ALCALDE & FAY

GOVERNMENT & PUBLIC AFFAIRS CONSULTANTS

July 13, 2012

MEMORANDUM

TO: Chairman Joe A. Martinez
Board of County Commissioners

FROM: Hector Alcalde
Lois Moore
Danielle McBeth
Charlotte Hrncir

SUBJECT: **June Monthly Report**

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

SEAPORT DEPARTMENT

Miami Harbor Operation and Maintenance Funds

You have been 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. The Senate may not consider any appropriations bills until after the August recess period. A House-Senate conference therefore is not expected until later in the year, possibly as late as November.

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-21st) prioritized this request to the Appropriations Committee.

By way of background, during the month of January, we alerted the Seaport Department to the additional $55 million in O&M funds provided by the FY 2012 Omnibus Appropriations Act for ongoing maintenance work and recommended that the Port seek funds from this account and the FY 2013 budget. The Port discussed both approaches with the Army Corps Jacksonville District and we drafted a congressional letter to Assistant Secretary Darcy requesting funds for the needed maintenance work. Congressman Diaz-Balart took the lead in securing Delegation signatures and the letter was forwarded to Secretary Darcy prior to the budget release in early February.

Miami Harbor Deep Dredge

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 Project Partnership Agreement (PPA) continued to be a top priority for Headquarters. We continued to monitor the final negotiations on the PPA and have scheduled a meeting for Director Johnson with Deputy Assistant Secretary of the Army, Terrence "Rock" Salt in late July. The reason for the meeting is 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 during August.

As a recap, last fall the House Appropriations Committee gave final approval for the Army Corps to proceed with the Miami Harbor deep dredge project. This followed clearances by the Senate Appropriations Committee and the Office of Management and Budget (OMB). These approvals authorized the Army Corps to prepare the Project Partnership Agreement (PPA) between the Army Corps and Miami-Dade County.

Maritime Title of Transportation Bill

Sec. 1537 of the final transportation conference agreement includes a Sense of Congress resolution acknowledging the shortfall in spending for federal channel maintenance and calling 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 which 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.

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 during final staff deliberations on January 30, 2012. The FAA is accepting applications for grant funds pursuant to the amended language.

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.

TRANSPORTATION

Metrorail Orange Line Expansion

On June 20, 2012, we scheduled and accompanied Miami-Dade Transit Director Ysela Llort, Assistant Transit Director Albert Hernandez, and Philip Drujak, OIA to a meeting with Chairman John Duncan (R-TN), T&I Highways and Transit Subcommittee. After providing an overview of the Metrorail Orange Line Expansion and the current circumstances regarding the FY 2010 $4 million appropriation, Chairman Duncan agreed to send a letter to Administrator Rogoff asking that the allocation be redirected to Incremental Improvements along the Orange Line Phase 2: North Corridor and the Orange Line Phase 3: East-West Corridor. Working cooperatively with MDT, we prepared the suggested draft letter for the Chairman's consideration which explained that the Northwest 27th Avenue Enhanced Bus Service (North Corridor) and the SR 836 Enhanced Bus Service (East-West Corridor) projects include bus procurement, planning, preliminary engineering, final design, right of way acquisition, and construction. Both corridors follow the same alignments planned for the Orange Line Metrorail projects while providing a more cost effective alternate to heavy rail that builds ridership without precluding heavy rail in the future. Incremental improvements envisioned for these corridors would provide premium bus service with 10 minute peak headways. Other project features include traffic signal priority, robust bus stations, level boarding platforms, Wi-Fi, Real-Time "Where is the Bus?" Information, and distinctly branded, environmentally friendly, BRT 60-foot diesel/electric hybrid buses which meet EPA 2010 Heavy-Duty Emissions Standards for Urban Bus Engines.

Surface Transportation Reauthorization

On June 27, 2012, the leaders of the Surface Transportation Authorization conference committee announced that after weeks of intense negotiations a deal had been reached on a 27-month reauthorization bill, which also included a five-year reauthorization of the National Flood Insurance Program (NFIP) and a one-year extension of the current student loan rates. The committee's Chairman, Senate Environment and Public Works Committee Chairwoman Barbara Boxer (D-CA), and Ranking Member, House Transportation and Infrastructure Committee Chairman John Mica (R-7th), both praised the conference committee for reaching a bipartisan compromise on several contentious policy issues, including the increased streamlining of project delivery and greater flexibility in state spending of bicycle/pedestrian funds, in exchange for the removal of provisions related to the Keystone XL pipeline and coal ash regulation. The conference report and joint explanatory statement were both sent to the House Rules Committee on

June 28, 2012, however additional technical and policy-related changes were made before officially filing the report. Following the incorporation of these modifications the House passed the bill by a vote of 373 to 52 on June 29, 2012, and the Senate followed suit and approved the bill that same day by a vote of 74 to 19. Due to some administrative issues related to providing the President with a final enrolled copy of the bill for his signature, Congress approved a one-week extension of surface transportation programs, through July 6, 2012.

With regards to the bill's treatment of the Federal Transit Administration (FTA) and its programs, the final bill keeps the overall funding levels originally proposed in the Senate-passed MAP-21 bill, which constitutes a continuation of current funding indexed to inflation. The final bill also maintains the existing share of funding between highway and transit programs at approximately 80/20, with transit funding set at nearly $10.5 billion for FY 2013 and $10.7 billion in FY 2014. The Federal Transit Administration's (FTA) Capital Investment Grant program, which includes New Starts, is funded at approximately $1.9 billion in both FY 2013 and FY 2014. Furthermore, the program is reorganized to include an expansion of the eligibility requirements to include more bus rapid transit projects and the creation of a new broadly defined "core capacity improvement project." The final bill also maintains the funding set-aside for off-system bridges, which had been deleted in earlier House and Senate versions of the bill.

Also of interest to the County are provisions related to Transportation Enhancements, Safe Routes to Schools (SRTS), and the Rails to Trails Program (RTP). SRTS and RTP are now eligible for funding from within the Transportation Alternatives Program, which also includes a wide range of projects that were previously classified as Transportation Enhancements. Eligibility for funding from the Transportation Alternatives program would also be expanded to include "planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways." Finally, 50 percent of the total funding for these projects is sub-allocated to local governments, while the rest is sent to the state DOTs; however, states are provided a path to essentially opt-out of the program and transfer the funds to separate projects.

We provided the County with a full synopsis of the enacted bill, which includes additional details on the various programs that were modified and reauthorized.

Transportation Appropriations

On June 29, 2012, 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. The bill had previously been approved by the Appropriations Committee on June 19, 2012, and primarily maintains spending levels at FY 2012 levels, however these were

approved with the caveat that they were contingent on funding levels in the reauthorization bill, which at the time had not yet been passed.

The House T-HUD Appropriations bill allocates $10.472 billion for FTA programs and spending for all Highway Trust Fund/Mass Transit Account contract authority programs is maintained at FY 2012 levels as shown on the chart below along with other programs of interest to the County. 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 formula transit program, or the appropriations conference process."*
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: *"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."*
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

As previously mentioned, the bill was approved with the understanding that funding levels would be further modified to reflect the limits established in the final MAP-21 bill. Before the House began debate on the bill, House Appropriations Chairman Harold Rogers (R-KY) confirmed that sentiment by noting that his Committee was prepared to "adjust the bill as needed if a multi-year authorization should be enacted." At this time it remains unclear whether the full Senate will move forward with consideration of the FY 2013 T-HUD appropriations bill, which was approved by the Appropriations Committee on April 19, 2012. With a limited amount of time before the current fiscal year ends on September 30, 2012, House and Senate leadership may be forced to rely on a short-term Continuing Resolution to fund the government.

ECONOMIC DEVELOPMENT

Community Development Block Grant Program (CDBG)

As referenced above, on June 29, 2012, 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. 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 Appropriation in June.

Election Assistance Commission (EAC)

FY2012 Actual	FY2013 Administration Request	H.R. 6020 House Reported	S. 3301 Senate Reported	FY2013 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 June, a Leon County Circuit Judge was considering whether online travel companies should pay taxes on the entire cost of the purchase instead of just the discounted price. Attorneys for several online travel companies including Expedia and Orbitz urged Leon County Judge Terry Lewis to make a summary judgment. In addition, the Tucson City, AZ Council voted to direct City Attorney Mike Rankin to recover taxes the city believes are owed by online travel companies. The companies "believe their business activities are not subject to our hotel sales tax," Rankin said. A final approval hearing on a lawsuit between several Georgia cities and several online travel companies is scheduled for August 16, 2012 in U.S. District Court in Rome. Lawyers for Rome, Cartersville and Hart County filed suit in 2005 against online companies such as Hotels.com, Priceline and Expedia, contending they owe hotel-motel taxes on the rates they charge their customers rather than on the discounted rates they pay local hotels.

OTHER LEGISLATION OF INTEREST

National Flood Insurance Program (NFIP) Reauthorization

As earlier referenced, the surface transportation reauthorization bill (MAP-21, H.R. 4348) approved by Congress on June 29, 2012, included a five-year reauthorization of the National Flood Insurance Program (NFIP) through September 30, 2017. The conference committee ultimately chose to incorporate the five-year NFIP bill after Senate action on the NFIP bill stalled when Senate Majority Leader Harry Reid (D-NV) refused to allow a vote on the bill after Senator Rand Paul (R-KY) attempted to attach an abortion-related amendment. Of particular interest to the County, the final bill included language from the House-passed version of the bill which raises the annual limit on premium rate increases from 10 to 20 percent. Also of interest to the County was a provision that was initially included in the final bill that would have required the mandatory purchase of flood insurance by residents currently protected by levees, dams, and other flood control infrastructure. After the final conference report had been submitted to the House Rules Committee, objections by Senator Mark Pryor (D-AR) and several Gulf Coast Senators ultimately led to the bill's lead negotiators removing the mandatory purchase provision from the final bill.

The previously enacted NFIP extension provided a 60-day extension through July 31, 2012, and provided the Senate with enough time to finalize its five-year reauthorization bill (Flood Insurance Reform and Modernization Act of 2011—S. 1940), which had been approved by the Senate Banking Committee in September 2011. The House approved its own five-year reauthorization bill (Flood Insurance Reform Act of 2011—H.R. 1309) last summer, and the bill's proponents had been pushing the Senate to move forward with a reauthorization bill. During Senate negotiations on moving forward with the 60-day extension, Majority Leader Reid agreed to bring the Senate's five-year reauthorization bill (S. 1940) to the floor prior to the July 4th holiday recess. The bill's key stakeholders, including Senate Banking, Housing and Urban Affairs Chairman Tim Johnson (D-SD) and Ranking Member Richard Shelby (R-AL) had been working on modifying the Committee-passed bill; however, we notified the County about an amendment of particular interest related to the elimination of language in the Senate bill that would require the mandatory purchase of flood insurance by residents currently protected by levees, dams, and other flood control infrastructure (*Section 107*). Senators Pryor and Thad Cochran (R-MS) led this effort in opposition to the new requirement, and we notified the County that staff from their offices were working to build support within the Senate for their pending amendment removing Section 107. As noted above, this provision was ultimately not included in the final enacted five-year reauthorization bill.