

# ALCALDE & FAY

GOVERNMENT & PUBLIC AFFAIRS CONSULTANTS

April 11, 2012

## MEMORANDUM

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

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

**SUBJECT:** **March Monthly Report**

---

The House and Senate began a two-week District Work Period on March 30, 2012 and will reconvene on April 16, 2012. Below is a summary of our work and an update on legislative issues of interest to the County for the month of March.

## SEAPORT DEPARTMENT

### *Miami Harbor Operation and Maintenance Funds*

We were pleased to report that the FY 2013 Army Corps of Engineers' budget included \$4,334,000 for Port of Miami Operation and Maintenance (O&M) needs. To ensure that the budgeted funds are included in the House and Senate FY 2013 Energy and Water Appropriations 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.

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*

As previously reported, on October 7, 2011, 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 Performance Partnership Agreement (PPA) between the Army Corps and Miami-Dade County.

We have been working with the Port and Army Corps to facilitate a timely implementation of the PPA. We scheduled and accompanied Director Johnson and Port staff to a meeting at Corps Headquarters on December 9, 2011 to discuss the draft PPA, which was prepared by the Corps. Responding to the Port's suggestions, Corps Headquarters attorney Susan Nee made several adjustments to the original draft and Port counsel is reviewing the revised draft PPA at this time.

Due to the significance of the deep draft, we have provided below a recap of numerous federal activities over the previous 18 months.

### *Recap:*

House Committee approval followed numerous contacts with Chairman Rodney Frelinghuysen (R-NJ) and staff of the House Appropriations Subcommittee on Energy and Water Development. Congressman Diaz-Balart spoke with Chairman Frelinghuysen on two separate occasions regarding the urgency of moving forward with the project. Staff of the Miami-Dade Delegation, including the offices of Representatives Ileana Ros-Lehtinen (R-18<sup>th</sup>) and Frederica Wilson (D-17<sup>th</sup>), were in constant contact with appropriations committee staff. In addition, Port Director Johnson made several inquiries to appropriations committee majority and minority staff members, following up on previous meetings.

At the request of Alcalde and Fay, on September 22, 2011, Congressman Bill Young (R-FL) also spoke personally with Chairman Frelinghuysen. At that time, the Chairman advised Congressman Young that the committee could not approve the project because, despite the assumption of the entire construction cost by the non-federal sponsor, it was his (the Chairman's) understanding that a deeper draft would result in additional federal maintenance costs. This is not accurate and we immediately moved to correct this misunderstanding. We worked with the Seaport Department and the Army Corps Jacksonville District Office staff to prepare a letter. The final letter signed by the Army Corps Jacksonville District, dated September 23, 2011 stated:

*"Maintenance dredging is typically performed on a ten year cycle at the Port of Miami, which has one of the lowest average annual maintenance costs along the east coast, and is on average \$350,000 per year. Any increase in shoaling of the newly authorized channel, once constructed, is expected to be negligible."*

Representatives Young and Diaz-Balart met again with Chairman Frelinghuysen on October 6, 2011 at which time the Chairman agreed to release the hold on the project.

Multiple meetings were scheduled on behalf of the Seaport Department, including the following:

- Stacey Brown, Chief, Integrations Division, South Atlantic Division;
- Susan Nee, Legal Department, Army Corps Headquarters;
- Sally Ericsson, Associate Director, Office of Management and Budget;
- Richard Patrick, Legislative Director to Congressman Ed Pastor (D-AZ), Ranking Democrat, Energy and Water Development Appropriations Subcommittee;
- John Anderson, Staff Director, Water Resources Subcommittee, Transportation and Infrastructure Committee;
- Roger Cockrell, Professional Staff, Energy and Water Subcommittee, Senate Appropriations Committee;
- Michael Higdon, Chief of Staff, Office of Congressman Hal Rogers (R-KY), Chair, House Appropriations Committee;
- Angie Giancarlo, Professional Staff (Majority), Energy and Water Development Subcommittee, House Appropriations Committee;
- Taunja Berquam, Professional Staff (Minority), Energy and Water Development Subcommittee, House Appropriations Committee;
- Senator Bill Nelson (D-FL); and
- Miguel Mendoza, Legislative Director, Office of Congressman Mario Diaz-Balart (R-FL).

The purpose of the meetings was to facilitate support for the Army Corps' proposal to accept and use non-federal funds for the deep draft (50 foot) dredging project. The proposed authority originates from a 1925 Rivers and Harbors Act/Section 561 of federal code. A letter which proposed the use of the 1925 authority was sent by Secretary Darcy to OMB Director Lew on June 22, 2011. Another letter from Secretary Darcy was sent to the House and Senate Appropriations Committees on July 19, 2011.

The Miami-Dade Delegation members and Senator Bill Nelson (D-FL) were consistently supportive of the deep dredge project. As previously reported, during the month of April, Congresswoman Ros-Lehtinen held a delegation meeting in her office with the Assistant Secretary of the Army (for Civil Works), Jo-Ellen Darcy. We assisted in preparing talking points in advance of the meeting and in coordinating with Congresswoman Ros-Lehtinen's staff and other delegation members. We were pleased to hear that the Members received a commitment from Secretary Darcy at that time that the Port of Miami deep dredge would be a priority of the Department.

### *Maritime Title of Transportation Bill*

The surface transportation reauthorization bill was marked up on February 1, 2012. The Maritime Title comprises a Sense of the Congress resolution that the harbor maintenance trust funds be fully used for maintenance dredging of the nation's navigation channels. This provision may be

strengthened as the transportation legislation moves through Congress. Committee staff advised that other issues that were being discussed for inclusion in the maritime title will most likely wait to be considered for inclusion in the next WRDA (water resources) legislation. These issues include:

- Ensuring that funds collected for the Harbor Maintenance Trust Fund (HMTF) are used as intended, by tying HMTF expenditures to revenues;
- Expediting permits administered by the Corps to help address backlogs that increase project costs;
- Streamlining the study process for Corps navigation projects;
- Ensuring that policies and projects among departments sharing jurisdiction of maritime transportation are coordinated and streamlined;
- Encouraging short-sea shipping by prohibiting double-taxation of vessels shipping goods between domestic ports;
- Allowing non-federal project sponsors that have already arranged financing to contract with the Corps to expedite studies for navigation projects;
- Stimulating domestic shipbuilding and creation of maritime jobs by expanding the allowable use of tax-deferred Capital Construction Fund accounts;
- Clarifying provisions relating to credit for work carried out by non-federal sponsors; and
- Amending the cost share formula for construction of channel depths greater than 45 feet.

### ***Water Resources Development Legislation (WRDA 2011)***

Chairman Mica's staff has indicated to us that the committee plans to begin work on WRDA legislation sometime in the spring, after the transportation conference is finalized.

The Port of Miami previously submitted a WRDA request for federalization of the Dodge Island Cut extension for maintenance dredging. Since this is defined as an earmark, we contacted committee staff to suggest a policy approach establishing a mechanism whereby non-federal sponsors could request federal assumption of maintenance, based upon specific criteria. We provided the following suggested language for inclusion within the Maritime section of the transportation bill.

*"Upon the request of a nonfederal interest, the Secretary shall be responsible for maintenance of navigation channels constructed or improved by the nonfederal interest if the Secretary determines that such maintenance is economically justified and environmentally acceptable and that the channel was constructed in accordance with applicable permits and appropriate engineering and design standards."*

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

### ***Commerce Committee Hearing on Cruise Industry***

The Senate Committee on Commerce, Science and Transportation held a hearing on March 1, 2012 entitled *"Cruise Industry Oversight: Are Current Regulations Sufficient to Protect Passengers & Environment."*

We recommended to the Committee that Director Johnson be invited to testify, assisted in preparing the Director's statement to the committee and discussed possible questions which may be addressed by committee members during the hearing. Christine Duffy, President and CEO of the Cruise Line International Association (CLIA), also testified on the same hearing panel.

Both Senators Nelson and Rubio attended the hearing and thanked Director Johnson for his participation. We also scheduled meetings for Mr. Johnson with both Senators in advance of the hearing.

### **MIAMI INTERNATIONAL AIRPORT: FAA REAUTHORIZATION CONFERENCE**

Although our firm is not assigned to the MIA, we reached out to MIA government relations in 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 reached out to 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 Transportation and Infrastructure (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.

### **WATER & SEWER DEPARTMENT**

While the FY 2012 Omnibus Appropriations Act (enacted on December 23, 2011) includes \$29 million for Army Corps Section 219/ Environmental Infrastructure projects, legislative language indicates that only continuing projects would be eligible for this funding. As the authorized reclaimed water pipeline is designated as a "new start" project, it would not be eligible for allocation of funds at this time. We will continue to seek funding from other sources.

While we prepared submissions to Senator 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 follow:

**\$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.

#### *Chemical Facilities Security Bill*

On June 29, 2011 the Senate Homeland Security and Governmental Affairs Committee reported out legislation which extends the Department of Homeland Security's program requiring high-risk chemical facilities to comply with federal security standards. The Chemical Facility Anti-Terrorism Standards program, or CFATS, sets 18 risk-based performance standards that high-risk chemical facilities must meet. The security standards cover a range of vulnerabilities, such as perimeter security, access control, theft, internal sabotage, and cyber security.

#### *Water Quality Standards/ Clean Water Cooperative Federalism Act*

On June 24, 2011 the House Transportation and Infrastructure Committee reported a bill that would strip the Environmental Protection Agency (EPA) of its authority under the Clean Water Act to revise state water-quality standards once they are agreed to by the state and EPA. Under current law, EPA may veto a new state water quality standard for a previously regulated pollutant if the EPA determines that the new standard is not consistent with the Clean Water Act. H.R. 2018, the Clean Water Cooperative Federalism Act, would give each state the final say in whether a revised state water-quality standard satisfies the Clean Water Act. Thirty Republicans and five Democrats on the committee supported the legislation.

## **TRANSPORTATION**

### ***National Infrastructure Investments (TIGER IV)***

In anticipation of the County's submission of two applications for consideration under the Transportation Investment Generating Economic Recovery (TIGER) grant program, we prepared suggested draft letters of support and circulated them to the South Florida Congressional Delegation for their signature. We received joint letters of support for the County's two project submissions - State Road (SR) 836 Express Enhanced Bus Service Project and the NW 27th Avenue Enhanced Bus Service Project - each signed by Congressman Mario Diaz-Balart (R-21<sup>st</sup>), Congresswoman Ileana Ros-Lehtinen (R-18<sup>th</sup>), Congresswoman Debbie Wasserman Schultz (D-20<sup>th</sup>), Congresswoman Frederica Wilson (D-17<sup>th</sup>), and Congressman David Rivera (R-25<sup>th</sup>).

### ***Surface Transportation Reauthorization***

On March 30, 2012, President Obama signed into law the Surface Transportation Extension Act of 2012 (H.R. 4281), which provided a "clean" three-month extension (through June 30, 2012) of the authorizations for highway and transit programs provided in SAFETEA-LU, which were both due to expire on March 31, 2012. The legislation also provides an extension of the federal gas tax, which serves as the main source of funding for the Highway Trust Fund (HTF) and which was also set to expire on March 31. The 90-day extension was approved the day prior in both the House and Senate after recent negotiations by House and Senate leadership failed to yield a decision on moving forward with a long-term reauthorization package.

## **Senate Consideration**

On March 1, 2012, after voting 51 to 48 to reject an amendment by Senator Roy Blunt dealing with contraception coverage in the President's healthcare reform law, Senate Majority Leader Harry Reid (D-NV) introduced a substitute amendment to MAP-21 (Moving Ahead for Progress in the 21st Century-S. 2183) and attempted to limit further debate on the bill by scheduling a cloture vote for March 6, 2012. Majority Leader Reid's "manager's" amendment incorporated the text of approximately 37 amendments that had been previously agreed to by the bill's top negotiators. *We provided a copy of the amendments and noted that the Cardin-Cochran amendment was one of the incorporated*

*amendments that would sub-allocate funding to local governments for "Additional Activities," including Transportation Enhancements, Safe Routes to Schools and the Recreational Trails Program. Although the Senate did not reach the 60 votes needed to invoke cloture (only 52 voted in favor) the Senate later agreed to move forward with consideration of the manager's amendment and to allow for votes/debate on 30 additional amendments.*

The agreement to move forward with consideration of MAP-21 in the Senate was a surprise to some who thought that that Minority Leader Mitch McConnell (R-KY) may have sought to seek to unite opposition against the bill in order to prolong the process and thereby give House Republicans additional time to bring their own legislation to the House floor. After indefinitely postponing consideration of Chairman John Mica's (R-7<sup>th</sup>) five-year bill, the American Energy and Infrastructure Jobs Act of 2012 (H.R. 7), and following the President's Day recess, reports indicated that House Republicans were trying to gain support for a modified transportation bill that would have cut the length and scope of Chairman Mica's bill. In doing so, House Republicans sought to gain support from fiscal conservatives while also restoring funding for the Mass Transit Account, which was strongly opposed by Democrats and by many Republicans representing districts with constituents that rely on mass transit. *In response to ongoing House discussions regarding a modified version of Chairman Mica's bill, we prepared a draft letter for distribution to the House Delegation which conveyed opposition to any proposal that would eliminate dedicated funding for public transit.*

However, as the Senate continued to negotiate the terms of floor debate and amendments related to MAP-21, House Republicans were unable to garner enough support from within their party to pass a bill that would likely receive unanimous opposition from Democrats. During a closed-door meeting of House Republicans on March 7, 2012, Speaker Boehner urged fellow Republicans to support Chairman Mica's bill or be forced to vote on whatever bill was approved by the Senate. The Speaker reportedly stressed that the Chairman's bill was "far better than the Senate bill. But right now that bill lacks the votes to pass. And every other option we've tried has even less support." With members unwilling to unite behind the proposal, the Speaker later confirmed that after returning from a weeklong recess, their plan was "to see what the Senate can produce and to bring their bill up."

While the House was in recess, the Senate moved forward with consideration of the remaining amendments to MAP-21. During the nearly two-day long series of votes on both germane and non-germane amendments, the Senate rejected two separate amendments aimed at forcing approval of the Keystone XL pipeline, approved an amendment by Senator Roy Blunt (R-MO) to restore the 15 percent funding set-aside for off-system bridges, and approved an amendment by Senator Bill Nelson (D-FL) to direct 80 percent of Clean Water Act fines related to the BP oil spill to a specific trust fund dedicated to the restoration of the Gulf Coast. Also of interest was an amendment originally submitted by Senator Amy Klobuchar (D-MN) that was withdrawn and then incorporated into an approved manager's package introduced by Environment and Public Works (D-CA) Committee Chairwoman Barbara Boxer (D-CA). Senator Klobuchar's amendment restored dedicated funding for the Rails to Trails Program, which had been cut in the original bill approved by the EPW Committee. On March 14, 2012, after nearly two full days of considering amendments, the Senate



overwhelmingly approved MAP-21 by a bipartisan vote of 74 to 22. Following the bill's passage, Chairwoman Boxer again called for the House to act on the Senate-passed bill, arguing that House Republicans no longer had any excuse for inaction and that "You can't say it's too contentious, because we've proven it can be done." *We provided suggested draft letters of support to send to members of the House Delegation requesting that they move forward with consideration of MAP-21 and reiterating priorities for any bill considered by the House.*

## **House Consideration**

Upon returning from the week-long recess on March 19, 2012, the House leadership continued to hold closed-door discussions regarding floor consideration of MAP-21. By mid-week, however, the decision was made to seek a short-term extension and Chairman Mica introduced a 90-day extension of highway and transit programs on March 21, 2012. Over the next week, House and Senate Democrats pressured House Republicans to hold a vote on the bipartisan MAP-21 and forego another short-term extension. A shorter 60-day extension was even introduced by Chairman Mica in hopes that this shorter timeframe would force the House and Senate to enter into conference negotiations on a long-term bill.

After days of debate over the merits of both the 60-day and 90-day extension bills, with Democrats continuing to push for a vote on MAP-21, House Republicans finally decided late in the day on March 28, 2012, to move forward with a vote on the 90-day extension, only two days before the previous extension was set to expire. The bill was approved in the House on March 29, 2012, with a bipartisan vote of 266 to 178 that included the support of 37 Democrats, while 10 Republicans opposed the extension. The Senate approved the extension later in the day by a unanimous consent vote; however, during floor consideration EPW Chairwoman Boxer expressed her frustration with the House for not voting on MAP-21 and attempted to substitute the Senate-passed reauthorization bill for the House-passed extension. Although this effort ultimately failed, other Senators including Mary Landrieu (D-LA) noted their opposition to continuing with enacting short-term extensions. During a speech on the Senate floor in support of MAP-21 and in opposition to the short-term bill, Senator Landrieu promised that she would "object to any other short-term resolution on this bill for as long as this Congress is in session." Even Senate Majority Leader Harry Reid (D-NV) admitted that the extension was not the preferred course of action in this situation, but that it was the only way to prevent a shutdown of highway and transit funding if the previous extension were allowed to expire. Speaking on the Senate floor, Majority Leader Reid described the bill by saying, "What we have is what none of us wanted."

Seeking to assuage concerns regarding the recent trend of relying on short-term extensions, Chairman Mica noted in a press conference following House passage of the 90-day extension that this process "almost always takes two years to do a transportation bill and I've been at it for 14 months." Speaker Boehner also assured the public that the House was committed to passing a long-term reauthorization bill. With regards to introducing a modified version of Chairman Mica's bill after the two-week recess, the Speaker confirmed that the bill's top stakeholders were "working on putting

together the final touches on that bill. It will be ready when we get back.” Reports indicate that Chairman Mica is willing to remove a provision from his bill that would have ended the 20 percent set-aside from the Highway Trust Fund for mass transit programs, however, it remains unclear at this time what, if any, other policy and/or funding modifications will be made. Speaker Boehner has repeatedly stressed his support for tying the reauthorization bill to projected revenue earned from leases related to expanded domestic drilling and energy production, although this issue likely remains a non-starter with Senate Democrats.

## **ECONOMIC DEVELOPMENT**

### ***Build America Bonds (BABs) & Transportation and Regional Infrastructure Project Bonds (TRIPs)***

As you are aware, Congress did not renew the BAB program prior to its expiration on December 31, 2010, and while the program has enjoyed some renewed support in the 112<sup>th</sup> Congress, the majority in Congress has been opposed to reauthorizing the BAB program because of its costs to the federal government, and neither Chairman Mica nor Chairwoman Boxer included the program in their respective surface transportation reauthorization proposals. However, prior to the 1<sup>st</sup> session August recess, Senator Ron Wyden (D-OR) introduced bipartisan legislation, with Senators John Hoeven (R-ND) and Mark Begich (D-AK), that would create Transportation and Regional Infrastructure Project Bonds, or TRIPs bonds, in an attempt to rebrand BABs by changing certain aspects of the original program that concerned members of Congress. The “Transportation and Regional Infrastructure Project Bonds Act of 2011” (S. 1436) differs from BABs in that TRIP bonds would exclusively fund transportation investments and the program would be capped at providing \$50 billion over six years. Also, TRIPs would be issued/run by State Infrastructure Banks, which would be authorized to issue \$1 billion over the program’s six-year duration for projects in their state, while also allowing multiple states to work together on larger projects of regional and national significance. Senator Wyden commented recently that, “TRIPs will build on recent experience with tax-credit bonds and leverage private funding in a fair and efficient [manner] that has been proven to save taxpayer money.” It remains unclear whether this bill will be considered during the second session of Congress.

## **ELECTIONS**

As previously reported, the House has approved, [H.R. 3463](#), a measure to terminate the Presidential Election Campaign Fund and abolish the Election Assistance Commission, a national clearinghouse on the mechanics of voting. Senate Majority Leader Harry Reid (D-NV) has stated that the controversial legislation will not likely garner approval in the Senate.

### ***FY 2013 Budget Information***

The President’s FY2013 Budget Proposal includes \$11,500,000 for the EAC of which \$3 million will be transferred to Inspector General and NIST.

## Election Assistance Commission (EAC)

	FY2013			FY2013	
FY2012 Actual	Administration Request	House Mark	Senate Mark	Conference Final	
\$11,500,000	\$11,500,000				

## TRAVEL & TOURISM

### *Draft Internet Travel Tax Fairness Act*

We continue to monitor the internet hotel tax issue. Tennessee business and government leaders are pushing state lawmakers to act soon to tax online travel companies like Expedia and Travelocity, a move they say would level the playing field but critics argue will mean higher costs for consumers. On March 22, 2012, an Oregon Circuit Court issued a temporary restraining order, halting, at least temporarily, the City of Portland's bid to recover what it claims are several million dollars that online travel companies owe in transient lodging taxes (TLTs) to the city and surrounding county (*Expedia Inc. v. City of Portland*, Or. Cir. Ct., No. 1202—2223, TRO issued 3/22/12).

## OTHER LEGISLATION OF INTEREST

### *National Flood Insurance Program (NFIP) Reauthorization*

The current extension of NFIP expires May 31, 2012. This is the fifteenth NFIP extension since 2002 and was agreed to after the Senate failed to address the Flood Insurance Reform and Modernization Act of 2011 (S. 1940), which as you recall was approved by the Senate Banking Committee last fall. A month before the current extension was approved, Senator David Vitter (R-LA) introduced legislation that would have extended NFIP through the end of FY 2012; however this proposal was reportedly met with stern opposition from Congresswoman Judy Biggert (R-IL), the House-passed bill's sponsor, who pushed for a five-month extension so that the Senate would face renewed pressure to address this issue early in 2012. At this time it remains unclear if the Senate will move quickly on this issue, however the full Senate would need to pass their bill soon in order to give House and Senate negotiators enough time to reconcile the differences between the two bills prior to the current extension's expiration.

We confirmed that the Senate bill's current iteration includes a 15 percent cap on annual premium rate increases, instead of the 10 percent the County prefers or the 20 percent cap included in the House version of the bill. Furthermore, the bill included a provision requiring the mandatory purchase of flood insurance by residents living behind federally certified levees; however, this provision has garnered significant opposition and Senators Thad Cochran (R-MS) and Mark Pryor (D-AR) sent a letter to the Banking Committee's leadership requesting reconsideration of this provision (Section 107). We provided the County with a draft copy of the letter, which was ultimately co-signed by a bipartisan group of 11 Senators; however, Senators Nelson and Rubio did not sign the letter.

The legislation that is ultimately approved by the full Senate will still need to be reconciled with the House-passed bill, which would extend the program for five years, provide for a five-year phase-in of full premium rates for newly re-mapped areas, and allow for qualifying “areas” to apply for three one-year delays for the mandatory purchase of flood insurance. The bill also allows for a fourth and fifth year of extensions, provided that a community can demonstrate that “more than adequate progress has been made on the construction of a flood protection system for such area.” The bill would also establish a 16-member Technical Mapping Advisory Council to provide recommendations and reports to FEMA regarding the adoption of updated mapping standards to be used in creating 100-year flood insurance rate maps.