

ALCALDE & FAY

GOVERNMENT & PUBLIC AFFAIRS CONSULTANTS

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MEMORANDUM

TO: Chairman Joe A. Martinez
Board of County Commissioners

FROM: Hector Alcalde
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SUBJECT: May Monthly Report

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

SEAPORT DEPARTMENT

Miami Harbor Operation and Maintenance Funds

As previously reported, 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.

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

During the month of May, we participated in numerous conference calls with the Port, the Miami-Dade congressional delegation offices, the Office of Intergovernmental Affairs and the Army Corps of Engineers regarding preparation of the final project documents. With the assistance of Port personnel, we prepared a brief white paper for review by the congressional offices.

You will recall that 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

House and Senate conferees have been meeting periodically throughout the month of May on the House and Senate-passed surface transportation bills. Pending before the conference is a Senate-passed provision which would tie HMTF (harbor maintenance trust fund) expenditures to revenues, thereby intending for full usage of the amounts collected in the HMTF for maintenance dredging purposes. Maritime industry interests are also advocating for inclusion of enforcement language in the final conference agreement.

Water Resources Development Legislation (WRDA 2011)

Staff of Congressman John Mica (R-7th), Chairman of the House Transportation and Infrastructure (T&I) Committee, has indicated that the committee plans to begin work on WRDA legislation after the transportation conference is finalized.

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.

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 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. 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

Surface Transportation Reauthorization

The Surface Transportation Extension Act of 2012 (H.R. 4281) was signed into law by President Obama on March 30, 2012, extending the authorizations for highway and transit programs provided in SAFETEA-LU through June 30, 2012. Following Senate passage of MAP-21 (Moving Ahead for Progress in the 21st Century-S. 2183) on March 14, 2012, both House and Senate Democrats had pressured House Republicans to act on the two-year reauthorization bill. However, House Republicans instead chose to move forward with the short-term bill, and Congress ultimately voted in favor of the 90-day

extension on March 29, 2012, only two days before the previous extension was scheduled to expire.

On May 8, 2012, the Conference Committee for the surface transportation reauthorization bill held its first official meeting, during which Senate Environment and Public Works (EPW) Committee Chairwoman Barbara Boxer (D-CA) was named Chairwoman of the Conference Committee and House Transportation and Infrastructure Committee Chairman John Mica (R-FL) was named Vice Chairman. As recently advised, the bipartisan committee is comprised of 33 House and 14 Senate conferees announced in late April. Shortly thereafter, relevant staff met to begin outlining the conferees' priorities and to help determine where Members disagreed on key issues. This first meeting primarily served as an opportunity for each of the conferees to give an opening statement in which they could highlight their priorities for the negotiations and final bill.

During the nearly three-hour meeting, Members expressed their support and opposition to several notable policy and funding issues that will be considered during conference negotiations. Of particular interest was bipartisan support for the Transportation Enhancements (TE) program, which was specifically addressed by both Ranking Member James Inhofe (R-OK) and Congressman Earl Blumenauer (D-OR). Ranking Member Inhofe acknowledged that the program has become a target for Republicans looking to eliminate wasteful spending, but was quick to point out that MAP-21 (Moving Ahead for Progress in the 21st Century-S. 2183) cedes control over the set-aside to states; however, in an interview following the meeting, he also admitted to having spoken with several House Republicans in order to urge them not to seek changes to what had been agreed to in MAP-21. He pointed out that this was an issue that had already been "won," in the sense that "we, collectively, everyone, has won because now states can do pretty much whatever they want to do." Congressman Blumenauer echoed this concept during his statement by reiterating his support for the TE program and for the Senate-approved Cardin-Cochran amendment to MAP-21, which provided local governments with greater control over TE funds.

In her opening statement, Chairwoman Boxer expressed optimism about the ability of Democrats and Republicans to work together on finalizing a bill that could be approved in both chambers. She specifically referenced her work with EPW Ranking Member Inhofe on the Senate-passed MAP-21 bill, which she noted had been approved with support from some of the most liberal and conservative Senators. However, the Chairwoman also stressed that the committee had a limited amount of time to reach an agreement on a long-term reauthorization bill, and that while the current extension is set to expire on June 30, 2012, she cautioned that the "conference report must be completed by early June" in order to give the House and Senate adequate floor time for debate on the negotiated bill.

Vice Chairman Mica also spoke about the importance of moving quickly and efficiently on the reauthorization bill, but was clear in his opposition to simply accepting the Senate's MAP-21 bill. He asked the Members of the Committee to focus on being able to "do more with less" and argued that Congress could no longer "just continue to throw money at problems," because they had tried it with the stimulus bill but it was unsuccessful. This sentiment was echoed by fellow conferee House Ways and Means Chairman Dave Camp (R-MI), who bluntly disagreed with the MAP-21 financing package that would supplement the Highway Trust Fund, suggesting that "if we can't afford it, then we shouldn't do it." Senator Orrin Hatch (R-UT) called on the Committee to adopt language approved in the House regarding the Keystone XL pipeline. Senator Hatch commended the provision and noted that the bill should be a jobs bill and "there is no question that Keystone would create jobs."

Chairwoman Boxer closed the meeting on a positive and hopeful note, stating that during the conferees' speeches she had not heard any "lines in the sand," and that while she did hear "a lot of passion on certain issues," she was convinced that the conferees were "going to work together to get this done." During the weeks following the initial Committee meeting, staff continued to hold closed-door meetings to negotiate on various aspects of the bill. There were reports that some House Republican members of the Committee were joining and participating in the meetings, with some staff indicating that this had created an "uncomfortable dynamic." However, senior Republican staff dismissed the tone of the reports, noting that they unfairly gave the impression that "conferees have no business participating in conference discussions, which is ridiculous." In a press conference on May 16, 2012, to provide an update on the conference negotiations, Chairwoman Boxer reported that staff meetings had progressed beyond "the organizational stage" and were now beginning to focus more on the "substance of the bill." That same day, Secretary of Transportation Ray LaHood sent a letter to Chairwoman Boxer regarding the Administration's views on various funding and policy issues in the pending reauthorization bill, and we provided the County with a copy of the letter.

On May 31, 2012, we participated in a conference call organized by Environment and Public Works (D-CA) Committee Chairwoman Barbara Boxer (D-CA) regarding the status of the ongoing negotiations by the Conference Committee, of which she is also the Chair. During the call, Chairwoman Boxer continued to express optimism about the likelihood that the Committee would agree to a bill. However, she noted her disappointment regarding the "Summer Legislative Agenda" announced by House Majority Leader Eric Cantor (R-VA) the previous week as it did not include any reference to the transportation bill. According to the Chairwoman, it was an indication that Majority Leader Cantor and Speaker John Boehner (R-OH) were not honoring their pledge to work towards a compromise on the bill. Chairwoman Boxer also addressed a

recent report in which an anonymous Republican House conferee said that she had been “stonewalling” negotiators on provisions related to project streamlining and that negotiations in general were starting to break down. Chairwoman Boxer denied these reports and said that, in fact, she and her staff had been trying to work with House Republicans to seek their input on a variety of issues. Senate EPW Staff Director and Chief Counsel Bettina Poirier, who was also on the call, expressed her frustration over the unwillingness of some Republican members and their staffs to work towards a compromise and provide input, while at the same time demagoguing any proposals offered by Democrats. Ms. Poirier said that while they continued to try to seek a resolution, they felt that Republicans were forcing them into a “damned if you do, damned if you don’t type of situation.”

Chairwoman Boxer further indicated that Senate EPW staff is currently drafting what they view as a compromise bill, based on input they have received from the House, and they expect the draft to be completed by the first week in June. This private draft will likely then be presented to House members, inviting their comments/feedback, and once they receive responses from the House, Chairwoman Boxer and her staff will attempt to draft a conference agreement and send it to the House for approval. Although this is outside the common and traditional practice for conference negotiations, Chairwoman Boxer noted that the House departed from tradition when it entered the conference process with only a “shell bill” instead of a full proposal. When asked during the call if the Administration remained committed to seeing Congress pass a bill, the Chairwoman responded that Secretary LaHood had called her that morning stating he was meeting with House and Senate Republicans, including those on the Conference Committee, to help ensure bill passage.

Although both sides publicly remain optimistic that a compromise can be reached, the Conference Committee is quickly running out of time to reach agreement and provide both the House and Senate enough time to review and pass any compromise bill. The current extension of the authorizations for highway and transit programs provided in SAFETEA-LU is scheduled to expire on June 30, 2012, leaving only three weeks left that both the House and Senate are both in Washington (the House is in recess during the week of June 11th). During a floor colloquy with House Minority Whip Steny Hoyer (D-MD), Majority Leader Cantor noted that while he remained “hopeful that the conference committee can come to a solution prior to the expiration of the authorizing language in place right now,” House Republicans were “prepared to make sure that there is no stoppage of transportation programming and funding.”

ECONOMIC DEVELOPMENT

Community Development Block Grant Program (CDBG)

We anticipate markup of the House FY 2013 Transportation, Housing and Urban Development Appropriations (T-HUD) bill in early June. You will recall that the Senate Appropriations Committee approved its version of the bill in April by a vote of 28 to 1. The Community Development Fund allocation was \$3.21 billion, 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 which was the same as the FY 2012 enacted level.

ELECTIONS

The Election Assistance Commission receives its federal funding allocation from the Financial Services Appropriations bill. We expect markup of the FY 2013 appropriations bill during the month of June.

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.

TRAVEL & TOURISM

Draft Internet Travel Tax Fairness Act

We continue to monitor the internet hotel tax issue. During May, Broward County reached a settlement for online travel company Travelocity to pay \$400,000 in a dispute over taxes on hotel rooms. Travelocity admits no liability for past or future bed taxes.

OTHER LEGISLATION OF INTEREST

National Flood Insurance Program (NFIP) Reauthorization

On May 31, 2012, the President signed into law a 60-day extension of the NFIP, through July 31, 2012. The extension had been approved by the Senate on May 24, 2012, before leaving for the Memorial Day recess, and was approved by the House upon returning from the holiday recess on May 30, 2012. The current NFIP extension was scheduled to expire on May 31, 2012, however this latest

extension prevents any lapse in the NFIP and should provide the Senate with enough time to finalize its five-year reauthorization bill (Flood Insurance Reform and Modernization Act of 2011—S. 1940) approved by the Senate Banking Committee in September, 2011. As you recall, the House approved a five-year reauthorization bill (Flood Insurance Reform Act of 2011—H.R. 1309) last summer, and the bill's proponents have been pushing the Senate to move forward with a reauthorization bill.

During Senate negotiations on moving forward with the short-term extension, Senate Majority Leader Harry Reid (D-NV) agreed to bring the Senate's five-year reauthorization bill (S. 1940) to the floor in the coming weeks. Recent reports indicate that the Senate will likely begin floor consideration of the bill during the week of June 18th, which would allow enough time to hold votes on several amendments and on final passage, while also providing adequate time for a Conference Committee to negotiate on a final compromise bill prior to the current July 31st deadline. The Senate's decision to seek a short-term extension came after Majority Leader Reid was unable to advance legislation in recent weeks that would have extended the program through the calendar year. Senator Tom Coburn (R-OK) had objected to the seven-month extension due to its lack of reforms and both he and Senator David Vitter (R-LA) ultimately favored a shorter extension tied to a guarantee that the Senate would move forward with floor consideration of the five-year reauthorization bill. The Senate faced additional pressure to pass an extension after the House passed a one-month extension of NFIP, through June 30, 2012, by an overwhelming 402 to 18 vote, on May 17, 2012. Although the House bill had several program reforms included in its extension, the Senate could ultimately only agree on a provision aimed at phasing out subsidies for vacation homes and second homes.

The bill's key stakeholders, including Senate Banking, Housing and Urban Affairs Chairman Tim Johnson (D-SD) and Ranking Member Richard Shelby (R-AL) have been working on modifying the Committee-passed bill via a manager's amendment that will incorporate several agreed-upon amendments, and it is anticipated that only 10 to 12 additional amendments will be considered during floor negotiations. One potential amendment of particular interest, likely to be offered by Senators Mark Pryor (D-AR) and Thad Cochran (R-MS), will seek to eliminate language from 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). This issue will likely be addressed during floor negotiations and reports indicate that Senators involved in negotiations on the bill have tentatively agreed to allow a vote on an amendment removing Section 107 from the bill. Approval of such an amendment would likely improve any conference negotiations with the House on a final bill,

as similar language in the House-passed bill was removed during floor debate. We have confirmed that staff from the offices of Senators Pryor and Cochran are currently working to build support within the Senate for their pending amendment removing Section 107.

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 remapped 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.