

**RESOLUTION JB 2021-4
RESOLUTION OF JOINT BOARD REGARDING
PROCUREMENT OF BUSINESS INCOME INSURANCE BROKER
AND BUSINESS INCOME INSURANCE**

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, 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; 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, the Joint Board has approved Amended Bylaws to provide rules of governance for its activities, which Amended 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 Amended Bylaws; and

WHEREAS, by Resolution JB 2015-3, the Joint Board authorized KYTC to procure the services of a business income insurance broker ("BII Broker") to assist the States' Parties in procuring and making decisions regarding the procurement of business income insurance ("BII"); and

WHEREAS, KYTC entered into a contract with a BII Broker for brokerage and an insurance policy for the period of August 7, 2015 through August 6, 2021, which was extended through June 20, 2022, then end of the insurance policy term;

WHEREAS, this Joint Board has determined that it is necessary to again procure the services of a BII Broker to assist the States' Parties in procuring and making decisions regarding the procurement of BII for periods after June 20, 2022, and through that BII Broker, to procure BII for periods after June 20, 2022;

NOW, THEREFORE, BE IT RESOLVED by this Joint Board that:

1. The Joint Board hereby authorizes KYTC to act as the Contracting Party with the full participation of the Non-Contracting Parties, and to undertake pursuant to KRS Chapter 45A (the "Statute") one or more procurements for the services of a BII Broker, and through that BII Broker, to procure BII ("the Contract").
2. In compliance with Paragraph 6.2 of the Joint Board Amended Bylaws, the procurement(s) and Contract shall be administered pursuant to Exhibit A hereto.

Approved this 27th day of November, 2021,

INDIANA FINANCE AUTHORITY

By: 
Dan Huges, Public Finance Director of the State of
Indiana

INDIANA DEPARTMENT OF
TRANSPORTATION

By: 
Joe McGuinness, Commissioner

KENTUCKY PUBLIC TRANSPORTATION
INFRASTRUCTURE AUTHORITY

By: 
Geri Grigsby, Vice Chair

KENTUCKY TRANSPORTATION CABINET


By: 
Jim Gray, Secretary

Exhibit A

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:

1. The Kentucky Parties and the Indiana Parties shall designate representatives to work with counsel and the Toll Services Advisor to develop the RFP and procurement processes for BII Broker services and BII. The RFP and the procurement processes shall meet the requirements of the Contracting Party's statutory and regulatory requirements.
2. The Kentucky Parties and the Indiana Parties shall each designate one (1) representative to a Selection Committee to work with counsel and the Toll Services Advisor to review RFP Responses and to make a collective recommendation of a preferred offeror to the Joint Board.
3. 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 one (1) representative to work with counsel and Toll Services Advisor on the direction of the work of the contractor selected to perform the BII Broker services on behalf of the Joint Board after the Contract has been awarded.
4. Payment obligations on the Contract shall be shared equally between the Indiana Parties and the Kentucky 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 selected provider in the Contract.
5. 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 any Party with the prior written consent of the other Parties shall be shared equally.
6. The Kentucky and Indiana Parties' representatives shall prepare reports as needed regarding the status of the Contract, which shall include a description of any material issues affecting proper completion, the schedule for performance, or the budget for any of the States' Parties, upon request. Such status reports shall be available for Joint Board Meetings and Tolling Body Meetings when requested.
7. It is the goal of this resolution to promote and insure joint coordination, management, and communication between the BII Broker services contractor and the States' Parties. The States' Parties' representatives shall require periodic team meetings to be scheduled with appropriate frequency to insure adequate coordination and progress of the BII Broker's work. In any instance where Project related communications are necessary without representatives of one of the States' Parties, the representative of the States' Party privy to the communication will make every reasonable effort to relay the specifics of the communications to the non-participating States' Parties' representatives in writing in a timely manner, ideally the same business day.

8. 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.
9. The final Contract will not be issued or executed without prior notice to, and unanimous approval of, the Non-Contracting Parties.
10. 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:
 - a) Invoices and contract payments on the Contract;
 - b) Claim determination;
 - c) Issuance of a Punch List;
 - d) Final approval or acceptance;
 - e) Approval of installation documents;
 - f) Approval of ongoing operations and maintenance work; and
 - g) Actions related to performance reviews of ongoing operations and maintenance work.
11. 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.
12. 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.
13. The States' Parties shall have equal access to work product generated pursuant to the Contract.
14. The States' Parties shall be named as express Third Party Beneficiaries to the Contract.
15. 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.

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