

An Act

ENROLLED HOUSE
BILL NO. 1534

By: Montgomery, Griffith and
Roberts (Sean) of the House

and

Leewright of the Senate

An Act relating to infrastructure development; enacting the Oklahoma Local Public and Private Facilities and Infrastructure Act; defining terms; providing for effect of enactment on laws related to eminent domain; providing for powers of Local Partnership Committee; authorizing actions and contracts; prescribing procedures for submission of proposals; providing for selection of projects; providing for evaluation process; providing for authorized content of contracts; providing for performance and payment bonds; providing for termination of procurement process; providing for treatment of content as intellectual property; providing execution requirements; providing for receipt and deposit of monies; providing for certain services to be provided to responsible governmental entity; prescribing procedures; providing for codification; and providing an effective date.

SUBJECT: Infrastructure development

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 Local 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 5152 of Title 74, unless there is created a duplication in numbering, reads as follows:

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

1. "Contract" means any purchase and sale agreement, lease or other written agreement entered into under this act with respect to the provision of a public project;

2. "Improvement" means any instruction, reconstruction, rehabilitation, renovation, installation, improvement, enlargement or extension of property or improvements to property;

3. "Private sector entity" means any corporation, whether for profit or not for profit, limited liability company, partnership, limited liability partnership, sole proprietorship, business trust, joint venture or other entity, but shall not mean the state, a political subdivision of the state, or a public or governmental entity, agency or instrumentality of the state;

4. "Proposer" means a private sector entity, a local or regional public entity or agency, or any group or combination thereof, submitting qualifications or a proposal for a public-private partnership contract;

5. "Public project" means the improvement of real or personal property, or both, and associated services provided for a public purpose of a responsible governmental entity and identified in an invitation for qualifications or proposals under this act; and

6. "Responsible governmental entity" means a local governmental entity that is responsible for the provision of the public project which is or is proposed to be the subject of a contract.

SECTION 3. 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:

The Oklahoma Local 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 5154 of Title 74, unless there is created a duplication in numbering, reads as follows:

A responsible governmental entity may take any action and execute any Public-Private Partnership contract, authorized under this act, for the provision of a public purpose in order to more efficiently and effectively provide public services, including by generating additional resources in support of the public project.

SECTION 5. 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:

A. The responsible governmental entity may prepare a request for proposal, which may include proposal stipends, and the proposed partnership contract, both of which shall be approved by the responsible governmental entity. After the responsible governmental entity's approval of the request for proposal and the partnership contract, the public project shall be deemed an Approved Partnership Procurement.

B. Partnership contracts may contain the terms and conditions to carry out and effect the purposes of this act, including the duration of the contract, rates or fees for the public project to be provided or methods or procedures for the determination of such rates or fees, standards for the public project to be provided, responsibilities and standards for operation and maintenance of any related public project, required financial assurances, financial and other data reporting requirements, bases and procedures for termination of the contract and retaking of possession or title to the public project, and events of default and remedies upon default, including mandamus, a suit in equity, an action at law, or any combination of those remedial actions.

C. Partnership contracts may also include a requirement for the delivery of performance and payment bonds required for all construction activities, and letters of credit, surety bonds or other security in connection with the development or operation of the qualifying public project, in the forms and amounts satisfactory to the responsible governmental entity.

D. After proposals are received, the responsible governmental entity, using the criteria established in the request for proposal, shall evaluate the proposals submitted and may hold discussions with

proposers to further explore their proposals, the scope and nature of the public project, and the various technical approaches they may take regarding the public project.

E. The responsible governmental entity may reject any and all submissions of qualifications or proposals and may terminate the procurement process at any point.

F. The responsible governmental entity shall have the authority to make commercially reasonable changes to the partnership contract. Any such contract may contain the terms and conditions to carry out and effect the purposes of this act.

G. Any submission not selected by the responsible governmental entity shall be considered intellectual property that shall remain the property of the proposer.

SECTION 6. 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. Partnership contracts shall be signed by an assigned representative of the governmental entity for which the public project at issue in the contract relates.

B. The responsible governmental entity is authorized to receive and deposit any money received under the contract. Any such contract shall be sufficient to effect its purpose notwithstanding any provision of law to the contrary, including other laws governing the sale, lease or other disposition of property or interests therein, service contracts or financial transactions by or for the responsible governmental entity.

SECTION 7. 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:

The responsible governmental entity may retain or contract for the services of commercial appraisers, engineers, investment bankers, financial advisers, accounting experts and other consultants, independent contractors or providers of professional services as are necessary in the judgment of the responsible governmental entity to carry out the powers and duties under this act. This may include the identification of public projects to be subject to invitations for qualifications or proposals under this

act, the development of those invitations and related evaluation criteria, the evaluation of those invitations and the negotiation of any contract under this act.

SECTION 8. This act shall become effective November 1, 2017.

Passed the House of Representatives the 18th day of May, 2017.

Presiding Officer of the House
of Representatives

Passed the Senate the 19th day of May, 2017.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____