

ALCALDE & FAY

GOVERNMENT & PUBLIC AFFAIRS CONSULTANTS

September 18, 2012

MEMORANDUM

TO: Chairman Joe A. Martinez
Board of County Commissioners

FROM: Hector Alcalde
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SUBJECT: **August Monthly Report**

Congress returned from the August recess on September 10, 2012 with consideration of the continuing resolution (CR) as its primary priority. Passage of the CR will allow Congress to forego further work on the pending appropriations bills and avoid partisan debates of discretionary spending at least until after the November election and the lame duck session. One aspect of the CR that generated opposition from House leadership is the bill's adherence to the \$1.047 trillion spending limit reached as part of last year's debt limit debate; House Republicans had sought a lower limit of \$1.028 trillion, which was included in the House-passed Republican budget resolution introduced by House Budget Committee Chairman Paul Ryan (R-WI).

Below is a summary of our work and an update on legislative issues of interest to the County for the month of August.

SEAPORT DEPARTMENT

Miami Harbor Operation and Maintenance Funds

We previously advised that both the House and Senate committee-reported FY 2013 Energy and Water Development appropriations bills include funding for the operation and maintenance (O&M) needs in the Miami Harbor. The House committee included \$4,182,000 for Miami Harbor Operation and Maintenance (O&M) needs, only 3.5 percent less than the amount budgeted. The Senate Committee included the entire amount budgeted of \$4,334,000. These committee actions followed the announcement in February 2012 of the inclusion of \$4,334,000 for Miami Harbor maintenance in the Corps budget.

On June 6, 2012, the House of Representatives passed the measure. As indicated above, it is likely that Congress will pass a Continuing Resolution through March 2013, delaying final action on most FY 2013 spending bills, including the Energy and Water bill, until early next year. This elongated schedule should have no impact on the O&M needs for the Miami Harbor.

Miami Harbor Deep Dredge

The Project Partnership Agreement (PPA) for the Deep Dredge project has been signed by Assistant Secretary of the Army for Civil Works, Jo-Ellen Darcy. This final sign-off followed meetings by Director Bill Johnson on June 19, 2012 with MG Todd Semonite and on July 24, 2012 with the Deputy Assistant Secretary of the Army, Terrence "Rock" Salt. Director Johnson encouraged General Semonite and Secretary Salt to move the PPA through to final approval as soon as possible. We scheduled and accompanied Director Johnson to both meetings.

On July 19, 2012 the White House announced that the Miami deep dredge project would be one of seven infrastructure projects nationwide which would be expedited by Executive Order. While the permitting and reviews are already complete for the Miami project, the Executive Order could help in securing some measure of federal funding for the project. To that end, we drafted a letter to OMB Acting Director Zients for signature by the Miami-Dade Congressional Delegation. We circulated the draft to each office and are pleased that Congresswoman Wasserman Schultz (D-20th) has offered to take the lead on the letter. Any amount of funding provided in the FY 2014 budget will remove the project from the New Start category and therefore make it eligible to receive funds as a continuing Corps project.

Florida Ports Council Visit to Washington, D.C.

As previously reported, we accompanied Director Bill Johnson and other Florida Port Directors to meetings on July 24 and 25, 2012 to discuss federal issues of mutual interest to the Florida Ports Council.

The scheduled meetings included discussions with Congressional Members and staff from the Florida Delegation (Representatives Steve Southerland (R-2nd), Corrine Brown (D-3rd), Ileana Ros-Lehtinen (R-18th), Debbie Wasserman-Schultz (D-20th), Richard Nugent (R-5th), Ander Crenshaw (R-4th), Gus Bilirakis (R-9th), and Bill Young (R-10th), along with Senators Nelson (D-FL) and Rubio (R-FL)). We also scheduled meetings with Representative Ted Poe (R-TX) and Janice Hahn (D-CA), the co-chairs of the newly-created Congressional Ports Council and with Representative Bob Gibbs (R-OH), Chairman of the Water Resources Subcommittee. The Miami-Dade Washington Office scheduled a meeting with Governor Rick Scott's Washington staff.

Maritime Title of Transportation Bill

As previously reported, Sec. 1537 of the final transportation conference agreement on MAP-21, includes a Sense of Congress resolution acknowledging the shortfall in spending for federal channel maintenance and calls for the Administration to request full funding consistent with the amount of revenue collected from harbor users. While the provision is not binding in law, Sec. 1537 is significant as the first time in history that a navigation/water element has been incorporated within the nation's surface transportation laws.

We will monitor legislative developments that build upon this initial legislation and propose reform to the HMTF, including efforts to redirect some of the harbor maintenance funds to landside port infrastructure improvements.

Water Resources Development Legislation (WRDA 2011)

The House T&I committee may move a WRDA bill out of committee in the lame-duck session of Congress. Committee staff are reviewing policy issues for inclusion in the next WRDA. The Port of Miami previously submitted a WRDA request for federalization of maintenance dredging of the Dodge Island Cut extension. Since this is defined as an earmark, we contacted House committee staff to suggest a policy approach and have provided suggested language for their consideration. The House majority leadership has indicated that a 2012 WRDA bill may not add new budget authority. This requirement will greatly restrict the number and type of policy provisions included in the next House WRDA. However, the Senate Committee is also preparing a WRDA 2012 bill and we have forwarded comparable language to the Offices of Senators Nelson (D-FL) and Rubio (R-FL).

WATER & SEWER DEPARTMENT

The Senate committee-reported FY 2013 Energy and Water appropriations bill includes \$40 million to fund Environmental Infrastructure (EI) projects. However, these funds are intended for ongoing environmental infrastructure projects. As the authorized Water Transmission Pipeline project is a "new start," it would not be eligible for an allocation from these funds, once appropriated. The House and Senate FY 2013 appropriations bills include "0" funds for EI projects. We will continue to seek funding from other sources.

While we prepared submissions to Senator Bill Nelson's office for additional authorization for the pipeline project and other projects on behalf of the Water and Sewer Department, it is evident that there will be no project specific provisions in

WRDA legislation (unless projects have a finalized Chief of Engineers' report by the Army Corps). The pending projects are as follows:

\$6.25 million for the Water Transmission Pipeline authorized in the Water Resources Development Act of 2007. Congress authorized this reclaimed water pipeline to receive up to \$6.25 million in grant assistance from the Army Corps, pending an appropriation.

Authorization of \$30 million for a pipeline to convey reclaimed water to the Florida Power and Light (FPL) complex at Turkey Point. The \$120 million project would require a nine-mile pipeline from the South District Water Treatment Plant to the FPL complex. The reclaimed water would be used to cool a proposed power plant addition, and to replace cooling water for existing units.

Authorization of \$1.5 million for a Water Main to convey reclaimed water to Fisher Island and Miami Beach. The \$3 million project includes the construction of a 20-inch reclaimed water main from the Central District Wastewater Treatment Plant on Virginia Key to Fisher Island and Miami Beach. The reclaimed water, delivered through the 8,300-foot pipeline, would be used for irrigation replacing potable water from the Biscayne Aquifer.

Increase to \$20 million the authorization for the South Miami Dade Reuse Pipeline. Section 5158 (128) of the Water Resources Development Act of 2007 included the authorization of \$6.25 million for the \$357 million project to construct new water reuse treatment facilities and pipelines. This request will increase the federal participation level, in this important environmental project, to six percent.

We are seeking any opportunities for federal grant assistance with the following project.

\$5 million for the Pump Station Optimization Program (PSOP). The PSOP consists of the installation of a program addition to pump station Supervisory Control and Data Acquisition (SCADA) controls for each station. Five million dollars is needed for program upgrades and monitoring well installations, upgrades to pump station control panels, and level sensing equipment to allow for increased pressures, which result from increased wastewater elevations during the PSOP operations.

Miami International Airport: FAA Reauthorization Conference

Although our firm is not assigned to the MIA, we contacted MIA government relations last December to advise of Section 208(h) of the Senate-passed FAA bill (S. 223), which modifies the eligibility standards for the "noise set-aside program" to include water quality mitigation projects. The flexibility afforded by Sec. 208 provides an important

funding opportunity for critical environmental projects which are integral to airport capacity expansion needs.

We thought MIA would be interested as sources of federal assistance for environmental needs are limited not only due to federal budget cutting, but also the current moratorium on legislated earmarks by Members of Congress. We also contacted the Florida Airports Council and numerous other airports to alert them to this important provision, as we have learned that there was not widespread knowledge of the provision. The Florida Airports Council sent a letter of support to Congressman Mica, who, as Chairman of the House T&I Committee, was the lead House conferee.

We are pleased that Sec. 208(h) was incorporated into the final conference agreement. The FAA is accepting applications for grant funds pursuant to the amended language.

TRANSPORTATION

Idle Earmarks

We advised OIA of the announcement from the Administration in mid-August that state departments of transportation could allocate unspent earmarked highway dollars, some over a decade old, to any eligible transit, highway, port, or passenger rail project. Although state DOTs have a great deal of discretion in determining how this funding will be allocated, states will have until October 1, 2012 to submit to FHWA a list of the projects that will use these funds, which must be obligated by December 31, 2012. Those funds not obligated by that time “will be proportionally redistributed in FY 2013 to states that met the deadline.”

We have spoken with staff at the Florida Department of Transportation (FDOT) who confirmed that they are finalizing the process for reallocating the approximately \$11.38 million in unspent earmarks that Florida is set to receive. They indicated that the state would likely work with the recipient of the original earmark to determine whether funding could be obligated for the original earmarked project. If the original recipient is unable to obligate the funds by the December deadline, the state would work determine whether the funds could be obligated before the deadline for an alternative qualifying projects within these localities. At this time it is unclear as to how FDOT would obligate the funds if no replacement projects could be identified.

Transportation Appropriations

With the decision to move forward with a CR that will fund the federal government through March 2013, Congress has essentially passed the debate over the FY 2013

appropriations bills to the 113th Congress. Once convened, the new Congress will have less than two months of actual in-session time to move forward with the 12 FY 2013 appropriations bills, including the Transportation, Housing and Urban Development and Related Agencies (T-HUD) appropriations bill. The House and Senate Appropriations Committees will need to reintroduce their respective versions of the T-HUD appropriations bill when they convene in January, 2013, although they are likely to use the current bills as the foundation of the new bills (the House approved its FY 2013 T-HUD appropriations bill on June 29, 2012 and the Senate Appropriations Committee approved its version on June 19, 2012). Furthermore, in the case of the T-HUD bill, Congress will need to modify any previously approved language in order to correspond with the recently enacted MAP-21.

For your reference, please find below a chart detailing the spending levels included in the House-passed and Senate Committee-approved T-HUD appropriations bills for programs of particular interest. While these levels would ultimately need to be reconfigured to match those approved as part of MAP-21, funding for certain discretionary programs would still be decided solely through the appropriations process. Most notably, there is an additional \$500 million allocation for Amtrak in the Capital and Debt account, which appears to have come at a sacrifice for funding the National Infrastructure Investment (TIGER) grants in the House bill. This discrepancy will be a primary point of contention during conference negotiations as the Senate allocated \$500 million for TIGER.

Program	FY 2011 Enacted	FY 2012 Enacted	FY 2013 President's Request	FY 2013 Senate Appropriations Committee-Approved	FY 2013 House-Approved
FHWA Obligation Limit	\$41.1 billion	\$39.14 billion	\$41.83 billion	\$39.14 billion	\$39.14 billion
FTA Formula and Bus Grants Total	\$8.343 billion	\$8.361 billion	\$8.124 billion	\$8.361 billion	\$8.361 billion
FTA Capital Investment Grants (New Starts and Small Starts)	\$1.597 billion	\$1.955 billion	\$2.235 billion (transferred from discretionary to mandatory spending)	\$2.044 billion	\$1.817 billion
Urbanized Area Formula Grants (Section 5307)	\$4.151 billion	\$4.160 billion	\$3.535 billion	\$4.160 billion	FTA Formula grants are funded at the FY12 enacted level, but the following Committee Report Language was included: "It is the intent of the Committee that the specific authorities and provisions will be determined by a subsequent reauthorization of the

					<i>formula transit program, or the appropriations conference process."</i>
Fixed Guideway Modernization (Section 5309)	\$1.663 billion	\$1.667 billion	(incorporated into the "Bus and Rail State of Good Repair" Program)	\$1.667 billion	FTA Formula grants are funded at the FY12 enacted level, but the following Committee Report Language was included: <i>"It is the intent of the Committee that the specific authorities and provisions will be determined by a subsequent reauthorization of the formula transit program, or the appropriations conference process."</i>
TIGER Grants	\$527 million	\$500 million	\$500 million	\$500 million	\$0
AMTRAK Operating Subsidies	\$562 million	\$466 million	(incorporated into the "System Preservation and Renewal" Program)	\$400 million	\$350
AMTRAK Capital & Debt Service Grants	\$922 million	\$952 million	(incorporated into the "System Preservation and Renewal" Program)	\$1.050 billion	\$1.45 billion

ECONOMIC DEVELOPMENT

Community Development Block Grant Program (CDBG)

Although final action is expected on a six-month CR, the House approved the FY 2013 Transportation, Housing and Urban Development and Related Agencies (T-HUD) appropriations bill by a vote of 261 to 163 on June 29, 2012. The House-passed bill included \$3.404 billion for the Community Development Fund. Of that amount, \$3.344 billion is for the CDBG program which represents a nearly \$396 million increase above the Administration's request which was the same as the FY 2012 enacted level. You will recall that the Senate Appropriations Committee approved its version of the bill in April by a vote of 28 to 1 and included \$3.21 billion for the Community Development Fund, which is \$198 million more than the FY 2012 enacted level and \$66.9 million more than what the Administration had requested for FY 2013. Included in this allocation was \$3.1 billion for the CDBG program, \$151 million more than the Administration's request.

ELECTIONS

The President's FY 2013 Budget Proposal included \$11.5 million for the Election Assistance Commission (EAC) of which \$3 million will be transferred to the Inspector General and NIST. Both the House and Senate Appropriations Committees reported out their versions of the FY 2013 Financial Services Appropriations bill.

Election Assistance Commission (EAC)

	FY2013	H.R. 6020	S. 3301	FY2013
FY2012 Actual	Administration Request	House Reported	Senate Reported	Conference Final
\$11,500,000	\$11,500,000	\$5,700,000	\$11,500,000	

TRAVEL & TOURISM

Draft Internet Travel Tax Fairness Act

We continue to monitor the internet hotel tax issue. During August U.S. District Court Judge Harold L. Murphy entered a final order approving a settlement agreement of a class action legal suit brought by the Georgia cities of Rome and Cartersville, along with Hart County, against a group of online travel companies. Hotels.com, Expedia, Orbitz, Travelocity and Priceline will be required to make a lump sum payment for local hotel/motel taxes, plus 7 percent interest from May 16, 2011, through November 30, 2012. The Saratoga County, New York Board of Supervisors voted to pass its room occupancy tax legislation that would require travel companies to collect and pay sales tax when the room re-marketers sell to their customers online. The hotel occupancy tax — 1 percent countywide and an additional 5 percent in Saratoga Springs — is used to supplement tourism efforts. Saratoga County lawmakers proposed the law to close a loophole they believe prevents the county from collecting thousands of dollars in hotel occupancy tax revenue every year. Current law only allows the county to collect taxes on the discounted rate offered by online resellers.