Design Build in Indiana
“What Is Legal...And What Is Not”

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Definitions
- Privatization
- Public Private Partnerships
- Design Build
- BOT—Build Operate Transfer

Potential Benefits of Design Build
- Improved timing—accelerated construction schedule
- Eliminates one of 2 “Bidding” Processes
- Allows For Construction to begin prior to completion of all design work
- Starting to be used in many places

Legal Bases for Design Build
- Home Rule
- Redevelopment Statutes
- Indiana Code 5-23—Public Private Partnerships

Financial Considerations
- Financing costs
  - Capitalized interest
  - Bond issuance costs
  - Interest rates
  - Project costs
    - Design
    - Construction

Financing Costs
- Capitalized interest allowance may be less with a private project.
- Bond issuance costs (“financing costs”) may be less with a private project.
- Interest costs will likely be more with a private project.
- Taxable vs. Tax exempt interest rates.
Construction Costs

- Private construction projects may be less costly than public projects.
  - No requirement to use prevailing wages.
  - Contracts may be negotiated.
  - Contingency allowance may be budgeted at a lower amount for a private project.

Illustration of Financing Comparisons

<table>
<thead>
<tr>
<th></th>
<th>Public Project</th>
<th>Private Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction</td>
<td>$1,000,000</td>
<td>$900,000</td>
</tr>
<tr>
<td>Financing costs</td>
<td>75,000</td>
<td>40,000</td>
</tr>
<tr>
<td>Capitalized interest</td>
<td>65,000</td>
<td>40,000</td>
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<tr>
<td>Total costs</td>
<td>$1,140,000</td>
<td>$980,000</td>
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</table>

Illustration of Financing Comparisons (Cont’d)

<table>
<thead>
<tr>
<th></th>
<th>Public Project</th>
<th>Private Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Costs</td>
<td>$1,140,000</td>
<td>$980,000</td>
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<tr>
<td>Interest Rate</td>
<td>5.50%</td>
<td>8.00%</td>
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<tr>
<td>Years to Maturity</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>Annual Payments</td>
<td>$114,000</td>
<td>$114,000</td>
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</table>

Summary

- Compare both construction and financing costs.
- Consider competitive proposals for design build projects.
- Consider the financial ability of the private company.
- Determine legal basis for project.

Design Build in Indiana

“What is legal...and what is not?

- Your guess is as good as mine.

The Future

- If Design Build is to be widely used, it will likely require a change in law or a sufficient number of projects to develop design build as an accepted practice.
- Who will be the proponents of DB?