

Memorandum

Date: July 14, 2023
To: Miami-Dade Board of County Commissioners
From: Alcalde & Fay
Subject: Federal Government Relations Report

The House and Senate reconvened the week of July 10th and continued work at the committee level on their respective Fiscal Year (FY) 2024 appropriations bills, while the House also advanced the National Defense Authorization Act.

Notable for PortMiami is House Appropriations Committee approval of the Port’s two Community Project Funding (CPF) requests, totaling \$4 million. In addition, last month the Department of Transportation (USDOT) announced a \$5 million grant award to PortMiami by the *Rebuilding American Infrastructure with Sustainability and Equity* (RAISE) program. Only four RAISE grants were awarded in the State of Florida, with Miami the only Florida port to receive a grant.

Please see more specifics below, along with an update on other issues of direct interest to PortMiami, including potential grant opportunities.

2024 APPROPRIATIONS

PORTMIAMI COMMUNITY PROJECT AND PROGRAMMATIC REQUESTS

Community Project Funding (CPF) Requests

PortMiami has received confirmation that its two CPF project requests will be included within the respective 2024 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 appropriations bill. 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 the CPF eligible federal programs, identifying DOT’s Port Infrastructure Development (PIDP) Program for the Decarbonization Plan and EPA’s State and Tribal Assistance (STAG) Program for the Stormwater Plan. We also assisted in preparing the committee forms and submitting to the congressional offices.

Programmatic Funding Requests

The Port submitted two programmatic requests to the delegation for inclusion within the 2024 Energy and Water and THUD appropriations bills, as described below.

As Senator Rubio sits on the Senate Appropriations Committee, we offered to schedule a call with Senator Rubio’s staff (Connor Tomlinson) to follow up on the submittals. Port officials discussed with Senator Scott and House members during meetings in March.

DONOR PORTS PROGRAMMATIC REQUEST/ENERGY AND WATER APPROPRIATIONS -

PortMiami has 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 funds to the Program (8% to 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. These funds can be used for infrastructure improvements which support PortMiami's growth and economic impact to the region.

While the House version of the 2024 Energy and Water Development appropriations bill (reported on June 22) includes the increase to \$58 million (up from \$56 million) it does not provide the 8% HMTF allocation to Donor ports or other WRDA 2020 authorized distributions (13% to the Great Lakes Navigation System, 17% to commercial strategic seaports and 15% for emerging harbor projects).

Prospects are better in the Senate, as donor ports have representation by the Chair of the Energy and Water Appropriations Subcommittee (Senator Diane Feinstein/POLA) and the Chair of the full committee (Senator Patty Murray/Tacoma and Seattle). Senate markup is scheduled for July 20th.

Should Congress not implement, the advocacy effort will shift to the USACE which can implement by the 2024 Army Corps (Civil Works) workplan. During a recent budget hearing before the House Transportation and Infrastructure Committee, Assistant Secretary Michael Connor (Civil Works), indicated that he would try to implement in the 2024 Army Corps workplan; however, that the Department's priority is to use available resources to maintain channel depth and capabilities. A&F has offered to join PortMiami in the bi-weekly conference calls with the donor ports.

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 increase of about \$400,000 from previous years).

MEGA GRANT PROGRAMMATIC REQUEST/THUD APPROPRIATIONS -

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. Therefore, PortMiami requests a repeat of language provided by the 2023 THUD appropriations bill which prioritizes Mega grant applications which include the development of inland ports.

The 2023 THUD language was included in the Senate Appropriations Committee Explanatory Statement at the request of Senators Rubio and Scott and on behalf of PortMiami. A&F prepared the language in consultation with the Port, which reads:

Explanatory Statement, Senate Committee on Appropriations/ THUD appropriations 2023 *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.

Notably, with the support of Congressman Diaz-Balart, the final 2023 enacted Omnibus includes the following language which reinforces congressional intent and reads:

Mega Grants - *When awarding advance appropriations funds for the Mega grants program, the agreement 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.* (Explanatory Statement, Division L, Omnibus Appropriations Act, 2023)

PORTMIAMI NETZERO RESILIENT SUPPLY CHAIN PROGRAM

2023 Mega Grant Application –

We recommended congressional meetings with the Florida delegation during the month of July. If not possible, we suggest no later than the week of September 12 when Members return to DC from the August recess period. We are prepared to schedule two full days of meetings for Port officials. Last year, in preparation for the 2022 application, Port officials visited with 24 members of Congress state - wide.

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).

Please note that the legislative prioritization language referenced above is applicable to the current (2023) Mega grant cycle. Therefore, it is important that all congressional support letters to DOT Secretary Buttigieg highlight the congressional directive. We will work with the Port to prepare the support letters.

The Notice of Funding Opportunity (NOFO) indicates that USDOT may make project awards for the Mega Program 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.

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 for this round of RAISE grants, with only \$2.26 billion available. PortMiami was the only Florida port to receive a grant.

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 suggested asking the delegation to follow up, to request that the USACE keep them apprised of progress on the study. We drafted a question to that effect for Congresswoman Wilson to submit to Assistant Secretary (ASA) Michael Connor during the recent T&I 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

In addition to the feasibility study, 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 plan to work closely with the Corps 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).

As previously reported, A&F identified a discretionary authority available to the Secretary of the Army which can be used to carry out these corrections to the completed (50-52 foot) dredge project. The Jacksonville District Office of the Corps has concurred with the use of this authority (pursuant to the 1915 Rivers and Harbors Act), as needed.

Miami Harbor O&M Funding

The Army Corps' 2024 Civil Works budget, released on March 8th, 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.

Miami Harbor Credit vs. Reimbursement

Pursuant to the Port's inquiry regarding reimbursement authorities for ports which have fully paid for federal navigation projects, the USACE does have the authority to reimburse the federal share. However, there are significant challenges in securing a cash reimbursement for a large scale navigation project, including the triggering of the Corps' new start policy.

WRDA 2018 (Sec. 1136) provides "credit" language, expressly written for PortMiami, as a means to compensate for Miami's completed 50/52 foot dredge. Sponsored by Congresswoman Wilson, Sec. 1136 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.

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 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 HMT (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. 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

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 IIJA grant funding for the Reduction of Truck Emissions at Port

Facilities Grant Program, with the closing date extended to July 26. 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.

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.

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 is 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*.