

MEMORANDUM

Substitute to
Agenda Item No. 2(A)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: October 15, 2026

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to environmental remediation and utility service fee; amending section 24-34 of the Code; establishing loan program for purposes of environmental remediation that meets existing requirements of section 24-34, without changing said requirements; creating requirements, parameters, and procedures for said loan program

This substitute differs from the original item in that the substitute: (a) removes formerly County-owned properties from the properties that may be eligible for such loans; (b) revises the procedures and requirements related to the loan program referenced in the ordinance, including, but not limited to, the addition of a new subsection (4) related to the loan program application, approval, and funding process; and (c) makes various additional revisions to the terms and requirements related to said loans and loan program.

Rule 5.06(i) of the Board's Rules of Procedure provides that differences between an original item and a substitute item should be uniquely identified in the substitute by double underlining and double strike-through, or where such approach would not clearly show the difference or are not practical, by providing footnotes or comments on the item. Based on Rule 5.06(i), the preceding description of the differences between the original item and the substitute item is provided in lieu of double underlining and double strike-through.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado.


Geri Bonzon-Keenan
County Attorney

GBK/uw

MDC001



MEMORANDUM

(Revised)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: October 6, 2026

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No.

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
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, majority plus one ____, CDMP 7 votes (majority of membership) ____, CDMP 2/3 members present but not less than 7 votes (majority of membership) ____, CDMP 9 votes (2/3 membership) ____) 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.

ORDINANCE NO. _____

ORDINANCE RELATING TO ENVIRONMENTAL
REMEDATION AND UTILITY SERVICE FEE; AMENDING
SECTION 24-34 OF THE CODE OF MIAMI-DADE COUNTY,
FLORIDA; ESTABLISHING LOAN PROGRAM FOR
PURPOSES OF ENVIRONMENTAL REMEDIATION THAT
MEETS EXISTING REQUIREMENTS OF SECTION 24-34,
WITHOUT CHANGING SAID REQUIREMENTS; CREATING
REQUIREMENTS, PARAMETERS, AND PROCEDURES FOR
SAID LOAN PROGRAM; PROVIDING SEVERABILITY,
INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, protecting the County’s drinking water supply is of paramount importance
to Miami-Dade County residents and visitors; and

WHEREAS, certain environmental remediation projects protect the County’s drinking
water supply; and

WHEREAS, the County’s utility service fee is a fee charged to water and sewer customers
pursuant to section 24-34 of the Code of Miami-Dade County, and uses of said fee must comply
with the provisions of section 24-34, which provides that such fees may only be used “to pay for
the costs of the environmental services to and environmental regulation of said water and sewer
utilities,” in addition to all applicable law; and

WHEREAS, in limited circumstances, the County’s utility service fee has been used for
certain environmental remediation projects at County parks; and

WHEREAS, in such circumstances, the particular environmental remediation project and
the contamination to be addressed were determined to be for drinking water supply protection and
the benefit of said water and sewer utilities, based on the location of the property, its relationship

with the drinking water wellfields, and an analysis of the contaminants present on the property, levels of such contaminants, and their corresponding potential effects on the drinking water supply; and

WHEREAS, this Board wishes to authorize the County Mayor or County Mayor's designee to carry out a loan program for certain environmental remediation, using the utility service fee monies, where such remediation to be paid for with utility service fee monies would provide drinking water supply protection and would provide a service to the County's Water and Sewer Department, and such program would be further limited to County-owned properties, which may be the subject of a long-term lease; and

WHEREAS, this loan program could also potentially be used by certain County departments for properties such as park properties, as an additional option that the administration may wish to consider; and

WHEREAS, because drinking water supply protection may already be an eligible use of utility service fee monies where such drinking water supply protection would provide a benefit to the Water and Sewer Department and where such use of funds would comply with all applicable law, this ordinance would not expand the categories of eligible uses of utility service fee monies; and

WHEREAS, instead, this ordinance would provide for a loan program related to drinking water supply protection, where such loan program would be an additional mechanism that would be required to comply with all previously existing provisions in section 24-34 related to the utility service fee,

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

Section 1. The recital clauses are hereby incorporated as if fully stated herein.

Section 2. Section 24-34 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:¹

Sec. 24-34. Service fee payable to County.

>>(1)<< Each water or sewer utility shall collect from its customers and pay to the County a County service fee equal to eight dollars (\$8.00) per each one hundred dollars (\$100.00) of the receipts of said utility derived from its water and/or sewer utility operations conducted within the County to cover the cost of providing certain environmental services to and certain environmental regulation of said water or sewer utilities.

* * *

Each water and sewer utility shall collect from its customers the service fee imposed upon said utility by this section, including but not limited to those utilities whose rates are not regulated by the Miami-Dade County Water and Sewer Board. Said County service fee imposed by this section shall be deemed a pass-through cost as defined by Section 32-64(b)(3) of the Code of Miami-Dade County, but no hearing shall be required of any water and sewer utility before the Miami-Dade County Water and Sewer Board, nor shall the approval of the Miami-Dade County Water and Sewer Board be necessary for the imposition of this fee by the utility upon its customers. Approval of this provision by the County Commission shall constitute approval of the necessary rate increase for the Miami-Dade Water and Sewer Department pursuant to Chapter 32A.

Payment of the fee to the County shall be accompanied by a statement verified by the utility showing its receipts upon which

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

such fee is computed. This statement shall be in such form as the Director shall prescribe and shall be subject to audit by the County. The service fee payable hereunder shall be deposited in a separate County fund >>(“Utility Service Fee Fund”)<< and shall be used exclusively by the Department to pay for the costs of the following environmental services to and environmental regulation of said water and sewer utilities:

- >>(a)<<[(4)] Monitoring and evaluating water and sewerage systems of said water and sewer utilities.
- >>(b)<<[(2)] Responding to and attempting to resolve citizen complaints against said water and sewer utilities.
- >>(c)<<[(3)] Investigation, preparation, and prosecution of enforcement actions, pursuant to Chapter 24 of this Code, to protect the groundwater, surface water and drinking water.
- >>(d)<<[(4)] Ambient monitoring of groundwater and surface water.
- >>(e)<<[(5)] Special studies of groundwater, drinking water, and surface water when deemed necessary by the Director to protect the groundwater, surface water and drinking water.
- >>(f)<<[(6)] Water supply protection, planning and programming, including without limitation, municipal solid waste landfill closure, environmental remediation at landfill sites, and land acquisition for purposes of water supply protection.
- >>(g)<<[(7)] Laboratory analyses of groundwater, surface water, drinking water, waste water, and other effluents affecting water quality.
- >>(h) To fund a loan program in accordance with subsection (2) below.<<

No part of said fund shall be used for purposes other than the aforesaid.

>>(2) There is hereby established a loan program using certain utility service fee monies collected and retained by the County (“Loan Fund”) for the environmental remediation of certain properties specifically for the purpose of drinking water supply protection as an environmental service to the Miami-Dade Water and Sewer Department. The Loan Fund shall be funded as set forth in subsection (3) below. All loans from the Loan Fund shall be subject to, at a minimum, the following minimum requirements and criteria:

- (a) The property to be remediated is currently owned by the County in fee-simple, including where the County owns a property in fee-simple and has entered into a long-term lease with a lessee; and
- (b) The property to be remediated is 10 acres in size or greater; and
- (c) Eligible applicants shall be any County department or agency and any tenant on a County-owned property satisfying the requirements set forth herein; and
- (d) The Loan Fund proceeds shall be used only for environmental remediation work that (i) serves the purpose of drinking water supply protection, (ii) would provide a benefit to the Miami-Dade Water and Sewer Department in a manner not shared by the general public, and (iii) is in a manner and consistent with all requirements in this section 24-34 and all applicable laws; and
- (e) All loans from the Loan Fund to non-County entities shall be: (i) repaid with the balance due not more than 35 years from the date of the loan closing; (ii) subject to zero percent interest; (iii) secured by a lien and/or a mortgage on the ground lease or lease, which lien and/or mortgage shall at all times be subordinate and inferior to any existing or future liens and mortgages securing project acquisition, development, construction, rehabilitation, operation, permanent financing or refinancing, and provided, however, that any such subordinate or inferior lien and/or mortgage will survive, to the extent legally permissible, even in the event of tenant default; provided further that such subordination shall be self-executing and shall not be conditioned upon further approval by the Board of County Commissioners or execution of any additional instrument by the County, provided, however, that the County Mayor or County Mayor's designee shall, upon request, execute such documents as may be reasonably necessary to evidence or confirm such subordinate priority; (iv) subject to a default of the underlying lease for tenants of County-owned properties,

inclusive of default on the loan that will be considered a default of the lease; (v) set forth in a written agreement between the County and the borrower that is recorded in the public records and shall run with the land, and such agreement shall at a minimum, include all of the aforementioned requirements set forth in this paragraph and a provision by which the borrower agrees to indemnify, hold harmless, and defend the County for anything related to said environmental remediation and the use of loan proceeds for such purposes, (vi) subject to the prior approval of the Board of County Commissioners, and (vii) repaid and deposited into the Utility Service Fee Fund.

(f) All loans from the Loan Fund to County departments for properties owned in fee-simple by the County such as County parks shall be: (i) subject to approval of the Board, (ii) in addition to any other legally available funding source or funding mechanism available in this chapter or otherwise to the County, (iii) repaid within not more than 35 years from the date of the loan, (iv) not subject to any interest assessment; and (v) shall be set forth in an interdepartmental memorandum between the Miami-Dade Water and Sewer Department and the applicable County department or agency receiving Loan Fund proceeds.

(3) The County Mayor or Mayor's designee shall confirm the amount of money in the Utility Service Fee Fund as of September 30, 2026 ("Fund Balance"). The following shall be available for the Loan Fund: (a) all legally available, unencumbered funds on deposit in the Utility Service Fee Fund as of September 30, 2026, provided however, that at least 20 percent of the Fund Balance shall remain in the Utility Service Fee Fund and be unavailable for the Loan Fund; and (b) beginning in fiscal year 2026-2027, all legally available, unencumbered utility service fee monies collected and retained by the County in each fiscal year ("Annual Collection"), provided however, that at least 20 percent of the Annual Collection must remain in the Utility Service Fee Fund and be unavailable for the Loan Fund.

(4) Loan program application, approval, and funding process.

(a) The County Mayor or County Mayor's designee is hereby authorized to establish and administer an application process for the Loan Fund and to approve, execute, close, and fund the individual loans that have been approved by the Board of County Commissioners. This County Mayor or County Mayor's designee shall create said process for implementation within thirty (30) days of the effective date of this ordinance.

(b) An eligible applicant may request a loan pursuant to this section by submitting a written application containing: (i) evidence that the applicant and property satisfy paragraphs (2)(a) through (c); (ii) a description of the contamination and proposed environmental remediation work; (iii) a remediation or soil management plan approved in writing by the County department responsible for the regulation of environmental remediation; (iv) information sufficient to establish the findings required by subsection (2)(d); and (v) such other information reasonably necessary to determine compliance with this section and applicable law. An application containing the information required by this paragraph shall be deemed complete unless the County Mayor or County Mayor's designee notifies the applicant in writing of any specific deficiency within ten (10) days after receipt.

(c) The County Mayor or County Mayor's designee, in consultation with the Miami-Dade County Water and Sewer Department and the County department responsible for the regulation of environmental remediation shall review each completed application for eligibility, compliance with subsection (2)(d), technical appropriateness, and availability of legally available Loan Fund monies, and the County Mayor or County Mayor's designee shall make a recommendation to approve or deny the application in writing within ten (10) days of receipt of the completed application.

(d) For applications which have been recommended for denial, the applicant shall be informed in writing of the basis for denial. There shall be no right to appeal or otherwise challenge such recommendation for denial. Information

related to each such application that is recommended for denial shall be forwarded to the Board of County Commissioners on at least an annual basis, and this requirement may be satisfied if such information is included in annual report referenced in subsection (h) below.

(e) For applications which have been recommended for approval, the County Mayor or County Mayor's designee shall prepare a legislative item for placement on an agenda of the Board of County Commissioners. Such item shall include at a minimum, identification of the borrower and the property, the approved environmental remediation work, the proposed maximum loan amount, repayment and security terms, the County Mayor or County Mayor's recommendation, and all required findings under subsection (2)(d) and this section.

(f) For any loan approved by the Board of County Commissioners under this section, the respective non-County borrower shall execute the agreement required by subsection (2)(e). For loans for a County department or agency, any and all requirements shall be memorialized through the interdepartmental memorandum required by subsection (2)(d).

(g) After approval by the Board of County Commissioners of a particular loan, such loan proceeds may be disbursed after execution of the applicable agreement on a reimbursement basis or through documented construction draws, as requested by the applicant. Such draws shall be accompanied by evidence of inspection of the items described in the draw request by a licensed engineer. Disbursements shall be made in the amounts and the times requested by the applicant, up to the approved maximum loan amount and provided that such requested disbursement is confirmed, by the County department responsible for the regulation of environmental remediation, to relate to the work included in the approved remediation or soil-management plan. In cases of draws, payment must be made within ten (10) days of receipt of the draw requests.

(h) The County Mayor or County Mayor's designee shall administer the Loan Fund in a manner that will include but not be limited to the provision of an annual report to the

Board identifying loans approved, amounts committed and disbursed, repayments received, available fund balances, and environmental remediation progress. This annual report shall be for informational purposes only and shall not be a condition of approval for any loan under this section.

(i) As part of the agreement referenced in subsection 2(e), a default premium shall be negotiated by the County and the borrower and shall provide that the County must give the borrower at least thirty (30) days prior written notice of any default. The borrower shall have a minimum of ninety (90) days following receipt of such notice to cure the default, which cure period may be extended for up to three (3) months.

(5) Notwithstanding anything to the contrary in this this section, it is expressly provided that such loan program shall be a discretionary program, to be administered in compliance with this section 24-34 and all applicable law, and considering the discretionary priorities of the County, and that no property owner, entity, or individual desiring to participate shall be deemed to have a right to request or obtain any such loan from the Loan Fund. Furthermore, there shall be no private right of action to enforce any provision of this section, nor shall there be any right to appeal or otherwise challenge a decision related to this loan program or any particular application.<<

Section 3. 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 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. 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.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Cristina M. Rabionet
Abbie Schwaderer-Raurell




Prime Sponsor: Commissioner Raquel A. Regalado