

MEMORANDUM

**DATE:** May 8, 2023  
**TO:** Miami-Dade Board of County Commissioners  
**FROM:** Alcalde & Fay  
**SUBJECT:** Federal Government Relations Report

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Highlights of congressional action in April include House passage of the *Limit, Save, Grow Act* of 2023, which increases the debt ceiling, while reducing domestic discretionary spending to FY 2022 levels and capping annual federal spending growth at 1 percent each year for the next decade. While seen as the opening salvo in the debt ceiling debate, it is evident that the House bill is dead-on-arrival in the Senate, with nearly all Senate Democrats voicing opposition.

Certain aspects of the bill could gain bipartisan support in a final debt ceiling measure, including modifications to the National Environmental Policy Act (NEPA) permitting process, such as streamlining the process to reduce confusion/delays; limiting the scope of environmental review to more accurately assess impacts; and establishing deadlines for completion of NEPA reviews and filing challenges/claims.

Please see the below update on issues of specific interest to PortMiami.

**2024 APPROPRIATIONS**

**Community Project Funding (CPF)**

We worked with the Port to match the Port's priorities with the Community Project Funding (CPF) eligible programs and to prepare the required forms for submittal to the Appropriations Committee. With much appreciation to Representatives Salazar and Gimenez for submitting the Port's CPF requests, as described below.

- Rep. Salazar submitted a \$4 million request to the THUD Appropriations Subcommittee for PortMiami's Decarbonization and Electrification Master Plan, eligible by the Port Infrastructure Development Grant Program (PIDP) Section (IV) : *...environmental and emissions mitigation measures, including projects for— (a) port electrification or electrification master planning.*
- Rep. Gimenez submitted a \$2 million request to the Interior-EPA Appropriations Subcommittee for PortMiami's Drainage/Stormwater Master Plan, eligible by the Environmental Protection Agency's (EPA) State and Tribal Assistance (STAG) Program.

**Programmatic Funding**

The Port also submitted two programmatic requests to the Miami-Dade Delegation and Senators Rubio and Scott, as described below. A&F assisted in preparing the required forms and submitting to each office.

**(i)Programmatic Request/Donor Ports**

PortMiami requests implementation of the WRDA 2020 HMTF reforms (Sec. 102 and 104) and the following report language by the 2024 Energy and Water Development appropriations bill:

*Donor and Energy Transfer Ports – The Committee urges the Corps to allocate HMTF funding for Donor and Energy Transfer Ports consistent with Sections 102 and 104 of the Water Resources Development Act of 2020 (P.L. 116-260). The Corps is reminded that Donor and Energy Transfer Ports are eligible to receive additional funding provided in this account for Deep-Draft Harbor and Channels.*

Background -

Sec. 2106 of the *Water Resources Development Act of 2014* (WRDA 2014) established the Donor and Energy Transfer Ports Program (Program) which provides funding for expanded uses at the nation’s donor ports. The nation’s 6 largest donor ports (including PortMiami) contribute significantly to the Harbor Maintenance Trust Fund (HMTF) but receive nominal amounts in return, as their shipping channels require little, if any, maintenance.

The *Water Resources Development Act of 2020* (WRDA 2020) provides additional equity to donor ports by HMTF reforms: Sec.102 authorizes an allocation of 12% of available HMTF funds to the Program and Sec. 104 allows for an increase in Program funding (to \$58 million).

(ii) Programmatic Language Request/Mega Grants

PortMiami’s NetZero Resilient Supply Chain Program includes the development of an inland port facility which is strategically positioned to improve trade flows and provide additional international trade capacity for the U.S. Hence, PortMiami requests a repeat of the language in the Senate Explanatory Statement (THUD appropriations 2023) by the 2024 THUD bill.

The language highlights the importance of inland ports to the international supply chain as follows:

*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.*

**PORTMIAMI NETZERO RESILIENT SUPPLY CHAIN PROGRAM**

On March 8th, we accompanied *Hydi Webb*, Port Director & CEO; *Jimmy Morales*, Chief of Operations for Miami-Dade County and *Debra Owens*, Director of Government Relations, to meetings with the Miami-Dade delegation Members. Port officials sought the delegation’s continued support for the Net Zero Resilient Supply Chain Program during the upcoming 2023 Mega grant cycle.

Also on March 8<sup>th</sup>, A&F secured meetings for Port officials with *Syed Mohsin*, Assistant Secretary of Transportation for Government Affairs, *Congressman Daniel Webster* (R-FL), Chairman of the House Coast Guard & Maritime Transportation Subcommittee and the new Chairman of the House T&I Committee, *Congressman Sam Graves* (R-MO).

As anticipated, the 2022 Mega grant process was extremely competitive, with only 9 grants awarded and over 100 applications received. However, DOT staff offered constructive suggestions to Port officials as to how the Port might strengthen its next Mega application. Notably, the Port received notification on March

8<sup>th</sup> that the DOT has designated NetZero as one of 13 Mega applications eligible for technical assistance from DOT's Build America Bureau.

DOT has indicated that the 2023 NOFO (Notice of Funding Opportunity) for the Mega program will be released in the "spring." We suggest meeting with Florida members statewide over the spring and summer months and are prepared to schedule those meetings on behalf of PortMiami.

We also recommend that all future congressional support letters highlight the Mega congressional prioritization language provided by the 2023 *Omnibus* (as referenced above).

### **Miami Harbor O&M Funding**

The Army Corps' 2024 Civil Works budget, released on March 8<sup>th</sup>, includes \$100,000 for Miami Harbor Operation and Maintenance (O&M). The 2023 enacted *Omnibus Appropriations Act* includes \$50,000 for 2023. Each allocation reflects the Corps' full capability for the Miami Harbor.

### **Donor and Energy Transfer Ports Program**

The Army Corps' 2023 workplan, released on March 2, provides \$2,726,000 for PortMiami's share of funding for the Donor and Energy Transfer Port Program (an approx. \$400,000 increase from previous years).

### **Miami Harbor Feasibility Study and Channel Restrictions**

The final conference agreement on WRDA 2022 (H.R. 7776, *Water Resources Development Act*) urges the Corps to prioritize and expedite completion of the ongoing Miami Harbor Feasibility Study. The language was initially added to the House report (#117-347) by the T&I Committee during markup on May 18<sup>th</sup>, following the Port's meeting with T&I Committee Chairman DeFazio (D-OR) and then repeated as bill text in the final conference document.

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). The current timeline for completion of a Chief of Engineers' report is 2025, with project authorization by WRDA 2026.

Separately, the Corps is carrying out environmental reviews in advance of preparing a report which will identify the improvements needed to eliminate the restrictions in the federal channel which were not intended by the completed (50-52 foot) dredge project. These improvements are essential to the safe and efficient movement of vessel traffic and we plan to work closely with the Corps to make every effort to facilitate these corrections in advance of the next dredge event in the Miami Harbor.

### **WRDA 2014: Credit vs. Reimbursement**

#### **Payback for the federal share of costs of the 50/52 foot dredge**

Pursuant to recent discussions with PortMiami officials, Sec. 1136 of WRDA 2018 authorizes a credit for the unreimbursed portion of a completed federal navigation project, which can then be applied towards the nonfederal share of another dredging project.

This provision was sponsored by Representative Wilson and narrowly scoped expressly for PortMiami as a means to facilitate a "payback" for the federal share of Miami's completed 50/52 foot dredge project. The Port can request use of this authority for the next (Phase IV) dredging event.

## OTHER LEGISLATION AND GRANTS OF INTEREST

### LEGISLATION –

**H.R. 1836, the *Ocean Shipping Reform Implementation Act of 2023***, sponsored by Representative Dusty Johnson (R-SD), builds upon the Ocean shipping Reform Act of 2022 to strengthen the Federal Maritime Commission’s (FMC) authority regarding unfair trade practices. Specifically, the legislation authorizes the FMC to review complaints about market manipulation and anti-competitive operations of maritime exchanges.

**H.R. 3365, the *Supply Chain Improvement Act***, sponsored by Representative John Duarte (R-CA), ensures that priority consideration is given to projects that would improve or build resiliency in the supply chain under DOT’s INFRA and MEGA discretionary grant programs.

**H.R. 3316, *Streamlining the Environmental Review Process for Major Projects***, sponsored by Representative Rick Crawford (R-AR), extends One Federal Decision (OFD) environmental review streamlining provisions – such as combining environmental documents among agencies, concurrent agency reviews, creating reasonable time limits for reviews – to port, aviation, and pipeline projects, as applicable. OFD for highway projects has already been approved under the Infrastructure Investment and Jobs Act (IIJA 2022).

#### **PortMiami as a Strategic Defense Port**

The National Defense Authorization Act (2023) includes strategic seaports as eligible for funding by DOD’s *Defense Community Infrastructure Program (DCIP)*. The DCIP provides competitive grants to address deficiencies in community infrastructure supportive of a military installation.

In addition, WRDA 2020 calls for allocations of HMT (Harbor Maintenance Trust) funds to the nation’s strategic seaports, with allocations based on the percentage of HMT dollars collected and the historic share of annual HMT funds provided to these ports.

The Port has indicated an interest in designation as a *Strategic Defense Port* by the Department of Defense (DOD). We have 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.

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.

#### **H R. 7579, the *Western Hemisphere Nearshoring Act***

Congressman Mark Green (R-TX) has reintroduced legislation to incentivizes producers to relocate factories from China to Latin America and the Caribbean, with the intent of reducing the U.S. supply chain dependence on China. The bill provides a low interest loan program through the International Development Finance Corporation, with financing provided by existing tariffs on Chinese goods. Representatives Gimenez (R-FL) and Salazar (R-FL) signed on as cosponsors to the original legislation.

#### **Ocean Shipping Reform Act of 2022**

We are monitoring the implementing regulations to the *Ocean Shipping Reform Act*, signed into law in 2022, as a major overhaul of federal regulations relating to the shipping industry. The legislation, which is intended to ease supply chain challenges, includes the following provisions:

- Require ocean carriers to certify that late fees —known in maritime parlance as "detention and demurrage" charges—comply with federal regulations or face penalties;
- Shift burden of proof regarding the reasonableness of "detention or demurrage" charges from the invoiced party to the ocean carrier;
- Require ocean common carriers to report to the FMC each calendar quarter on total import/export tonnage and 20-foot equivalent units (loaded/empty) per vessel that makes port in the United States;
- Authorize the FMC to self-initiate investigations of ocean common carrier's business practices and apply enforcement measures, as appropriate; and
- Establish a new authority for the FMC to register shipping exchanges.

## GRANT OPPORTUNITIES –

### **Reduction of Truck Emissions at Port Facilities**

The Federal Highway Administration (FHWA) has posted the Notice of Funding Opportunity (NOFO) for the first round of IJA grant funding for the Reduction of Truck Emissions at Port Facilities Grant Program. Please see the program [announced](#) and more information [here](#).

### **Grants to Reduce Air Pollution at Ports**

Established by the *Inflation Reduction Act* (IRA), this new program provides grants to ports for the purchase or installation of zero emissions equipment or technology and could be a critical source of funding for components of PortMiami's NetZero Program. A Notice of Funding Opportunity (NOFO) is some months away.

PortMiami joined AAPA in submitting comments and suggestions to the EPA as the agency prepares to develop the guidelines/eligibility. The EPA is expected to issue another RFI (request for information) in the near future, prior to finalizing guidance.

### **Shore Power**

The FY 2023 enacted *National Defense Authorization Act* (NDAA) extends the authority for grants for shore power connections to cruise berths (with limited application to ports which serve both cargo and passenger ships). This new grant source for shore power was originally requested by PortMiami in the 2022 NDAA and supported by the industry. Congressman Gimenez was the lead sponsor of the amendment.

### **Urban and Community Forestry (UCF) Program**

The *Inflation Reduction Act* (IRA) includes a significant boost in funding for the *Urban and Community Forestry* (UCF) Program, providing \$1.5 billion (up from \$30 to \$50 million annually) for multiyear competitive grants (through 2031) for tree planting and related activities. Eligible entities include state agencies, local governments and nonprofits.

The NOFO is available at <https://www.fs.usda.gov/managing-land/urban-forests>. Please note, this new opportunity is in addition to a \$250 million allocation to state forestry agencies, which includes \$3,750,000 to the *Florida Forest Service*.