

MEMORANDUM

DATE: May 10, 2022
TO: Miami-Dade Board of County Commissioners
FROM: Alcalde & Fay
SUBJECT: Federal Government Relations Update

I. MIAMI HARBOR

Miami Harbor Feasibility Study

As reported, the U.S. Army Corps of Engineers (USACE) *Infrastructure Investment and Jobs Act* (IIJA) work plan includes \$2,245,000 to fully fund the remaining federal share of the ongoing Miami feasibility study.

The ongoing feasibility study will identify the modifications needed to the federal navigational project, to enable the new state-of-the-art (14,000) TEU container vessels to traverse directly to the U.S. and avoid cargo diversion to nearby non-U.S. transshipment ports (such as Panama, Freeport, Bahamas, and Jamaica).

In advance of the release of the work plan, we scheduled meetings for Becky Hope and Debra Owens with staff members in each of the Miami-Dade offices to seek their support for sending a delegation letter to Assistant Secretary of the Army, Michael Connor. As always, the delegation was most supportive. A copy of the letter has previously been forwarded.

Miami Harbor Squat Restrictions

We have been exploring Corps' documents to identify available authorities which would enable the Corps to correct the "squat" restrictions in the Miami Harbor entrance channel, rather than waiting on Miami's next project authorization (which is not anticipated until 2026).

We identified a provision in the 1915 *Rivers and Harbors Act* (33 US Code 562) which authorizes the Secretary of the Army to change the dimensions in entrance channels "*.... as may be necessary to allow for the free movement of boats.*" We contacted Mr. Tim Murphy, the lead civilian in the Jacksonville District office, to inquire about its applicability to "squat" and then scheduled a conference call on January 25, to further discuss with Mr. Murphy, Becky Hope and Debra Owens. Shortly thereafter, Mr. Murphy was able to confirm that the authority is adequate and that the District will start the process for moving forward with the work.

This is a significant development. Utilizing the Section 562 authority enables this priority component of Miami's next dredging project to be accelerated by at least four years and probably more. Furthermore, removing this project component, will make the next project less costly, therefore having a more competitive B/C ratio.

Water Resources Development Act (WRDA) of 2022

The House T&I Committee is preparing for a 2022 WRDA (water resources bill), with markup anticipated in May. We have been working with the Port to prepare legislative language for inclusion in WRDA which essentially removes any “new start requirements” which could delay the work in the entrance channel.

The following language was submitted to the T&I committee by Miami-Dade delegation Members and on behalf of PortMiami:

Improvements carried out by the Army Corps pursuant to 33 USC Section 562 shall not be new start construction if the Secretary determines that the work is necessary to correct a deficiency in a completed project and is essential to the efficient and safe operations of the project.

PortMiami as a Donor Port

The FY 2022 *Omnibus Appropriations Act*, enacted on March 15, 2022, includes \$50 million for the *Donor and Energy Transfer Port (D&ET) Program*, which is the maximum authorized level for the program. As one of the nation’s six donor ports, Miami’s allocation for FY2022, will be **\$2,371,000**.

The Miami-Dade delegation has consistently advocated for maximum funding levels for the D&ET Program. From 2016 through 2022, PortMiami will have received close to \$14 million from the program.

As indicated below, the Port has requested additional D&ET program funds in FY 2023.

II. FY 2023 APPROPRIATIONS/PORT MIAMI

As the FY 2023 appropriations process gets underway, we worked with PortMiami staff to complete Member Request forms for each of the Port’s priority 2023 appropriations requests. Markup by the appropriations subcommittees is expected to begin during the month of June.

The Port’s 2023 programmatic, language and community project (earmarked) funding requests follow:

- Continued funding for the *Donor and Energy Transfer Port Program*, to include implementation of the WRDA 2020 program changes which allocate 12% of total HMT revenues to the program. If implemented, PortMiami would receive as much as \$18 million annually, up from \$2.3 million;
- Initial \$1 million for the Corps to study the need for correcting the design deficiency in the Miami Harbor;
- \$2 million to assist with implementation of the PortMiami Shore Power Program;
- Language for inclusion with in the Senate committee report accompanying “2023 THUD appropriations” prioritizing Mega grant applications that propose supply chain solutions/development of an inland port;
- A repeat of report language included in the FY 2022 *Omnibus Appropriations Act* which clarifies that improvements needed to correct a design deficiency in a completed federal USAE project is not a new start.

III. NET ZERO CARGO SUPPLY CHAIN PROGRAM/PORTMIAMI

White House/DOT meeting

We scheduled a virtual meeting to present PortMiami's *Net Zero Supply Chain Program* on April 27th which was attended by senior officials in the White House and the Department of Transportation.

Andy Hecker made the presentation to *Elisabeth Reynolds*, Special Assistant to President Biden for Economic Development and Manufacturing; *Jennifer Mitchell*, the Deputy Administrator of the Federal Railroad Administration and senior DOT career staff including *Andrew Petrisin*, Supply Chain Advisor and *Sterling Wiggins*, Supply Chain Policy Advisor/Special Assistant to the MARAD Administrator.

Congressional Meetings

At this time we are preparing for additional congressional meetings for Port Director Webb and Managing Director Hecker on May 17th and 18th. We scheduled and accompanied Port Director Webb and Managing Director Hecker to the following meetings with Members and legislative assistants on March 15 and 16. Each of these offices indicated their total support for PortMiami's *Net Zero* program.

Congressman Brian Mast (FL-18)

Transportation and Infrastructure Committee

Member, Subcommittees on Water Resources and Aviation

Josh Duncan

Legislative Director, Office of Congresswoman Salazar (FL-27)

Committee on Foreign Affairs; Committee on Small Business

Congressman Daniel Webster (FL-11)

House Transportation and Infrastructure Committee (5th in seniority for the republicans)

Bradley Solyan

Legislative Assistant, Office of Congresswoman Lois Frankel (FL-21)

House Appropriations Committee

Congresswoman Debbie Wasserman Schultz (FL-23)

House Appropriations Committee

Congressman Mario Diaz-Balart (FL-25)

House Appropriations Committee

Ranking republican member, Subcommittee on Transportation, Housing and Urban Development

Congressman Byron Donalds (FL-19)

Committees on the Budget, Oversight and Reform

Connor Tomlinson

Legislative Assistant, Office of Senator Rick Scott

Senate Commerce, Armed Services, Homeland Security Committees

Jake Barr

Legislative Assistant, Office of Congresswoman Kathy Castor (FL-14)

Chair, Select Committee on Climate Change

IV. IMPLEMENTATION OF THE INFRASTRUCTURE INVESTMENT AND JOBS ACT (IIJA)/ DEPARTMENT OF TRANSPORTATION GRANT OPPORTUNITIES

We continue to monitor activities surrounding the implementation of the \$1.2 trillion IIJA, which was signed into law on November 15, 2021. The new law includes multibillion dollar investments for grant programs of interest to ports, and we are providing the pertinent NOFO's to you, as released.

During the month of April we continued to consult with the Port regarding the preparation of the grant applications to the Department of Transportation.

We previously reported on the new and ongoing programs which received significant funding plus ups. For instance: PIDG includes eligibility for a wide range of electrification projects and is funded at \$2.25 billion over five years, \$450 million annually, in addition to the annual appropriations provided to the program; RAISE includes eligibility for port inland infrastructure projects and will receive an additional \$7.5 billion (\$1.5 billion annually); *Nationally Significant Freight and Highway Projects* (NSFHP) or INFRA, will receive an additional \$8 billion; and *Railroad Rehabilitation and Improvement Financing* (RRIF) includes eligibility for the development of landside infrastructure for seaports serviced by rail.

V. OTHER ISSUES OF INTEREST

Shipping Reform

We are monitoring developments relating to supply chain and shipping reform, including H.R. 4996, the *Ocean Shipping Reform Act*, sponsored by Congressman Garamendi (D-CA) which passed the House of Representatives in December. The legislation is intended to ease current supply chain challenges by expanding the authority of the Federal Maritime Administration.

Build Back Better (BBB) Act

There may be further movement on the *Build Back Better* legislation (or parts thereof) later in the year and we are monitoring closely.

Of particular interest to PortMiami is a new program created within the *Environmental Protection Agency* (EPA) which provides \$2.675 billion for *Grants to Reduce Air Pollution at Ports*, including

for the purchase or installation of zero emission equipment for ports, to include shore power. Committee staff advise us that the legislation is intended to apply to emissions from all ocean-going vessels.

If enacted, this new program will provide another source of competitive grant funding for implementation of shore power connections to cruise berths; hence, an opportunity for PortMiami to secure grants from both the DOT and the EPA.

Also pending in the BBB legislation is an additional \$600 million (over five years) for PIDG projects that support “supply chain resilience, reduction in port congestion, the development of offshore wind support infrastructure, environmental remediation, and projects to reduce the impact of ports on the environment.”

PortMiami as a Strategic Defense Port

The Port has indicated an interest in designation as a *Strategic Defense Port* by the Department of Defense (DOD). We have previously provided the information on the process for consideration by the DOD. The first step is for PortMiami to provide an Expression of Interest to the Surface Deployment and Distribution Command (SDDC) which is the Army component of the U.S. Transportation Command (USTRANSCOM).

MARAD administers the *Strategic Port Program* and is charged with facilitating the movement of deploying military forces through strategic ports while minimizing commercial disruptions. There are 23 Strategic Ports and 13 Alternate Ports.

Please note that the WRDA 2020 calls for allocations of HMT (Harbor Maintenance Trust) funds to the 17 commercial seaports, with allocations based on the percentage of HMT dollars collected and the historic share of annual HMT funds provided to these ports. Also, the House and Senate Appropriation Committees generally include a port’s strategic designation as one of **multiple factors** that the Corps should take into consideration when allocating Army Corps work plan funds.

Customs and Border Patrol (CBP) Facility Upgrades

PortMiami has joined other ports in addressing its concerns with the escalating costs of CBP facility upgrades. One key concern is to assure that the reimbursable programs are not used to supplant baseline service levels, but instead are used to supplement enhancement requests for services that CBP would otherwise not be able to perform.

Despite language in recent appropriations bills which address seaport concerns (see below), the agency’s practices continue. To remedy this situation, the American Association of Port Authorities (AAPA) is preparing legislation which enables customs processing fees to be used for facility upgrades and will be seeking sponsors for the legislation.

..... To better establish expectations for all parties, the Committee directs CBP to provide each port operator with information on baseline service levels and report to the Committee quarterly on CBP’s adherence to these baseline service levels. Additionally, CBP shall include information on requirements for staff, facility and security upgrades for seaports, to include marine and cruise terminals. It should address staffing shortages, upgraded facility and security requirements and plans for technology recapitalization; the

process used to decide how initiatives are funded; a justification for the scope of the requests; and how CBP will negotiate and incorporate the port's involvement into the development of their capital management plan to allow for early identification and planning for future facility and security needs." (Explanatory Statement, DHS Appropriations, 2022, U.S. Senate).

Maritime Ports of Entry –

..... The committee notes that scanning equipment at maritime ports is reaching its expected normal performance life and that CBP should provide as much information about equipment replacement events as practicable to port owners and operators so that recapitalization can be performed in a consistent and transparent manner. CBP's requirements for space in new facilities can add significant costs to projects and the committee directs the CBP to engage thoughtfully with ports when negotiating agreements with (Committee Report, DHS Appropriations, 2020, U.S. Senate)