

Memorandum

Date: August 17, 2023
To: Miami-Dade Board of County Commissioners
From: Alcalde & Fay
Subject: Federal Government Relations Report

Congress is in recess for the August District Work period, with the Senate scheduled to reconvene on Tuesday, September 5 and the House, September 12. The immediate focus when Congress returns will be on moving a “stop-gap” funding measure to keep the federal government operating into the new Fiscal Year (which begins October 1).

Prior to adjourning, the House and Senate made significant progress in advancing most of the Fiscal Year (FY) 2024 spending bills through the committee approval process. Notable for PortMiami is inclusion of its two Community Project Funding (CPF) requests, totaling \$4 million, within the House committee-approved THUD and EPA appropriations bills. In addition, the Senate Appropriations Committee provides for Port Miami’s programmatic language requests relating to the *Donor and Energy Transfer Ports Program* and the Department of Transportation’s *Mega Grant Program*.

Please see the specifics below, along with an update on other issues of interest to PortMiami.

PortMiami 2024 Appropriations Requests**(i) Community Project Funding (CPF) Requests**

PortMiami’s two CPF requests are included within the respective 2024 House appropriations bills; namely, **\$3 million** for the Port’s Decarbonization and Electrification Master Plan, by the THUD appropriations bill and **\$1 million** for the Port’s Stormwater Master Plan, by the Interior/EPA bill. With much appreciation to Representatives Salazar and Gimenez for sponsoring the Port’s CPF requests.

As each CPF project requires a federal nexus, A&F worked closely with the Port to match the Port’s priorities with federal program eligibility, identifying DOT’s *Port Infrastructure Development (PIDP) Program* for the Decarbonization Plan and EPA’s *State and Tribal Assistance Grant (STAG) Program* for the Stormwater Plan. We also assisted in preparing the committee forms for submission to the congressional offices.

(ii) Programmatic Funding Requests**DONOR PORTS -**

PortMiami joined other donor ports and the American Association of Port Authorities (AAPA) to request implementation of the WRDA 2020 modifications to the *Donor and Energy Transfer Ports Program* (the Program); specifically, **Section 104** which authorizes an increase in Program funding (to \$58 million) and **Section 102** which authorizes an allocation of 12% of HMTF (Harbor Maintenance Trust Funds) to the Program (8% to donor ports).

The House and Senate committee - approved (2024) Energy and Water Development bills each include the Section 104 increase to \$58 million (up from \$56 million). While the bills do not provide for the Sec. 102 allocation to donor ports, the Senate committee includes a strong statement of congressional intent and directive to the Corps to implement by the 2024 workplan, as stated below:

Senate Committee report, Energy and Water Development Appropriations, 2024 (#118- 72). Donor & Energy Transfer Ports.—*The Committee directs the Corps to allocate any work plan HMTF funding for Donor and Energy Transfer Ports consistent with section 102 and section 104 of WRDA 2020 (Public Law 116–260). The Corps is reminded that Donor and Energy Transfer Ports are eligible to receive additional funding recommended in the deep-draft harbor and channel funding line items for expanded uses. (Page 9)*

Harbor Maintenance Trust Fund Targets.—*The Committee is disappointed that the Corps has twice failed to recommend HMTF work to meet the section 102 WRDA 2020 targets. The Committee is perplexed the Corps did not put a single dollar towards the donor and energy port target in the fiscal year 2023 work plan. Donor and energy ports are critical to our National supply chain and stable HMTF funding for expanded uses is fundamental to maintaining international competitiveness. This funding can assist with capital improvements at these critical ports which already pay a significant share of the collected tax. The Committee expects the Corps to meet the donor and energy target in the fiscal year 2024 (Page 47).*

On July 29, A&F participated in a call with the other 5 major donor ports to discuss strategy for the House/Senate conference. Please note, as reported on the call, any funds provided in 2024 to meet the Sec. 102 (8%) target must reflect specific work that can be executed in (FY) 2024 by PortMiami and other donor ports.

Implementation of Sec. 102 will increase PortMiami’s annual Donor Port allocations significantly, from \$2.7 million to as much as \$18 to \$20 million. Funds can be used for infrastructure improvements which support PortMiami’s growth and economic impact to the region.

MEGA GRANT -

PortMiami requests a repeat of the language included in the 2023 THUD appropriation bill which prioritizes those Mega grant applications which include the development of inland ports.

We were pleased to report that, on July 20, the Senate Appropriations committee approved the following language for inclusion in the committee report (#118-70) accompanying S. 2443, *Energy and Water Development Appropriations (2024)*:

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.

With much appreciation to Senators Rubio and Scott for sponsoring the initial 2023 Mega prioritization language (on behalf of PortMiami) and for the repeat by the 2024 bill, therefore reinforcing the congressional intent for the use of the Mega appropriated funds.

PortMiami NetZero Supply Chain Program/2023 Mega Grant Application

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.

As the legislative prioritization language referenced above is applicable to the current (2023) Mega grant cycle, it should be referenced in all congressional letters to DOT Secretary Buttigieg in support of the Port's 2023 Mega application. We will work with the Port to prepare draft support letter(s) and provide to the Florida delegation offices for their consideration.

We have recommended meetings with Florida delegation members the week of September 12. Last year, in preparation for the 2022 application, Port officials visited with 24 members of Congress and staff representatives. A&F scheduled those meetings and assisted in securing 18 signatures on the 2022 congressional support letter to Secretary Buttigieg.

A&F was pleased to schedule meetings (on March 8) for *Hydi Webb*, Port Director & CEO; *Jimmy Morales*, Chief of Operations for Miami-Dade County; and *Debra Owens*, Director of Government Relations, with *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)*.

We also accompanied Port officials to a meeting at DOT headquarters on March 8th, which included the Honorable *Mohsin Syed*, USDOT Assistant Secretary of Transportation. A&F reached out directly to Secretary Syed, to request that he join the PortMiami meeting. Secretary Syed was previously counsel to U.S. Senator Bill Nelson (D-FL).

Notably, the Notice of Funding Opportunity (NOFO) for the (2023) Mega program indicates that USDOT may make project awards for future fiscal years (in addition to 2023) "...based on a potential awarded project's schedule and availability of funding, through multiyear grant agreements." This flexibility in the use of future year appropriations could be beneficial to PortMiami's 2023 application.

DOT Grant Award to PortMiami

On June 27th, DOT announced the award of a \$5 million RAISE grant to PortMiami to complete portions of a Master Plan for the NetZero project; specifically, the planning and design studies for carbon neutralization of on- port operations, the development of two inland cargo centers and further strategies for on- and off-port sites.

RAISE is an extremely competitive program, with DOT receiving \$15 billion in requests, with only \$2.26 billion available. PortMiami was the only Florida port to receive an award for this round of grants.

This follows a \$16 million RAISE grant award to PortMiami in August 2022 to support funding for the Port's intermodal rail expansion and new electric gantry cranes.

Miami Harbor Feasibility Study

The Water Resources Development Act of 2022 *directs the Secretary of the Army (Civil Works) to expedite the completion of the Miami Harbor feasibility study, to the maximum extent practical.* (Public Law 117-263, Sec. 8397 (2)(E), enacted Dec. 23, 2022.

This language was initially included as committee report language by T&I committee staff and with the support of Committee Chairman Peter DeFazio (D-OR), after meeting with Port officials in May (2022). The language was then repeated as bill text in the final WRDA statute. A&F was pleased to schedule the meeting with Chairman DeFazio on behalf of Andy Hecker and Debra Owens.

We have recommended requesting the delegation to follow up with the USACE, to ask that they be kept apprised of progress on the study. To that end, we prepared a question for Congresswoman Wilson's consideration, for submittal to Assistant Secretary (ASA) Michael Connor during the recent T&I Committee budget hearing. The current USACE timeline calls for a Chief of Engineers' report by 2025 and project authorization by WRDA 2026.

Miami Harbor Channel Restrictions

The Corps is carrying out environmental reviews in advance of preparing a report to identify the improvements needed to eliminate the restrictions in the federal shipping channel.

Elimination of these restrictions is essential for the safe and efficient movement of vessel traffic in the federal channel and we have been preparing to facilitate this work as promptly as possible, on completion of the environmental review. Otherwise, this work could be delayed until the next Miami Harbor project authorization (which is not anticipated prior to 2026).

A&F identified a 1915 discretionary authority available to the Secretary of the Army which can be used to carry out the corrections to the completed (50-52 foot) dredge project. The Jacksonville District Office of the Corps has concurred with the use of this authority, as needed. The Port also advocated for clarification that new start designation is not required for correcting a design deficiency in a completed federal project. This has now been documented as Corps policy by a recent USACE Memorandum.

Miami Harbor O&M Funding

The House and Senate committee-reported (2024) Energy and Water appropriations bills include \$100,000 for Miami Harbor operation and maintenance needs, as proposed by the March 8th Army Corps' Civil Works budget.

Repayment of the federal share of the Deep Dredge.

Following up on the Port's recent inquiry and as a recap, the USACE has the authority to reimburse the federal share of the Miami Harbor deep dredge; however, there are significant policy issues governing reimbursements for completed projects, the most challenging being the requirement for designation as a new start.

Hence in 2018, the Port successfully pursued an alternative means for repayment of the federal share by legislation, expressly written for PortMiami. Sponsored by Congresswoman Wilson, Sec. 1136 (of WRDA 2018) allows for a credit in the amount of the federal share of a completed navigation project to be applied towards the nonfederal share of another dredging project. This authority can be utilized for Miami's next (Phase IV) project.

Notably, committee report language accompanying the Senate 2024 Energy and Water appropriations bill provides an exception to Corps policy governing projects carried out by advance funding agreements prior to December 20, 2019. As Miami's deep dredge was carried out within this window, we have reached out to the appropriations committee to inquire about the implications for PortMiami and specifically, whether the intent is to waive the requirement for new start designation.

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 provided 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.

Notably, in recent years Congress has provided funding support to the nation's strategic defense ports. The National Defense Authorization Act (2023) extends grant eligibility to strategic seaports under the DOD's *Defense Community Infrastructure Program (DCIP)*, a competitive grant program which addresses deficiencies in community infrastructure supportive of a military installation. In addition, WRDA 2020 calls for allocations of HMTF (Harbor Maintenance Trust funds) to the nation's strategic seaports.

OTHER LEGISLATION OF INTEREST

THUD (Transportation, HUD and Related Agencies) Appropriations Markup

The 2024 THUD appropriations subcommittee mark reduces discretionary funding by \$7.1 billion compared to the FY 2023 bill, with the majority of the reduction achieved by decreasing or eliminating funding for several discretionary grant programs that already receive advance appropriations by the Bipartisan Infrastructure Law (BIL).

RAISE grants receive no additional funding, however, \$1.5 billion is available by the BIL advance appropriations. (The 2023 Omnibus bill included \$800 million for RAISE in addition to the BIL funding). PIDP grants are budgeted for \$230 million, but receive only \$69.7 million, with \$450 million available by BIL. (The 2023 Omnibus included \$212 million in addition to the \$450 million by BIL). The National Infrastructure Project Assistance Program (Mega) receives no additional funding, with \$1 billion available by BIL.

H.R. 3395 U.S. Supply Chain Security Review Act

The House has passed H.R. 3395, sponsored by Representatives Webster (R-FL) and Auchincloss (MA) which directs the Federal Maritime Commission to commission a study assessing potential security risks of foreign ownership of marine terminals at the 15 largest container ports. According to AAPA reporting, there is "minor" Chinese ownership at 5 U.S. ports and NO Russian ownership at U.S. ports.

H.R. 3365, the Supply Chain Improvement Act

As previously reported, the House Transportation and Infrastructure Committee (on May 23) approved a package of bills which are designed to strengthen the nation's supply chain, including the *Supply Chain Improvement Act*, sponsored by Representative John Duarte (R-CA). This legislation ensures that priority consideration is given to projects that would improve or build resiliency in the supply chain pursuant to DOT's INFRA and MEGA discretionary grant programs.

We will monitor for further activity, as this legislation could be beneficial to PortMiami's future Mega grant applications on behalf of NetZero.

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

We are also monitoring the implementing regulations to the *Ocean Shipping Reform Act*, signed into law in 2022, as a major overhaul of federal regulations designed to ease supply chain challenges.

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).

H.R. 490, the Federal Infrastructure Bank Act of 2023, sponsored by Representatives Daniel Webster (R-FL) and Colin Allred (D-TX), creates a federal infrastructure bank, intended to leverage the power of the private sector to spur sustained, long-term investment. The Bank will provide loans for infrastructure projects, with broad eligibility, to include surface transportation projects, ports, electric grid security and broadband connectivity. Funding for the bank will come from municipal, state and union pension funds which are loaned to the Bank.

H.R. 3169, the Port Crane Security and Inspection Act of 2023, sponsored by Representatives Gimenez (R-FL) and Garamendi (D-CA) requires the inspection of certain foreign cranes before use at a United State port. Congressman Gimenez also sponsored (in the 117th Congress) H.R. 6488, the Port Cranes for America Act, which requires the U.S. Maritime Administration to provide grants to eligible applicants for the procurement of mega cranes (container cranes with a lifting capacity in excess of 50 tons) for use at U.S. ports. Funds may be used to procure such a crane, including to pay for any manufacturing costs associated with the procurement, provided that the entity manufacturing the crane is not associated with a country that is a nonmarket economy, fails to protect intellectual property rights and violates foreign trade agreements.

H.R. 722, the Western Hemisphere Nearshoring Act, reintroduced by Congressman Mark Green (R-TN) this session of Congress, 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 legislation 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.

GRANT OPPORTUNITIES

Truck Parking Grants

At the request of the Port, A&F identified several discretionary grant programs which provide eligibility for truck parking grants, including the RAISE, Mega, INFRA and Rural Surface

Transportation Grant Programs. We provided a Memorandum from the Federal Highway Administration which outlines these opportunities in detail.

EPA/Diesel Emissions Reduction Act Grants (DERA)

The Notice of Funding Opportunity (NOFO) for the DERA Program was released by EPA's Office of Transportation and Air Quality on August 2, with applications due by December 1, 2023. EPA anticipates awarding approximately \$115 million under this NOFO. Awards are selected and managed by EPA's ten regional offices.

Reduction of Truck Emissions at Port Facilities

We advised of the Federal Highway Administration (FHWA)'s Notice of Funding Opportunity (NOFO) for the first round of IJA grant funding for the Reduction of Truck Emissions at Port Facilities Grant Program and the extension of the closing date to July 26.

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.

PortMiami joined AAPA in submitting comments and suggestions to the EPA as the agency prepares to develop the guidelines/eligibility. We have suggested a meeting with EPA officials during the Port's next DC visit. A Notice of Funding Opportunity (NOFO) is some months away and, according to AAPA, more than likely by January 2024.