

**RESOLUTION JB-2014-1**

**RESOLUTION OF JOINT BOARD REGARDING  
TOLL SYSTEM PROVIDER, PROCUREMENT AND  
PRELIMINARY TERMS OF CONTRACT ADMINISTRATION  
ON BEHALF OF THE JOINT BOARD**

WHEREAS, the State of Indiana and the Commonwealth of Kentucky have jointly undertaken a project to improve cross river mobility over the Ohio River between Louisville and Southern Indiana, authorized by the Federal Highway Administration in its revised Record of Decision dated June 12, 2012 (the "Project"); and

WHEREAS, the Indiana Finance Authority ("IFA") and the Indiana Department of Transportation ("INDOT") have been authorized to participate in the Project on behalf of the State of Indiana (the "Indiana Parties"), and the Kentucky Public Transportation Infrastructure Authority ("KPTIA") and the Kentucky Transportation Cabinet ("KYTC") have been authorized to participate in the Project on behalf of the Commonwealth of Kentucky (the "Kentucky Parties"); and

WHEREAS, IFA, INDOT, KPTIA and KYTC (collectively the "States' Parties" and each individually a "State's Party") have (together with the Louisville and Southern Indiana Bridges Authority) entered into a Bi-State Development Agreement effective December 27, 2012 (the "Development Agreement") as well as an Interlocal Cooperation Agreement for the Design, Procurement, Construction, Financing, Tolling, Operation and Maintenance for the Louisville-Southern Indiana Ohio River Bridges Project effective as of December 17, 2012 (the "Interlocal Agreement"); and

WHEREAS, the Interlocal Agreement and the Development Agreement established this Joint Board, representing the States' Parties and constituted as provided in the Interlocal Agreement and the Development Agreement; and

WHEREAS, this Joint Board has approved Bylaws to provide rules of governance for its activities, which Bylaws specify that the Joint Board may exercise the powers which have been shared by the States' Parties pursuant to resolutions of the Joint Board as further described in Section 4.2 of the Bylaws; and

WHEREAS, this Joint Board has supplemented such Bylaws by Resolution JB-2013-5 to set forth the basic understandings of the States' Parties with respect to such future authorizations, specifically with regard to authorization of procurements and other contracts for services or facilities, by specifying matters to be addressed directly or indirectly in the final approvals therefor; and

WHEREAS, by Resolution JB 2013-7, this Joint Board has authorized IFA to initiate and undertake a procurement process for roadside/back office toll integrator services, subject to final approval of such procurement and the final Contract as defined below by this Joint Board; and

WHEREAS, the IFA and the Non-Contracting Parties, as defined in the Bylaws, under authority of Resolution JB 2013-4 and IC 8-15-5 have developed and published a Request for

Qualifications (RFQ) for Toll System Provider services (incorporating roadside/back office toll integrator and initial toll operator services); and

WHEREAS, IFA and the Non-Contracting Parties have solicited proposed offerors for Toll System Provider services pursuant to the RFQ process and have selected six qualified offerors to respond to a Request for Proposals (RFP) in Spring 2014; and

WHEREAS, in anticipation of the procurement process, IFA and the Non-Contracting Parties have recommended certain proposed Contract administration terms for incorporation into the RFP and Contract pursuant to Article VI of the bylaws of the Joint Board.

NOW, THEREFORE, BE IT RESOLVED BY THIS JOINT BOARD as follows:

1. The Joint Board authorization of the IFA to conduct a Toll System Provider procurement under JB-2013-7 is extended through December 31, 2014.

2. The IFA is hereby authorized in connection with the authorized procurement, with the coordination and consent of the other States' Parties, to select a preferred offeror of Toll System Provider services and to develop a Toll Services Agreement (the "Contract") for approval by the Joint Board. The Joint Board has delegated its power and authority with respect to the Contract to IFA (the "Contracting Party") with respect to the completion of the procurement, the negotiation of the Contract and management and administration of the Contract, in cooperation with the Non-Contracting Parties as set forth below.

3. The procurement and the Contract shall be administered and managed on behalf of the Joint Board and the States' Parties in conformance with the following:

a. The Contracting Party shall administer the Contract as authorized and directed by the Joint Board. The Kentucky Parties and the Indiana Parties shall each designate a representative for a total of two representatives to work with counsel and the Toll Oversight Advisor on the direction of the work of the Toll System Provider on behalf of the Joint Board after the Contract has been awarded.

b. The Kentucky Parties and the Indiana Parties shall each designate three representatives to a Selection Committee as described below, in writing to work with counsel and the Toll Oversight Advisor to conduct site visits, review RFP Responses and to make a collective recommendation of a preferred offeror to the Joint Board.

c. The Kentucky Parties and the Indiana Parties shall designate a TSP Review Team in writing to work with counsel and the Toll Oversight Advisor in continued development of the RFP.

d. Members of any of the above described committees or teams may be replaced on a temporary or permanent basis at the discretion of the Party they represent. Replacement notifications or designations will be forwarded to all the key stake holders of the project not limited to the Toll Oversight Advisor, the States' Parties representatives, the Joint Board, and Tolling Body representatives.

e. Payment obligations on the Contract shall be shared equally by the Indiana State's Parties and the Kentucky State's Parties, and the Contract shall provide that each State shall only be responsible for one-half of the Joint Board's financial obligations under the Contract, such terms to be accepted in writing by the TSP in the Contract.

f. The Contracting Party shall absorb all of its costs of administering and managing the Contract. Each Non-Contracting Party shall absorb all its internal costs associated with its duties hereunder and under the Contract. Third party costs incurred by the Contracting Party with the consent of the Non-Contracting Parties shall be shared equally.

g. The Contracting Party, in full cooperation with the Non-Contracting Parties, will agree on a reporting and management system and on a schedule as may be appropriate for the Contract in writing. In the absence of an agreement, the Contracting Party will report on a monthly basis to the designated representatives of each of the Non-Contracting Parties as to the progress and status of the Contract, which shall include a description of any material issues affecting proper completion, the schedule for performance or the budget. The Contracting Party shall also ensure that current status reports will be available for Joint Board Meetings and Tolling Body Meetings when requested.

h. It is the goal of this resolution to promote and insure joint coordination, management, and communication between the TSP and the Contracting Party working in cooperation with the Non-Contracting Parties. To that end the Contracting Party will conduct periodic team meetings to formally coordinate, prioritize and track ongoing efforts of the TSP. These team meetings will be scheduled with appropriate frequency to insure adequate coordination and progress of the TSP's work. In any instance where project related communications are necessary with only one member of the designated team, the team member privy to the communication will make every reasonable effort to relay the specifics of this communication to the non-participating member in writing in a timely manner, ideally the same business day.

i. The Contracting Party shall maintain all of the books and records relating to the Contract and shall make them available to representatives of the Non-Contracting Parties upon request.

j. The final Contract will not be issued or executed without prior notice to, and unanimous approval of, the Non-Contracting Parties.

k. The following actions shall be the responsibility of the Contracting Party. No action or directives may be made on the Contract without the joint approval of the members of the Non-Contracting Parties. The Contracting Party shall not take any of the following actions without prior notice and unanimous approval of all members of the Non-Contracting Parties:

- i. Invoices and contract payments on the Contract;
- ii. Claim determinations.

- iii. Issuance of a Punch List;
- iv. Final approval or acceptance.
- v. Approval of installation documents;
- vi. Approval of testing documents;
- vii. Approval of ongoing operations and maintenance work; and
- viii. Actions related to performance reviews of ongoing operations and maintenance work.

l. Changes in the scope of work, schedule or cost of work under the Contract may only be approved through an official action of the Joint Board.

m. Disputes amongst the representatives of the States' Parties as to administration of the Contract shall be submitted to the Joint Board for resolution according to the terms and conditions of the Bi-State Development Agreement.

n. The States' Parties shall have equal access to work product generated pursuant to the Contract. Ownership of the work product shall be addressed in a future resolution.

o. The States' Parties shall be named as express Third Party Beneficiaries to the Contract.

p. Acts or Omissions of the Contracting Party that are contrary to or inconsistent with this Resolution shall be at the sole cost and responsibility of the Contracting Party.

Approved this 27<sup>th</sup> day of January, 2014.

INDIANA FINANCE AUTHORITY

By: 

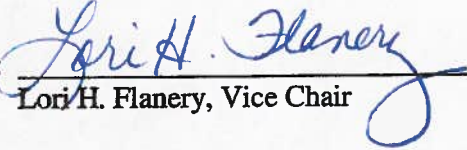
Kendra W. York, Public Finance Director  
of the State of Indiana

INDIANA DEPARTMENT OF  
TRANSPORTATION

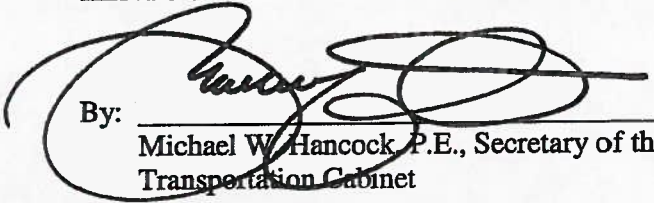
By: 

James P. Stark, Designee of Commissioner

KENTUCKY PUBLIC TRANSPORTATION  
INFRASTRUCTURE AUTHORITY

By:   
Lori H. Flanery, Vice Chair

KENTUCKY TRANSPORTATION CABINET

By:   
Michael W. Hancock, P.E., Secretary of the  
Transportation Cabinet