



Agenda Item No. (6)

To: Finance-Auditing Committee/Committee of the Whole  
Meeting of November 19, 2020

From: Jennifer Mennucci, Director of Budget and Electronic Revenue  
Joseph M. Wire, Auditor-Controller  
Denis J. Mulligan, General Manager

Subject: **AUTHORIZE THE GENERAL MANAGER TO EXECUTE  
AMENDMENTS TO CONTRACTS 2014-B-4 AND 2017-B-04 WITH  
KAPSCH TRAFFICOM USA RELATING TO MAINTENANCE AND  
REPLACEMENT OF THE TOLL COLLECTION SYSTEM**

### **Recommendation**

The Finance-Auditing Committee recommends that the Board of Directors authorize the General Manager to execute amendments to two agreements with Kapsch TrafficCom USA, Inc. ("Kapsch") for the maintenance and replacement of the toll collection system, to extend and clarify the implementation schedule for the interim toll collection system, in conformance with a binding term sheet agreed to by Kapsch, and in a form approved by Legal Counsel. These amendments do not increase the authorized contract budget for these services.

This matter will be presented to the Board at its November 20, 2020 meeting for appropriate action.

### **Summary**

The toll collection system at the Bridge Toll Plaza is the essential technical tool that enables the Golden Gate Bridge, Highway and Transportation District (District) to collect tolls, the main source of revenue for the District. This item concerns two agreements related to the toll system—the agreement for maintaining the existing toll system at the end of its life, and the agreement to replace the existing toll system. This proposed action essentially extends the implementation schedule of the interim replacement toll system an additional eight months. In addition, Kapsch agrees to stabilize and maintain the current toll system at no change to the cost of implementation or current monthly maintenance costs.

### **Maintenance of the Toll Collection System 2014-B-4**

At its meeting on October 25, 2013, the Board authorized the award of a Contract No. 2014-B-4, Maintenance of the Toll Collection System (Maintenance Agreement), to Kapsch, Inc. for the continued maintenance of the toll collection system software system. The original contract with Kapsch was for two years, in a not-to-exceed amount of \$470,000. To accommodate the time

required for completion of the gantry and the need for continued maintenance of the existing toll system, the agreement has been amended four times. Each amendment extended the contract for an additional one or two year(s), and the latest expires on March of 2021 with the contract continuing on a month-to-month basis after expiration.

In the course of the Maintenance Agreement, irregular turnover and consistency of staff has resulted in a lack of continuity that impacts Kapsch's performance. Due to the age of the toll system and related toll system hardware, there is a lack of knowledgeable resources to adequately resolve system issues in a timely manner. As the existing toll system continues to age, the effects of the issues addressed above are exacerbated resulting in inefficient operation of the toll system. The actions in this item will greatly improve the situation by facilitating the implementation of the new toll collection system.

#### **Replacement Toll Collection System 2017-B-04**

The Board authorized the award of Contract No. 2017-B-04, Replacement Toll Collection System, (Implementation Agreement), to Kapsch in the amount of \$3,237,139 for the implementation of a new toll collection system. The Implementation Agreement provided that Kapsch would implement a replacement toll collection system by December 2018 on a gantry. Because the new toll collection system was to be implemented on a newly constructed gantry structure, the implementation of that replacement toll system has been delayed to allow for the completion of the gantry. However, the District needed to comply with the California toll policies which called for a new technology using 6C protocols to be implemented in January 2019. As a result, the District moved forward with implementing the software for the 6C protocol with the understanding the hardware would follow when the gantry design was complete.

On April 6, 2020, the District executed a Board approved amendment with Kapsch for the implementation of an interim toll system because the existing electronic toll equipment is no longer efficient in toll collection due to the aging hardware and software, and the gantry has not been constructed. The interim toll system will improve the toll collection process by using modernized equipment and updated technology to capture more effectively and efficiently the required transaction information. The estimated cost approved for design, hardware, software and implementation of the interim toll system is \$1,734,673. Maintenance and operational costs for the interim toll system are \$36,881 per month. Maintenance and operation of the interim toll system were expected to begin on December 15, 2020.

In the months following execution of the interim toll system amendment, Kapsch has experienced delays related to system design resulting in an overall project schedule delay in the implementation of the interim toll collection system. In addition, the District and Kapsch have not been able to agree as to whether some critical items are within the contracted-for scope of work. Lastly, Kapsch missed its deadline for delivering the final design documents, which were scheduled for completion by June 24, 2020 triggering the need for this proposed schedule extension proposal.

At this time, because the design of the gantry is not complete, the construction of the gantry is delayed - preventing the implementation of the replacement toll collection system on a gantry structure. Furthermore, the need for the interim toll system grows more urgent as it is increasingly

difficult to procure or build the necessary hardware to keep the old existing toll system functioning. While Kapsch is not the only firm that could provide an interim toll system, the District has continued with Kapsch rather than transitioning to another contractor due to likely further delays and ultimately might have an impact on the implementation of the gantry-based system which is already contracted to be implemented by Kapsch.

### **Contract Re-Set**

While originally contemplated as two entirely separate contracts, the Maintenance Agreement and the Implementation Agreement have become inextricably intertwined as the challenges of maintaining the existing aged toll system while implementing a new toll system have grown. Therefore, it became apparent that a holistic approach to resolve issues arising in both contracts would be the best path forward.

The District has set a new course that attempts to resolve the issues in both agreements in a way that avoids risks associated with: (a) incomplete maintenance of the existing toll system; and, (b) delayed implementation of the replacement system. The District has negotiated a contract reset with Kapsch that, if approved by the Board, will require amendments to both Agreements.

The negotiated contract reset will provide Kapsch with eight additional months to complete the implementation of the interim toll system, while reallocating the risk between the parties in the event of further delay. This effectively minimizes the risk of additional delays, while better protecting the District in the event such delays occur. In addition, Kapsch's obligations and scope of work, as is related to maintenance of the existing aged toll collection system, contract 2014-B-4, are clarified in a manner that is advantageous to the District. The contract reset also requires that Kapsch improve its performance in the maintenance realm with an adequately resourced team.

The negotiated contract reset includes the following specific agreements:

1. Resets the milestones and related liquidated damages for implementation of the interim toll system, including an updated calculation of the liquidated damages to reflect the District's damages.
2. Incentivizes Kapsch by giving Kapsch the opportunity to avoid liquidated damages accrued to date by meeting all performance requirements under the amended Maintenance Agreement through implementation of the interim toll system.
3. Updates assessments, and increases the cap on assessments, for Kapsch's failure to meet performance requirements under the Maintenance Agreement through implementation of the interim toll system.
4. Incorporates increased functionality that Kapsch will provide at no cost to the District.
5. Requires Kapsch to provide a committed maintenance team, including dedicated subcontractors, responsible for the full management of maintenance of the current toll system. The District will pay for subcontractors to assist in building toll system expertise needed quickly. Furthermore, Kapsch must provide additional resources to resolve expeditiously its performance issues.

6. Clarifies the change order process.
7. Revises payment milestones to incentivize Kapsch's performance and protect the District from paying for hardware until it is assured that Kapsch's approach will be successful.
8. Extends the "go-live" date for implementation of the interim toll system from December 15, 2020 to July 10, 2021.

The proposal detailed above better protects the District, reallocates the risk between the parties in the event of further delay, and provides an improved incentive for Kapsch to recommit its maintenance efforts around the existing, aging system.

### **Fiscal Impact**

There is minimal fiscal impact associated with this item. The approved capital expense for contract 2017-B-4 for the implementation of the interim replacement toll system is not impacted and remains at \$1,734,673. The monthly maintenance amounts when this system is implemented also remains the same as Board approved in April 2020 at \$36,881 per month.

The District would agree to pay an estimated \$8,000-\$12,000 a month during the implementation of the new toll collection system for subcontractor work that the District agrees upon with Kapsch to expedite resolving current priority issues and building expertise in the maintenance of the current system. Currently the District pays approximately \$23,900 a month for maintenance so with the additional cost of the subcontractors, the monthly maintenance budget will be similar to what the District was planning to be paying if the interim toll replacement system was implemented per its original schedule.