

Change Order 10

**Louisville Southern-Indiana Ohio River Bridges Project
Toll Services Agreement**

**Modification of Pass-Through Cost Items
for Supplemental Customer Service Representatives and Supervisors**

Effective Date of [August 12, 2022]

Recitals

- A. On May 12, 2015, the Indiana Finance Authority (“IFA”), a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions, on behalf of the Joint Board (“Joint Board”) for the Louisville Southern Indiana Ohio River Bridges project (“LSIORB”), entered into the Toll Services Agreement, as amended, together with all Exhibits and prior amendments thereto (the “Agreement”) with Kapsch TrafficCom USA, Inc. (formerly known as Kapsch TrafficCom IVHS Inc.), a corporation organized under the laws of Delaware (“Toll System Provider” or “TSP”). The Joint Board and TSP are referred to herein as the “Parties”.
- B. The Term of the Agreement expires on December 31, 2023.
- C. In November 2020, in order to achieve more consistency and predictability in meeting actual and anticipated level of customer service needs for users of the Bridges and Toll Collection Services, the Parties entered into Change Order 07, by which the Parties agreed to implement certain changes to the Performance Requirements in the Toll Services Agreement, and certain Liquidated Damages associated with customer wait times and abandoned calls, and to further modify Exhibit N of the Agreement to reflect the Parties’ agreement to reimburse TSP, at agreed hourly rates, for supplemental Customer Service Representatives and Supervisors (as defined in Section I(A) below) dedicated full-time to the Project in excess of the 20 Customer Service Representatives and two Supervisors dedicated to the Project full-time that are paid for at TSP’s sole cost and expense.
- D. To account for the general increase in labor rates nationally, the Parties have determined that it is in their best interests and in that of the Toll Collection System to implement certain adjustments to the agreed hourly rates for the supplemental Customer Service Representatives and supplemental Supervisors for the remainder of Contract Year 6 and for Contract Year 7.

Capitalized terms used, but not defined, in this Change Order shall have the meanings described in, and all Section and Exhibit references shall be to, the Agreement.

The Parties mutually agree that the Agreement (which includes the recitals herein) is hereby amended as follows:

Section I – Narrative, Discussion of Additions, Deletions, Modifications to the Toll Services Agreement

A. Amendment to Exhibit H – PASS-THROUGH COST ITEMS

1. The Parties mutually agree that Exhibit H to the Agreement shall be amended as follows (modified, supplemental language is underlined and deleted language is in strikethrough):

Supplemental Customer Service Representatives
<p>As used herein “Customer Service Representative(s)” means TSP representatives who respond to telephonic inquiries at or through TSP’s call center. As used herein, “Supervisor(s)” means staffing utilized to supervise the Customer Service Representatives only.</p>
<p><u>Beginning with the first full month after the Effective Date of this Change Order on June 1, 2022:</u> per hour for Contract Year 56, with a two percent (2%) annual increase for each subsequent contract year for each Customer Service Representative utilized by TSP in excess of 20 full time Customer Service Representative staff dedicated to the Project (up to a maximum of 160 hours per month for each Customer Service Representative). For clarity, the first 20 full time Customer Service Representatives shall be paid for at the sole cost and expense of TSP, and the Joint Board will reimburse TSP at the hourly rate of for Contract Year 56, <u>beginning as of June 1, 2022, with a two percent (2%) annual increase for each subsequent contract year</u> for Customer Service Representatives utilized by TSP in excess thereof. For every 15 supplemental Customer Service Representatives (<i>i.e.</i>, those in excess of the baseline of 20 that shall be paid for at TSP’s sole cost and expense), the Joint Board also will reimburse TSP for one supplemental Supervisor dedicated full-time to the Project (which shall be in excess of the two Supervisors dedicated to the Project full-time that are paid for at TSP’s sole cost and expense) at the hourly rate of for Contract Year 56, <u>beginning as of June 1, 2022, with a two percent (2%) annual increase for each subsequent contract year</u> (up to a maximum of 160 hours per month for each Supervisor). Amounts for which TSP seeks reimbursement under this provision shall be accompanied with such back-up information as required by the Joint Board or its representatives, including that from which the hours worked and full-time dedication to the Project of all Customer Service Representatives and Supervisors can be verified. <u>A sample of the back-up documentation has been provided as attachment A by the TSP and has been agreed upon between the TSP and the Joint Board that the sample provided will be used as backup documentation to the invoice. The IFA, on behalf of the Joint Board, reserves the right to request additional supporting documentation. The Joint Board shall make payment, or cause payment to be made, within 30 days of receipt of an approved invoice from TSP.</u></p>

Beginning on January 1, 2023: per hour for Contract Year 7 for each Customer Service Representative utilized by TSP in excess of 20 full time Customer Service Representative staff dedicated to the Project (up to a maximum of 160 hours per month for each Customer Service Representative). For clarity, the first 20 full time Customer Service Representatives shall be paid for at the sole cost and expense of TSP, and the Joint Board will reimburse TSP at the hourly rate of for Contract Year 7 for Customer Service Representatives utilized by TSP in excess thereof. For every 15 supplemental Customer Service Representatives (i.e., those in excess of the baseline of 20 that shall be paid for at TSP's sole cost and expense), the Joint Board also will reimburse TSP for one supplemental Supervisor dedicated full-time to the Project (which shall be in excess of the two Supervisors dedicated to the Project full-time that are paid for at TSP's sole cost and expense) at the hourly rate of for Contract Year 7 (up to a maximum of 160 hours per month for each Supervisor). Amounts for which TSP seeks reimbursement under this provision shall be accompanied with such back-up information as required by the Joint Board or its representatives, including that from which the hours worked and full-time dedication to the Project of all Customer Service Representatives and Supervisors can be verified. A sample of the back-up documentation has been provided as attachment A by the TSP and has been agreed upon between the TSP and the Joint Board that the sample provided will be used as backup documentation to the invoice. The IFA, on behalf of the Joint Board, reserves the right to request additional supporting documentation. The Joint Board shall make payment, or cause payment to be made, within 30 days of receipt of an approved invoice from TSP.

Beginning in or around November_____, 2020, and each quarter thereafter, TSP shall submit a budget, for the Joint Board's Authorized Representatives' approval, showing the number of Customer Service Representatives it intends to utilize and the anticipated costs for which TSP anticipates seeking reimbursement for the supplemental Customer Service Representatives and Supervisors hereunder. The Joint Board's financial responsibility for that quarter shall not exceed the amount identified in the budget unless otherwise agreed to in writing by the Joint Board Authorized Representatives. In case the Joint Board or its Authorized Representatives withhold approval for the staffing plan provided by the TSP, the TSP shall not be liable for the Liquidated Damages that are added to the Toll Services Agreement under Section 6.1.B of this Change Order 07. So long as the staffing plan proposed by the TSP reflects staffing levels reasonably related to previous call volumes. Additionally, in case the Joint Board or its Authorized Representatives or contractors schedule an event or activity that requires changes to the staffing levels after the budget for that quarter has been approved, the TSP shall be entitled to recover and be reimbursed for costs for additional staff in coordination with the Joint Board if the schedule allows for appropriate staffing.

If the event is scheduled in a manner that the TSP cannot add additional staff in time, the TSP shall notify the Joint Board in advance and no Liquidated Damages shall be added to the Toll Services Agreement under Section €1.B of this Change Order 07 as a result of such event or activity ~~shall be applied~~.

For clarity and ease of administration, the parties agree that the Pass-through reimbursement amount per hour shall be _____ for each Customer Service Representative and _____ for each Supervisor for Contract Year ~~56~~, beginning on June 1, 2022, and shall be _____ for each Customer Service Representative and _____ for each Supervisor for Contract Year 7, beginning on January 1, 2023, ~~with a two percent (2%) annual increase for each subsequent contract year~~ and represents full payment ~~for the~~ of the TSP's direct and indirect costs associated with the supplemental Customer Service Representatives and Supervisors. The Joint Board's right to audit and inspect all books and records as provided in the Toll Services Agreement, including the right to audit all payroll and claimed expenses for which TSP seeks reimbursement, shall apply. Nothing herein shall relieve TSP of its obligations to comply with the CSC and WUC levels of service required by the Technical Requirements. For the approval of the cost for the reimbursement amount for additional Customer Service Representatives and Supervisors, TSP shall provide a list of Customer Service Representatives and Supervisors working on the Project over the past month, and provide the number of hours by date that each staff was dedicated to the Project, substantially similar to the sample report attached as Appendix A and herein incorporated by reference.

Section II – Cost Impact(s)

A. Summary

1. During Year 6, which has been defined as the months of June 2022 through December 2022, the States' Parties shall pay the TSP, at the hourly rate of _____ for each supplemental Customer Service Representative (as defined in Section I(A) above) dedicated full-time to the Project that was utilized by TSP in excess of 20 full time Customer Service Representatives dedicated to the Project full-time during such period. For such months, the States' Parties shall also pay the TSP, at the hourly rate of _____ for Supervisors (as defined in Section I(A) above) that were utilized to supervise each 15 supplemental Customer Service Representatives. Such payments shall be subject to verification of hours worked and full-time dedication to the Project of all Customer Service Representatives and Supervisors during the applicable period. The total change in price due to this change for the period beginning on June 1, 2022 through the last complete month prior to the Effective Date of this Change Order, subject to verification by Joint Board Representatives of hours worked and full-time dedication to the Project of all Customer Service Representatives and Supervisors during the applicable months, is an increase in the contract price of \$ _____.

2. During Year 7, which has been defined as the months of January 2023 through December 2023, the States' Parties shall pay the TSP, at the hourly rate of _____, for each supplemental Customer Service Representative (as defined in Section I(A) above) dedicated full-time to the Project that was utilized by TSP in excess of 20 full time Customer Service Representatives dedicated to the Project full-time during such period. For such months, the States' Parties shall also pay the TSP, at the hourly rate of _____, for Supervisors (as defined in Section I(A) above) that were utilized to supervise each 15 supplemental Customer Service Representatives. Such payments shall be subject to verification of hours worked and full-time dedication to the Project of all Customer Service Representatives and Supervisors during the applicable period.

3. The Parties agree that the hourly rates for the supplemental Customer Service Representatives and Supervisors shall be allocated between TSP, and TSP's Subcontractor, Gila, Inc. d/b/a Municipal Services Bureau ("MSB"), as shown in the tables below. The maximum allocation to TSP in 2022 is _____ per hour for supplemental Customer Service Representatives and _____ per hour for supplemental Supervisors. The maximum allocation to TSP in 2023 is _____ per hour for supplemental Customer Service Representatives and _____ per hour for supplemental Supervisors.

Contract Year 6 – Rate Taking Effect June 2022

	MSB	MSB	MSB	TSP	MSB + TSP
	Hourly Labor Rate	Fixed Cost Allocation - Equipment	Hourly Labor Rate + Fixed Cost Allocation	Administrative Cost	Revised Hourly Rate (Labor Rate + Costs)
CSR					
Supervisor					

Contract Year 7 – Rate Taking Effect January 2023

	MSB	MSB	MSB	TSP	MSB + TSP
	Hourly Labor Rate	Fixed Cost Allocation - Equipment	Hourly Labor Rate + Fixed Cost Allocation	Administrative Cost	Revised Hourly Rate (Labor Rate + Costs)
CSR					
Supervisor					

B. Basis for Change Order Price

1. The total price for payment for supplemental Customer Service Representatives and Supervisors for the period beginning on June 1, 2022 through the last complete month prior to the Effective Date of this Change Order is based on hourly rates of _____ for Customer Service Representatives, and _____ for Supervisors, as illustrated below:

Customer Service Representatives (CSRs)

Months	Baseline CSRs paid for by TSP	Actual CSRs per MOR	Reimbursable CSRs per CO	Reimbursable Hrs per CO	Hourly Rate per CO	Reimbursable Amount per CO
June 2022	20			160		
July 2022	20			160		
Aug 2022	20			160		
Subtotal for CSRs						\$
Supervisors (Sups)						
Months	Baseline Sups paid for by TSP	Actual Sups per MOR	Reimbursable Sups per CO	Reimbursable Hrs per CO	Hourly Rate per CO	Reimbursable Amount per CO
June 2022	2			160		
July 2022	2			160		
Aug 2022	2			160		
Subtotal for Supervisors						\$
Total Amount						\$.00¹

The total change in price due to these two changes is an increase in the contract price (Exhibit C, Form G-1 (line CP-016) of \$ _____¹ (“Change Order Price”) as shown below:

Item	Change in Price
Reimbursement for Supplemental CSRs and Sups	\$ ¹
Total Change	\$¹

¹ This portion of the change order price remains subject to verification by Joint Board Representatives of hours worked and full-time dedication to the Project of all Customer Service Representatives and Supervisors during the applicable periods.

C. Payment of Change Order Price

The Joint Board will pay the Change Order Price to TSP in a single lump sum payment upon verification by the Joint Board Authorized Representatives of hours worked and full-time dedication to the Project of all Customer Service Representatives and Supervisors during the applicable period (June 1, 2022 – through the last complete month prior to the Effective Date of this Change Order) identified herein. TSP’s sole compensation for the Work described herein shall be the Change Order Price. TSP shall not be entitled to any other adjustments to the Contract Price in connection with this Change Order. Acceptance of this Change Order does not relieve TSP of its obligations to comply with the levels of service and other requirements set forth in the Technical Requirements or otherwise in the Agreement. The Indiana Finance Authority, on behalf of the Joint Board, reserves all rights under the Agreement.

¹ This portion of the change order price remains subject to verification by Joint Board Representatives of hours worked and full-time dedication to the Project of all Customer Service Representatives and Supervisors during the applicable periods.

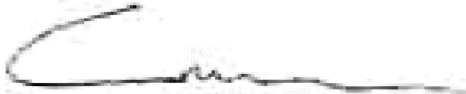
SECTION III – Project Schedule Deadline Impact

There will be no impact to the schedule due to matters in this Change Order.

SECTION IV (Reviewed and recommended for agreement by Toll System Provider's Program Manager)

The undersigned Authorized Representative of the Toll System Provider hereby certifies, under penalty of perjury, as follows:

1. Sections I, II and III of this Change Order collectively represent a true, accurate, and complete summary of all aspects of this Change Order.
2. The amounts of time and/or compensation set forth in this Change Order: (a) are, in each case, justified as to entitlement and amount; (b) reflect all changes to compensation for and scheduling of the Project (inclusive of all Subcontractor and Supplier amounts, impacts); (c) are complete, accurate, and current; and (d) in each case, the amounts of time, if any, and/or compensation, if any, agreeable to, and are hereby agreed by, Toll System Provider.
3. This Change Order includes all known and anticipated impacts or amounts, direct, indirect and consequential, which have been and may be incurred by Toll System Provider as a result of the event, occurrence, or matter giving rise to this Change Order.
4. It is understood and agreed that this Change Order shall not alter or change, in any way, the force and effect of the Contract Documents, including any previous amendment(s) thereto, except insofar as the same is expressly altered and-amended by this Change Order.
5. This Change Order supersedes all prior commitments, negotiations, correspondence, conversations, agreements, or understanding applicable to the issues addressed herein. No deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written, other than the Agreement, as amended in accordance with its terms.
6. This Change Order is binding upon, and shall inure to the benefit of, each of the Parties and their respective heirs, personal representatives, successors, and assigns.





Toll System Provider's Program Manager

Date: 12 August, 2022

Comments:

SECTION V (Reviewed and recommended by States' Parties Authorized Representatives)

By: 
Name: Amanda Spencer, P.E.
Title: Innovative Finance Manager, KYTC
Date: 8/12/22

By: 
Name: Jerry M. Hoover
Title: INDOT Director of Operations Ohio River Bridges
Date: 8/12/2022

SECTION VI (Agreed by IFA's Authorized Representative)

IN WITNESS WHEREOF, the IFA, intending to be legally bound, has executed this Change Order as of the date first written above.

Date: August 12, 2022 app
(the effective of this Change Order)

IFA

INDIANA FINANCE AUTHORITY

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

ATTACHMENT A – Sample Backup Documentation:



ORB Billable Hours
Report -December'21