

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Private Agreements for the Illiana  
5 Expressway Act is amended by changing Section 25 as follows:

6 (605 ILCS 130/25)

7 Sec. 25. Provisions of the public private agreement.

8 (a) The public private agreement shall include all of the  
9 following:

10 (1) The term of the public private agreement that is  
11 consistent with Section 15 of this Act;

12 (2) The powers, duties, responsibilities, obligations,  
13 and functions of the Department and the contractor;

14 (3) Compensation or payments to the Department, if  
15 applicable;

16 (4) Compensation or payments to the contractor;

17 (5) A provision specifying that the Department:

18 (A) has ready access to information regarding the  
19 contractor's powers, duties, responsibilities,  
20 obligations, and functions under the public private  
21 agreement;

22 (B) has the right to demand and receive information  
23 from the contractor concerning any aspect of the

1 contractor's powers, duties, responsibilities,  
2 obligations, and functions under the public private  
3 agreement; and

4 (C) has the authority to direct or countermand  
5 decisions by the contractor at any time;

6 (6) A provision imposing an affirmative duty on the  
7 contractor to provide the Department with any information  
8 the contractor reasonably believes the Department would  
9 want to know or would need to know to enable the Department  
10 to exercise its powers, carry out its duties,  
11 responsibilities, and obligations, and perform its  
12 functions under this Act or the public private agreement or  
13 as otherwise required by law;

14 (7) A provision requiring the contractor to provide the  
15 Department with advance notice of any decision that bears  
16 significantly on the public interest so the Department has  
17 a reasonable opportunity to evaluate and countermand that  
18 decision pursuant to this Section;

19 (8) A requirement that the Department monitor and  
20 oversee the contractor's practices and take action that the  
21 Department considers appropriate to ensure that the  
22 contractor is in compliance with the terms of the public  
23 private agreement;

24 (9) The authority of the Department to enter into  
25 contracts with third parties pursuant to Section 50 of this  
26 Act;

1 (10) A provision governing the contractor's authority  
2 to negotiate and execute subcontracts with third parties;

3 (10.5) A provision stating that, in the event that the  
4 contractor does not have a subcontract with a design-build  
5 entity in effect at the time of execution of the  
6 public-private agreement by the Department, the contractor  
7 must ~~the contractor finds it necessary, proper, or~~  
8 ~~desirable to enter into subcontracts with one or more~~  
9 ~~design build entities, then it must~~ follow a selection  
10 process that is, to the greatest extent possible, identical  
11 to the selection process contained in the Design-Build  
12 Procurement Act;

13 (11) The authority of the contractor to impose user  
14 fees and the amounts of those fees, including the authority  
15 of the contractor to use congestion pricing, pursuant to  
16 which higher tolls rates are imposed during times or in  
17 locations of increased congestion;

18 (12) A provision governing the deposit and allocation  
19 of revenues including user fees;

20 (13) A provision governing rights to real and personal  
21 property of the State, the Department, the contractor, and  
22 other third parties;

23 (14) A provision stating that the contractor must,  
24 pursuant to Section 75 of this Act, finance an independent  
25 audit if the construction costs under the contract exceed  
26 \$50,000,000;

1           (15) A provision regarding the implementation and  
2 delivery of a comprehensive system of internal audits;

3           (16) A provision regarding the implementation and  
4 delivery of reports, which must include a requirement that  
5 the contractor file with the Department, at least on an  
6 annual basis, financial statements containing information  
7 required by generally accepted accounting principles  
8 (GAAP);

9           (17) Procedural requirements for obtaining the prior  
10 approval of the Department when rights that are the subject  
11 of the agreement, including but not limited to development  
12 rights, construction rights, property rights, and rights  
13 to certain revenues, are sold, assigned, transferred, or  
14 pledged as collateral to secure financing or for any other  
15 reason;

16           (18) Grounds for termination of the agreement by the  
17 Department or the contractor and a restatement of the  
18 Department's rights under Section 35 of this Act;

19           (19) A requirement that the contractor enter into a  
20 project labor agreement pursuant to Section 100 of this  
21 Act;

22           (19.5) A provision stating that construction  
23 contractors shall comply with the requirements of Section  
24 30-22 of the Illinois Procurement Code pursuant to Section  
25 100 of this Act;

26           (20) Timelines, deadlines, and scheduling;

1           (21) Review of plans, including development,  
2           financing, construction, management, or operations plans,  
3           by the Department;

4           (22) Inspections by the Department, including  
5           inspections of construction work and improvements;

6           (23) Rights and remedies of the Department in the event  
7           that the contractor defaults or otherwise fails to comply  
8           with the terms of the agreement;

9           (24) A code of ethics for the contractor's officers and  
10          employees; and

11          (25) Procedures for amendment to the agreement.

12          (b) The public private agreement may include any or all of  
13          the following:

14           (1) A provision regarding the extension of the  
15           agreement that is consistent with Section 15 of this Act;

16           (2) Cash reserves requirements;

17           (3) Delivery of performance and payment bonds or other  
18           performance security in a form and amount that is  
19           satisfactory to the Department;

20           (4) Maintenance of public liability insurance;

21           (5) Maintenance of self-insurance;

22           (6) Provisions governing grants and loans, pursuant to  
23           which the Department may agree to make grants or loans for  
24           the development, financing, construction, management, or  
25           operation of the Illiana Expressway project from time to  
26           time from amounts received from the federal government or

1 any agency or instrumentality of the federal government or  
2 from any State or local agency;

3 (7) Reimbursements to the Department for work  
4 performed and goods, services, and equipment provided by  
5 the Department; and

6 (8) All other terms, conditions, and provisions  
7 acceptable to the Department that the Department deems  
8 necessary and proper and in the public interest.

9 (Source: P.A. 96-913, eff. 6-9-10; 97-808, eff. 7-13-12.)