

## MEMORANDUM

Agenda Item No. 7(K)

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

**DATE:**

(Second Reading 6-4-13)  
April 16, 2013

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

**SUBJECT:**

Ordinance authorizing and approving a sanitary sewer special connection charge for construction of sewer improvements to buildings and properties within a certain area of Biscayne Basin; providing for collection of such actual charges by the Miami-Dade Water and Sewer Department; providing for unpaid charges to be a lien on real property

Ordinance No. 13-57

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The accompanying ordinance was prepared by the Water and Sewer Department and placed on the agenda at the request of Co-Prime Sponsors Commissioner Audrey M. Edmonson, Commissioner Bruno A. Barreiro and Commissioner Sally A. Heyman.

  
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R. A. Cuevas, Jr.  
County Attorney


RAC/smm

# Memorandum



**Date:** June 4, 2013

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

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Ordinance approving a sanitary sewer special connection charge for the Miami-Dade Water and Sewer Department for the expansion of sewer facilities in the Biscayne Basin Area

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## **RECOMMENDATION**

It is recommended that the Board of County Commissioners (Board) approve the attached ordinance providing the Miami-Dade Water and Sewer Department (WASD) with the authority to charge a sanitary sewer special connection charge for the expansion of the sewer facilities in the Biscayne Basin Area.

## **SCOPE**

This agenda item provides WASD with the authority to charge sanitary sewer special connection charges for the expansion of sewer facilities in Commission Districts 2, 3, and 5.

## **FISCAL IMPACT/FUNDING SOURCE**

There is a fiscal impact to the County as total construction costs are estimated at \$41,600,000. However, WASD will be reimbursed for 77.8% of the actual project construction costs through the collection of a sanitary sewer special connection charge from each property owner who requests new or increased sewer service. Sanitary sewer special connection charges paid by new users or users increasing their capacity will be non-refundable after WASD awards a contract of any kind related to the design and/or construction of such improvements. The reimbursement is estimated at \$32,378,044. The remaining estimated project construction costs, which equal \$9,221,956 (22.2%), will be funded by a combination of Plant Expansion and Sewer Renewal and Replacement Funds. There is a fiscal impact to the County's current budget and to future annual budgets until the construction project is completed and WASD is reimbursed the full 77.8% of the actual total construction cost by the property owners.

## **TRACK RECORD/MONITOR**

WASD's New Customer Division will be responsible for collection of the sanitary sewer special connection charges.

## **BACKGROUND**

WASD determined that improvements were required to the sewer facilities serving the area in the Biscayne Basin Area (see Exhibit A) bounded by NE 88 Street to the north, approximately NW 12 Avenue to the west, SE 1 Street to the south, and Biscayne Bay to the east. The facilities currently serving the area are inadequate to serve increased usage in existing buildings, or new buildings expected to be constructed. This project will provide the sewer system capacity needed to accommodate the large scale developments proposed for this area.

WASD estimates that future sewer service customers in the area will require an average of 7,640,000 gallons per day of new or increased capacity which will be provided by the new sewage facilities. WASD will design and construct these new sewer facilities with its own funds and will be reimbursed 77.8% of the total actual project construction costs estimated to total \$32,378,044.

WASD will be compensated by collecting from each property owner who requests increased sewer service or new sewer service in the Biscayne Basin Area a sanitary sewer special connection charge at the time WASD's verification form is issued. The verification form is used by WASD to verify that sewer facilities are sufficient and that system capacity exists to serve the applicant's project. The form is issued after WASD confirms the sewer facilities and the system capacity are available. This confirmation takes place prior to the issuance of the building permit or a certificate of use and/or occupancy by the City of Miami. The sanitary sewer special connection charge will be collected until WASD is reimbursed in full for 77.8% of the actual project construction costs.

The Board adopted five similar ordinances which authorized WASD to collect special connection charges from new property owners and developers in the neighborhoods listed below:


1. On April 16, 1985, the Board adopted Ordinance No. 85-21 which approved a special connection charge in the area of S.W. 8 Street and Brickell Avenue.
2. On April 22, 2003, the Board adopted Ordinance 03-95 which approved a water and sewer special connection charge in the area of Downtown Kendall, and Ordinance 06-128 on September 12, 2006 which amended the dollar amount of the water and sewer special connection charge for the area of Downtown Kendall.
3. On November 11, 2005, the Board adopted Ordinance No. 05-198 which approved a sanitary sewer special connection charge in the area of Brickell Village.
4. On November 28, 2006 the Board adopted Ordinance No. 06-171 which approved a sanitary sewer special connection charge in the area of West Flagler Street to S.W. 8 Street and S.W. 12 Avenue to S.W. 17 Avenue (West Flagler Basin).
5. On May 2, 2012, the Board adopted Ordinance No. 12-36 which approved a sanitary sewer special connection charge in the area near Brickell Avenue bounded by the Miami River to the north, I-95 to the west, SW 21 Street to the south and Biscayne Bay to the east.

The sanitary sewer construction connection charge is determined by dividing the total estimated cost of additional capacity, which is \$32,378,044, by the total estimated additional capacity of 7,640,000 gallons per day, resulting in a charge of \$4.24 per gallon.

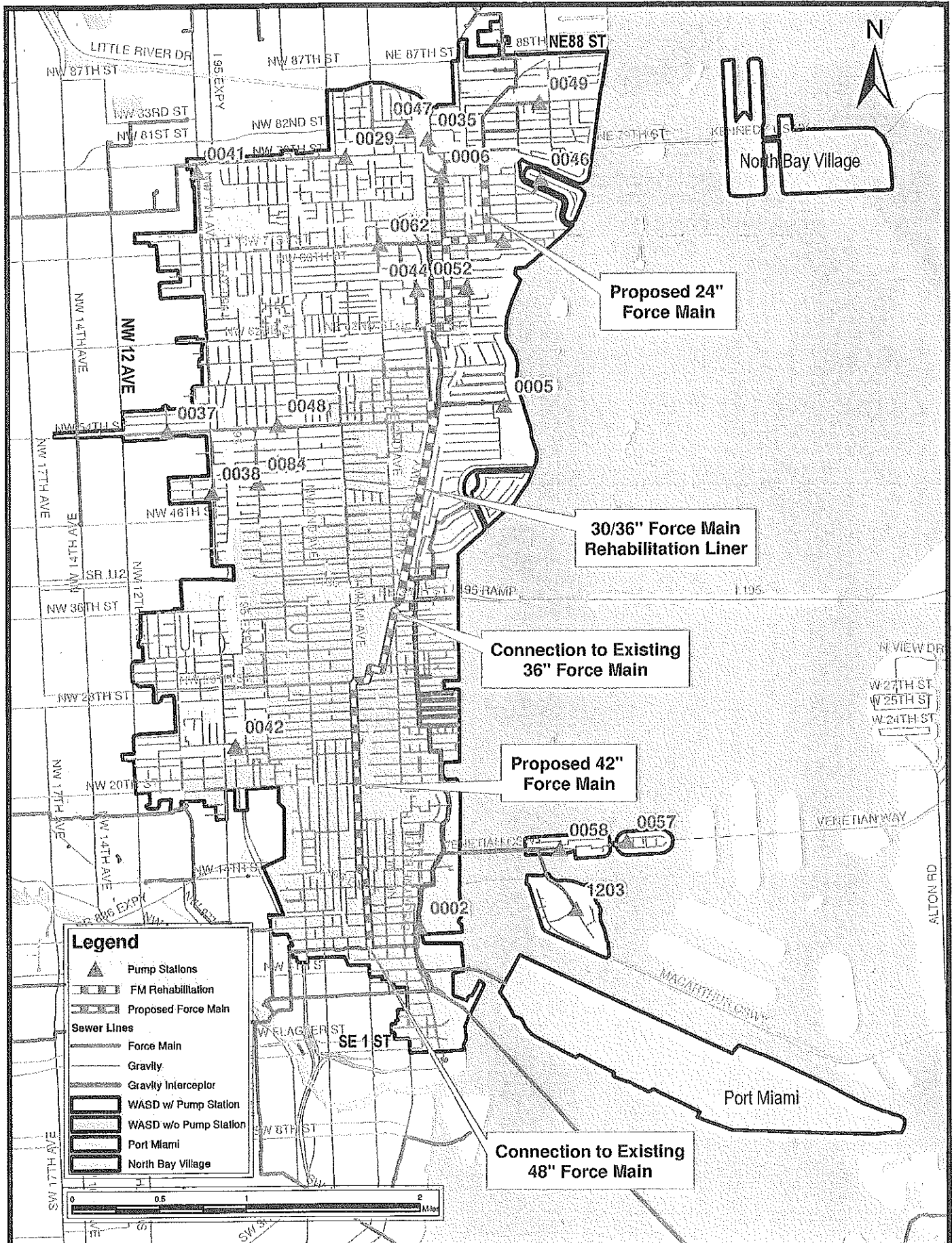
WASD will collect the Biscayne Basin Sanitary Sewer Special Connection Charge from property owners increasing the usage of their property and developers building new structures, who will be required to pay said charge prior to the issuance of a verification form. Failure to pay such charge as required shall constitute a lien on the property.

The description and projected costs for the sanitary sewer improvements are as follows:

Sanitary Sewer Improvements	Project Cost
42-inch Force Main	\$ 23,510,000
Upgrade of 12 Pump Stations	\$ 12,000,000
Additional 24-inch Reinforcing Force Main	\$ 5,270,000
Relining 2,500 linear feet of a 36-inch Force Main	\$ 820,000
<b>Total: \$ 41,600,000</b>	

  
Alina T. Hudak  
Deputy Mayor

# Exhibit A



**Legend**

- ▲ Pump Stations
- ▨ FM Rehabilitation
- ▩ Proposed Force Main
- Sewer Lines**
- Force Main
- - - Gravity
- Gravity Interceptor
- ▭ WASD w/ Pump Station
- ▭ WASD w/o Pump Station
- ▭ Port Miami
- ▭ North Bay Village



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# 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. 7(K)

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. 7(K)  
6-4-13

ORDINANCE NO. 13-57

ORDINANCE AUTHORIZING AND APPROVING A SANITARY SEWER SPECIAL CONNECTION CHARGE FOR CONSTRUCTION OF SEWER IMPROVEMENTS TO BUILDINGS AND PROPERTIES WITHIN A CERTAIN AREA OF BISCAYNE BASIN; PROVIDING FOR COLLECTION OF SUCH ACTUAL CHARGES BY THE MIAMI-DADE WATER AND SEWER DEPARTMENT; PROVIDING FOR UNPAID CHARGES TO BE A LIEN ON REAL PROPERTY; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

**WHEREAS**, existing sanitary sewer facilities serving the area generally bounded by N.E. 88th Street to the north, approximately N.W. 12th Avenue to the west, S.E. 1st Street to the south and Biscayne Bay to the east (the "Biscayne Basin"), as more fully shown on the map attached hereto as Exhibit "A" and made a part hereof, are inadequate (1) to serve new buildings anticipated to be constructed within the area and (2) for increased usage of existing buildings; and

**WHEREAS**, the Miami-Dade Water and Sewer Department ("WASD") has determined that new sanitary sewer facilities capable of providing sufficient capacity for the total anticipated growth of the area will cost approximately \$41,600,000.00; and

**WHEREAS**, WASD has based its projections for the total anticipated growth of the Biscayne Basin, in part, on the amount of capacity that developers who intend to build in the area have relayed to and/or contracted with WASD to use; and

**WHEREAS**, the improvements made to the sanitary sewer facilities in the Biscayne Basin will add value to all properties within the Biscayne Basin; and

**WHEREAS**, WASD is financing the costs of this construction work to expand sanitary sewer capacity in the Biscayne Basin in reliance on its communications and contracts with developers who intend to build or increase usage of the sanitary sewer facilities in the area because such developers cannot independently finance the large-scale improvement to the sanitary sewer facilities in the Biscayne Basin needed to accommodate their projected development; and

**WHEREAS**, WASD will design and construct the new sanitary sewer facilities with its own funds and will be reimbursed 77.8% of the total actual project cost (estimated to be \$32,378,044.00) by collecting from each property owner who requests new or increased sanitary sewer service in this area, a pro-rata share of the cost in the form of a Biscayne Basin Sanitary Sewer Special Connection Charge prior to the issuance of a verification form; and

**WHEREAS**, WASD estimates that future sewer customers in this area will require approximately 7,640,000.00 average daily gallons of system capacity which will be provided by the new facilities; and

**WHEREAS**, the Biscayne Basin Sanitary Sewer Special Connection Charge shall be determined by dividing the total estimated cost of additional capacity \$32,378,044.00 in the new sanitary sewer facilities project by the total estimated additional capacity of 7,640,000.00 gallons per day which equals \$4.24 per each average daily gallon,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** The recitals made above, and the same are incorporated herein by reference.

**Section 2.** The Board hereby approves the imposition of the Biscayne Basin Sanitary Sewer Special Connection Charge of \$4.24 per each average daily gallon of flow within the property at the time new or increased sewer service is requested for buildings and properties which will utilize the capacity in the new sanitary sewer facilities to be constructed by WASD. This Biscayne Basin Sanitary Sewer Special Connection Charge will be assessed for all properties in the area bounded by N.E. 88th Street to the north, approximately N.W. 12th Avenue to the west, S.E. 1st Street to the south and Biscayne Bay to the east, as more fully shown on Exhibit "A," which properties are receiving new or increased sewer service after the effective date of this Ordinance.

**Section 3.** WASD is hereby authorized and empowered to charge and collect the Biscayne Basin Sanitary Sewer Special Connection Charge from property owners and developers who receive new or increased sewer service from the new facilities after the effective date herein and to require payment of said charge as a condition to sewer service. Payment of said charges shall be made prior to issuance of a verification form.

**Section 4.** Properties and buildings in this area which are receiving sewer service on the effective date herein shall not be subject to payment of the Biscayne Basin Sanitary Sewer Special Connection Charge; however the charge shall be imposed for any additional sewer capacity furnished after said date.

**Section 5.** The authority to charge and collect the Biscayne Basin Sanitary Sewer Special Connection Charge shall terminate when WASD has been reimbursed in full for 77.8% of actual project construction costs of the new facilities, including design and construction costs.



**Section 6.** The Biscayne Basin Sanitary Sewer Special Connection Charge shall be required in addition to other charges, including but not limited to WASD's standard water and sewer connection charge.

**Section 7.** All Biscayne Basin Sanitary Sewer Special Connection Charges which remain unpaid sixty (60) days after the past due date shall become a lien against and upon the real property connecting to the sewer system, to the same extent and character as a lien for a special assessment. Until fully paid and discharged, said Biscayne Basin Sanitary Sewer Special Connection Charges, and interest accrued thereupon, shall be, remain, and constitute a special assessment lien equal in rank and dignity with the liens of County ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved for the period of twenty (20) years from the date said charges become a lien as set forth in this section. Said liens may be enforced and satisfied by the County, on behalf of WASD, pursuant to Chapter 173, Florida Statutes, as it may be amended from time to time, or by any other method permitted by law. The lien provided for herein shall not be deemed to be in lieu of any other legal remedies for payment available to the County and WASD, including but not limited to suspension and termination of water service. All such liens may be discharged and satisfied in accordance with the provisions of Section 32-94(b) of the Code of Miami-Dade County, as may be amended from time to time.

**Section 8.** As has been WASD's policy for all special connection charges to improve sanitary sewer facilities within a particular basin in the County, any amounts that have been paid by new users or users that are increasing their capacity will be non-refundable once WASD has awarded a contract of any kind related to the design and/or construction of such improvements.

**Section 9.** If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such invalidity.

**Section 10.** This Ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the mayor, and if vetoed, shall become effective only upon an override by this Board.

**Section 11.** This Ordinance shall be excluded from the Code of Miami-Dade County.

PASSED AND ADOPTED: June 4, 2013

Approved by County Attorney as  
to form and legal sufficiency:



Prepared by:



Sarah E. Davis