

IFM Pays \$5.7B For Bankrupt Indiana Toll Road Operator

By Kurt Orzeck

Law360, Los Angeles (March 12, 2015, 12:11 AM ET) -- IFM Investors will pay nearly \$5.73 billion to buy the bankrupt operator of the 157-mile Indiana Toll Road that stretches across the northernmost part of Indiana from Ohio to the Illinois state line, the private investment firm announced Wednesday.

Under the terms of the agreement, IFM will acquire ITR Concession Co. LLC, which has the right to operate, maintain and collect toll revenues from the road for the next 66 years.

ITR filed for Chapter 11 protection in September, saying it intended to sell its assets to pay its creditors the more than \$6 billion it owed. In late October, a bankruptcy judge approved a reorganization plan that would allow ITR to exit Chapter 11 and sell the Indiana Toll Road.

Julio Garcia, IFM's head of infrastructure for North America, said in a Wednesday statement that the deal gives his firm a unique opportunity to invest in a high-quality U.S. transportation infrastructure asset.

"IFM Investors views the Indiana Toll Road as an essential operating asset for its strategic geographical position, long concession duration and inflation and GDP-linked tolling regime," Garcia said. "We are committed to maintaining the asset to a high standard that provides maximum availability and usability for customers."

Young Lee of Orrick Herrington & Sutcliffe LLP told Law360 on Thursday that the firm is very pleased to have advised IFM investors in what he called a "milestone transaction."

"The sale of the Indiana Toll Road to IFM highlights an appetite among pension funds to deploy cash into stable, long-term [gross domestic product]-linked revenue generating transportation assets," Lee said. "The sale also demonstrates market efficiency when that appetite exists."

The Indiana Toll Road provides the primary connection to the Chicago Skyway and downtown Chicago, according to the U.S. Federal Highway Administration. The road contains parts of U.S. Interstates 80 and 90, and traffic averages more than 30,000 vehicle trips per day, according to court filings.

The 75-year lease for the Indiana Toll Road was awarded to the Indiana Toll Road Concession Co. LLC, an even partnership between Cintra of Spain and Macquarie of Australia, in June 2006 after it submitted the top bid of \$3.8 billion, according to the FHWA. Before that, the road was leased to the Indiana Department of Transportation, which had been operating it for 25 years.

The conditions that led to ITR's bankruptcy petition included the global economic recession that took place after it assumed control of the road in 2006, according to court papers. ITR said in September that it intended to continue to operate the road and pay its vendors, suppliers and employees without interruption, and that work would be continuing on planned and future capital improvement projects as well.

ITR and IFM's deal is scheduled to close by Sept. 1, after being subject to necessary third-party and government authorizations and approvals, including from the Indiana Finance Authority. If the deal falls through, creditors will be able to receive a \$343.5 million termination fee, according to the purchase agreement.

IFM has more than \$40 billion in assets under management across infrastructure, debt, equities and private capital, according to its website.

Attorneys for ITR didn't immediately respond to requests for comment late Wednesday.

IFM is represented by Dan Mathews, Young Lee, King Milling, Tal Hachohen and Lorraine McGowen of Orrick Herrington & Sutcliffe LLP.

ITR is represented by Tom Christopher, Mike Brueck, Marc Kieselstein, Greg Pesce and Michelle Kilkenney of Kirkland & Ellis LLP.

The case is In re: ITR Concession Co. LLC et al., case number 14-34284, in the U.S. Bankruptcy Court for the Northern District of Illinois, Eastern Division.

--Additional reporting by Caroline Simson and Benjamin Horney. Editing by Kelly Duncan.