

IC 5-23-3

Chapter 3. BOT Agreements

IC 5-23-3-1

Agreements between governmental body and operator

Sec. 1. A governmental body may enter into a BOT agreement with an operator for the acquisition, planning, design, development, reconstruction, repair, maintenance, or financing of any public facility on behalf of the governmental body.

As added by P.L.49-1997, SEC.34.

IC 5-23-3-2

Provisions

Sec. 2. BOT agreements may provide the following:

(1) The design, construction, operation, management, maintenance, or financing of the cost of a public facility shall be partially or entirely the responsibility of the operator.

(2) The governmental body shall lease the public facility and real property owned by the governmental body upon which the public facility is to be located to the operator for a predetermined period. The BOT agreement must provide for ownership of all improvements by the governmental body, unless the governmental body elects to provide for ownership of the public facility by the operator during the term of the BOT agreement. In this case, ownership reverts back to the governmental body upon the termination of the BOT agreement.

(3) The BOT agreement must identify which costs are to be the responsibility of the operator and which costs are to be the responsibility of the governmental body.

(4) The operator may be authorized to retain a mutually agreed upon percentage of the revenues received in the operation and management of the public facility, or the operator may be paid an amount established by the governmental body, which shall be applied as follows:

(A) Capital outlay costs for the public facility and public service plus interest and principal repayment for any debt incurred.

(B) Costs associated with the operation, management, and maintenance of the public facility.

(C) Payment to the governmental body for reimbursement of the costs of maintenance, law enforcement, and other services if the services are performed by the governmental body under the BOT agreement.

(D) An agreed upon return on investment to the operator.

(5) The operator may pay the governmental body either a lease payment or a percentage of gross revenue per month for the operator's operation and use of the public facility.

(6) The BOT agreement may require a performance bond and provide for the payment of contractors and subcontractors under IC 4-13.6-7, IC 5-16-5, or IC 36-1-12, whichever is applicable.

As added by P.L.49-1997, SEC.34.

IC 5-23-3-3

Construction of public facility with public funds; common construction wage

Sec. 3. If a governmental body enters into a BOT agreement that involves the construction of a public facility with public funds under this section, the operator or any contractor or subcontractor engaged in the construction of that public facility shall pay the common construction wage as determined under IC 5-16-7.

As added by P.L.49-1997, SEC.34.

IC 5-23-3-4

Construction of public facility with public funds; applicable laws

Sec. 4. If a governmental body enters into a BOT agreement that involves the construction of a public facility with public funds under this section, the construction of that public facility is subject to IC 4-13.6, IC 5-16, or IC 36-1-12, whichever is applicable.

As added by P.L.49-1997, SEC.34.