



# MEMORANDUM

AGENDA ITEM #IV.G

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DATE: DECEMBER 5, 2016

TO: COUNCIL MEMBERS

FROM: STAFF

SUBJECT: RESOLUTION 16-03 URGING THE GOVERNOR OF FLORIDA TO APPLY FOR AND ADMINISTER FUNDS ASSOCIATED WITH THE PARTIAL CONSENT DECREE IN THE CASE OF VOLKSWAGEN "CLEAN DIESEL" MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION

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In two related settlements, one with the United States and the State of California, and one with the U.S. Federal Trade Commission (FTC), German automaker Volkswagen AG and related entities have agreed to spend up to \$14.7 billion to settle allegations of cheating emissions tests and deceiving customers. Under the terms of the agreement Volkswagen will offer consumers a buyback and lease termination for nearly 500,000 model year 2009-2015 2.0 liter diesel vehicles sold or leased in the U.S., and spend up to \$10.03 billion to compensate consumers under the program. In addition, the companies will spend \$4.7 billion to mitigate the pollution from these cars and invest in green vehicle technology.

Component parts of the agreement consist of a buyback option for consumers; EPA-approved modification to vehicle emissions system; Emissions Reduction Program; Zero Emissions Technology Investments; and Federal Trade Commission's Injunctive Relief. The State of Florida stands to receive more than \$152 million out of \$2.7 billion nationally to support an Emissions Reduction Program and projects that will reduce emissions of NOx (nitrogen oxides) where the 2.0 liter vehicles were, are, or will be operated. In order to access these funds, the State of Florida, through the Governor, must elect to become a beneficiary within 60 days of when the final trust agreement is filed with the Court (Trust Effective Date).

The Southeast Florida Clean Cities Coalition, established at the Council in 1994, is part of a coalition of partners working to secure this funding.

Source:

<https://www.justice.gov/opa/pr/volkswagen-spend-147-billion-settle-allegations-cheating-emissions-tests-and-deceiving>

<https://www.epa.gov/sites/production/files/2016-11/documents/fqsecondedition.pdf>

## Recommendation

Approve the Resolution.



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## RESOLUTION 16-03

**A RESOLUTION URGING THE GOVERNOR OF FLORIDA TO APPLY FOR AND ADMINISTER FUNDS ASSOCIATED WITH THE PARTIAL CONSENT DECREE IN THE CASE OF VOLKSWAGEN “CLEAN DIESEL” MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION, CASE NO. MDL NO. 2672 CRB (JRB), AND D.J. REF. NO. 90-5-2-1-11386.**

**WHEREAS**, the South Florida Regional Planning Council is a regional public policy and planning agency representing the geographic area of Miami-Dade, Broward, and Monroe Counties;

**WHEREAS**, the Council Board consists of county and municipal elected officials, gubernatorial appointees, and ex-officio representatives from the Florida Departments of Economic Opportunity, Transportation, and Environmental Protection, as well as the South Florida Water Management District;

**WHEREAS**, the Council’s mission is to work with, and provide assistance to, its member units of local governments and other regional stakeholders to develop and implement creative strategies that will result in more prosperous and equitable communities, a healthier and cleaner environment, and a more vibrant economy;

**WHEREAS**, since 1994 the Council has served as the host agency to the Southeast Florida Clean Cities Coalition and advanced its mission of enhancing national security through the reduction of petroleum use by promoting and facilitating the use of clean, alternative fuel technology and vehicles throughout the greater Southeast Florida Region of Monroe, Miami-Dade, Broward, and Palm Beach Counties;

**WHEREAS**, the U.S. Environmental Protection Agency (EPA) filed a complaint against Volkswagen, AG (VW) alleging that the defendants violated the Clean Air Act with regard to approximately 580,000 model year 2009 to 2016 motor vehicles containing 2.0 and 3.0 liter diesel engines;

**WHEREAS**, the EPA’s complaint alleges that each vehicle contains computer algorithms that cause the emissions control system of those vehicles to perform differently during normal vehicle operation and use than during emission testing, and that during normal operation and use the vehicles emit levels of nitrogen oxides (NOx) significantly in excess of EPA’s compliance levels;

**WHEREAS**, VW agreed to spend up to \$14.7 billion to settle these allegations with settlement funds to be used to buy back and/or modify vehicles, and to support national- and state-level projects to reduce nitrogen oxides emissions;

**WHEREAS**, the settlement breakdown of the \$14.7 billion includes \$2.7 billion which will be placed in an Environmental Mitigation Trust (EMT) and allocated to beneficiaries (states, tribes, and certain territories) based on the number of impacted VW vehicles in their jurisdictions;

**WHEREAS**, the Environmental Mitigation Trust will support projects that reduce NOx emissions where the VW vehicles were, are, or will be operated;

**WHEREAS**, Florida’s share of the EMT is approximately \$152,379,150 based on estimated numbers of impacted VW vehicles purchased in the state between 2009 and 2016;

**WHEREAS**, each eligible beneficiary state must file a single Certification Form no later than 60 days after the Trust Effective Date and each Form must include a designation of Lead Agency, certified by the Office of the Governor, indicating which agency, department, office or division will have the delegated authority to act on behalf of each state;

**WHEREAS**, the Council, will work closely with the stakeholders and members of the Southeast Florida Clean Cities Coalition in support of the Lead Agency in the State of Florida to develop, submit and administer an Environmental Mitigation Plan;

**WHEREAS**, States are to file beneficiary status by a deadline of approximately February 15, 2017;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA REGIONAL PLANNING COUNCIL**, that the Council hereby urges the Governor of Florida to apply for and administer funds associated with the partial consent decree in the case of Volkswagen “Clean Diesel” Marketing, Sales Practices and Products Liability Litigation, Case No: MDL No. 2672 CRB (JRB) and D.J. Ref. No. 90-5-2-1-11386.

**ADOPTED BY THE SOUTH FLORIDA REGIONAL PLANNING COUNCIL, THIS 5TH DAY OF DECEMBER, 2016.**

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PATRICIA T. ASSEFF, CHAIR

Board Member Patricia T. Asseff  
Board Member Mario J. Bailey  
Board Member Margaret M. Bates  
Board Member Mark Bogen  
Board Member Frank Caplan  
Board Member Daniella Levine Cava  
Board Member Tim Daubert  
Board Member Beam Furr  
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Board Member Sandra Walters  
Board Member Jimmy Weekley

**Non- Voting Ex Officio:**

Board Member Laura Corry, SFWMD  
Board Member Dat Huynh, P.E., FDOT

Board Member Jennifer Smith, FDEP  
Board Member Roberto Martell, FDEO