

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

**Meeting Date:** November 15, 2011

(X) Consent

( ) Regular

( ) Workshop

( ) Public Hearing

**Department**

**Submitted By:** Environmental Resources Management

**Submitted For:** Environmental Resources Management

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to adopt:

A) Resolution for the Florida Department of Environmental Protection (FDEP) to continue to fully fund the Petroleum Storage Tank Compliance Verification Program under a contract with Palm Beach County (County); and

B) Resolution for the FDEP to continue to fully fund the Petroleum Contamination Cleanup Program under a contract with the County.

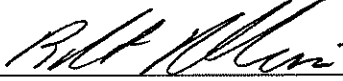
**Summary:** These resolutions proclaim County support for the FDEP to continue fully funding the Petroleum Storage Tank Compliance Verification Program and Petroleum Contamination Cleanup Program. Since 1988, the FDEP has maintained a contract with the County to manage these programs. Presently, the annual contracts are in the amount of \$454,675 for the compliance and \$502,730 for cleanup, respectively. In return, Palm Beach County performs compliance inspections of petroleum storage tank systems and manages the cleanup of petroleum contamination. FDEP is proposing to reduce or eliminate funding for all county government storage tank compliance programs, including Palm Beach County. FDEP is also proposing to eliminate funding for the petroleum contamination cleanup programs in seven counties, including Palm Beach County. Maintaining funding for these programs is essential for protection of the County's water resources and drinking water supplies. Countywide (AH)

**Background and Justification:** These programs provide the highest level of protection for the County's water resources and drinking water supplies and compliance for aboveground and underground petroleum storage tank systems. In addition, the success of these programs have a direct impact on the economy of the community by restoring value to properties blighted by contamination, and preventing loss of property value as well as the direct cost of cleanup from new discharges. These local programs for compliance and cleanup are a testament to government streamlining through efficient allocation of resources, and is a prime example of a highly successful public and private partnership.

**Attachments:**

1. Resolution for the Petroleum Storage Tank Compliance Verification Program
2. Resolution for the Petroleum Contamination Cleanup Program

**Recommended by:**

  
Department Director

10/30/11  
Date

**Approved by:**

  
County Administrator

11/9/11  
Date

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2012	2013	2014	2015	2016
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	X _____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_  
Budget Account No.: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_  
Program \_\_\_\_\_

- B. Recommended Sources of Funds/Summary of Fiscal Impact: No fiscal impact  
X until a decision is made by the State to continue or change the manner in which  
the program is funded

### C. Department Fiscal Review:

JP

## III. REVIEW COMMENTS

### A. OFMB Fiscal and /or Contract Dev. and Control Comments:

M. Diaz 11/7/11  
OFMB 10/24

John J. Jacobson 11/7/11  
Contract Development and Control

### B. Legal Sufficiency:

Anne Deland 11/8/11  
Assistant County Attorney

### C. Other Department Review:

\_\_\_\_\_  
Department Director

RESOLUTION NO. R-2011-\_\_\_\_\_

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REQUESTING THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION PROVIDE FULL FUNDING FOR CONTINUATION OF PETROLEUM STORAGE TANK COMPLIANCE VERIFICATION PROGRAM IN PALM BEACH COUNTY.

WHEREAS, the Florida Department of Environmental Protection (FDEP) is proposing to eliminate funding of county government contracts, including Palm Beach County, for the Petroleum Storage Tank Compliance Verification Programs; and

WHEREAS, since 1988 the County's Petroleum Storage Tank Compliance Verification Program, under a contract with FDEP, has been highly successful in preventing new petroleum discharges that threaten the County's water resources and drinking water supplies by performing compliance inspections at all the regulated aboveground and underground petroleum storage tank facilities in the County; and

WHEREAS, the County maintains the Palm Beach County Petroleum Storage Systems Ordinance No. 2003-20. The Ordinance gives the County the authority to enforce storage tank violations and has significantly increased compliance rates; and

WHEREAS, the County maintains a citizen's advisory board for the purpose of holding hearings, make findings of fact, and provide conclusions to enforce storage tank violations; and

WHEREAS, the advantages for continued full funding of the Petroleum Storage Tank Compliance Program to the County are as follows:

- a) Provide the first line of defense and the highest level of protection from pollutants that can threaten the County's water resources and drinking water supplies if improperly handled and stored.
- b) Inspection of 2,826 regulated petroleum storage tanks at 1,320 registered facilities with tank capacities ranging from 550 to more than 21 million gallons.
- c) Annual verification that storage tanks, product piping, dispensing systems, and electronic monitoring systems meet code and are being monitored on a monthly basis.
- d) Provide immediate response to more than a thousand annual requests from the public and regulated community for technical assistance, information requests, citizen complaints, and a comprehensive plan review for storage tank system installation and removals.
- e) Maintain web based public access to more than 25 years of storage tank and petroleum cleanup site maps and records through Geographic Information Systems and Records Management applications.

- 37 f) Timely response to reported petroleum discharges.
- 38 g) Perform annual marina spill plan certifications and verification that gas stations are
- 39 maintaining their backup power generating capability in the event of a natural disaster.

40 WHEREAS, the disadvantages of eliminating funding of the Petroleum Storage Tank

41 Compliance Program to the County are as follows:

- 42 a) Removes a 23 year local presence provided by the County for responding to over a
- 43 thousand requests annually from the public and regulated community for technical
- 44 assistance, information requests, investigating complaints, and a comprehensive plan
- 45 review for storage tank system installation and removals.
- 46 b) Storage tank systems with secondary containment of any age are still subject to failure
- 47 due to lack of maintenance, faulty equipment, or operator error. As storage tank systems
- 48 age (more than 1,000 tanks in the County are older than 15 years) and with the increasing
- 49 use of ethanol, it is essential to maintain experienced inspectors to continue identifying
- 50 problems before they lead to petroleum discharges.
- 51 c) Current enforcement activities will likely create an overwhelming case load for FDEP's
- 52 District office and result in many facilities remaining in noncompliance for long periods
- 53 of time, possibly years, as was the case prior to the County adopting the enforcement
- 54 authority.
- 55 d) Significant decrease to web based public access to storage tank and petroleum
- 56 contamination cleanup site maps and records.

57 WHEREAS, the Petroleum Storage Tank Compliance Program is a testament to

58 government streamlining through efficient allocation of resources, and is a prime example of a

59 highly successful public and private partnership.

60 NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY

61 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, THAT:

62 SECTION 1.

63 The foregoing recitals are true and correct and are incorporated herein by reference.

64 SECTION 2.

65 Palm Beach County Board of County Commissioners ("BCC") hereby requests FDEP maintain

66 its contracts with Palm Beach County and all other local program governmental agencies

67 currently tasked to provide the Petroleum Storage Tank Compliance Verification Program and

68 continue to provide full funding for the program. This will ensure the storage tank compliance

69 program continues to provide the highest level of compliance for aboveground and underground  
70 petroleum storage tank systems resulting in the highest level of protection for the County's water  
71 resources and drinking water supplies.

72 SECTION 3.

73 All resolutions or parts thereof in conflict with the provisions of this resolution are hereby  
74 repealed.

75 SECTION 4.

76 This resolution shall take effect upon its passage in the manner provided by law.

77 SECTION 5.

78 Should any section, paragraph, sentence, clause, or word of this resolution be held to be  
79 unconstitutional, inoperative, or void, such holding shall not affect the validity of the remainder  
80 of the resolution.

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

84	COMMISSIONER, KAREN T. MARCUS	_____
85	COMMISSIONER, SHELLEY VANA	_____
86	COMMISSIONER, PAULETTE BURDICK	_____
87	COMMISSIONER, STEVEN L. ABRAMS	_____
88	COMMISSIONER, BURT AARONSON	_____
89	COMMISSIONER, JESS R. SANTAMARIA	_____
90	COMMISSIONER, PRISCILLA A. TAYLOR	_____

91  
92 The Chair thereupon declared the resolution duly passed and adopted this \_\_\_\_\_ day  
93 of \_\_\_\_\_, 2011.

94		
95	APPROVED AS TO FORM AND	PALM BEACH COUNTY, FLORIDA
96	LEGAL SUFFICIENCY	BY ITS BOARD OF COUNTY
97		COMMISSIONERS
98		
99		

100		
101	By: <u>Anne Delgado</u>	By: _____
102	County Attorney	Deputy Clerk

Attachment 2

RESOLUTION NO. R-2011-\_\_\_\_\_

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REQUESTING THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION PROVIDE FULL FUNDING FOR CONTINUATION OF THE PETROLEUM CONTAMINATION CLEANUP PROGRAM IN PALM BEACH COUNTY.

WHEREAS, the Florida Department of Environmental Protection (FDEP) is proposing to reduce by half the number of county governments, including Palm Beach County, currently contracted to manage the Petroleum Contamination Cleanup Program; and

WHEREAS, the Petroleum Contamination Cleanup Program has been highly successful in cleaning up petroleum contamination that both threatens Palm Beach County's vulnerable drinking water supplies and reduces property values for the citizens of Palm Beach County; and

WHEREAS, the Palm Beach County Department of Environmental Resources Management (ERM) has contracted with the FDEP to manage the cleanup of petroleum contamination in Palm Beach County since 1988; and

WHEREAS, the County maintains the Palm Beach County Petroleum Contamination Cleanup Ordinance No. 2009-018. The Ordinance gives the County the authority to enforce failure to clean up petroleum contamination; and

WHEREAS, the County maintains a citizen's advisory board for the purpose of holding hearings, make findings of fact, and provide conclusions to enforce storage tank violations; and

WHEREAS, 2,490 discharges of petroleum products have been reported at 1,557 sites in Palm Beach County and 977 sites contaminated with petroleum products have been cleaned up; and

WHEREAS, ERM's cleanup staff has been responsible for the cleanup of approximately 40 to 50 sites per year since 1988. A total of 162 sites are currently in the process of assessment or remediation for petroleum contamination and another 418 sites are either not currently eligible for state funding due to a low priority score, or are subject to enforcement of contamination cleanup through Palm Beach County Ordinance 2009-018; and

WHEREAS, FDEP proposes to eliminate grants for seven of the currently contracted petroleum cleanup programs, including Palm Beach County. However, local petroleum cleanup programs are essential to the success of the Petroleum Contamination Cleanup Program and provide the following direct benefits:

- a) Local governments historically charge its citizens approximately half for the same level of service as private contractors.

36       b) The current budget for local programs to manage the Petroleum Contamination Cleanup  
37       Program is less the 5% of the total budget for the Program, because more than 95% of the  
38       money collected through the Inland Protection Trust Fund is directly used to clean up  
39       petroleum contamination for the citizens of Florida.

40       c) Local governments are proximal to the sites they oversee. The proposed budget change will  
41       only decrease service to the public, increase travel time and fuel costs, result in a loss of  
42       technical and historical knowledge resulting in less efficient project management and  
43       ultimately increase the cost of the program; and

44       WHEREAS, the Petroleum Contamination Cleanup Program has a direct impact on the  
45       economy of the community by restoring value to properties blighted by contamination, and  
46       preventing loss of property value as well as eliminating the cost of cleanup from new discharges to  
47       citizens; and

48       WHEREAS, the County's Petroleum Contamination Cleanup Program is a testament to  
49       government streamlining through efficient allocation of resources, and is a prime example of a highly  
50       successful public and private partnership.

51       NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY  
52       COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, That:

53       SECTION 1

54       The foregoing recitals are true and correct and are hereby incorporated herein by reference.

55       SECTION 2

56       The Palm Beach County Board of County Commissioners ("BCC") hereby requests FDEP  
57       maintain its contract with Palm Beach County and all other local governmental agencies currently  
58       tasked to provide Petroleum Contamination Cleanup programs, and continue to provide full funding  
59       for the programs. This will ensure that Palm Beach County and other local programs' history in the  
60       community, technical expertise, relationships with the environmental contracting community as well  
61       as the citizens of Palm Beach County will continue to provide value by restoring petroleum  
62       contaminated sites and preventing future discharges of petroleum products, and will ensure Palm  
63       Beach County's Petroleum Contamination Cleanup Program continues, which essential to the  
64       protection of Palm Beach County's drinking water supplies

65       SECTION 3

66       All resolutions or parts thereof in conflict with the provisions of this resolution are hereby

67 repealed.

68 SECTION 4

69 This resolution shall take effect upon its passage in the manner provided by law.

70 SECTION 5

71 Should any section, paragraph, sentence, clause, or word of this resolution be held to be  
72 unconstitutional, inoperative, or void, such holding shall not affect the validity of the remainder of  
73 the resolution.

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

77 COMMISSIONER, KAREN T. MARCUS \_\_\_\_\_

78 COMMISSIONER, SHELLEY VANA \_\_\_\_\_

79 COMMISSIONER, PAULETTE BURDICK \_\_\_\_\_

80 COMMISSIONER, STEVEN L. ABRAMS \_\_\_\_\_

81 COMMISSIONER, BURT AARONSON \_\_\_\_\_

82 COMMISSIONER, JESS R. SANTAMARIA \_\_\_\_\_

83 COMMISSIONER, PRISCILLA A. TAYLOR \_\_\_\_\_

84  
85 The Chair thereupon declared the resolution duly passed and adopted this \_\_\_\_\_  
86 days of \_\_\_\_\_, 2011.

87  
88 APPROVED AS TO FORM AND  
89 LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

90

91

92

93

94

95

By: Anne Helgen  
County Attorney

By: \_\_\_\_\_  
Deputy Clerk