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Is a Construction Boom Coming?

3.18.2021

Last week, Congress passed a massive \$1.9 trillion piece of legislation called the American Rescue Plan Act of 2021 (the “Act”). This legislation has been billed as both a Covid-19 response act and an economic stimulus bill. But it may just create a construction and infrastructure boom, too.

There is no doubt that the Act appropriates a massive amount of money. Much of that money is specifically being targeted for municipalities and counties in your area. In fact, approximately \$130 billion will be sent to local governments around the country, with approximately \$4.4 billion going to local governments in Michigan.

Local governments have some decisions to make on how they use the funds, but there are few limitations on how they do so. One way that they are specifically permitted to use funds is “to make necessary investments in water, sewer, or broadband infrastructure.” Moreover, governments can use the funds “for the provision of government services to the extent of the reduction in revenue” it experienced due to Covid-19, which arguably could be for just about anything, including road maintenance or construction or other infrastructure projects. And the funds must be used for such projects within the next few years, and no later than December 31, 2024.

Some local government leaders have already stated publicly that they are considering various options for use of the funds, such as tax refunds to residents, to offset other revenue loss experienced in the past year due to the pandemic, to save jobs that otherwise might be subject to layoffs, or to help small businesses. But it is also expected that a vast amount of money will be used for construction and infrastructure projects.

Many local government officials have stated that their top priorities will be road construction projects, parks, investment into water and sewer systems, and rebuilding or restoring other

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James J. Urban
Of Counsel

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underground infrastructure. It is also possible (and permitted under the Act) that new projects to invest in broadband infrastructure could be contemplated. Some local governments have even reported that they do not need the funds and do not have any budget shortfalls, but they will now have an unprecedented amount of federal funding for projects they wish to begin.

To put this in context, here are some of the Michigan municipalities that are set to receive the most funding and the amount that they are expected to receive under the Act:

- City of Detroit: \$879.59 million
- Wayne County: \$339.27 million
- Oakland County: \$243.90 million
- Macomb County: \$169.50 million
- Washtenaw County: \$71.29 million

While these are the communities that have been reported so far to be receiving the most money under the Act, nearly every community in Michigan will receive some funds. And, of course, communities across the country will as well.

Undoubtedly much of that money will go to road, sewer, water, and other infrastructure and construction projects. Construction companies should be prepared to bid on these projects, know the pros and cons of working on public works projects, and anticipate more such jobs in the coming years than is usual. It is also very possible that the federal government will begin placing more restrictions on such funds and putting out more legal hoops for contractors to jump through when bidding on or working on such jobs. In fact, the Act specifically provides that the Secretary of the Treasury “shall have the authority to issue such regulations as may be necessary or appropriate to carry out” the section of the Act that provides for these funds to local governments. What those regulations may be—whether Buy America requirements, labor requirements, or otherwise—we will have to wait and see.

Butzel Long’s Construction Group will continue to monitor the Act and its implementation and will keep all of our clients aware of any developments along this front. And no matter what stage of the game, whether the bidding process, the contract negotiation process, the construction of the job, or the litigation of disputes after the job is complete, Butzel Long can assist you at every step of the way, from bid to final pay out. In the meantime, keep an eye out for an increase in public projects being put out to bid.

Jim Urban

517.372.4385
urban@butzel.com

Eric Flessland

313.983.6901
flesslae@butzel.com

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Michael Decker

517.372.4928

decker@butzel.com

Paul Mersino

313.225.7015

mersino@butzel.com