

MEMORANDUM

Amended
Agenda Item No. 11(A)(10)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: October 17, 2023

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution amending Resolution No. R-446-22 related to the Septic to Sewer Trust Fund and septic to sewer assistance program; revising eligibility criteria to include additional criteria based on the availability of sewer infrastructure and availability of funding for sewer infrastructure and to not limit such program only to low-income homeowners; providing that Septic to Sewer Trust Fund and associated septic to sewer assistance program shall be for the purpose of providing both loans and grants, as specified herein; directing the County Mayor to develop the County septic to sewer assistance program as soon as possible; directing the County Mayor to include additional funding for the Septic to Sewer Trust Fund in a proposed budget amendment during the 2023-2024 fiscal year or in the mayor's proposed Fiscal Year 2024-2025 County budget; and requiring reports

Resolution No. R-934-23

The accompanying resolution was prepared and placed on the agenda at the request of Co-Prime Sponsors Commissioner Kevin Marino Cabrera, Commissioner Micky Steinberg and Commissioner Juan Carlos Bermudez and Co-Sponsors Commissioner Marleine Bastien, Senator René García, Commissioner Raquel A. Regalado.



Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: October 17, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Amended
Agenda Item No. 11(A)(10)

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 _____

Amended
Agenda Item No. 11(A)(10)
10-17-23

RESOLUTION NO. **R-934-23**

RESOLUTION AMENDING RESOLUTION NO. R-446-22 RELATED TO THE SEPTIC TO SEWER TRUST FUND AND SEPTIC TO SEWER ASSISTANCE PROGRAM; REVISING ELIGIBILITY CRITERIA TO INCLUDE ADDITIONAL CRITERIA BASED ON THE AVAILABILITY OF SEWER INFRASTRUCTURE AND AVAILABILITY OF FUNDING FOR SEWER INFRASTRUCTURE AND TO NOT LIMIT SUCH PROGRAM ONLY TO LOW-INCOME HOMEOWNERS; PROVIDING THAT SEPTIC TO SEWER TRUST FUND AND ASSOCIATED SEPTIC TO SEWER ASSISTANCE PROGRAM SHALL BE FOR THE PURPOSE OF PROVIDING BOTH LOANS AND GRANTS, AS SPECIFIED HEREIN; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO DEVELOP THE COUNTY SEPTIC TO SEWER ASSISTANCE PROGRAM AS SOON AS POSSIBLE; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO INCLUDE ADDITIONAL FUNDING FOR THE SEPTIC TO SEWER TRUST FUND IN A PROPOSED BUDGET AMENDMENT DURING THE 2023-2024 FISCAL YEAR OR IN THE MAYOR'S PROPOSED FISCAL YEAR 2024-2025 COUNTY BUDGET; AND REQUIRING REPORTS

WHEREAS, a septic system is a type of onsite sewage treatment and disposal system that treats wastewater from an individual property and septic systems present potential environmental risks to groundwater, private drinking water wells, and surface waters; and

WHEREAS, certain parts of the County lack sufficient sewer infrastructure, resulting in a reliance on septic systems; and

WHEREAS, when sewer infrastructure is expanded into new areas, residents of such areas may incur significant financial costs to connect their properties to the expanded sewer infrastructure; and

WHEREAS, on May 3, 2022, this Board adopted Resolution No. R-446-22, which directed the County Mayor or County Mayor's designee to establish a Septic to Sewer Trust Fund and an associated septic to sewer assistance program, to provide assistance to financially constrained private property owners for septic to sewer conversions; and

WHEREAS, Resolution No. R-446-22 required the County Mayor or County Mayor's designee to develop: "program details and guidelines; an application or selection process; eligibility criteria based on the Low-Income Home Energy Assistance Program (LIHEAP) eligibility requirements; and criteria for prioritizing properties and projects based on environmental considerations and the benefits to the public, as compared with the dollar value of the proposed assistance," and Resolution No. R-446-22 also required a written report related to such septic to sewer assistance program and the above-mentioned details and guidelines and program criteria for such program; and

WHEREAS, this Board allocated \$5,000,000.00 in funding from the general fund to the Septic to Sewer Trust Fund; and

WHEREAS, the County Mayor or County Mayor's designee is still in the process of developing the assistance program required by Resolution No. R-446-22, and the required written report to this Board has not yet been produced; and

WHEREAS, this Board wishes to: (a) revise program parameters and certain criteria for eligibility, as outlined herein, for County's septic to sewer assistance program; (b) provide that this septic to sewer assistance program and the County's Septic to Sewer Trust Fund shall be for the purpose of providing both loans and grants for private residential homestead property owners; and (c) require that the County Mayor or County Mayor's designee develop the septic to sewer assistance program as soon as possible consistent with the parameters set forth herein; and

WHEREAS, there shall be three separate components of the County's septic to sewer assistance program: (1) a septic to sewer loan program that is not restricted by income, which would be funded by Septic to Sewer Trust Fund dollars; (2) a septic to sewer loan program that is funded by Documentary Stamp Surtax Funds and which is restricted by income and must comply with all requirements related to such funding source; and (3) a septic to sewer grant program to provide assistance using criteria similar to the LIHEAP eligibility requirements, and that is funded by the Septic to Sewer Trust Fund, all as further detailed herein; and

WHEREAS, for all such septic to sewer assistance, the County's eligibility criteria and considerations for its loan program should also include the availability of sewer infrastructure for the applicant to connect to and the availability of funding to expand sewer infrastructure to the applicant's area; and

WHEREAS, all such assistance, whether it be through a grant or a loan, shall be limited to funding the "private-side" improvements to connect the residential property to adjacent public sewer infrastructure; and

WHEREAS, in addition, all such assistance, whether it be through a grant or a loan, shall be limited to residential homestead property only; and

WHEREAS, with respect to parameters for loans that would be provided through Septic to Sewer Trust Fund dollars pursuant to this County septic to sewer assistance program, and in order to assist as many homeowners as possible with the costs associated with connecting to expanding sewer infrastructure, this Board desires that the funds in the Septic to Sewer Trust Fund be for the purpose of providing no-interest or low-interest loans to private residential property owners, of up to \$15,000.00 per property, where such loans would be required to be paid back within seven years or less, unless a longer time period is determined to be appropriate by the County Mayor or County Mayor's designee; and

WHEREAS, when such loan funds are paid back, the repaid funds would be deposited back into the County's Septic to Sewer Trust Fund to assist even more homeowners in Miami-Dade County with septic to sewer conversions; and

WHEREAS, for the loans that would be funded with Septic to Sewer Trust Fund monies, such loans shall be required to include recapture provisions which require the loan to be fully repaid upon the sale or transfer of the property, or if the property ceases to be homestead within five years; and

WHEREAS, in addition, in order to provide greater flexibility for such loan program, the County's loan program should not be limited only to low-income homeowners, provided, however, that for any loans that are provided through the use of funding sources that have particular legal restrictions, such as Documentary Stamp Surtax Funds, that all loans shall comply with the restrictions of their respective funding sources; and

WHEREAS, with respect to loans, the septic to sewer assistance program should also include a loan program component that is funded through the use of Documentary Stamp Surtax Funds, provided that such funds are available, for the purpose of providing no-interest or low-interest loans to private residential property owners, of up to \$15,000.00 per property, provided that the use of such Documentary Stamp Surtax Funds is restricted to households making 140 percent or less of area median income, and provided that the use of such funds complies with all other requirements related to Documentary Stamp Surtax Funds; and

WHEREAS, for the loans that would be funded by Documentary Stamp Surtax Funds, such loans would be subject to all applicable requirements related to the use of such Documentary Stamp Surtax Funds, and, to the extent permissible pursuant to the restrictions related to this particular funding source, such loans funded through Documentary Stamp Surtax Funds should

also be required to be fully repaid to the County if the property is sold or transferred within five years, or if the property ceases to be homestead within five years; and

WHEREAS, in addition to loans, the County's septic to sewer assistance program should also include a grant program, as contemplated in Resolution No. R-446-22, for the purpose of providing grants to private residential property owners, of up to \$15,000.00 per property, to provide assistance to low-income individuals and families who own homestead property in Miami-Dade County, and which will utilize criteria similar to the Low-Income Home Energy Assistance Program (LIHEAP) eligibility requirements that the County already uses to help qualified residents pay their energy bills; and

WHEREAS, under the LIHEAP program, for example, proof of income is required, and household income cannot exceed 150 percent of the federal poverty guidelines, and if the applicant or a household member is receiving Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), or Supplemental Nutrition Assistance Program (SNAP), they may also be eligible; and

WHEREAS, for the grant program component of the septic to sewer assistance program, such grants shall be required to include recapture provisions which require the grant to be fully repaid if the property is sold or transferred within five years, or if the property ceases to be homestead within five years; and

WHEREAS, with respect to the above-mentioned septic to sewer loan program that would be funded using Septic to Sewer Trust Fund dollars, approximately seventy percent (70%) of the balance of the Septic to Sewer Trust Fund should be set aside for this loan program component, with the remaining thirty percent (30%) of the Septic to Sewer Trust Fund set aside for the above-mentioned grant program using the LIHEAP eligibility; and

WHEREAS, in order to provide these additional options to homeowners in Miami-Dade County, this Board wishes for the County Mayor or County Mayor's designee to develop the County's septic to sewer assistance program as soon as possible, and as required by Resolution No. R-446-22 and as revised and expanded upon herein, to include all details and information about the proposed program in the pending report that was required pursuant to Resolution No. R-446-22; and until such report is placed on an agenda of this Board as required by Resolution No. R-446-22, to provide quarterly written status reports to this Board; and

WHEREAS, this Board also wishes to direct the County Mayor to include an additional \$10,000,000.00 in funding, from legally available funds, for the Septic to Sewer Trust Fund through a proposed budget amendment during the 2023-2024 Fiscal Year or in the Mayor's proposed Fiscal Year 2024-2025 County Budget, in order to provide greater assistance to homeowners and maintain public support for these important sewer improvements,

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

Section 1. The above-mentioned recital clauses are incorporated as if fully stated herein.

Section 2. This Board hereby amends section 2 of Resolution No. R-446-22, adopted by this Board on May 3, 2022, to: (a) revise the eligibility criteria for the Septic to Sewer Trust Fund's associated septic to sewer assistance program to also include criteria based on access to sewer infrastructure and the availability of funding to expand sewer infrastructure to the applicant's area; (b) to not limit the loan program using Septic to Sewer Trust Fund dollars to low-income homeowners, so as to allow such program to be used to more broadly assist private residential property owners in Miami-Dade County who may need assistance in order to connect their properties to the public infrastructure and abandon their septic systems; and (c) provide that

the County's Septic to Sewer Trust Fund and associated septic to sewer assistance program shall, as detailed herein, be for both a loan program and a separate grant program, to assist residential homestead property owners with private connections for septic to sewer conversions.

Section 3. With respect to the septic to sewer assistance program that the County Mayor or County Mayor's designee was required to develop pursuant to Resolution No. R-446-22 but which has not yet been completed, this Board further directs the County Mayor or County Mayor's designee that the septic to sewer assistance program shall have the following three components:

- a. A loan program by which loans would be provided using Septic to Sewer Trust Fund monies to provide no-interest or low-interest loans of up to \$15,000.00 per property to private residential homestead property owners, in order to assist with the private connections to sewer infrastructure; loans would be required to be repaid within seven years or less, unless a longer amount of time is determined to be appropriate by the County Mayor or County Mayor's designee; and repaid funds would be deposited back into the Septic to Sewer Trust Fund to assist additional private residential property owners in Miami-Dade County. This loan program using Septic to Sewer Trust Fund monies shall not be limited to low-income homeowners, and the loans shall be required to be fully repaid to the County if the property is sold or transferred within five years, or if the property ceases to be homestead within five years; and
- b. A grant program to provide grants to private residential homestead property owners, of up to \$15,000.00 per property, in order to assist with private connections to sewer infrastructure, using criteria similar to the Low-Income Home Energy Assistance Program (LIHEAP) eligibility requirements that the County already uses to help qualified residents pay their energy bills. Such grants shall also include required

- recapture provisions which would require the grant to be fully repaid in the event that the property is sold or transferred within five years, or if the property ceases to be homestead within five years; and
- c. A loan program funded through the use of Documentary Stamp Surtax Funds, to provide no-interest or low-interest loans to private residential homestead property owners, of up to \$15,000.00 per property, in order to assist with private connections to sewer infrastructure, provided that such funds are legally available, and provided that the use of such funds is restricted to households making 140 percent or less of area median income, and provided that the use of such funds complies with all other requirements related to Documentary Stamp Surtax Funds. In addition, such loans using Documentary Stamp Surtax Funds shall, to the extent permissible, include requirements that said loans be fully repaid to the County if the property is sold or transferred within five years, or if the property ceases to be homestead within five years.

Section 4. In addition, for all three above-mentioned components of the septic to sewer assistance program, the following requirements shall apply: (a) all such assistance, whether it be through a grant or a loan, shall be limited to funding the “private-side” improvements to connect the residential property to adjacent public sewer infrastructure; and (b) all such assistance, whether it be through a grant or a loan, shall be limited only to private residential homestead property.

Section 5. The County Mayor or County Mayor’s designee shall develop, as soon as possible, the required septic to sewer assistance program, as required by Resolution No. R-446-22 and as revised and expanded upon in this resolution.

Section 6. Full details and information about this proposed County septic to sewer assistance program shall be included in the pending written report that was required pursuant to Resolution No. R-446-22. In addition, this report on the septic to sewer assistance program shall reflect the following funding concepts: (a) with respect to the above-mentioned grants and loans that are to be funded with monies from the Septic to Sewer Trust Fund, which currently has a balance of \$5,000,000.00, thirty percent (30%) of the Septic to Sewer Trust Fund is to be set aside for such grants and seventy percent (70%) of the Septic to Sewer Trust Fund is to be set aside for loans, and (b) with respect to the above-mentioned loan program to be funded with Documentary Stamp Surtax Funds, the County Mayor or County Mayor's designee is directed to include information as to the amount of such Documentary Stamp Surtax Funds that are available and the amount of such funds that the County Mayor or County Mayor's designee is recommending be used for this loan program. The written report shall also include any administrative costs that the County is expected to incur for this septic to sewer assistance program and a proposed funding source for such administrative costs.

Section 7. Until the report that was required by Resolution No. R-446-22 has been placed on an agenda of this Board, this Board hereby directs the County Mayor or County Mayor's designee to provide brief, quarterly written status reports on the County administration's progress in developing the County's septic to sewer assistance program. The first such status report shall be placed on an agenda of the full Board, without committee review, within 90 days of the effective date of this resolution, pursuant to Rule 5.06(j). Subsequent quarterly status reports shall be placed on an agenda of the full Board, without committee review, at approximately 90-day intervals, pursuant to Rule 5.06(j).

Section 8. This Board further directs the County Mayor or County Mayor’s designee to include an additional \$10,000,000.00 in funding, from legally available funds, for the Septic to Sewer Trust Fund through a proposed budget amendment during the 2023-2024 Fiscal Year or in the Mayor’s proposed Fiscal Year 2024-2025 County Budget.

The Co-Prime Sponsors of the foregoing resolution are Commissioner Kevin Marino Cabrera, Commissioner Micky Steinberg, and Commissioner Juan Carlos Bermudez and the Co-Sponsors are Commissioner Marleine Bastien, Senator René García and Commissioner Raquel A. Regalado. It was offered by Commissioner **Kevin Marino Cabrera** , who moved its adoption. The motion was seconded by Commissioner **Juan Carlos Bermudez** and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	aye		
Anthony Rodríguez, Vice Chairman	absent		
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	aye	Sen. René García	aye
Roberto J. Gonzalez	aye	Keon Hardemon	aye
Danielle Cohen Higgins	aye	Eileen Higgins	aye
Kionne L. McGhee	aye	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 17th day of October, 2023. 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

JUAN FERNANDEZ-BARQUIN, CLERK

By: Basia Pruna
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in dark ink, appearing to be "C. Rabionet", written over a horizontal line.

Cristina M. Rabionet
Abbie Schwaderer Raurell