Indiana Completes Takeover of P3 Road Project.

DALLAS — Indiana completed a settlement agreement to take over a road project that's been cited as an example of the pitfalls of public private partnerships and will sell $180 million of state backed bonds next week to wrap up the financing piece of the agreement.

The bonds will refund notes issued to complete the settlement agreement.

The Indiana Finance Authority on Monday announced the completion of its settlement to terminate the state's contractual relationship with I-69 Development Partners, reimburse the developer's bond holders for $246 million, and return direct control of the I-69 Section 5 project to the Indiana Department of Transportation.

"The state is officially in charge of this important project," Gov. Eric J. Holcomb said in a statement. The IFA announced the pending settlement agreement June 16 and it has since been approved by the IFA Board and reviewed by the State Budget Committee. The 21-mile project, beset with construction delays and funding woes tied to the developers, is be completed before August 2018.

"The decision by Indiana to voluntarily terminate the I-69 contract highlights certain risks governments take on when they enter into availability payment P3s," said Julius Vizner, an associate vice president at Moody's Investors Service, the firm's lead analyst on IFA. "Governments enter into P3s to efficiently develop and finance infrastructure, but depending on how they are structured, the P3 contract may obligate the government to payments that are similar to debt. If the developer becomes financially strained to the extent it did in Indiana, the government may choose to step in to gain control, make private lenders whole, and to ultimately finance the project itself."

IFA public finance Director Dan Huge said the state will use the $180 million in highway-revenue bonds to retire the developer's private-activity bonds. Bondholders will receive an additional $12 million from the I-69 Development Partners and the IFA will receive $50 million from the developer.

The bonds are rated at AA-plus by S&P Global Ratings and Fitch Ratings. Moody's rates the bonds Aa1.

"This rating is considerably higher and more advantageous to the State than the BBB and BBB-rating assigned to the developer's private-activity bonds and will result in interest savings over time," according to Huge.

The settlement agreements release the state from future liabilities or claims that could have been made by bondholders, the developer, the design-builder Isolux Corsan, and insurance and surety companies. The state assumes all future financial risk to operate, maintain, and preserve the new roadway over the next 35 years instead of its private partners.

The project's construction delays, cost disputes, and the financial woes of the design-builder tipped the PABs' ratings deep into junk as the bonds headed toward default. S&P on June 7 dropped its rating to CCC-minus from B-minus. In May, S&P lowered the bonds to B-minus from B-plus. Fitch lowered the rating to B-plus in April. Fitch said in its June 9 report it was lowering the rating to CC from B-minus.

The IFA issued the project bonds, lending the proceeds to private contractor I-69 DP to finance the upgrades to a 21-mile stretch of highway between Bloomington and Martinsville that will become Interstate 69.

The bonds are secured by a first priority lien on I-69 DP net revenues. The IFA was to make milestone payments during the construction period and then availability payments after the road opened.

Indiana has $935 million outstanding in highway revenue bonds, according to S&P.

In terms of P3s, The state has used private capital via public-private partnerships (P3s) to address transportation infrastructure needs. Moody's views availability payments as debt-like and counted $541 million in P3 liabilities towards net tax-supported debt as of fiscal 2016, not including the P3 being taken out by the current sale.

The state is rated AAA by S&P and Fitch. Moody's rates the state Aaa.

The original cost in today's dollars is approximately $590 million under the public-private structure; the new agreements and structure total approximately $560 million dollars. The state may have to issue an additional $155 million of bonds to cover the costs to complete the project, according to Moody's.

Moody's, S&P and Fitch have all said that the additional debt burdens Indiana will assume in the take out financing of the PABs are manageable and won't affect the state's credit rating.

Indiana entered into the project in 2014 to complete a 21-mile highway connecting southwest and central Indiana. Construction delays and developer financial woes, including a bankruptcy filing, led the state to decide to take over the project in order to avoid a work stoppage that could have lasted through October.

By the end of March 2017, the IFA moved to seek legislative amendments that, in the event the PPA was terminated, authorized the use of Highway Revenue Bonds to complete the project after the collapse of a Jan. 25 memorandum of understanding involving the developers and their equity sponsor, the state government, and design-build contractor Isolux Corsan LLC.

The MOU, was expected to ease pressures on the project by settling various disputes, providing additional funding, and pushing off a project completion deadline, but it became clear that Isolux would not be able to meet its $52 million equity commitment due to financial troubles of Isolux's parent.

The Bond Buyer

By Nora Colomer

Published August 15 2017, 1:28pm EDT