

CLERK OF THE BOARD

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CLERK OF THE BOARD
MIAMI-DADE COUNTY, FLA.
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**OFFICE OF THE MAYOR
MIAMI-DADE COUNTY, FLORIDA**

VETO AND VETO MESSAGE

To: Honorable Chairwoman Rebeca Sosa and
Members of the Board of County Commissioners
Miami-Dade County, Florida

From:


Carlos A. Gimenez, Mayor
Miami-Dade County, Florida

Pursuant to the authority vested in me under the provisions of Section 2.02.D of the Miami-Dade County Home Rule Charter, I hereby veto Resolution No. R-1029-13 adopted at the December 5, 2013 Board of County Commissioners Special Meeting:

**RESOLUTION RESOLVING COLLECTIVE BARGAINING IMPASSE BETWEEN
MIAMI-DADE COUNTY AND THE TRANSPORT WORKERS UNION, LOCAL
291**

VETO MESSAGE

On Thursday, December 5, 2013, the Board of County Commissioners (Board) approved seven resolutions, Resolution No. R-1024-13; Resolution No. R-1023-13; Resolution No. R-1026-13; Resolution No. R-1025-13; Resolution No. R-1027-13; Resolution No. R-1028-13; and Resolution No. R-1029-13, which eliminated the current 5% contribution of base wages that employees covered by the American Federation of State, County and Municipal Employees, General Employees (AFSCME) Local 199, AFSCME Local 121, Police Benevolent Association (PBA) Rank & File, PBA Supervisory, Government Supervisors Association of Florida (GSAF) Supervisory, GSAF Professionals, and Transport Workers Union (TWU) Local 291 (collectively, "Unions"), respectively, pay towards the County's cost of healthcare, effective January 1, 2014.

By rejecting the Administration's recommendation that employees continue contributing 5% of their base salary towards the County's total cost of healthcare, these Board actions provide for \$56 million in pay raises. Members of the Board stated their decisions were influenced by the notion that all employees should be treated equally and referred to their action of September 17,

2013, which gave AFSCME 3292 –Solid Waste employees a 5% pay raise. The Administration had recommended the continuation of the contribution of 5% of their base wages.

Ironically, the across-the-board 5% pay raise does not treat employees the same. In fact, it exacerbates the pay inequity the Board based its decision on for the AFSCME 3292-Solid Waste impasse hearing. For example, 5% for an employee earning \$30,000 per year is \$1,500, for an employee earning \$100,000 per year that figure is \$5,000, for \$150,000 it is \$7,500, and for \$200,000 it is \$10,000. While the Board wants to treat every employee the same, this is not the case. Those at the higher end of the pay scale will receive a greater benefit. (Graph 1)

The elimination of the 5% contribution is in fact a pay raise and therefore presents numerous problems. First and foremost, one of the key components of the Board-approved Fiscal Year 2013-2014 budget is the continuation of the employees' 5% contribution. Per State law, the County's approved budget must be balanced. I have been very clear from the outset about the importance of this contribution to the balancing of the budget. In fact, beginning last March, I advised the Board, collectively and individually, many times in writing, at Board meetings, and in personal briefings that the budget did not have funding for the elimination of the 5% contribution. After much public input and debate, it was with this information that the Board, less than three months ago, overwhelmingly approved, by a vote of 12-1, a balanced Countywide budget that kept the millage rate the same as last year and preserved critical services to our residents. The balanced Unincorporated Municipal Service Area (UMSA) budget was approved by a vote of 11-1 and also kept the millage rate the same as last year. We all agreed that our residents could not afford an increase in their tax rates at a time when so many families continue to struggle and make sacrifices.

One of the greatest responsibilities we have as elected officials is to be prudent and wise in how we spend the taxpayers' hard earned money. Together, we have done just that in the past two and a half years. We have reduced the County's overall budget by \$1 billion, re-organized and reduced the number of departments from 43 to 25, and streamlined our processes to help businesses start and expand. The list of our accomplishments is one of which we can all be proud. However, as we continue to make difficult budgetary decisions, we must always remember that we are accountable to the more than 2.5 million residents of our great county. They place their trust in us to be responsible stewards of their money and I will always place the interests of the residents first.

The actions of the Board on December 5th have put our budget out of balance. By giving a 5% pay raise to the Unions and insisting that all employees be treated the same; the Board has created a \$56 million gap in the budget for the nine months remaining in the fiscal year, \$27 million of which are in tax-supported funds. As part of our decision-making process, we must also consider the upcoming negotiations with all ten of the County's unions for the new three-year contracts. One of the best indicators of the future is past actions, and given the Board's actions to date in resolving impasse items, we cannot assume that any additional concessions will be attained by the Administration, and that all of the Union concessions currently in place

will automatically "snap back" at the end of the current contract. That said, the estimated gap in just our tax-supported funds for the FY2014-2015 will be approximately \$177 million in the General Fund; \$21 million in Library; and \$17 million in Fire, for a total of \$215 million, which takes into account the 5% raise as a recurring cost, the discontinuation of all current concessions by the Unions, our projected cost increases and limited revenue growth. For the proprietary departments that number will be close to \$100 million. However, if the 5% contribution is continued, along with the current concessions, Fire would no longer have a gap next year, the General Fund gap would be \$65 million and \$18 million for Library, lowering the total to \$83 million. (Graph 2)

The Administration is looking at these financial challenges in a manner that addresses them immediately and is sustainable for the future. Difficult decisions that will affect services our residents rely upon and expect, and that affect the livelihood of employees must be well-thought out and not rushed to meet an arbitrary deadline. We are committed to making decisions that result in structural soundness and sustainability, not only for the current budget, but for our future budgets.

While we are optimistic that our economy will continue to recover, I believe we must proceed cautiously and responsibly. We cannot, and should not, add recurring costs that we cannot afford to our budget based on an unrealistic expectation that our economy will rebound to levels before the recession in the upcoming year. We must address these budgetary issues in a responsible manner that is structurally sound so that we do not lurch from one crisis to another in the coming year.

In the Board's December 5th resolutions, the Administration was instructed to present a plan identifying available funds to pay for the Unions' raises subject to the following:

- 1) Any funds in the Self-Insurance Fund exceeding the amount of 60 days safe harbor established by the State Office of Insurance Regulations shall first be used to fund the cost of this resolution;
- 2) The remaining costs shall be funded from savings and efficiencies provided there is no impact to direct services to the public;
- 3) No letter of credit or line of credit shall be used to support the Self-Insurance Fund; and
- 4) No funding shall be taken from the County's reserves.

Though the Board is to be recognized for its attempt to fund these pay raises, this cannot be done within the parameters that have been put forth.

As previously stated, the Self-Insurance Fund currently has approximately \$8 million above the 60-day safe harbor amount, however only \$3.2 million is from the General Fund. The remainder is from proprietary departments and must be used in those departments. This falls far short of the \$56 million needed. Furthermore, I strongly oppose using these funds, even as a one-time source for a one-time expense, for any purpose other than what it is collected for – paying

health insurance claims. Even with the \$8 million, given our current projections of revenues and expenses for the Self-Insurance Fund, in FY 2013-14 the County will fall below the 60-day safe harbor threshold. This projected deficit will need to be funded in next year's budget in order for the County to remain self-insured, which has, and continues to be, economically advantageous. It also bears repeating that this would be a one-time source of revenue and the employees' 5% pay raise is a recurring cost.

I agree with the Board not to raid reserves to fund the 5% pay raise. The Board recognizes that our reserves are meant to handle unexpected and unforeseen emergencies and that they are very low; significantly lower than what is required by our own County ordinance.

In fact, as I have advised the Board, we are faced with an unexpected and extraordinary number of refunds to property owners processed in Fiscal Year 2012-2013 by the Value Adjustment Board, which has created a \$24 million gap in the General Fund that we must address in this fiscal year. The Administration has been looking for ways to tackle this issue since we became aware of it. Department Directors have already been instructed to implement budget saving actions, such as a hiring freeze, and delaying purchases. We are working hard to absorb the \$24 million without going into our reserves. This is but one example of unexpected and unforeseen emergencies that we face.

It cannot be emphasized enough that reserves are a one-time source and should not be used to fund recurring expenses such as the 5% pay raise. Their use would only exacerbate next year's budgetary challenges as the reserve would need to be replenished and the 5% would need to be funded again.

Finally, using cash reserves for recurring operating expenses will be viewed by the national credit rating agencies in a negative light. Moody's Investor Services recently downgraded the credit outlook of our general obligation bonds from 'stable' to 'negative.' This was done as they believe our credit is under pressure. Further deterioration of our financial health may, and probably will, lead to a credit rating downgrade. Should our general obligation debt be downgraded just one notch from its current "AA-" to a "A+" level, we conservatively project that our taxpayers would be forced to pay about \$148 million of additional interest cost for the \$1.9 billion of Building Better Communities and \$850 million of PHT/Jackson Memorial Hospital general obligation bonds that will be issued over the next ten years.

We also strongly agree with the Board to reject the use of a line of credit or letter of credit to support the Self-Insurance Fund, as was proposed by the Unions and their financial experts. This reckless suggestion would have worsened our financial outlook as rating agencies would view the line or letter of credit as a new contingent liability. Moreover, the State of Florida's Office of Insurance Regulation (OIR) has stated they will not accept lines or letters of credit as an appropriate substitute for real cash in a reserve for a rainy day event. Attached is correspondence from OIR Commissioner Kevin McCarty to one of the unions (Attachment 1), as well as a letter to Deputy Mayor Edward Marquez (Attachment 2), addressing this issue.

Like the Board, we do not want to impact direct services to our residents. If it would have been possible to have a balanced budget that maintained direct services to our residents, kept our millage rates flat, and provided the 5% raise to the employees, the Administration would have proposed it. We are here because this was, and is still, not possible.

Since being elected, my Administration has continuously worked to implement efficiencies and find savings. However, as I stated earlier, filling the budgetary gap caused by the Board's actions, bringing the budget back into balance, and addressing the \$24 million VAB issue requires difficult decisions. The top priorities that will guide our decisions are public safety and those "on the street" direct service functions and personnel. We are committed to minimizing the impact to services and employees to the greatest extent possible, but cannot altogether avoid impacts. There are consequences that will be felt immediately and others that will be felt in the future.

Those departments that are reliant on General Fund monies, such as Police; Parks, Recreation and Open Spaces; Community Information and Outreach; Public Works and Waste Management; Human Resources; Internal Services; and Finance; among others, will be impacted. Civilian positions at Police will be reduced; mowing and maintenance cycles at parks will be reduced; 311 hours will be reduced; repairs to facilities delayed; procurements and human resource processes will take longer; responding to potholes will take longer. In addition to the service impacts, a significant number – that could reach more than 100 – of full-time employees could be laid-off, hours for part-time employees reduced, and private sector contract employees will be impacted.

The unnecessary and damaging consequences to our residents and employees are why the Administration recommended the continuation of the employees' 5% contribution. It is within our collective ability to avoid detrimental cuts. I believe it is our collective responsibility to do so; especially in light of the fact that we can address the Board's concerns in a responsible compromise.

The Board has expressed its concerns about pay inequities and especially, the hardships of our lower-paid employees. Although the Administration opposed the Board's action of September 17, 2013, which gave members of AFSCME 3292 – Solid Waste a 5% pay raise effective January 1, 2014, I acknowledge the Board's desire to act upon their concerns. I, too, was moved by many of the personal stories of our employees who are suffering economic hardship. As stated in my September 6, 2013 veto message, I believe the issue of lower-paid employees should be addressed through the collective bargaining process and I remain committed to working in good-faith with all of the County's unions to address this issue.

While we are not in a financial position for a 5% raise across the board, I believe that there is room for compromise and the ability to assist those employees at the lower end of the pay scale; those that the Board has expressed their desire to help. I am committed to finding the funds to provide those full-time employees whose adjusted salaries are below \$40,000, a one-

time payment of \$1,500; and those earning between \$40,001 and \$50,000, a one-time payment of \$1,000.

I believe this to be a responsible compromise for a number of reasons. First and foremost, this would be a one-time expense of approximately \$2.7 million in the tax-supported funds and \$7.5 million in proprietary funds and not a recurring cost. Secondly, it begins to address the pay inequity. The one-time payment would directly focus on employees at the lower-end. In fact, approximately 7,800 employees would receive this one-time payment; that equates to more than one-third of all employees. (This one-time payment would not include members of AFSCME 3292 – Solid Waste, nor AFSCME 1452 – Aviation, as the Board voted on September 17, 2013 to end their 5% contribution, effective January 1, 2014. Members of IAFF Local 1403 are also not included as they do not make the 5% contribution.)

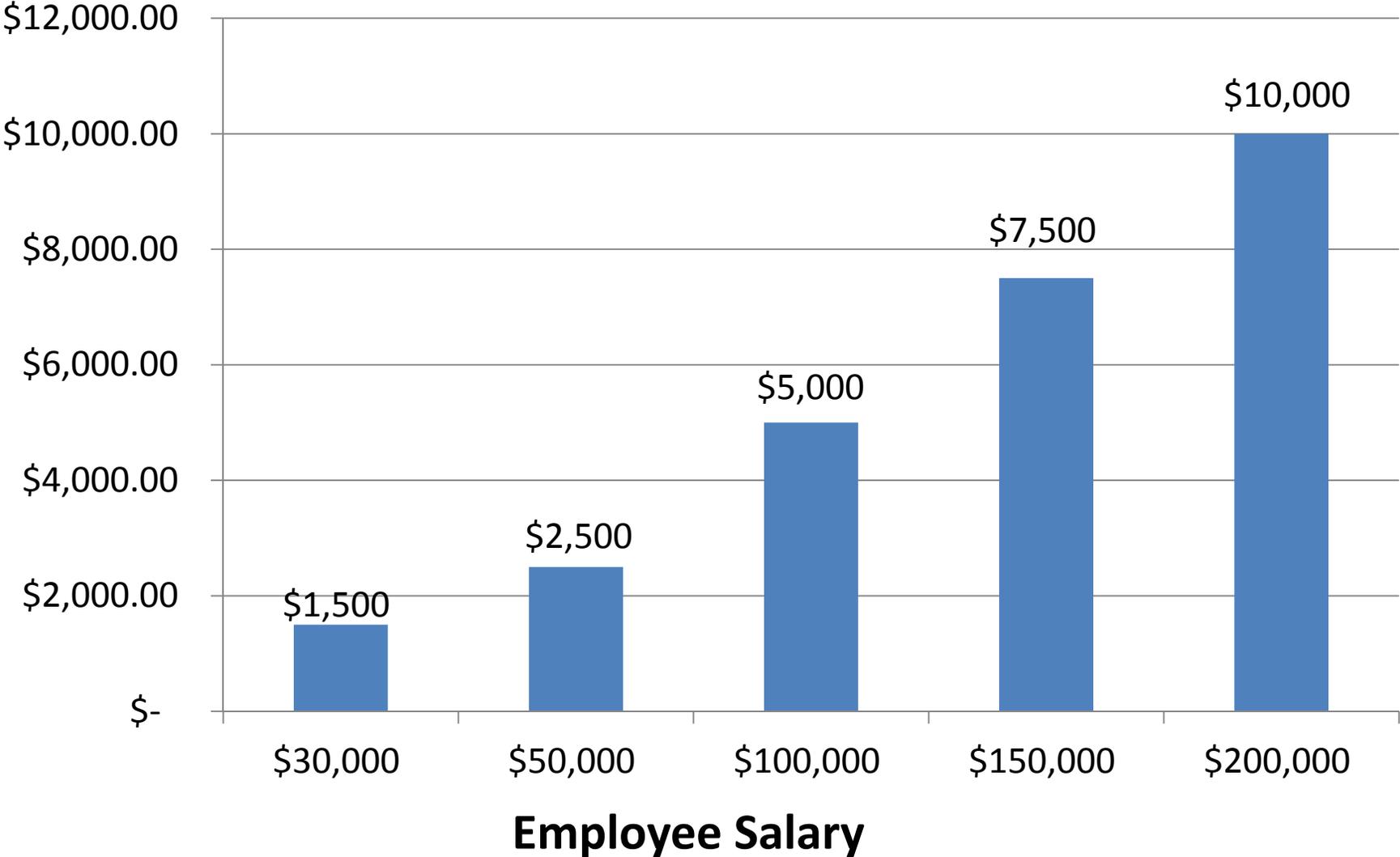
We cannot, and should not, add to an already bad budgetary situation and make things worse. If the Board insists on providing the 5% raise to the Unions and creating the \$56 million budget shortfall, I will not follow. I am committed to leading by example and the approximately 2000 non-bargaining employees under my purview will, regrettably, be treated differently and continue to make the 5% contribution. This is a difficult and painful decision to make, however, we find ourselves in a hole and I will not continue to dig. Their continued sacrifice and contribution of the 5% will make up \$9.6 million of the \$56 million gap, with \$4 million of the \$27 million in the tax-supported funds.

CLOSING

We must continue restoring a government that is built on transparency, efficiency, and fiscal responsibility; a government that balances the needs of our residents with what they can afford to pay; a government that is fiscally sustainable and structurally sound. Since being elected, this has been a guiding principle for my Administration. This has meant the need for shared sacrifice by all of us as we work towards a sustainable budget. As a public servant and elected official, I have sought to lead by example, which is why one of my first acts as Mayor was to reduce my salary in half. Unfortunately, the actions of the Board on December 5th take us off this path and take us backward. However, I believe we can get back on course and I stand ready to work with the Board and the Unions to find a way for all of us to move our community forward.

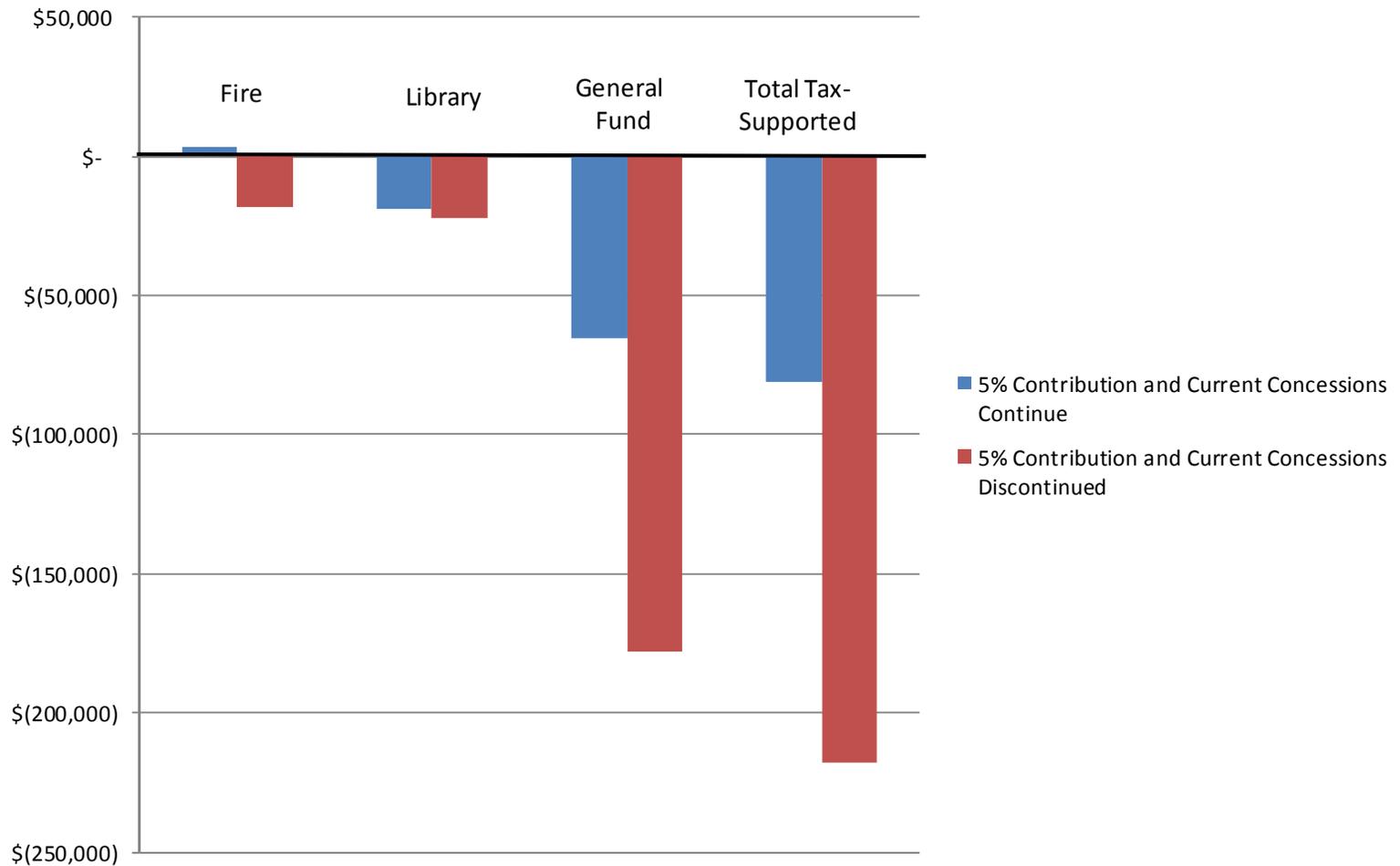
Graph 1

Amount of an Individual 5% Payment Based on Salary



Graph 2

Comparison of Estimated Budget Gaps FY 2014-2015



Attachment 1



OFFICE OF INSURANCE REGULATION

FINANCIAL SERVICES
COMMISSION

RICK SCOTT
GOVERNOR

JEFF ATWATER
CHIEF FINANCIAL OFFICER

PAM BONDI
ATTORNEY GENERAL

ADAM PUTNAM
COMMISSIONER OF
AGRICULTURE

KEVIN M. MCCARTY
COMMISSIONER

December 12, 2013

Andrew M. Axelrad
General Counsel
Dade County Police Benevolent Association
10680 PBA Memorial Boulevard
Miami, FL 33172-2108

RE: 60-Day Healthcare Reserves

Dear Mr. Axelrad,

Thank you for your email on December 5, 2013, inquiring as to whether a line of credit can be used to satisfy the 60-day surplus requirement of Miami Dade's Self-Funded Health Plan.

Based on the information provided, a line of credit will not satisfy the 60-day claim reserve requirement. A line of credit is a promise by the lender for a future payment of funds and is not the equivalent of having cash on hand for this purpose. Additionally, if lines of credit are accessed, they must be repaid immediately or over a pre-specified period of time, which would call into question the County's ability to pay the funds back. And, funds derived from lines of credit also carry interest charges or fees. Therefore, if a line of credit is used as a substitute to maintain the required surplus of at least 60 days of claims then other questions may be asked of the plan for the purpose of determining actuarial soundness pursuant to Section 112.08 (2), Florida Statutes. The failure of the plan to hold the required claims reserve would then call into question whether its claims reserves were adequate and whether the plan was sufficiently funded to immediately respond to adverse loss development.

I hope this information answers your questions. Please do not hesitate to contact me or my staff should you have any additional questions or require further clarification.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin M. McCarty", is written over a printed name.

Kevin M. McCarty

Cc: The Honorable Carlos A. Gimenez, Mayor of Miami-Dade County, Florida

KEVIN M. MCCARTY • COMMISSIONER
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Attachment 2



OFFICE OF INSURANCE REGULATION

FINANCIAL SERVICES
COMMISSION

RICK SCOTT
GOVERNOR

JEFF ATWATER
CHIEF FINANCIAL OFFICER

PAM BONDI
ATTORNEY GENERAL

ADAM PUTNAM
COMMISSIONER OF
AGRICULTURE

KEVIN M. MCCARTY
COMMISSIONER

December 12, 2013

Edward Marquez
Deputy Mayor, Miami-Dade County
Stephen P. Clark Center
111 N.W. First Street, 29th Floor
Miami, Florida 33128-1930

RE: Surplus Requirements for Self-Funded Health Plans

Dear Deputy Mayor Marquez:

Thank you for your letter on December 10, 2013, inquiring as to whether a line of credit can be used to satisfy the 60-day surplus requirement of Miami Dade's Self-Funded Health Plan.

Based on the information provided, a line of credit will not satisfy the 60-day claim reserve requirement. While there is nothing specifically enumerated in the Insurance Code as to this issue, insurers are required to follow statutory accounting principles as specified in the National Association of Insurance Commissioners Accounting Practices & Procedures Manual. Statement Four of the Statements of Statutory Accounting Principles determines whether an asset is admissible. According to Paragraph Two of Statement Four, "An asset has three essential characteristics: (a) it embodies a probable future benefit that involves a capacity, singly or in combination with other assets, to contribute directly or indirectly to future net cash inflows, (b) a particular entity can obtain the benefit and control others' access to it, and (c) the transaction or other event giving rise to the entity's right to or control of the benefit has already occurred." A line of credit fails the first requirement because it does not contribute to an entity's cash flow.

If lines of credit are accessed, they must be repaid immediately or over a pre-specified period of time, which would call into question the County's ability to pay the funds back. And, funds derived from lines of credit also carry interest charges or fees. Therefore, if a line of credit is used as a substitute to maintain the required surplus of at least 60 days of claims then other questions may be asked of the plan for the purpose of determining actuarial soundness pursuant

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Edward Marquez
December 12, 2013
Page 3

to Section 112.08 (2), Florida Statutes. The failure of the plan to hold the required claims reserve would then call into question whether its claims reserves were adequate and whether the plan was sufficiently funded to immediately respond to adverse loss development.

I hope this information answers your questions. Please do not hesitate to contact me or my staff should you have any additional questions or require further clarification.

Sincerely,



Kevin M. McCarty
Commissioner

Cc: The Honorable Carlos A. Gimenez, Mayor of Miami-Dade County, Florida