

RESOLUTION JB 2016-8

RESOLUTION OF JOINT BOARD AUTHORIZING KPTIA TO PROCURE HEARING OFFICERS

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 (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 (collectively, the “States’ Parties”); and

WHEREAS, the States’ Parties have undertaken to jointly toll the Project pursuant to the Development Agreement, the Interlocal Agreement and other applicable Project agreements and resolutions of this Board and the Tolling Body; and

WHEREAS, the toll system is to be administered pursuant to the laws of both Kentucky and Indiana; and

WHEREAS, KRS 175B.015 instructs KPTIA to establish an appeals process by which a person may contest a toll violation by way of an administrative hearing to be conducted in accordance with KRS Chapter 13B, which KPTIA did in 202 KAR 10:030E; and

WHEREAS, to provide administrative hearings pursuant to KRS Chapter 13B, the services of hearing officers, qualified pursuant to KRS 13B.030 and KRS 13B.040, must be obtained; and

WHEREAS, the Project is located in the Louisville-Southern Indiana area and because hearings will take place in both Louisville and Southern-Indiana to better serve customers, it is desired that hearing officers hearing protests related to the Project’s tolls be licensed in both Kentucky and Indiana.

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

1. The Joint Board authorizes KPTIA, on behalf of the Joint Board, to procure administrative hearing officer(s) pursuant to KRS Chapter 45A and enter into the related contract(s) as needed to provide the administrative hearings required.
2. Hearing officer(s) selected shall be qualified pursuant to KRS 13B.040. The hearings officers are to be licensed in both Indiana and Kentucky if at all possible.
3. The procurement(s) of hearing officer(s) shall be administered pursuant to this Board’s By-Laws. KPTIA shall act as the Contracting Party acting on behalf of the Joint Board for purposes of this procurement(s). The Contracting Party shall include the Non Contracting Parties as equal partners in the procurement(s)

4. The contract(s) for hearing officer(s) shall be administered pursuant to this Board's By-Laws and the following:
 - a. The Contracting Party is authorized to enter into, negotiate, execute, and deliver a contract with the hearing officer(s) selected pursuant to the procurement(s) in a form acceptable to the Contracting Party, with the consent of the Non Contracting Parties.
 - b. The Contracting party shall administer the contract(s) as authorized and directed by the Joint Board. The Kentucky State's Parties and the Indiana State's Parties shall each designate a representative for a total of two representatives to direct the work of the hearing officer(s) on behalf of the Joint Board after the contract(s) has been awarded.
 - c. Payment obligations on the contract(s) shall be shared equally by the Indiana State's Parties and the Kentucky State's Parties, and the contract(s) 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 in the contract(s).
 - d. The Contracting Party shall absorb all of its costs of administering and managing the contract(s). Each Non Contracting Party shall also absorb all of its internal costs associated with its duties hereunder and under the contract(s). Third party costs incurred by the Contracting Party with the consent of the Non Contracting Parties shall be shared equally.
 - e. 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(s), 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.
 - f. It is the goal of this resolution to promote and insure joint coordination, management, and communication between the hearing officer(s) 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 hearing officer(s). These team meetings will be scheduled with appropriate frequency to insure adequate coordination and progress of the hearing officer(s)'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.

- g. The Contracting Party shall maintain all of the books and records relating to the contract(s) and shall make them available to representatives of the Non Contracting Parties upon request.
- h. The final contract(s) will not be issued or executed without prior notice to, and unanimous approval of, the Non Contracting Parties.
- i. The following actions shall be the responsibility of the Contracting Party. No action or directives may be made on the contract(s) 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 payments on the contract(s);
 - ii. Claim determinations;
 - iii. Actions related to performance reviews
- j. Disputes amongst the representatives of the States' Parties as to administration of the contract(s) shall be submitted to the Joint Board for resolution according to the terms of the Development Agreement.
- k. The States' Parties shall have equal access to work product generated pursuant to the contract(s).
- l. Acts or Omissions of the Contracting Party that are contrary to or inconsistent with this Resolution shall be the sole cost and responsibility of the Contracting Party.

Approved this 30th day of November, 2016.

INDIANA FINANCE AUTHORITY

By: _____
Jim Stark
Designee of the Public Finance Director of
the State of Indiana

INDIANA DEPARTMENT OF
TRANSPORTATION

By: _____
Tony McClellan
Designee of the Commissioner of the
Indiana Department of Transportation

KENTUCKY PUBLIC TRANSPORTATION
INFRASTRUCTURE AUTHORITY

By: _____
William M. Landrum III
Designee of the Chair of the Kentucky
Public Transportation Infrastructure
Authority

KENTUCKY TRANSPORTATION CABINET

By: _____
Greg Thomas
Secretary of the Transportation Cabinet