

## MEMORANDUM

Agenda Item No. 11(A)(23)

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**TO:** Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

**DATE:** March 1, 2022

**FROM:** Geri Bonzon-Keenan  
County Attorney

**SUBJECT:** Resolution directing the County Mayor to expeditiously develop a proposed Reasonable Assurance Plan pursuant to state procedures and guidelines for such a plan; and urging the Secretary of the Department of Environmental Protection (FDEP) to expeditiously approve such Reasonable Assurance Plan, through the adoption of a final order, after the County submits such plan to FDEP for approval

Resolution No. R-184-22

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Danielle Cohen Higgins.



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Geri Bonzon-Keenan  
County Attorney

GBK/uw



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairman Jose "Pepe" Diaz  
and Members, Board of County Commissioners

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Gen Bonzon-Keenan  
County Attorney

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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
- Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ ) 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. 11(A)(23)  
3-1-22

RESOLUTION NO. \_\_\_\_\_ R-184-22

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXPEDITIOUSLY DEVELOP A PROPOSED REASONABLE ASSURANCE PLAN PURSUANT TO STATE PROCEDURES AND GUIDELINES FOR SUCH A PLAN; AND URGING THE SECRETARY OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) TO EXPEDITIOUSLY APPROVE SUCH REASONABLE ASSURANCE PLAN, THROUGH THE ADOPTION OF A FINAL ORDER, AFTER THE COUNTY SUBMITS SUCH PLAN TO FDEP FOR APPROVAL

**WHEREAS**, Miami-Dade County is home to Biscayne Bay, a waterbody of local, regional, national, and international importance that is home to two state aquatic preserves, a state critical wildlife area, and a national park; and

**WHEREAS**, the County has been working on multiple fronts to help protect and restore Biscayne Bay, and such work related to Biscayne Bay has consistently been a priority for this Board; and

**WHEREAS**, the Florida Department of Environmental Protection (FDEP) implements certain requirements of the federal Clean Water Act for the U.S. Environmental Protection Agency (EPA) and various state statutes and rules, such as the Impaired Waters Rule, all with respect to water quality, and has identified impairments to Biscayne Bay waterbody segments including existing Total Maximum Daily Load determinations; and

**WHEREAS**, pursuant to section 403.0673(1), Florida Statutes, in order to be eligible for certain state grant monies related to wastewater, the project must be located within an area covered by a basin management action plan (BMAP), an alternative restoration plan adopted by final order, or a rural area of opportunity under section 288.0656 which will individually or collectively reduce excess nutrient pollution; and

**WHEREAS**, currently, no part of Miami-Dade County is covered by a BMAP, an alternative restoration plan adopted by final order, or a rural area of opportunity under section 288.0656; and

**WHEREAS**, FDEP has stated that Miami-Dade County can pursue and develop a particular type of alternative restoration plan, as referenced in section 403.0673(1), Florida Statutes, which is referred to as a Reasonable Assurance Plan, or “RAP,” and which would require approval by FDEP and EPA, and ultimately, adoption by the Secretary of FDEP through a final order; and

**WHEREAS**, one of the purposes of a Reasonable Assurance Plan is to provide reasonable assurance, pursuant to section 62-303.600 of the Florida Administrative Code, to FDEP that the particular water segment will attain certain surface water quality goals; and

**WHEREAS**, developing and seeking Secretarial approval of a Reasonable Assurance Plan, pursuant to state procedures and guidelines, would not preclude the County from undertaking other County efforts to protect Biscayne Bay and may complement the County’s other goals and ongoing efforts with respect to Biscayne Bay; and

**WHEREAS**, according to FDEP, there are currently five approved Reasonable Assurance Plans from other areas of Florida, in Lake Seminole; the Florida Keys; Shell, Prairie, and Joshua Creeks; Tampa Bay Estuary; and Mosquito Lagoon; and

**WHEREAS**, FDEP has generously provided guidance and assistance to Miami-Dade County to help the County develop a Reasonable Assurance Plan that would be approvable by the Secretary of FDEP; and

**WHEREAS**, after a Reasonable Assurance Plan has been adopted by the Secretary of FDEP through a final order, the areas covered by the Reasonable Assurance Plan may be eligible for significant state wastewater grant funding pursuant to section 403.0673, Florida Statutes; and

**WHEREAS**, if the County were to receive such wastewater grant funding, it is anticipated that this funding would enable important wastewater infrastructure projects to be undertaken in Miami-Dade County, with resulting benefits to both the environment and the economy; and

**WHEREAS**, as such, this Board therefore wishes to direct the County Mayor or County Mayor's designee to expeditiously develop a proposed Reasonable Assurance Plan pursuant to state procedures and guidelines, bring such Reasonable Assurance Plan to this Board for approval as soon as possible, and once approved, to submit such Reasonable Assurance Plan to FDEP for approval by the Secretary of FDEP; and

**WHEREAS**, in addition, this Board wishes to urge the Secretary of FDEP to approve the County's Reasonable Assurance Plan expeditiously, through the adoption of a final order, after such Reasonable Assurance Plan has been submitted to FDEP for approval,

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

**Section 1.** Directs the County Mayor or County Mayor's designee to expeditiously develop a proposed Reasonable Assurance Plan pursuant to state procedures and guidelines, bring such Reasonable Assurance Plan to this Board for approval as soon as possible, and once approved, to submit such Reasonable Assurance Plan to the Florida Department of Environmental Protection for approval by the Secretary of the Florida Department of Environmental Protection.

**Section 2.** Urges the Secretary of the Florida Department of Environmental Protection to approve Miami-Dade County's Reasonable Assurance Plan expeditiously, through the adoption of a final order, after such Reasonable Assurance Plan has been submitted to the Florida Department of Environmental Protection for approval.

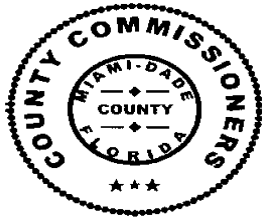
**Section 3.** Directs the Clerk of the Board to transmit a certified copy of this resolution to the Governor, the Senate President, the House Speaker, the Chair and Members of the Miami-Dade State Legislative Delegation, and the Secretary of the Florida Department of Environmental Protection.

**Section 4.** Directs the County’s state lobbyists to advocate for the action set forth in section 2 above, and authorizes and directs the Office of Intergovernmental Affairs to amend the 2022 State Legislative Package to include this item and to include this item in the 2023 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Danielle Cohen Higgins. It was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Oliver G. Gilbert, III** and upon being put to a vote, the vote was as follows:

	Jose “Pepe” Diaz, Chairman	<b>aye</b>	
	Oliver G. Gilbert, III, Vice-Chairman	<b>aye</b>	
Sen. René García	<b>aye</b>	Keon Hardemon	<b>aye</b>
Sally A. Heyman	<b>absent</b>	Danielle Cohen Higgins	<b>aye</b>
Eileen Higgins	<b>aye</b>	Joe A. Martinez	<b>aye</b>
Kionne L. McGhee	<b>aye</b>	Jean Monestime	<b>aye</b>
Raquel A. Regalado	<b>aye</b>	Rebeca Sosa	<b>aye</b>
Sen. Javier D. Souto	<b>absent</b>		

The Chairperson thereupon declared this resolution duly passed and adopted this 1<sup>st</sup> day of March, 2022. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



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

HARVEY RUVIN, CLERK

By: **Basia Pruna**  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

A handwritten signature in black ink, appearing to read "ASR", is written over a horizontal line.

Abbie Schwaderer-Raurell