

MEMORANDUM

DATE: August 9, 2022
TO: Miami-Dade Board of County Commissioners
FROM: Alcalde & Fay
SUBJECT: Federal Government Relations Update

I. MIAMI HARBOR

Miami Harbor Feasibility Study

The House Transportation and Infrastructure Committee included language in the report accompanying H.R. 7776, the *Water Resources Development Act of 2022 (WRDA)* **which urges the Corps to prioritize and expedite completion of the Miami Harbor feasibility study.** (House committee report # 117-347 (Page 66).

As previously 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 feasibility study will identify the modifications needed to the federal 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).

Miami Harbor O&M Funding

The House and Senate FY 2023 *Energy and Water Development (E&W) Appropriations* bills each include the budgeted amount of \$50,000 for Miami Harbor maintenance needs. The FY 2022 *Omnibus* Act includes the Corps' capability of \$180,000.

Miami Harbor Restrictions

The USACE has recognized a design deficiency in the completed 50-52 foot dredge project, as draft limits did not increase as originally plan. The USACE will prepare a report which identifies the improvements needed to eliminate these restrictions and assure efficient and safe navigation in the Miami Harbor.

The Jacksonville District is using \$1.5 million in available funds to begin the report. If additional funding is needed in FY 2023, we will seek 2023 USACE Workplan Funds for the study.

As previously reported, we explored various Corps' documents over many months to identify a discretionary authority which the USACE could use to carry out this work. Otherwise, these critical improvements would be delayed until authorization of the next Miami Harbor modification (which is not anticipated until 2026).

The authority is Section 562 of the 1915 *Rivers and Harbors Act* (33 US Code 562) which allows the Secretary of the Army (Civil Works) to change the dimensions in entrance channels “.... *as may be necessary to allow for the free movement of boats.*” We coordinated with the Port and the Jacksonville District Office and Mr. Tim Murphy, the lead civilian in the Jacksonville District office, who confirmed that this authority is adequate. The District started the process for moving forward with the work early this year.

Water Resources Development Act (WRDA) of 2022

On June 8, the House passed H.R. 7776, the *Water Resources Development Act of 2022*. As reported above, priority recognition to the ongoing Miami Harbor feasibility study is provided by the committee report accompanying the bill.

On May 17 we scheduled a meeting for Deputy Director Andy Hecker and Debra Owens with Congressman Peter DeFazio (D-OR), the Chair of the House Transportation and Infrastructure Committee. In addition to briefing the Chairman on “Net Zero,” we addressed the Miami pressing channel needs and our concern that the work would be delayed if subject to USACE new start requirements. We were pleased that the Chairman’s staff contacted Corps officials immediately after our meeting and confirmed, in a follow up call, that Section 561 is a discretionary authority which is not subject to new start rules. Therefore, WRDA language is not needed.

PortMiami as a Donor Port

The House and Senate FY 2023 E&W appropriations bills each increase the cap on the *Donor and Energy Transfer Port* (D&ET) Program, from \$50 million to \$56 million.

The Committees chose not to address other WRDA 2020 program changes, including the allocation of 12% of total HMTF (Harbor Maintenance Trust Fund) revenues to the D&ET program. Once confirmed that the USACE has the authority to implement these changes, we are prepared to work on behalf of PortMiami and with other impacted ports, including the *American Association of Port Authorities*, to encourage the USACE to do so. On implementation, PortMiami will receive as much as \$18 million annually, up from \$2.3 million.

We submitted FY 2023 programmatic appropriations requests forms to each member of the delegation and scheduled meetings for Port representatives with staff in the offices Senators Rubio and Scott, to brief on the importance of these program changes to PortMiami.

II. NET ZERO CARGO SUPPLY CHAIN PROGRAM/PORTMIAMI

The following language, requested by PortMiami, is included in the *Explanatory Statement* accompanying the FY 2023 *Transportation, Housing and Urban Development Appropriations* bill, as

posted by the Senate Appropriations Committee on July 28. PortMiami submitted this programmatic request to the offices of Senators Scott and Rubio.

Mega Grants -

The Committee recognizes that inland ports are an important element in the international supply chain, increasing intermodal capacity and efficiencies in the movement of global commerce from ships to major transportation networks for distribution. Benefits include reduced congestion at the marine terminal and on the Nation's highways, lower costs of moving cargo, environmental and safety benefits, economic development in underserved or rural areas as well as consolidation of import/export centers. Within the advance appropriations for this program, the Committee encourages the Secretary to consider Mega grant applications that include the development of coastal and inland ports in order to facilitate an efficient supply chain.

The bipartisan Florida congressional support letter for “Net Zero” was forwarded to DOT Secretary Buttigieg on June 24. The letter, which was signed by 16 Members, follows the in person and virtual meetings which we scheduled on behalf of Director Webb, Deputy Director Hecker and Debra Owens from March through May. Details of these meetings are provided by previous reports.

We have recommended that Port representatives follow up with the Miami-Dade delegation members over the August District work period, to ask the Members to reach out directly to DOT Secretary Buttigieg. RAISE grants are expected to be announced by mid August, in accordance with legislative direction.

III. INFLATION REDUCTION ACT (IRA)

Grants to Reduce Air Pollution at Ports

On July 27, the Senate leadership and Senator Manchin negotiated a reconciliation package which includes a new \$3 billion program to reduce emissions at ports. The agreement, titled the *Inflation Reduction Act*, provides grants for the purchase or installation of zero emissions port equipment or technology that capture 100% of the emissions produced by an ocean going vessel at berth. Funds are available from FY 2022 through FY 2027 and the program will be administered by the Environmental Protection Agency (EPA).

If enacted, this new program could provide source(s) of grant funding for PortMiami's electrification needs, including implementation of shore power at cruise berths. We forwarded a detailed description of the new program to the Port. It will be important to monitor as EPA prepares the implementing guidelines.

Additional Funding to the Urban and Community Forestry (UCF) Program

Also of interest to PortMiami, the *Inflation Reduction Act* significantly boosts funding for the *Urban and Community Forestry (UCF) Program*. The agreement includes \$1.5 billion in multi year grants, up from approximately \$30 to \$50 million annually. Priority is provided to projects that benefit underserved populations.

As you recall, the UCF program is administered by the States; in Florida, by the Department of Agriculture and Consumer Services/Florida Forest Service: contact William.Liner@FDACS.gov. The Department has recently announced three 2022 NOFO awards to: North Miami Beach: \$30,000; Palmetto Bay: \$25,000; and Tarpon Springs \$55,000, and is preparing for the next round of grants by about October.

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

While the Port has submitted its 2022 applications for PIDG, Mega and INFRA, we continue to consult with the Port regarding additional grant opportunities and continue to monitor activities surrounding the implementation of the Infrastructure Investment and Jobs Act (IIJA). We have reached out to FDOT and the FHWA regarding the *Carbon Emission Reduction Program* (CRP) which is a new formula program established by the IIJA. Both offices have recommended that the Port make inquiries to the MPO regarding eligibility for port electrification projects.

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

Healthy Streets Program/Transportation, Housing and Urban Development Appropriations/ FY 2023

Notably, the House FY 2023 THUD appropriations bill includes \$55 million for a comparable program to the UCF program addressed above. The *Healthy Streets Program*, which was established by the *Infrastructure Investment and Jobs Act* (but not funded by the IIJA) provides grants to state and local units of government, tribes and nonprofit organizations, to deploy cool pavements and porous pavements and to expand tree cover. The goals are to mitigate urban heat islands; improve air quality and reduce the extent of impervious surfaces, stormwater runoff and flood risks and heat impacts to infrastructure and road users. Priority is provided to eligible entities which carry out the activity in a low or disadvantaged community.

H.R. 7579, Western Hemisphere Nearshoring Act

We are monitoring for developments on the *Western Hemisphere Nearshoring Act*, H.R. 7579, sponsored by Congressman Mark Green (R-TX), with original cosponsor Congressman Albio Sires (D-NJ). The legislation incentivizes producers to relocate to Latin America and the Caribbean, with the intent of reducing the U.S. supply chain dependence on China as well as the root causes of migration to the U.S. The bill has joint referral to the Committees on Ways and Means and Foreign Affairs.

Representatives Gimenez (R-FL) and Salazar (R-FL) have signed on as cosponsors, along with Representatives Meuser (R-PA); Buck (R-CO); Barr (R-KY); Hern (R-OK); Huizenga (R-MI); Hill (R-AR); Miller-Meeks (R-IA).

Customs and Border Patrol (CBP) Facility Upgrades

PortMiami has joined other ports in addressing its concerns with the escalating costs of CBP facility upgrades. 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) has prepared legislation which enables customs processing fees to be used for facility upgrades and is seeking sponsors for the proposed legislation.

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.

Ocean Shipping Reform

On June 13, the House of Representatives approved the *Ocean Shipping Reform Act*, S. 3580, which was subsequently signed into law. The legislation, which is intended to ease current supply chain challenges, includes the following provisions:

- Expands safeguards to combat retaliation and deter unfair business practices;
- Clarifies prohibited carrier practices pertaining to detention and demurrage charges and vessel space accommodation;
- Establishes a shipping exchange registry through the FMC;
- Expands penalty authority to include refund of charges;
- Increases efficiency of the detention and demurrage complaint process.