ENGROSSED SENATE
BILL NO. 1316 By: Sparks of the Senate

and

Martin of the House

[infrastructure development - Oklahoma Public and Private Facilities and Infrastructure Act - eminent domain use - guidelines - comprehensive agreements - procurement records - codification - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5151 of Title 74, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Public and Private Facilities and Infrastructure Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5153 of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Public and Private Facilities and Infrastructure Act:

1. "Affected jurisdiction" means any county or municipality in which all or a portion of a qualifying project is located;

2. "Availability Payment" is a periodic payment made to a private sector concessionaire or developer by the responsible public

sector entity, in exchange for making available the use of the public facility at a predetermined level of service;

3. "Comprehensive agreement" means the comprehensive agreement authorized by Section 12 of this act between the contracting entity and the responsible governmental entity;

4. "Contracting entity" means a person, or business entity, who enters into a comprehensive or interim agreement with a responsible governmental entity;

5. "Develop" means to plan, design, develop, finance, lease, acquire, install, construct or expand a qualifying project;

6. "Governmental entity" means a political subdivision, board, commission, department, or other agency of this state that elects to operate under the Oklahoma Public and Private Facilities and Infrastructure Act through the adoption of a resolution by the governing body of the governmental entity;

7. "Interim agreement" means an agreement authorized by Section 14 of this act between a contracting entity and a responsible governmental entity that proposes the development or operation of the qualifying project;

8. "Lease payment" means any form of payment, including a land lease, by a governmental entity to the contracting entity for the use of a qualifying project;

9. "Material default" means any default by a contracting entity in the performance of duties imposed under subsection F of Section

12 of this act that jeopardizes adequate service to the public from a qualifying project;

10. "Operate" means to finance, maintain, improve, equip, modify, repair or operate a qualifying project;

11. "Qualifying project" means:

a. any transportation capacity, highway, bridge or tunnel, mass transit facility, vehicle parking facility, port facility, water way, power generation facility or transmission line, fuel supply facility or pipeline, water supply facility or pipeline, public work, wastewater or waste treatment facility, hospital, school, medical or nursing care facility, recreational facility, public building, or other similar facility currently available or to be made available to a governmental entity for public use, including any structure, parking area, appurtenance and other property required to operate the structure or facility and any technology infrastructure installed in the structure or facility that is essential to the purpose of the project, or

b. any improvements necessary or desirable to unimproved real estate owned by a governmental entity,

c. notwithstanding any provision of this section to the contrary, all roadway or highway projects shall be subject to review and approval by the Governor, and the authority shall not approve any roadway or highway project disapproved by the Governor;

12. "Responsible governmental entity" means a governmental entity that has the power to develop or operate an applicable qualifying project;

13. "Revenue" means all revenue, income, earnings, user fees, lease payments, or other service payments that support the development or operation of a qualifying project, including money received as a grant or otherwise from the federal government, a governmental entity or any agency or instrumentality of the federal government or governmental entity in aid of the project;

14. "Service contract" means a contract between a governmental entity and a contracting entity under Section 8 of this act;

15. "Service payment" means a payment to a contracting entity of a qualifying project under a service contract; and

16. "User fee" means a rate, fee, or other charge imposed by a contracting entity for the use of all or part of a qualifying project under a comprehensive agreement.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5155 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Public and Private Facilities and Infrastructure Act does not alter the eminent domain laws of this state or grant the power of eminent domain to any person who is not expressly granted that power under other state law.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5156 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. A contracting entity may not develop or operate a qualifying project unless the contracting entity obtains the approval of and contracts with the responsible governmental entity under the Oklahoma Public and Private Facilities and Infrastructure Act. The contracting entity may initiate the approval process by submitting a proposal requesting approval under subsection A of Section 7 of this act, or the responsible governmental entity may request proposals or invite bids under subsection B of Section 7 of this act.

B. A person, or business entity, submitting a proposal requesting approval of a qualifying project shall specifically and conceptually identify any facility, building, infrastructure or improvement included in the proposal as a part of the qualifying project.

C. On receipt of a proposal submitted by a person or business entity initiating the approval process under subsection A of Section 7 of this act, the responsible governmental entity shall determine whether to accept the proposal for consideration in accordance with Section 6 of this act and the guidelines adopted under those sections. A responsible governmental entity that determines not to accept the proposal for consideration shall return the proposal, all fees and the accompanying documentation to the person, or business entity, submitting the proposal.

D. The responsible governmental entity may at any time reject a proposal initiated by a person or business entity under subsection A of Section 8 of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5157 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Before requesting or considering a proposal for a qualifying project, a responsible governmental entity must adopt and make publicly available guidelines that enable the governmental entity to comply with the Oklahoma Public and Private Facilities and Infrastructure Act. The guidelines must be reasonable, encourage competition, and guide the selection of projects under the purview of the responsible governmental entity.

B. The guidelines for a responsible governmental entity must:

1. Require the responsible governmental entity to:

   a. make a representative of the entity available to meet with persons who are considering submitting a proposal, and

   b. provide notice of the availability of the representative;

2. Provide reasonable criteria for choosing among competing proposals;

3. Contain suggested timelines for selecting proposals and negotiating an interim or comprehensive agreement;

4. Allow the responsible governmental entity to accelerate the selection, review and documentation timelines for proposals involving a qualifying project considered a priority by the entity;

5. Include financial review and analysis procedures that, at a minimum, consist of:

a. a cost-benefit analysis,

b. an assessment of opportunity cost,

c. consideration of the degree to which functionality and services similar to the functionality and services to be provided by the proposed project are already available in the private market, and

d. consideration of the results of all studies and analyses related to the proposed qualifying project;

6. Allow the responsible governmental entity to consider the nonfinancial benefits of a proposed qualifying project;

7. Include criteria for:

a. the qualifying project, including the scope, costs, and duration of the project and the involvement or impact of the project on multiple public entities, and

b. the creation of and the responsibilities of an oversight committee, with members representing the responsible governmental entity, that acts as an advisory committee to review the terms of any proposed interim or comprehensive agreement;

8. Require the responsible governmental entity to analyze the adequacy of the information to be released by the entity when seeking competing proposals and require that the entity provide more detailed information, if the entity determines necessary, to encourage competition, subject to subsection G of Section 7 of this act;

9. Establish criteria for determining that, should the authority deem it in the public's best interest to cancel a procurement, post-short-term listing, the authority shall pay for documented third-party costs, to include, but not be limited to: design services, legal advisors, financial advisors, together with reasonable internal expenditures, when termination results from government action;

10. Establish criteria, key decision points and approvals required to ensure that the responsible governmental entity considers the extent of competition before selecting proposals and negotiating an interim or comprehensive agreement; and

11. Require the posting and publishing of public notice of a proposal requesting approval of a qualifying project, including:

a. specific information and documentation regarding the nature, timing and scope of the qualifying project, as required under subsection A of Section 7 of this act,

b. a reasonable period of not less than forty-five (45) days, as determined by the responsible governmental entity, to encourage competition and partnerships with private entities and other persons in accordance with the goals of the Oklahoma Public and Private Facilities and Infrastructure Act, during which the responsible governmental entity must accept submission of competing proposals for the qualifying project, and

c. a requirement for advertising the notice on the Internet website of the governmental entity and on the official Internet website of the state.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5158 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. A business entity or other person may submit a proposal requesting approval of a qualifying project by the responsible governmental entity. The proposal must be accompanied by the following, unless waived by the responsible governmental entity:

1. A topographic map, with a 1:2,000 or other appropriate scale, indicating the location of the qualifying project;

2. A description of the qualifying project, including:

a. the conceptual design of any facility or a conceptual plan for the provision of services or technology infrastructure, and

b. a schedule for the initiation of and completion of the qualifying project that includes the proposed major responsibilities and timeline for activities to be performed by the governmental entity and the contracting entity;

3. A statement of the method the contracting entity proposes for securing necessary property interests required for the qualifying project;

4. Information relating to any current plans for the development of facilities or technology infrastructure to be used by a governmental entity that are similar to the qualifying project being proposed by the contracting entity for each affected jurisdiction;

5. A list of all permits and approvals required for the development and completion of the qualifying project from local, state or federal agencies and a projected schedule for obtaining the permits and approvals;

6. A list of any facilities that will be affected by the qualifying project and a statement by the contracting entity of the plans to accommodate the affected facilities;

7. A statement by the contracting entity on the general plans for financing the qualifying project, including the sources of the funds of the contracting entity and identification of any dedicated revenue source or proposed debt or equity investment for the contracting entity;

8. The name and address of each individual who may be contacted for further information concerning the request;

9. User fees, lease payments, and other service payments over the term of any applicable interim or comprehensive agreement and the methodology and circumstances for changes to the user fees, lease payments and other service payments over time; and

10. Any additional material and information the responsible governmental entity reasonably requests.

B. A responsible governmental entity may request proposals or invite bids from persons or business entities for the development or operation of a qualifying project. A responsible governmental entity shall consider the total project cost as one factor in evaluating the proposals received, but is not required to select the proposal that offers the lowest total project cost. The responsible governmental entity may consider the following factors:

1. The proposed cost of the qualifying project;

2. The general reputation, industry experience, and financial capacity of the contracting entity submitting a proposal;

3. The proposed design of the qualifying project;

4. The eligibility of the project for accelerated selection, review and documentation timelines under the guidelines of the responsible governmental entity;

5. Comments from local citizens and affected jurisdictions;

6. Benefits to the public;

7. The plans of the contracting entity to employ local contractors and residents;

8. For a qualifying project that involves a continuing role beyond design and construction, the proposed rate of return of the contracting entity and opportunities for revenue sharing; and

9. Other criteria that the responsible governmental entity considers appropriate.

C. The responsible governmental entity may approve as a qualifying project the development or operation of a facility needed by the governmental entity, or the design, or equipping of a qualifying project, if the responsible governmental entity determines that the project serves the public purpose of the Oklahoma Public and Private Facilities and Infrastructure Act. The responsible governmental entity may determine that the development or operation of the project as a qualifying project serves the public purpose if:

1. There is a public need for or benefit derived from the project of the type the person or business entity proposes as a qualifying project;

2. The estimated cost of the project is reasonable in relation to similar facilities; and

3. The plans of the contracting entity will result in the timely development or operation of the qualifying project.

D. The responsible governmental entity may charge a reasonable fee to cover the costs of processing, reviewing and evaluating the proposal, including reasonable legal fees and fees for financial, technical and other necessary advisors or consultants.

E. The approval of a responsible governmental entity is subject to the contracting entity entering into an interim or comprehensive agreement with the responsible governmental entity.

F. On approval of the qualifying project, the responsible governmental entity shall establish a date by which activities related to the qualifying project must begin. The responsible governmental entity may extend the date.

G. The responsible governmental entity shall take action appropriate under the Oklahoma Open Records Act to protect confidential and proprietary information provided by the contracting entity under an agreement.

H. The Oklahoma Public and Private Facilities and Infrastructure Act and an interim or comprehensive agreement entered into under the Oklahoma Public and Private Facilities and Infrastructure Act do not enlarge, diminish or affect any authority a responsible governmental entity has to take action that would impact the debt capacity of this state.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5159 of Title 74, unless there is created a duplication in numbering, reads as follows:

A responsible governmental entity may contract with a contracting entity for the delivery of services to be provided as part of a qualifying project in exchange for service payments and other consideration as the governmental entity considers appropriate.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5160 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. A person or business entity submitting a proposal to a responsible governmental entity under Section 7 of this act shall notify each affected jurisdiction by providing a copy of its proposal to the affected jurisdiction.

B. Not later than the fourteenth business day after the date an affected jurisdiction receives the notice required by subsection A of this section, the affected jurisdiction that is not the responsible governmental entity for the respective qualifying project shall submit in writing to the responsible governmental entity any comments the affected jurisdiction has on the proposed qualifying project and indicate whether the facility or project is compatible with the local comprehensive plan, local infrastructure development plans, the capital improvements budget or other government spending plan. The responsible governmental entity shall consider the submitted comments before entering into a comprehensive agreement with a contracting entity.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5161 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. After obtaining any appraisal of the property interest that is required under other law in connection with the conveyance, a governmental entity may dedicate any property interest, including land, improvements and tangible personal property, for public use in a qualifying project if the governmental entity finds that the dedication will serve the public purpose of the Oklahoma Public and Private Facilities and Infrastructure Act by minimizing the cost of a qualifying project to the governmental entity or reducing the delivery time of a qualifying project.

B. In connection with a dedication under subsection A of this section, a governmental entity may convey any property interest, including a license, franchise, easement or another right or interest the governmental entity considers appropriate, subject to the conditions imposed by general law governing such conveyance and subject to the rights of an existing utility under a license, franchise, easement or other right under law, to the contracting entity for the consideration determined by the governmental entity. The consideration may include the agreement of the contracting entity to develop or operate the qualifying project.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5162 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The contracting entity has:

1. The power granted by:

a. general law to a person that has the same form of organization as the contracting entity, and

b. a statute governing the business or activity of the contracting entity; and

2. The power to:

a. develop or operate the qualifying project, and

b. collect lease payments, impose user fees subject to subsection B of this section or enter into service contracts in connection with the use of the project.

B. The contracting entity may not impose a user fee or increase the amount of a user fee until the fee or increase is approved by the responsible governmental entity.

C. The contracting entity may own, lease or acquire any other right to use or operate the qualifying project.

D. The contracting entity may finance a qualifying project in the amounts and on the terms determined by the contracting entity.

The contracting entity may issue debt, equity or other securities or obligations, enter into sale and leaseback transactions and secure any financing with a pledge of, security interest in, or lien on any or all of its property, including all of its property interests in the qualifying project.

E. In operating the qualifying project, the contracting entity may:

1. Establish classifications according to reasonable categories for assessment of user fees; and

2. With the consent of the responsible governmental entity, adopt and enforce reasonable rules for the qualifying project to the same extent as the responsible governmental entity.

F. The contracting entity shall:

1. Develop or operate the qualifying project in a manner that is acceptable to the responsible governmental entity and in accordance with any applicable interim or comprehensive agreement;

2. Subject to subsection G of this section, keep the qualifying project open for use by the public at all times, or as appropriate based on the use of the project, after its initial opening on payment of the applicable user fees, lease payments or service payments;

3. Maintain, or provide by contract for the maintenance or upgrade of, the qualifying project, if required by any applicable interim or comprehensive agreement;

4. Cooperate with the responsible governmental entity to establish any interconnection with the qualifying project requested by the responsible governmental entity; and

5. Comply with any applicable interim or comprehensive agreement and any lease or service contract.

G. The qualifying project may be temporarily closed because of emergencies or, with the consent of the responsible governmental entity, to protect public safety or for reasonable construction or maintenance activities.

H. The Oklahoma Public and Private Facilities and Infrastructure Act does not prohibit a contracting entity of a qualifying project from providing additional services for the qualifying project to the public or persons other than the responsible governmental entity if the provision of additional service does not impair the ability of the contracting entity to meet the commitments of the contracting entity to the responsible governmental entity under any applicable interim or comprehensive agreement.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5163 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Before developing or operating the qualifying project, the contracting entity must enter into a comprehensive agreement with a responsible governmental entity. The comprehensive agreement shall provide for:

1. Delivery of letters of credit or other security in connection with the development or operation of the qualifying project, in the forms and amounts satisfactory to the responsible governmental entity and delivery of performance and payment bonds required for all construction activities;

2. Review of plans and specifications for the qualifying project by the responsible governmental entity and approval by the responsible governmental entity if the plans and specifications conform to standards acceptable to the responsible governmental entity, except that the contracting entity may not be required to complete the design of a qualifying project before the execution of a comprehensive agreement;

3. Inspection of the qualifying project by the responsible governmental entity to ensure that the activities of the contracting entity are acceptable to the responsible governmental entity in accordance with the comprehensive agreement;

4. Maintenance of a public liability insurance policy, copies of which must be filed with the responsible governmental entity accompanied by proofs of coverage, or self-insurance, each in the form and amount satisfactory to the responsible governmental entity and reasonably sufficient to ensure coverage of tort liability to

the public and project employees and to enable the continued operation of the qualifying project;

5. Monitoring of the practices of the contracting entity by the responsible governmental entity to ensure that the qualifying project is properly maintained;

6. Reimbursement to be paid to the responsible governmental entity for services provided by the responsible governmental entity;

7. Filing of appropriate financial statements on an annual basis; and

8. Policies and procedures governing the rights and responsibilities of the responsible governmental entity and the contracting entity if the comprehensive agreement is terminated or there is a material default by the contracting entity, including conditions governing:

a. assumption of the duties and responsibilities of the contracting entity by the responsible governmental entity, and

b. the transfer or purchase of property or other interests of the contracting entity to the responsible governmental entity.

B. The comprehensive agreement shall provide for any user fee, lease payment or service payment established by agreement of the parties. In negotiating a user fee under this section, the parties shall establish a payment or fee that is the same for persons using a facility of the qualifying project under like conditions and that will not materially discourage use of the qualifying project. The execution of the comprehensive agreement or an amendment to the agreement is conclusive evidence that the user fee, lease payment or service payment complies with the Oklahoma Public and Private Facilities and Infrastructure Act. A user fee or lease payment established in the comprehensive agreement as a source of revenue may be in addition to, or in lieu of, a service payment.

C. A comprehensive agreement may include a provision that authorizes the responsible governmental entity to make grants or loans to the contracting entity from money received from the federal, state or local government or any agency or instrumentality of the government.

D. The comprehensive agreement must incorporate the duties of the contracting entity under the Oklahoma Public and Private Facilities and Infrastructure Act and may contain terms the responsible governmental entity determines serve the public purpose of the Oklahoma Public and Private Facilities and Infrastructure Act. The comprehensive agreement may contain:

1. Provisions that require the responsible governmental entity to provide notice of default and cure rights for the benefit of the contracting entity and the persons specified in the agreement as providing financing for the qualifying project;

2. Other lawful terms to which the contracting entity and the responsible governmental entity mutually agree, including provisions regarding unavoidable delays or providing for a loan of public money to the contracting entity to develop or operate one or more qualifying projects; and

3. Provisions in which the authority and duties of the contracting entity under the Oklahoma Public and Private Facilities and Infrastructure Act cease and the qualifying project is dedicated for public use to the responsible governmental entity or, if the qualifying project was initially dedicated by an affected jurisdiction, to the affected jurisdiction.

E. Any change in the terms of the comprehensive agreement that the parties agree to must be added to the comprehensive agreement by written amendment.

F. The comprehensive agreement may provide for the development or operation of phases or segments of the qualifying project.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5164 of Title 74, unless there is created a duplication in numbering, reads as follows:

Before or in connection with the negotiation of the comprehensive agreement, the responsible governmental entity may enter into an interim agreement with the contracting entity proposing the development or operation of the qualifying project. The interim agreement may:

1. Authorize the contracting entity to begin project phases or activities for which the contracting entity may be compensated relating to the proposed qualifying project, including project planning and development, design, engineering, environmental analysis and mitigation, surveying and financial and revenue analysis, including ascertaining the availability of financing for the proposed facility or facilities of the qualifying project;

2. Establish the process and timing of the negotiation of the comprehensive agreement; and

3. Contain any other provision related to any aspect of the development or operation of a qualifying project that the parties consider appropriate.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5165 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The contracting entity and the responsible governmental entity may use any funding resources that are available to the parties, including, but not limited to:

1. Accessing any designated trust funds; and

2. Borrowing or accepting grants from any state infrastructure loan program or bank.

B. The responsible governmental entity may take any action to obtain federal, state or local assistance for a qualifying project that serves the public purpose of the Oklahoma Public and Private

Facilities and Infrastructure Act and may enter into any contracts required to receive the assistance.

C. If the responsible governmental entity is a state agency, any money received from the state or federal government or any agency or instrumentality of the state or federal government is subject to appropriation by the Legislature.

D. The responsible governmental entity may determine that it serves the public purpose of the Oklahoma Public and Private Facilities and Infrastructure Act for all or part of the costs of a qualifying project to be directly or indirectly paid from the proceeds of a grant or loan made by the local, state or federal government or any agency or instrumentality of the government.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5166 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The construction, remodel or repair of a qualifying project may be performed only after performance and payment bonds for the construction, remodel or repair have been executed regardless of whether the qualifying project is on public or private property or is publicly or privately owned.

B. For purposes of this section, a qualifying project is considered a public work and the responsible governmental entity shall assume the obligations and duties of a governmental entity.

C. The obligee under a performance bond under this section may be a public entity, a contracting entity, a business entity, or an entity consisting of both a public entity and a contracting entity.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5167 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. If the contracting entity commits a material default, the responsible governmental entity may assume the responsibilities and duties of the contracting entity of the qualifying project. If the responsible governmental entity assumes the responsibilities and duties of the contracting entity, the responsible governmental entity has all the rights, title and interest in the qualifying project, subject to any liens on revenue previously granted by the contracting entity to any person or business entity providing financing for the project.

B. The responsible governmental entity may terminate, with cause, any applicable interim or comprehensive agreement and exercise any other rights and remedies available to the governmental entity at law or in equity.

C. Stipends are to be used on large projects where there is substantial opportunity for innovation and the costs for developing a proposal is significant. Also called 'payment for work product', stipends encourage competition and do not put smaller companies at a competitive disadvantage and they compensate unsuccessful offerors for a portion of their costs.

1. The authority may elect to pay unsuccessful proposers for the work product that they submit with their proposal in response to an RFP solicitation. The use by the authority of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the authority and does not confer liability on the recipient of the stipulated amount under this section.

2. After payment of the stipulated amount, the authority and the unsuccessful proposer will jointly own the rights to, and may make use of any work product contained in the proposal including the technologies, techniques, methods, processes, ideas and information contained in the proposal, project design and project financial plan. The use by the unsuccessful proposer of any part of the work product contained in the proposal is at the sole risk of the unsuccessful proposer and does not confer liability on the authority.

D. The responsible governmental entity may make any appropriate claim under the letters of credit or other security or the performance and payment bonds required by paragraph 1 of subsection A of Section 12 of this act.

E. If the responsible governmental entity elects to assume the responsibilities and duties for a qualifying project under subsection A of this section, the responsible governmental entity may:

1. Develop or operate the qualifying project;

2. Impose user fees;

3. Impose and collect lease payments for the use of the project; and

4. Comply with any applicable contract to provide services.

F. The responsible governmental entity shall collect and pay to secured parties any revenue subject to a lien to the extent necessary to satisfy the obligations of the contracting party to secured parties, including the maintenance of reserves. The liens shall be correspondingly reduced and, when paid off, released.

G. Before any payment is made to or for the benefit of a secured party, the responsible governmental entity may use revenue to pay the current operation and maintenance costs of the qualifying project, including compensation to the responsible governmental entity for its services in operating and maintaining the qualifying project. The right to receive any payment is considered just compensation for the qualifying project.

H. The full faith and credit of the responsible governmental entity may not be pledged to secure any financing of the contracting entity that was assumed by the governmental entity when the governmental entity assumed responsibility for the qualifying project.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5169 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The contracting entity and each facility owner, including a public utility, a public service company or a cable television provider, whose facilities will be affected by a qualifying project shall cooperate fully in planning and arranging the manner in which the facilities will be affected.

B. The contracting entity and responsible governmental entity shall ensure that a facility owner whose facility will be affected by a qualifying project does not suffer a disruption of service as a result of the construction or improvement of the qualifying project.

C. The contracting entity shall pay any amount owed for the crossing, constructing or relocating of facilities.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5171 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Not later than the tenth day after the date a responsible governmental entity accepts a proposal, the responsible governmental entity shall provide notice of the proposal by posting the proposal on the Internet website of the entity.

B. The responsible governmental entity shall make available for public inspection at least one (1) copy of the proposal. This section does not prohibit the responsible governmental entity from posting the proposal in another manner considered appropriate by the responsible governmental entity to provide maximum notice to the public of the opportunity to inspect the proposal.

C. Trade secrets, financial records, or other records of the contracting entity excluded from disclosure under the Oklahoma Open Records Act may not be posted or made available for public inspection except as otherwise agreed to by the responsible governmental entity and the contracting entity.

D. The responsible governmental entity shall hold a public hearing on the proposal during the proposal review process not later than the thirtieth day before the date the entity enters into an interim or comprehensive agreement.

E. On completion of the negotiation phase for the development of an interim or comprehensive agreement and before an interim agreement or comprehensive agreement is entered into, a responsible governmental entity must make available the proposed agreement in a manner provided by subsection A or B of this section.

F. A responsible governmental entity that has entered into an interim agreement or comprehensive agreement shall make procurement records available for public inspection on request. For purposes of this subsection, procurement records do not include the trade secrets of the contracting entity or financial records, including balance sheets or financial statements of the contracting entity, that are not generally available to the public through regulatory disclosure or other means.

G. Cost estimates relating to a proposed procurement transaction prepared by or for a responsible governmental entity are not open to public inspection.

H. Any inspection of procurement transaction records under this section is subject to reasonable restrictions to ensure the security and integrity of the records.

I. This section applies to any accepted proposal regardless of whether the process of bargaining results in an interim or comprehensive agreement.

SECTION 18. This act shall become effective November 1, 2016.

Passed the Senate the 9th day of March, 2016.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of __________, 2016.

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Presiding Officer of the House of Representatives