Memorandum

MIAMI-DADE COUNTY

Date: February 15, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Agenda Item No. 8(D)(1)(A)

Subject: Resolution Urging the Florida Legislature to Maintain Full Funding from the Air Pollution Control Trust Fund to Approved Local Agency Title V Air Programs and to Pass Legislation that Requires Direct Pass-Through Funding of Title V Air Permit Fees to Local Agency Air Programs

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Recommendation
It is recommended that the Board of County Commissioners approve the attached resolution urging the Florida Legislature to (1) maintain full funding from the Air Pollution Control Trust Fund (APCTF) to approved local agency Title V Air Programs for permitting and compliance activities at major sources of air pollution and (2) pass legislation that requires direct pass-through funding of Title V air permit fees to Local Agency Air Programs.

Scope
The Title V Air Program conducts permitting and compliance activities at major air pollution sources Countywide.

Fiscal Impact/Funding Source
This resolution seeks to preserve funding for the Title V Air Program managed by the Department of Environmental Resources Management (DERM).

Track Record/Monitor
The Director of DERM will monitor the progress of the state funding issue.

Background
In their recent 15% budget reduction exercise, the Florida Department of Environmental Protection (FDEP) proposed eliminating all Title V Air Program funding to the state's approved local air pollution control programs. DERM's Title V Air Program receives approximately $300,000 annually from FDEP. Facilities permitted under DERM's Title V Program include power plants, cement manufacturing facilities, water and wastewater treatment plants, metal foundries and other major potential sources of air pollution.

Eliminating this funding would not alleviate Florida's general fund budget shortfalls as Title V funds represent permit fees which are statutorily dedicated to the implementation of the federal Title V Air Program. While the number of Title V permitted sources has remained relatively constant, annual FDEP contract awards were decreased by approximately 20% in the past ten years. FDEP contract funding has remained level for the last three years despite a $1.2 million statewide increase in Title V funds made possible by FDEP-sponsored legislation in 2008 to increase Title V fees paid by air pollution emitting facilities.

The direct pass-through of Title V Program revenues is needed because recent legislative changes require a detailed quarterly budget development structure which is used to authorize quarterly reimbursements. Most activities of the program relate to the submittals of applications, reports, etc. by private entities, the timing of which is beyond the control of the permitting agencies. This presents a likelihood of ineligible costs if the actual workloads don't reflect quarterly estimates within a 10% restriction. Direct pass-through of the fees collected for the implementation of the program to the approved local air pollution control agencies would ensure that they are equitably reimbursed for activities performed.

Therefore, it is recommended that the Board approve the attached resolution.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: February 15, 2011

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

SUBJECT: Agenda Item No. 8(D)(1)(A)

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 Manager'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**

2

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 8(D)(1)(A)

2-15-11

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO MAINTAIN FULL FUNDING FROM THE AIR POLLUTION CONTROL TRUST FUND TO APPROVED LOCAL AGENCY TITLE V AIR PROGRAMS AND TO PASS LEGISLATION THAT REQUIRES DIRECT PASS-THROUGH FUNDING OF TITLE V AIR PERMIT FEES TO LOCAL AGENCY AIR PROGRAMS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, the statewide Title V Air Program regulates major air pollution emitting facilities pursuant to the Federal Clean Air Act; and

WHEREAS, the Title V Air Program is funded via permit fees paid by major air pollution emitting facilities; and

WHEREAS, since 1995, the Florida Department of Environmental Protection has administered these permit fees and distributed funds to Miami-Dade County's Title V Air Program pursuant to Specific Operating Agreements and Title V contracts; and

WHEREAS, due to previous reductions in the Florida Department of Environmental Protection's Title V contract funding, Miami-Dade County's Title V Air Program does not currently recover all of the costs it incurs; and

WHEREAS, the Florida Department of Environmental Protection recently proposed eliminating all of the Title V Air Program funding ($2.237 million) to approved local agency air programs, including Miami-Dade County's, as part of a 15% budget reduction exercise; and

WHEREAS, this Title V Air Program funding is composed of Title V permit fees, and Federal law requires that these fees "be utilized solely to cover all reasonable (direct and indirect) costs required to support the permit program;" 42 U.S.C § 7661a(b)(3)(C)(iii); *see also*, 40 C.F.R. § 70.9(a); and

WHEREAS, the Title V permit fees paid by air pollution emitters cannot be used to alleviate Florida's general fund budget shortfalls, without running afoul of Federal law ; and

WHEREAS, fully covering the costs of local agency Title V programs would better enable these local programs, such as Miami-Dade County's, to fulfill their duties under the Clean Air Act; and

WHEREAS, the direct pass-through of Title V air permit fees from air pollution emitting facilities to the appropriate local programs, such as Miami-Dade County's, would ensure that a portion of the Title V fees would flow to local agency air programs to cover the costs of Title V permitting and compliance activities,

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

Section 1: Urges the Florida Legislature to:

(1) maintain full funding from the Air Pollution Control Trust Fund to approved Title V local agency air programs for permitting and compliance activities at major sources of air pollution; and

(2) pass legislation that requires direct pass-through funding of Title V air permit fees to approved local agency air programs.

Section 2: Directs the Clerk of the Board to transmit certified copies of this resolution to the Governor, Senate President, House Speaker, the Chair and Members of the Miami-Dade State Legislative Delegation.

Section 3: Directs the County's state lobbyists to advocate for the issues identified in Section 1, parts (1) and (2) above, and directs the Office of Intergovernmental Affairs to include this item in the 2011 state legislative packages.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman
Audrey M. Edmonson, Vice Chairwoman

Bruno A. Barreiro	Lynda Bell
Jose "Pepe" Diaz	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 15th day of February, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Abbie Schwaderer-Raurell

5