

# ALCALDE & FAY

GOVERNMENT & PUBLIC AFFAIRS CONSULTANTS

August 10, 2012

## MEMORANDUM

**TO:** Chairman Joe A. Martinez  
Board of County Commissioners

**FROM:** Hector Alcalde  
Lois Moore  
Danielle McBeth  
Charlotte Hrcir

**SUBJECT: July Monthly Report**

---

On July 31, 2102, Senate Majority Leader Harry Reid (D-NV) and House Speaker John Boehner (R-OH) announced a compromise on a continuing resolution (CR) to fund federal agencies through March, 2013 once the current fiscal year ends on September 30, 2012. The six-month CR would 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.

Reports indicate that Congress will consider the six-month CR in September upon returning from the August recess, and Congressional leadership noted that they expect the “clean” extension to be approved well in advance of the September 30, 2012 deadline. Some members on the Appropriations Committees, including House Appropriations Committee Chairman Hal Rogers (R-KY) said they would have preferred a shorter-term CR, although they are likely to still vote in favor of the six-month CR. One aspect of the CR that may garner 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 July.

## 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.

To ensure that the budgeted funds were included in the committee spending bills, we scheduled meetings for Director Bill Johnson with members of the Miami-Dade Delegation on March 20 and 21, 2012 and accompanied Director Johnson to the meetings. We were pleased that Delegation members committed to support the budgeted allocations for Miami Harbor. As a member of the Appropriations Committee, Congressman Mario Diaz-Balart (R-21<sup>st</sup>) prioritized this request to the Appropriations Committee. Previously, the delegation forwarded a letter to Assistant Secretary Darcy, in support of budgeting for O&M funds for the Miami Harbor.

### *Miami Harbor Deep Dredge*

The Project Partnership Agreement (PPA) is now before Assistant Secretary Darcy for signature. We scheduled and accompanied Port Director Johnson to a meeting with MG Todd T. Semonite, P.E. U.S. Army Corps Headquarters on June 19, 2012. General Semonite gave his assurances that completion of the PPA continued to be a top priority for Headquarters. We continued to monitor the final negotiations on the PPA and scheduled a meeting for Director Johnson with Deputy Assistant Secretary of the Army, Terrence "Rock" Salt, in late July. We accompanied Director Johnson to the meeting. The reason for the meeting was to encourage the Secretary to provide the final sign off as soon as possible, so that a contract for the deep dredge can be advertised by September.

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 have drafted a letter for signature by Members of the Florida Congressional Delegation seeking expeditious completion of the construction stage and for a nominal amount of funding in the FY 2014 budget. Any amount of funding will remove the project from the New Start category and therefore make it eligible to receive funds as a continuing Corps project.

We will be working with the Miami-Dade Washington office to secure as many signatures of the Florida Delegation as possible, including Senators Bill Nelson (D-FL) and Marco Rubio (R-FL).

### ***Florida Ports Council Visit to Washington, D.C.***

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-2<sup>nd</sup>), Corrine Brown (D-3<sup>rd</sup>), Ileana Ros-Lehtinen (R-18<sup>th</sup>), Debbie Wasserman-Schultz (D-20<sup>th</sup>), Richard Nugent (R-5<sup>th</sup>), Ander Crenshaw (R-4<sup>th</sup>), Gus Bilirakis (R-9<sup>th</sup>), and Bill Young (R-10<sup>th</sup>), along with Senators Nelson and Rubio). We also scheduled meetings with Representative Ted Poe of Texas and Janice Hahn of California, the co-chairs of the newly-created Congressional Ports Council and with Representative Bob Gibbs of Ohio, 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***

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 for 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 near future. 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.

We have been advised that the Senate EPW committee has plans to work on WRDA legislation. We will monitor closely for any significant developments.

### **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 (D-FL) 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

### *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 113<sup>th</sup> 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)	\$2.044 billion	\$1.817 billion

			spending)		
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: <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>
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

### ***Transportation Infrastructure Finance and Innovation Act (TIFIA)***

On July 27, 2012, Department of Transportation (DOT) Secretary Ray LaHood announced the availability of approximately \$17 billion through "direct loans, loan guarantees, and standby lines of credit" provided by the TIFIA (Transportation Infrastructure Finance and Innovation Act) program. The notice of funding availability is available [here](#). Through these financing assistance programs, TIFIA allows various larger-scale infrastructure projects to leverage federal funds and attract private funding. MAP-21 included an allocation of \$1.7 billion in capital over a two-year period for TIFIA, (\$750 million in FY 2013 and \$1 billion in FY 2014), which represents a dramatic increase from the \$120 million provided in FY 2012. The DOT press release accompanying Secretary LaHood's announcement notes that \$1 of federal funds can provide approximately \$10 in TIFIA credit assistance, which in turn translates into \$17

billion in loans through TIFIA in FY 2013 and FY 2014. DOT expects this financing to leverage anywhere from “\$20-\$30 billion in transportation infrastructure investment” from non-federal sources. As such, TIFIA has now become the largest transportation infrastructure finance fund in the history of the Department of Transportation (DOT).

Another important modification to the program authorized by MAP-21 is that TIFIA financing can now account for a higher percentage of a project’s costs, with the limit set at 49 percent (previously 33 percent). Prior to this announcement, the Federal Highway Administration’s (FHWA) Office of Innovative Program Delivery (IPD) and the National League of Cities (NLC) hosted a webinar that provided an overview of the TIFIA program. During the webinar, FHWA staff noted that since MAP-21 had made significant changes to TIFIA’s program structure, they were currently working to update the program guide in anticipation of increased interest and demand for TIFIA financing. Furthermore, they mentioned that DOT was planning to host a similar webinar in early August that would provide more information about the modifications and updates to TIFIA included in MAP-21.

During the press conference, Secretary LaHood also announced the creation of the Project Finance Center (PFC), which will assist state and local government project sponsors with analyzing financial options for transit, highway, rail, intermodal and other surface transportation projects. The DOT will provide technical assistance to state and local sponsors of surface transportation projects seeking financial support through the PFC.

## **ECONOMIC DEVELOPMENT**

### ***Community Development Block Grant Program (CDBG)***

Although 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 July, U.S. District Court Judge Harold L. Murphy maintained his ruling that online travel companies such as Hotels.com and Expedia owe tax on the retail rate to all local governments in Georgia that levied hotel-motel taxes from May 16, 2011. Local governments were seeking back taxes for rooms rented since the lawsuit was first filed in 2005. The City of Arcadia, CA has imposed a 10 percent hotel occupancy tax on services provided by travel intermediaries, such as Expedia, and according to Brent Thompson, Expedia's senior vice president and chief of global government and corporate affairs, "No hotels in Arcadia are now bookable through Expedia's points of sale."

Cities from across Arizona are teaming up in hopes of getting tax payments that they contend have been unpaid for years by Web-based travel companies. Phoenix, Tempe, Scottsdale and Tucson are among the cities looking to jointly take the companies to court. A preliminary audit conducted by Arizona cities suggests travel companies owe at least \$8 million in unremitted taxes, though some believe the actual amount could be much higher.

Online travel companies have won another round in a legal dispute with Florida counties that argue the firms were not paying enough in tourist taxes. After hearing arguments last month, state Circuit Judge Terry Lewis recently ruled that online travel sites such as Expedia and Orbitz only owe local tourist taxes on the discounted amounts they actually pay for rooms, not the marked up rates that travelers pay. The State of Hawaii said Expedia, Travelocity and other online travel companies owe more than \$500 million for failing to pay their share of the hotel room tax. In recent filings in state Tax Court, the state Attorney General's office said the online firms collected tens of millions of dollars in state hotel room and general excise taxes for more than a decade.