

Memorandum

Date: February 15, 2024
To: Miami-Dade Board of County Commissioners
From: Alcalde & Fay
Subject: Federal Government Relations Report

With only three weeks left before funding expires for several federal agencies and close to five months into Fiscal Year 2024, Congress has yet to complete the twelve (12) 2024 appropriations bills. While agreement has been reached on a top line spending cap for 2024, much work remains, including resolving numerous policy-related “riders” which are normally not included in appropriations bills.

With Congress currently in adjournment, another short-term funding extension is likely when the Senate and House reconvene on February 26 and 28, respectively.

Other major pieces of legislation pending final congressional action include the Federal Aviation Administration (FAA) reauthorization legislation and aid to Ukraine and Israel.

The following is a review and update on items of specific interest to PortMiami.

I. PORTMIAMI 2024 APPROPRIATIONS REQUESTS

Notable for PortMiami is inclusion of its two Community Project Funding (CPF) requests, totaling \$4 million, within House (2024) appropriations bills. In addition, the Senate Appropriations Committee includes Port Miami’s language requests relating to the *Donor and Energy Transfer Ports Program* and DOT’s *Mega Grant Program*, as described below.

(i) Community Project Funding (CPF) Requests

As approved by the House Appropriations Committee, **\$3 million** for the Decarbonization and Electrification Master Plan is included within the THUD bill; and **\$1 million** for the Stormwater Master Plan, within the Interior/EPA bill. Representatives Salazar and Gimenez sponsored the Port’s CPF requests.

(ii) Programmatic Funding Requests

DONOR PORTS -

PortMiami joins 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).

These measures are intended to provide equity to the nation’s largest donor ports, including PortMiami, which contribute significantly to the HMTF but receive nominal amounts in

return, as their navigation channels require little, if no regular maintenance needs. For instance, Miami Harbor's maintenance needs for FY 2024 is \$100,000.

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 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 follows:

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.

PortMiami has participated in conference calls with the other donor ports throughout the appropriations cycle. Notably, two donor ports, Seattle and Takoma, are represented by Senator Patty Murray (D-WA), the Chair of the Senate Appropriations Committee.

MEGA GRANT –

Integral to PortMiami's NetZero program is 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

We were pleased to report that the Senate Appropriations committee included the following language (relating to inland ports) within the committee report accompanying S. 2437, *Transportation, Housing and Urban Development Appropriations (2024)*, as requested by PortMiami:

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. (Committee Report #118-70).

II. OTHER ITEMS OF INTEREST

PortMiami NetZero Resilient Supply Chain Program: Cargo Mobility Optimization, Electrification and Inland Port Project

As previously reported, the NetZero Project was not been selected by the Department of Transportation for a 2023/2024 Mega grant. The Department awarded 11 projects, totaling approximately \$2 billion. There were 117 applications submitted for Mega, requesting over \$24 billion.

A&F plans for extensive congressional meetings for Port officials to seek broad scale bipartisan support for the Port's next application. The NOFO (Notice of Funding Opportunity) for the next application is anticipated mid-year. Meetings will include follow up with Florida members state-wide and senior Members on the relevant legislative committees. Approximately \$2 billion in advance funding remains available to the Mega program.

Working with the Port and congressional delegation, A&F will seek language comparable to the above report language, but which would be mandatory upon the Department.

Reimbursement for the Federal Share of the 50-52 foot Deep Dredge.

While the USACE has the authority to reimburse the federal share of the Miami Harbor deep dredge, there are significant challenges to securing reimbursement for completed federal projects.

PortMiami is requesting a modification of USACE policy governing reimbursements, specifically, to eliminate the new start designation requirement for completed projects, like PortMiami's deep dredge, which have already proven their value to the nation.

During the month of January, A&F worked with PortMiami to prepare requests for a policy change by WRDA 2024 and submitted those requests to the offices of Representatives Wilson, Salazar, Gimenez and Diaz-Balart. We will follow up with the delegation members and staff of the Transportation and Infrastructure Committee. The committee will markup WRDA 2024 later in the year.

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.

We have recommended asking the delegation to follow up with the USACE, to ask that they be kept apprised of progress on the study. The current USACE timeline calls for a Chief of Engineers report by 2025 and project authorization by WRDA 2026.

The above referenced 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) and then repeated as bill text in the statute. A&F was pleased to schedule the meeting with Chairman DeFazio on behalf of Andy Hecker and Debra Owens.

Miami Harbor Channel Restrictions

The Corps is carrying out environmental reviews in advance of preparing a report to identify the improvements needed to eliminate restrictions in the federal shipping channel. A&F is working with the Port to facilitate this work as promptly as possible. Otherwise, this work could be delayed until the next Miami Harbor project authorization (which is not anticipated prior to 2026).

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.

The Corps 2025 budget, which is tentatively scheduled for release on March 12th, will include the (2025) capability for Miami Harbor maintenance dredging.

III. OTHER LEGISLATION

Renewable Fuel for Ocean-Going Vessels Act

Congressman Garamendi (D-CA) intends to introduce legislation (the *Renewable Fuel for Ocean-Going Vessels Act*) which will make maritime fuel for vessels eligible under EPA's renewable fuel standards, thereby incentivizing the production of sustainable maritime fuels.

We have provided the draft legislation to PortMiami and are working in conjunction with CLIA to seek original cosponsors to the legislation. Congressman Garamendi is the ranking member of the Coast Guard and Maritime Transportation Subcommittee.

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

The House has passed H.R. 3395, sponsored by Representatives Webster (R-FL) and Jake Auchincloss (D-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, 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.

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. 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 CISA (the Cybersecurity and Infrastructure Security Agency) to inspect foreign cranes for potential security vulnerabilities before they are placed in operation at U.S. ports. The legislation also calls for a CISA report to Congress on potential vulnerabilities of the use of foreign cranes at U.S. ports

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) has signed on as a cosponsor of the legislation.

IV. 2024 GRANT OPPORTUNITIES

The 2024 NOFO's (Notice of Funding Opportunities) for competitive grant programs may be delayed due to the extensive delay in finalizing the 2024 appropriations bills. However, some programs which have advance funding by the *Bipartisan Infrastructure Law* (BIL), like the PIDP (Port Infrastructure Development Grant) Program and RAISE already have 2024 NOFOs. Please see below. In addition, as previously reported, the *Clean Ports Act*, which is advance funded by the *Inflation Reduction Act*, is expected to have a NOFO by late February.

PIDP (*Port Infrastructure Development Grant Program*)

\$450,000 is available by the BIL, with the 2024 application due by April 30th. The NOFO will be amended should additional funds be made available by the 2024 THUD appropriations bill. Currently, the Senate THUD bill includes \$213,000, the House bill, "0."

RAISE (*Rebuilding American Infrastructure with Sustainability and Equity*)

\$1.5 billion is available by the BIL, with the 2024 application due by February 28th. This NOFO will also be amended, should additional funds be made available. The Senate THUD bill includes \$800,000, the House bill, "0."

MEGA Funded by the BIL, \$1 billion annually from 2022 through 2026. DOT used future year BIL funds for the 2022 awards (which total \$1.2 billion) and for 2023, \$1.8 billion in awards is anticipated. Based on these calculations, there remains (roughly) \$2 billion in the Mega account. The timeline for the 2024 NOFO is not known at this time.