

MEMORANDUM

DATE: July 5, 2022
TO: Miami-Dade Board of County Commissioners
FROM: Alcalde & Fay
SUBJECT: Federal Government Relations Update

I. MIAMI HARBOR

Miami Harbor Feasibility Study

We are pleased that 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)).

The 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).

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.

Miami Harbor O&M Funding

The committee - reported FY 2023 *Energy and Water (E&W) appropriations* bill includes \$50,000 in O&M funds for Miami Harbor maintenance needs in FY 2023. The FY 2022 *Omnibus Act* also 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 planned and several turns were left with rock edges. The USACE plans to correct the deficiency, but must first prepare a report which identifies the improvements needed to eliminate the navigation restrictions and assure efficient and safe navigation within the Miami Harbor.

The Jacksonville District plans to use \$1.5 million in available funds to begin the required study. If additional funding is needed to complete the study, we are prepared to seek additional funds by means of the 2023 USACE Work Plan.

As previously reported, we explored various Corps' documents over many months to identify an available authority which would enable the USACE to carry out these corrections, rather than wait on the authorization provided by Miami's next project modification (which is not anticipated until 2026).

We identified an authority in the 1915 *Rivers and Harbors Act* (33 US Code 562) which enables 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 the Miami Harbor 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.

Utilizing the Secretary's discretionary authority enables this component of Miami's next dredging project to be accelerated by at least four years and probably more. Furthermore, removing this project component will reduce the cost of the next project, with a more competitive B/C ratio.

Water Resources Development Act (WRDA) of 2022

On May 24th, the House T&I Committee marked up H.R. 7776, the *Water Resources Development Act of 2022* (WRDA). As reported above, the report accompanying the legislation provides priority recognition to the ongoing Miami Harbor feasibility study.

In preparation for the markup, we also worked with the Port to prepare legislative language which would essentially remove any "new start requirements" which could significantly delay the Corps' plan to correct the deficiency in the federal channel.

We discussed with Congressman Peter DeFazio (D-OR), the Chairman of the House Transportation and Infrastructure Committee and his senior staff during the Port's May 17th meeting (see below). As a follow up to that meeting, Chairman DeFazio's staff was in contact with Corps officials who indicated that the proposed language is not needed as *US Code 33 Section 562* does not require new start designation. We provided that information to the Jacksonville District Office of the USACE.

PortMiami as a Donor Port

On June 28, the House Appropriations committee marked up the FY 2023 *Energy and Water appropriations* bill and increased the cap on the *Donor and Energy Transfer Port* (D&ET) Program from \$50 million to \$56 million.

The Appropriations Committee 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. However, the Senate Appropriations Committee may add language to its FY 2023 E&W bill, with anticipated markup in July. We will monitor closely.

We met with staff in the offices of Senators Rubio and Scott to brief on the importance of this program change to PortMiami and submitted programmatic request forms to each office earlier this year. Once implemented, PortMiami will receive as much as \$18 million annually, up from \$2.3 million.

As previously reported, the FY 2022 *Omnibus Appropriations Act*, enacted on March 15, 2022, includes \$50 million for the *Donor and Energy Transfer Port (D&ET) Program*. As one of the nation's six donor ports, Miami's allocation for FY2022 is **\$2,371,000**.

II. FY 2023 APPROPRIATIONS

On May 25, we reported on the Miami-Dade Member requests for *Community Project* (earmark) funding for FY 2023, per the below links.

Gimenez CPFs: <https://gimenez.house.gov/project-requests> * incorrectly labelled 2022.

MDB CPFs: <https://mariodiazbalart.house.gov/issues/cpf-requests>

Wilson CPFs: <https://wilson.house.gov/services/fy-23-community-project-funding-requests>

Wasserman Schultz CPFs: <https://wassermanschultz.house.gov/cpf/>

Salazar CPFs: <https://salazar.house.gov/2022-community-funding-project-requests>* incorrectly labelled 2022.

III. NET ZERO CARGO SUPPLY CHAIN PROGRAM/PORTMIAMI

We followed up on recent congressional meetings and, working in conjunction with Phillip Drujak, secured the bipartisan delegation support letter to DOT Secretary Buttigieg, signed by 16 Members of the Florida delegation on June 24th. We have recommended that the Port work with Seaboard Marine to secure a comparable delegation letter from the Kansas congressional delegation.

The following summarizes the congressional, White House, agency and other meetings which we scheduled on behalf of PortMiami for presentation of the *Net Zero Supply Chain Program*.

Congressional Meetings

We scheduled and accompanied Managing Director Hecker, Debra Owens and Phillip Drujak to two full days of meetings on Capitol Hill on May 16 and 17, following two days of congressional meetings on March 15 and 16 with Director Webb, Managing Director Hecker and Debra Owens.

We previously forwarded the list of the 24 congressional meetings, which included meetings with 21 Members/staff of the Florida delegation, the Chair of the House Transportation and Infrastructure Committee, *Peter DeFazio* (D-OR) and staff representing *Senator Moran* (R-KS) and Congresswoman *Charise Davids* (D-KS) (as Seaboard Marine's parent company is headquartered in Kansas).

White House/Department of Transportation

We scheduled and participated in a virtual meeting for presentation of PortMiami's *Net Zero Supply Chain Program* to senior officials in the White House and the Department of Transportation.

Managing Director Andy Hecker made the presentation on April 27th 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 staff including *Andrew Petrisin*, Supply Chain Advisor and *Sterling Wiggins*, Supply Chain Policy Advisor/Special Assistant to the MARAD Administrator.

U.S. Environmental Protection Agency (EPA)

Presentation to *Sarah Froman*, Lead, EPA Ports Initiative, May 16.

Florida Department of Transportation (DC Office)

Presentation to *Charles Castagna*, Manager, Federal Affairs and *Doug Callaway*, Senior Policy Analyst, May 16

IV. IMPLEMENTATION OF THE INFRASTRUCTURE INVESTMENT AND JOBS ACT(IIJA)/ 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 the Port, as released.

While the Port has submitted its 2022 applications for PIDG, Mega and INFRA, we continue to consult with the Port regarding additional grant opportunities. 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

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.

Build Back Better (BBB) Act

We are monitoring closely for any further movement on the *Build Back Better* legislation (or parts thereof).

Of particular interest to PortMiami is a new program 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. 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.

..... 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)