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P3 and Your Tax Dollars – Federal Government Makes Next Foray Into Public Private Partnerships ("P3")

On March 12, 2019, we posted an insight into the U.S. Army Corps of Engineers' (the "Corps") February 1, 2019 publication of a Request for Information on Conceptual Public Private Partnership Delivery of Specific Corps Projects. See, https://www.kilpatricktownsend.com/en/Insights/Publications/2019/3/P3-and-Your-Tax-Dollars.

The Corps has now announced that it has selected four P3 projects for consideration and exploration:

Brazos Island Harbor ("BIH") Channel Improvement Project, **Texas:** Project would deepen the Port of Brownsville ship channel from 42 feet to 52 feet, in addition to dredging berthing areas, constructing dredged material placement area capacity, raising levees, and providing aid to navigation.

Los Angeles River P3 Pilot Concept: Ecosystem restoration project on the Los Angeles River, which includes water quality and recreation features. The proposal identified three separate elements spanning 11 miles from the northern edge of Griffith Park to Downtown Los Angeles.

New Soo Lock Construction: Construction of a second lock at St. Mary's River at Sault Ste. Marie, Michigan. The Soo Locks are currently in place in the area and serve an important role in the Great Lakes Navigation System.

Sabine Pass to Galveston Bay (S2G) Coastal Storm Risk Management (CSRM) Project: CSRM project will reduce the coastal storm and flood risk to this area of coastal Texas. The project has full Federal funding due to the Bipartisan Budget Act of 2018. The non-Federal sponsors (NFS) are proposing innovative ways to capture revenue for their portion of the project costs.

These projects were submitted by the relevant entities, including the Port of Brownsville, City of Los Angeles, Michigan Department of Transportation, and Texas General Land Office. These projects range in investment size from $288 million to $3.9 billion. They also propose different delivery methods, including Design/Build and "traditional" Design/Bid/Build. See generally, Corps Development and Validation Phase Announcement at https://www.usace.army.mil/Missions/CivilWorks/Infrastructure/Infra_P3_program/.

As discussed in our prior notification, the Corps' "Infrastructure Legislative Principles" focus on civil works in the areas of water resources, inland waterways, incentives for non-federal investments through grants, the Water Infrastructure Finance and Innovation Act, and streamlining of permitting -- many of which are derivative of the current administration's goals of infrastructure improvement and modernization.

As discussed before, the federal government has not pursued or participated in P3 projects traditionally. This Corps program is a significant change from the government's prior stances, and follows a significant trend of P3 increases at the state level. This appears to be a positive development.