

# Memorandum



Date: July 1, 2008

Agenda Item No. 14(A)(3)

To: Honorable Chairman Bruno A Barreiro  
and Members, Board of County Commissioners

From: George M. Burgess  
County Manager

Resolution No. R-717-08

Subject: Resolution Authorizing Issuance of \$68.3 Million Water and Sewer System Revenue Bonds and amends Resolution R-411-08 to Provide the Issuance of Fixed Rate Bonds.

## RECOMMENDATION

It is recommended that the Board adopt the accompanying Resolution (Amending Resolution) which authorizes the issuance of not to exceed \$68,300,000 of Miami-Dade County, Florida Water and Sewer System Revenue Bonds, Series 2008 (Series 2008 Bonds), pursuant to Ordinance No. 93-134 for the purpose of terminating the related existing swap with AIG Financial Products Corp. (AIG); and amends Resolution No. R-411-08 adopted on April 8, 2008 (Original Series 2008 Resolution) to permit the issuance of fixed rate bonds (Series 2008 Refunding Bonds) to refund the Water and Sewer Refunding Bonds, Series 1994 currently outstanding in the principal amount of \$415,160,000 (Series 1994 Bonds) in response to the downgrade of Financial Guaranty Assurance Company (FGIC), which has caused the net interest cost of the Series 1994 Bonds to increase substantially.

### Scope

The impact of this item is countywide in scope.

### Fiscal Impact/Funding Source

Since 1994, total estimated savings from the 1994 interest rate swap transaction is approximately \$12 million. Because of the changes in the market, the additional cost from February through June has been \$6.6 million. Terminating this swap transaction at this time and entering into a fixed rate interest rate debt issuance will have a net present value cost of only \$7.5 million when compared to maintaining the same variable debt structure with an interest rate swap component and replacing the current bond insurer. However, committing to fixed interest debt mitigates significantly future interest rate risk.

The principal and interest on the Series 2008 Revenue Bonds is payable from Water and Sewer System Revenues.

### Background

On November 16, 1993 the Board enacted Ordinance No. 93-134 (Master Ordinance) which authorized the issuance of not to exceed \$500 million of water and sewer system revenue bonds. Pursuant to the Master Ordinance, on January 18, 1994, the Board adopted Resolution R-74-94, which authorized the issuance of the Series 1994 Bonds. Currently, the outstanding principal amount of the Series 1994 Bonds is \$415,160,000 and they bear interest at a variable rate that adjusts weekly. On January 1, 1994, the County, for debt management purposes, entered into an interest rate swap (Swap) with AIG as the Counterparty. Under the Swap, the County pays the Counterparty a fixed rate of 5.28 percent on the amortizing notional amount of the Series 1994 Bonds, and AIG

pays the actual variable rate due on the Series 1994 Bonds to the County, as long as the Bonds meet certain rating criteria (Minimum Rating Criteria). This Swap enabled the County to maintain its interest rate exposure at a rate below what the Series 1994 Bonds would have been subject to if they were sold as fixed rate bonds at the time of issuance.

During February of this year, as a result of the mortgage industry liquidity crisis, certain bond insurers were downgraded by the rating agencies. The insurer of the Series 1994 Bonds and related swap was one of those companies. As a result, the Series 1994 Bonds were difficult to market and the standby bond purchase bank stepped in to purchase unsold Bonds. At that time, the effective interest rate on the Bonds increased from 5.28 percent to approximately 10 percent, costing the Department an average of \$350,000 in additional interest costs per week.

On March 18, 2008 the Board adopted R-309-08 (Restructuring Resolution) authorizing the Finance Director, as the Mayor's designee and in consultation with the Financing Team (i.e. County Attorney, the Financial Advisors, the Swap Advisor, Bond Counsel, and Disclosure Counsel), to keep the Series 1994 Bonds outstanding as variable rate bonds by following the recommendation of its consultants, which included, among others, options such as releasing FGIC and replacing it with a new bond insurer, replacing the Liquidity Provider, if necessary, and/or terminating or restructuring the interest rate swap arrangement and issuing fixed rate debt.

On April 8, 2008, the Board adopted the Original Series 2008 Bonds further authorizing the issuance of refunding bonds not to exceed \$500 million and authorized a restructure of the existing swap with AIG. The Series 2008 Refunding Bonds were to be issued as variable rate bonds, insured by a AAA rated insurer, with a renegotiated liquidity provider and a renegotiated swap to be consistent with industry standards.

Staff has been diligently negotiating with all the parties, and issued a conditional notice to call all of the outstanding Series 1994 Bonds on July 15, 2008, and issue the Series 2008 Bonds in substantially the same mode as the 1994 Bonds. However, due to the continuing interest rate exposure in the variable rate market and the continued uncertainty and oversaturation of the limited bond insurer credit, some money market funds are nearing capacity to continue to purchase variable rate bonds backed by the same insurer.

In order to minimize the County's interest rate risk and to reduce the current extremely high interest cost on the Series 1994 Bonds, it is necessary to issue the refunding bonds as fixed rate obligations. As a result, the existing swap on the Series 1994 Bonds with AIG needs to be terminated. The urgency of this item is the immediate need for the County to take advantage of the current stable fixed rate insured market. Because of the downgrade of many of the municipal bond insurers, there is a limited market for variable rate insured bonds. In addition, there is no guarantee that insurers and credit providers that enhance variable rate bonds will not also be faced with credit issues in the near future that will adversely affect the interest rate on any variable rate bonds issued to refund the Series 1994 Bonds. The issuance of fixed rate bonds at this time will eliminate all of those risks.

A comparison of a variable rate refunding keeping the swap in place and a fixed rate refunding with a termination of the interest rate swap arrangement shows an additional present value cost to the County of approximately \$7.5 million over the life of the bond transaction, if fixed rate bonds are issued. Although, the present value cost would be higher initially on the fixed rate bonds, there is no guarantee that with continued volatility in the variable rate market that the variable rate option would

not cost more over time. Due to the volatile variable rate market, it is fiscally responsible to lock in the interest rate and take the variable rate bonds out of the market by issuing fixed rate bonds.

In addition to the refunding of the Series 1994 Bonds and paying the swap termination, the Series 2008 Refunding Bonds, if issued, will be issued for the purposes of: (i) funding a deposit to the Reserve Account in an amount necessary to meet the Reserve Requirement or to purchase a Reserve Account Credit Facility if deemed advisable; and (ii) paying certain costs of issuance of the Series 2008 Refunding Bonds, including premiums for municipal bond insurance.

The Amending Resolution approves, authorizes and provides for:

- The issuance of \$68.3 million in additional bonds pursuant to Section 208 of the Master Ordinance to terminate the AIG Swap.
- The termination of the AIG Swap utilizing both bond proceeds as noted above and funds of the Water and Sewer Department.
- The issuance of the Series 2008 Refunding Bonds as fixed rate bonds.

The Amending Resolution further authorizes the Finance Director, as the Mayor's designee, within certain limitations described in the Amending Resolution, to:

- Issue the Series 2008 Refunding Bonds as tax exempt fixed rate serial bonds, or term bonds or a combination of them with maturity dates not to exceed 15 years, in one or more series at a true interest cost of not to exceed 5.5 percent and
- The sell the Series 2008 Bonds at a purchase price that shall not be less than 98% of the original principal amount of the Series 2008 Bonds.

Resolution R-130-06 provides that any County contract with a third party be finalized and executed prior to its placement on the committee agenda. The sale of the Series 2008 Refunding Bonds, which will set their final terms which are reflected in the Bond Purchase Agreement and the Escrow Agreement, will occur after the effective date of this Series 2008 Resolution in order to provide the County the maximum flexibility in the market place as described above. Therefore, a waiver of Resolution R-130-06 is necessary.

The Series 2008 Bonds and the Series 2008 Refunding Bonds are expected to be issued on July 15, 2008.

  
Senior Advisor to the County Manager



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

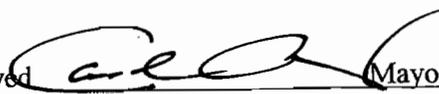
**DATE:** July 1, 2008

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

**SUBJECT:** Agenda Item No. 14(A)(3)

Please note any items checked.

- "4-Day Rule" ("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
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved  Mayor

Veto \_\_\_\_\_

Override \_\_\_\_\_

Agenda Item No. 14(A)(3)

7-1-08

RESOLUTION NO. R-717-08

RESOLUTION AUTHORIZING ISSUANCE OF NOT TO EXCEED \$68,300,000 MIAMI-DADE COUNTY, FLORIDA WATER AND SEWER SYSTEM REVENUE BONDS, PURSUANT TO SECTION 208 OF ORDINANCE NO. 93-134, AS AMENDED AND SUPPLEMENTED, FOR PRINCIPAL PURPOSE OF PAYING SWAP TERMINATION PAYMENT; AUTHORIZING TERMINATION OF SWAP; AMENDING CERTAIN PROVISIONS OF RESOLUTION NO. R-411-08; AUTHORIZING MAYOR OR HIS DESIGNEE TO DETERMINE CERTAIN MATTERS; AND PROVIDING FOR SEVERABILITY

WHEREAS, pursuant to Ordinance No. 93-134, enacted by the Board of County Commissioners (the "Board") of Miami-Dade County, Florida (the "County") on November 16, 1993 (as amended and supplemented, the "Master Ordinance"), the County authorized the issuance of not exceeding \$500,000,000 original principal amount of Dade County, Florida Water and Sewer System Revenue Bonds, Series 1993A (the "Series 1993A Bonds"), for the purposes set forth in the Master Ordinance; and

WHEREAS, pursuant to such authorization under the Master Ordinance and Resolution No. R-74-94 adopted by the Board on January 18, 1994 (the "Series 1994 Resolution"), the County issued \$431,700,000 original principal amount of the Series 1993A Bonds designated Dade County, Florida Water and Sewer System Revenue Bonds, Series 1994, currently outstanding in the principal amount of \$415,160,000 (the "Series 1994 Bonds"); and

WHEREAS, \$68,300,000 original principal amount of the Series 1993A Bonds remain authorized and unissued (the "Unissued Series 1993A Bonds"); and

WHEREAS, in connection with the issuance of the Series 1994 Bonds, the County entered into the Swap (as defined in the hereinafter described Original Series 2008 Resolution); and

WHEREAS, on April 8, 2008, the Board adopted Resolution No. R-411-08 (the "Original Series 2008 Resolution"), authorizing the issuance under the Master Ordinance of not to exceed \$500,000,000 principal amount of Miami-Dade County, Florida Water and Sewer System Revenue Refunding Bonds, Series 2008 (the "Series 2008 Refunding Bonds"), as variable rate bonds, for the purposes set forth in the Original Series 2008 Resolution; and

WHEREAS, all terms used in capitalized form and not defined in this resolution (the "Amending Resolution" and, together with the Original Series 2008 Resolution, the "Amended Series 2008 Resolution") have the meanings assigned to such terms in the Master Ordinance or the Original Series 2008 Resolution; and

WHEREAS, as a result of market developments since the adoption of the Original Series Resolution, the Board deems it in the best financial interest of the County and the users of the Water and Sewer Utility to authorize, subject to the provisions of the Amended Series 2008 Resolution, (i) the termination of the Swap; (ii) the issuance of Unissued Series 1993A Bonds (the "Series 2008 New Money Bonds" and, together with the Series 2008 Refunding Bonds, the "Series 2008 Bonds") for the principal purpose of paying any termination payment due in connection with the termination of the Swap; and (iii) the issuance of the Series 2008 Bonds as fixed rate bonds; and

WHEREAS, based upon the advice of the Financial Advisor, and the recommendation of the County Manager, the negotiated sale of the Series 2008 Bonds is in the best interest of the County for the reasons stated in the Original Series 2008 Resolution applicable after the adoption

of this Amending Resolution and in order to provide the maximum flexibility in negotiating a termination of the Swap and the issuance of the Series 2008 New Money Bonds to fund any termination payment; and

WHEREAS, the Board desires to accomplish the purposes outlined in the accompanying memorandum (the "County Manager's Memorandum"), a copy of which is incorporated in this Amending Resolution by reference,

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

Section 1. Authority; Recitals; Series Resolution.

(A) Authority. This Amending Resolution is adopted 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 Master Ordinance, the Code of Miami-Dade County, Florida, as amended, and other applicable provisions of law.

(B) Recitals. The recitals contained in the foregoing "WHEREAS" clauses are incorporated in this Amending Resolution by this reference.

(C) Series Resolution. The Amended Series 2008 Resolution shall constitute the Series Resolution with respect to the Series 2008 Bonds.

Section 2. Authorization of Series 2008 New Money Bonds. The Board hereby authorizes the issuance, pursuant to the Master Ordinance, of not exceeding \$68,300,000 principal amount of the Series 2008 New Money Bonds, constituting the Unissued Series 1993A Bonds, to be designated "Miami-Dade County, Florida Water and Sewer System Revenue Bonds, Series 2008   " (with such letter designation as shall be set forth in the Omnibus

Certificate), for the purpose of providing funds, together with any other available funds of the Department, to: (i) pay an termination payment due in connection with the termination of the Swap; (ii) pay the costs of any Credit Facilities, if advisable; (iii) provide for any required deposit to the Reserve Account for the Series 2008 New Money Bonds or to purchase a Reserve Account Credit Facility for such purpose, if advisable; and (iv) pay costs of issuance relating to the Series 2008 New Money Bonds.

Notwithstanding the provisions of the Master Ordinance and the Original 2008 Series Resolution, (i) the Series 2008A Bonds shall only be issued upon compliance with the provisions of Section 208 of the Master Ordinance, and (ii) references to the "Series 2008 Bonds" in the Original Series 2008 Resolution shall include the Series 2008 Refunding Bonds and the Series 2008 New Money Bonds.

Section 3. Authorization of Swap Termination; Amendments to Original Series 2008 Resolution. Notwithstanding anything to the contrary contained in the Original Series 2008 Resolution or the Restructuring Resolution, and to the extent the provisions contained below are inconsistent with any provisions contained in the Original Series 2008 Resolution, such provisions in the Original Series 2008 Resolution are amended as follows:

(A) The termination of the Swap and the payment of any required termination payment is authorized, if so determined by the Finance Director, in consultation with the Swap Advisor and the Director, and set forth in the Omnibus Certificate.

(B) If the Series 2008 New Money Bonds are issued, the Series designation of the Series 2008 Refunding Bonds shall be as set forth in the Omnibus Certificate.

(C) The purposes of the Series 2008 Bonds shall include the payment of any termination payment due in connection with the termination of the Swap, but such payment shall

be made solely from proceeds of the Series 2008 New Money Bonds and other available funds of the Department, as more specifically set forth in the Omnibus Certificate.

(D) The Series 2008 Bonds may be issued as fixed rate bonds, in which case the provisions of the Original Series 2008 Resolution relating to variable rate bonds, including Exhibit "A", shall not apply, and the Series 2008 shall be issued in denominations of \$5,000 or any multiple of \$5,000 and shall bear interest payable semiannually on April 1 and October 1 of each year, all as determined by the Finance Director, as designee of the Mayor, in consultation with the Financial Advisor and the Director, and set forth in the Omnibus Certificate.

(E) The Minimum Purchase Price for the Series 2008 Bonds shall not be less than 98% of the original principal amount of the Series 2008 Bonds.

(F) The Series 2008 Bonds shall mature no later than October 1, 2022.

(G) If the Series 2008 Bonds are issued as fixed rate bonds, the true interest cost rate (the "TIC") of the Series 2008 Bonds shall not exceed 5.5% (the "Maximum TIC").

(H) If the Series 2008 Bonds are issued as fixed rate bonds, the form of Series 2008 Bonds shall be generally consistent with the form of fixed rate Bonds previously issued by the County under the Master Ordinance.

(I) To the extent the Refunded Bonds are redeemed on the date of delivery of the Series 2008 Bonds, proceeds and other available funds of the Department shall not be transferred to an Escrow Agent for the acquisition of Defeasance Obligations to be held under an Escrow Deposit Agreement and no Verification Agent shall be required.

Section 4. Severability; Resolution Controlling. In case any one or more of the provisions of this Amending Resolution shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Amending Resolution and such

other provisions shall be construed and enforced as if such illegal or invalid provision had not been contained in this Amending Resolution. All or any part of any resolutions or proceedings in conflict with the provisions of this Amending Resolution are to the extent of such conflict repealed or amended to the extent of such inconsistency; provided, however, that to the extent not amended hereby, the Original Series 2008 Resolution is hereby ratified and confirmed.

Section 5. Governing Law. This Amending Resolution is adopted with the intent that the laws of the State of Florida shall govern their construction.

Section 6. Waivers. The provisions of Resolution No. R-130-06, as amended from time to time, requiring that any contracts of the County with third parties be executed and finalized prior to their placement on the committee agenda are hereby waived at the request of the County Manager for the reasons set forth in the County Manager's Memorandum.

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

	Bruno A. Barreiro, Chairman	aye		
	Barbara J. Jordan, Vice-Chairwoman	aye		
Jose "Pepe" Diaz	absent		Audrey M. Edmonson	aye
Carlos A. Gimenez	aye		Sally A. Heyman	aye
Joe A. Martinez	absent		Dennis C. Moss	aye
Dorrin D. Rolle	absent		Natacha Seijas	absent
Katy Sorenson	aye		Rebeca Sosa	aye
Sen. Javier D. Souto	aye			

The Chairperson thereupon declared the resolution duly passed and adopted this 1<sup>st</sup> day of July, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK



By: **Kay Sullivan**  
Deputy Clerk

Approved by County  
Attorney as to form and  
legal sufficiency:   
Gerald T. Heffernan

