Operating Expenses) at a level of 125 percent of the annual debt service requirement, an increase from the current level of 110 percent.

The Authorized Projects were previously approved by the Board as part of the Water and Sewer Department's capital improvement program. Proceeds from the multiple series of bonds to be issued over time shall be used to fund:

- \$879 million of capital replacement projects and upgrades to comply with a portion of a consent decree between the federal Environmental Protection Agency's (EPA), Florida Department of Environmental Protection (FDEP), and the County;
- \$2.692 billion of system rehabilitation needs to improve an aging infrastructure that's more than 50 years old; and
- \$674 million for capitalized interest (\$377 million), reserve fund (\$254 million), and cost of issuance (\$43 million).

The consent decree projects are to be completed over a period from FY 2013 through FY 2027. However, the portion authorized by this 2013 Ordinance is the portion of those consent decree projects to be completed between FY 2013 and FY 2018 only.

Scope

The issuance of the bonds will have a countywide impact. The bonds and Authorized Projects shall be managed by the Water and Sewer Department.

Fiscal Impact/Funding Source

The bonds authorized by the 2013 Ordinance will only be issued pursuant to subsequent series resolutions adopted by the Board which will set the parameters for establishing the terms, maturities, interest rates and other details of each series of bonds. Until a series of bonds is issued, the enactment of the 2013 Ordinance will have no fiscal impact on the County.

If all the bonds authorized by the 2013 Ordinance (\$4.245 billion) are issued, the average incremental annual debt service is forecasted to be \$279 million based on several 30 year bond issuances at an average annual interest rate of six percent. Water and Sewer Net Revenues are the pledged revenues to fund the debt service for these bonds.

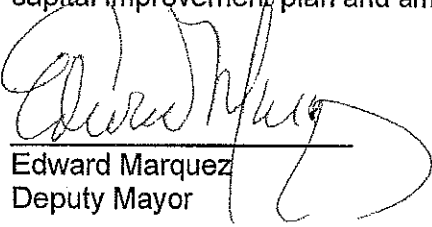
Background

On November 16, 1993, the Board enacted Ordinance 93-134 (the Master Ordinance) which authorized the issuance of revenue bonds for the Water and Sewer Department from time to time. Through subsequent amendments, the Board has approved a total issuance of \$2.250 billion, of which a total of \$2.028 billion has been issued and \$1.862 billion is currently outstanding. Through a separate bond ordinance, the Board has authorized the implementation of a \$400 million commercial paper program and the revenue bonds to retire the commercial paper.

Over the past five years, a number of failures of pipelines, pump stations, and plant equipment have resulted in sewer overflows. These failures have been the result of aging infrastructure, and renewal and replacement programs that have not kept pace with asset deterioration. Regulatory agencies (EPA and FDEP) approached the County to negotiate a new consent decree directed at infrastructure replacement rather than system capacity. This consent decree is expected to be in place the second quarter of 2013, requiring about \$1.558 billion of capital replacement projects and upgrades of the Water and Sewer Department's maintenance programs. Additionally, the water and sewer system is in immediate need of repair due to an aging infrastructure. More than 40 percent of the pipelines in the collection and distribution systems are 50 years old or older. The oldest water plant was built in 1926, and the newest water plant was built in the 1960s. These facilities require substantial upgrades beyond routine maintenance, as evidenced by several major transmission main failures and plant equipment failures in recent years.

The Master Ordinance contains a rate covenant whereby the County promised that it would maintain Net Operating Revenues in each fiscal year at least equal to 110 percent of the debt service requirements of the Water and Sewer Department's senior lien revenue bonds. The rating agencies view this rate covenant to be less robust as compared to other highly rated water and sewer authorities. Because we set our water and rates to pay for operating and maintenance expenses, subordinated debt service, and renewal and replacement costs etc., our debt service coverage always exceeds 125 percent. Amending the Master Ordinance at this time to this higher debt service coverage is a way to improve our legal credit structure without incurring additional costs.

The 2013 Ordinance increases the bond authorization under the Master Ordinance to provide funding for projects identified in Exhibit A which is reflective of the Water and Sewer Department's five year capital-improvement plan and amends the Master Ordinance to increase the rate covenant.


Edward Marquez
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: June 4, 2013

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 5(F)

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
- 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. 5(F)
6-4-13

ORDINANCE NO. _____

ORDINANCE AUTHORIZING ISSUANCE OF NOT TO EXCEED \$4,245,000,000.00 AGGREGATE PRINCIPAL AMOUNT OF MIAMI-DADE COUNTY, FLORIDA WATER AND SEWER SYSTEM REVENUE BONDS, IN MULTIPLE SERIES, AS ADDITIONAL BONDS UNDER SECTION 208 OF ORDINANCE NO. 93-134, TO PAY COSTS OF CERTAIN IMPROVEMENTS TO WATER AND SEWER UTILITY; PROVIDING THAT DETAILS, TERMS AND OTHER MATTERS RELATING TO ADDITIONAL BONDS BE DETERMINED IN SERIES RESOLUTIONS; AMENDING ORDINANCE NO. 93-134 TO INCREASE RATE COVENANT; AND PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE

WHEREAS, the Board of County Commissioners (the "Board") of Miami Dade County, Florida (the "County"), acting pursuant to the authority recited in Section 1 of this Ordinance (the "2013 Ordinance"), owns and operates water and wastewater treatment plant facilities and a distribution and collection system and pursuant to such authority and Ordinance No. 93 134, enacted by the Board on November 16, 1993 (the "Original Ordinance" and as amended by this 2013 Ordinance, the "Master Ordinance"), is authorized to issue revenue bonds from time to time; and

WHEREAS, pursuant to Ordinance No. 09-67 enacted by the Board on July 23, 2009 (the "2009 Ordinance"), the Board authorized the issuance of not to exceed \$800,000,000 in aggregate principal amount of Additional Bonds under the provisions of Section 208 of the Master Ordinance for the purpose of paying Costs of the CIP Projects (as defined in the 2009 Ordinance), funding the Reserve Account established under the Master Ordinance and paying costs of issuance of such Additional Bonds, of which the County has issued \$594,330,000; and

WHEREAS, the CIP Projects have been supplemented as more specifically described in Exhibit A to this 2013 Ordinance (as so supplemented, hereinafter referred to as the “CIP Projects”); and

WHEREAS, the Board has determined at this time that it is in the best interests of the County and its citizens to authorize the issuance, from time to time, of Additional Bonds in an aggregate principal amount not to exceed \$4,245,000,000, in multiple Series, under the provisions of Section 208 of the Master Ordinance for the purpose of paying Costs of the CIP Projects, funding the Reserve Account, funding capitalized interest, if advisable, and paying costs of issuance of such Additional Bonds; and

WHEREAS, the Board has further determined at this time that it is in the best interest of the County to amend the Original Ordinance in accordance with the provisions of Section 801 of the Original Ordinance in order to increase the rate covenant contained in Section 602 of the Original Ordinance as set forth in this 2013 Ordinance; and

WHEREAS, the Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated in this 2013 Ordinance by reference,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA that:

Section 1. Authority. This 2013 Ordinance is enacted pursuant to the provisions of the Constitution of the State of Florida, the Home Rule Amendment and Charter of Miami-Dade County, Florida, as amended, Chapters 125 and 166, Florida Statutes, as amended, the Code of Miami-Dade County, Florida, as amended, and other applicable provisions of law (collectively, the “Act”).

Section 2. Incorporation of Recitals. The matters set forth in the foregoing recitals to this 2013 Ordinance are incorporated as part of this 2013 Ordinance.

Section 3. Definitions. All terms used in capitalized form and not defined in this 2013 Ordinance have the meanings assigned to such terms in the Master Ordinance, unless the context otherwise clearly requires a different meaning.

Section 4. Authorization to Issue Additional Bonds. The Board authorizes the issuance, from time to time, of not to exceed \$4,245,000,000 aggregate principal amount of Miami-Dade County, Florida Water and Sewer System Revenue Bonds, in multiple Series, as Additional Bonds pursuant to Section 208 of the Master Ordinance and the authority of the Act, for the purpose of paying Costs of the CIP Projects, funding the Reserve Account, funding capitalized interest, if advisable, and paying costs of issuance of such Additional Bonds.

The Additional Bonds authorized under this 2013 Ordinance shall be special limited obligations of the County payable solely from and secured solely by Pledged Revenues. Such Additional Bonds do not constitute an indebtedness, liability, general or moral obligation, or a pledge of the faith, credit or power of the County, the State of Florida (the "State") or any political subdivision of the State, within the meaning of any constitutional, statutory or charter provision. Neither the State nor any political subdivision of the State nor the County shall be directly or indirectly or contingently obligated to levy any ad valorem taxes on any property to pay the principal of or the interest on such Additional Bonds or other related costs, or to pay the same from any other funds of the County except from the Pledged Revenues. The acceptance of such Additional Bonds by the registered owners from time to time shall be deemed an agreement between the County and such registered owners that such Additional Bonds and the indebtedness evidenced thereby shall not constitute a lien upon the Water and Sewer Utility, any part of the

Water and Sewer Utility, or any other property of the County, but shall constitute a lien only on the Pledged Revenues.

Section 5. Details, Terms and Other Matters Relating to Additional Bonds. In accordance with Section 202 of the Master Ordinance, all details, terms and other matters relating to the Additional Bonds authorized pursuant to this 2013 Ordinance shall be determined in the manner specified in the applicable Series Resolutions.

Section 6. Amendment to Original Ordinance. In accordance with the provisions of Section 801 of the Original Ordinance, Section 602 of the Original Ordinance is amended to read as follows:

SECTION 602. Rate Covenant. The County further covenants that it will fix, charge and collect rates and charges for the use of the services and facilities furnished by the Water and Sewer Utility and that from time to time, and as often as it shall be necessary, it will adjust such rates and charges by increasing or decreasing the same or any selected categories of rates and charges, so as to provide Net Operating Revenues in each Fiscal Year, >>(a) (i)<< commencing with the Fiscal Year beginning October 1, 1993, equal to ~~[[a]]~~ one hundred ten percent (110%) of the Principal and Interest Requirements on the Bonds for such Fiscal Year, >>and (ii) commencing with the Fiscal Year beginning October 1, 2012, equal to one hundred twenty five percent (125%) of the Principal and Interest Requirements on the Bonds for such Fiscal Year,<< plus (b) >>in each case,<< one hundred percent (100%) of the required deposits into the Reserve Account (less any portion thereof to be deposited from proceeds of Bonds) together with any Reserve Account Credit Facility Costs payable in such Fiscal Year. In addition to satisfying the debt service coverage requirements set forth above, the Adjusted Net Operating Revenues remaining after deduction of the Maximum Principal and Interest Requirements on all Bonds shall be at least equal to one hundred percent (100%) of all debt service and reserve requirements on Subordinate Obligations.

In case the County has made deposits of Net Operating Revenues to or withdrawals from the Rate Stabilization Fund during such Fiscal Year Net Operating Revenues shall be adjusted by subtracting the amount of any such deposits and by adding the amount of any such withdrawal.

Section 7. Original Ordinance in Force. Except as amended by this 2013 Ordinance, the Original Ordinance and all terms and provisions of the Original Ordinance are and shall remain in full force and effect.

Section 8. Further Acts. The officers and agents of the County are authorized and directed to take all actions and do all things required of them by the Master Ordinance and this 2013 Ordinance for the full, punctual and complete performance of all of the terms, covenants, provisions and agreements contained in the Master Ordinance and this 2013 Ordinance.

Section 9. Headings Not Part of Ordinance. Any headings preceding the Sections of this 2013 Ordinance shall be solely for convenience of reference and shall not constitute a part of this 2013 Ordinance, nor shall they affect its meaning, construction or effect.

Section 10. Severability. In case any one or more of the provisions of this 2013 Ordinance shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect the legality or enforceability of any other provision of this 2013 Ordinance.

Section 11. Effective Date. This 2013 Ordinance shall take effect ten (10) days after its enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Gerald T. Heffernan

Bond Counsel:Squire Sanders (US) LLP
D. Seaton and Associates

EXHIBIT A

CIP Projects

WASTEWATER PROJECTS

NORTH DISTRICT UPGRADES - WASTEWATER TREATMENT PLANT
CENTRAL DISTRICT UPGRADES - WASTEWATER TREATMENT PLANT
SOUTH DISTRICT WASTEWATER TREATMENT PLANT EXPANSION - PHASE 3
SOUTH DISTRICT UPGRADES - WASTEWATER TREATMENT PLANT
NORTH MIAMI-DADE WASTEWATER TRANSMISSION MAINS AND PUMP STATION IMPROVEMENTS
CENTRAL MIAMI-DADE WASTEWATER TRANSMISSION MAINS AND PUMP STATION IMPROVEMENTS
SOUTH DISTRICT WASTEWATER TRANSMISSION MAINS AND PUMP STATIONS IMPROVEMENTS
GRAVITY SEWER RENOVATIONS
SANITARY SEWER SYSTEM IMPROVEMENTS
WASTEWATER GENERAL MAINTENANCE AND OFFICE FACILITIES
CORROSION CONTROL FACILITIES IMPROVEMENTS
PUMP STATION IMPROVEMENTS PROGRAM
PEAK FLOW MANAGEMENT FACILITIES
SANITARY SEWER SYSTEM EXTENSION
WASTEWATER ENGINEERING STUDIES
PUMP STATION GENERATORS AND MISCELLANEOUS UPGRADES
WASTEWATER TELEMETERING SYSTEM
WASTEWATER SYSTEM MAINTENANCE AND UPGRADES
LIFT STATION UPGRADES AND STRUCTURAL MAINTENANCE IMPROVEMENTS
WASTEWATER EQUIPMENT AND VEHICLES
WASTEWATER TREATMENT PLANTS REPLACEMENT AND RENOVATION
WASTEWATER TREATMENT PLANT AUTOMATION ENHANCEMENTS
WASTEWATER TREATMENT PLANTS MISCELLANEOUS UPGRADES
WASTEWATER TREATMENT PLANTS EFFLUENT REUSE
MIAMI SPRINGS CONSTRUCTION FUND - WASTEWATER
OUTFALL LEGISLATION SUMMARY DESCRIPTION
WASTEWATER - PIPES AND INFRASTRUCTURE PROJECTS
SUBTOTAL WASTEWATER PROJECTS: \$1,625,716,000

WATER PROJECTS

WATER TREATMENT PLANT - HIALEAH / PRESTON IMPROVEMENTS
WATER TREATMENT PLANT - ALEXANDER ORR, JR EXPANSION
WELLFIELD IMPROVEMENTS
NORTH MIAMI-DADE WATER TRANSMISSION MAINS IMPROVEMENTS
CENTRAL MIAMI-DADE WATER TRANSMISSION MAINS IMPROVEMENTS
SOUTH MIAMI-DADE WATER TRANSMISSION MAINS IMPROVEMENTS
WATER MAINS EXTENSION
WATER GENERAL MAINTENANCE AND OFFICE FACILITIES
WATER DISTRIBUTION SYSTEM EXTENSION ENHANCEMENTS
WATER SYSTEM FIRE HYDRANT INSTALLATION
WATER EQUIPMENT AND VEHICLES
WATER TREATMENT PLANTS REPLACEMENT AND RENOVATIONS
WATER SYSTEM MAINTENANCE AND UPGRADES
WATER ENGINEERING STUDIES
AUTOMATION OF WATER TREATMENT PLANTS
WATER TREATMENT PLANTS MISCELLANEOUS UPGRADES
SAFE DRINKING WATER ACT MODIFICATIONS - SWT RULE AND D-DBP
SOUTH MIAMI HEIGHTS WATER TREATMENT PLANT AND WELLFIELD
WATER TELEMETERING SYSTEM ENHANCEMENTS
WATER TREATMENT PLANT - FLORIDAN REVERSE OSMOSIS
MIAMI SPRINGS CONSTRUCTION FUND - WATER
WATER - PIPES AND INFRASTRUCTURE PROJECTS
SUBTOTAL WATER PROJECTS:

\$1,945,256,000

TOTAL WASTEWATER AND WATER PROJECTS:

\$3,570,972,000