

Non-Competitive Contract with Kone Inc. for Escalator Maintenance and Repair Work at Union Station

Date: June 23, 2023

To: General Government Committee

From: Executive Director, Corporate Real Estate Management and Chief Procurement Officer

Wards: 10 - Spadina-Fort York

SUMMARY

The purpose of this report is to request City Council authority to enter into a non-competitive contract to pay for various escalator maintenance and repair work completed by Kone Inc. at Union Station for a total amount of \$43,588 net of all taxes and charges (\$44,355 net of Harmonized Sales Tax (H.S.T.) recoveries).

A non-competitive Purchase Order is needed to process payment for services performed by the vendor during the warranty period for escalators installed at Union Station. It has been determined that these services were not covered under the warranty, as the need for services were not preventable through routine maintenance, and therefore outside the scope of services the warranty covers.

City Council approval is required in accordance with Municipal Code Chapter 195- Purchasing, where the current request exceeds the Chief Purchasing Officer's authority of the cumulative five year commitment for each supplier, under Article 7, Section 195- 7.3 (D) of the Purchasing By-Law or exceeds the threshold of \$500,000 net of HST allowed under staff authority as per the Toronto Municipal Code, Chapter 71- Financial Control, Section 71-11A.

RECOMMENDATIONS

The Executive Director, Corporate Real Estate Management and the Chief Procurement Officer recommend that:

1. City Council authorize the Executive Director, Corporate Real Estate Management in accordance with Section 71- 11.1C of the City of Toronto Municipal Code Chapter 71 (Financial Control By-law), to execute a Non-

Competitive Purchase Order, for a total value of \$43,588 net of all taxes and charges (\$44,355 net of Harmonized Sales Tax recoveries).

FINANCIAL IMPACT

The value of the Purchase Order identified in this report is \$43,588 net of all taxes and charges (\$44,355 net of H.S.T. recoveries).

Funding for the requested Purchase Order is included in the Corporate Real Estate Management 2023 Approved Operating Budget in cost centre FA0260-4430, GL 3210300000 as summarized in Table 1 below (net of H.S.T.).

Table 1: Financial Impact Summary

Cost Centre	GL Code	Description	2023	Total (Net of H.S.T. Recoveries)
FA0260-443	3210300000	Escalators Repairs	\$43,588	\$44,355

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on November 28, 2018, Bid Award Panel adopted item BA111.1, authorizing the award of multiple to blanket contracts for a total contract award value of \$31,224,369 net of all taxes (31,773,917 net of H.S.T. recoveries) to Schindler Elevator Corporation for Elevator Maintenance Services at Various City of Toronto Locations. <https://secure.toronto.ca/council/agenda-item.do?item=2018.BA111.1>

At its meeting on June 26, 2018, City Council adopted item GM28.24, authorizing the issuance of a bridging contract to Kone Inc. in the amount of \$977,865 net of all taxes (\$995,075 net of H.S.T. recoveries) for the period from July 1, 2018, to December 31, 2018, under the same terms, conditions, and pricing of Contract 47017557 for the non-exclusive supply, delivery, installation, and warranty of comprehensive maintenance service of elevating devices for various City of Toronto locations. <https://secure.toronto.ca/council/agenda-item.do?item=2018.GM28.24>

COMMENTS

Background

On February 28, 2021, the City completed the installation of nine new escalators in Union Station as part of the Union Station Revitalization Project through the general contractor delivering the project at the time, Bondfield Construction Company Limited.

The escalators installed provide service and barrier free access to various areas within Union Station and are heavily used especially during peak business hours. Pedestrian flow is essential to safe and efficient operations at Union Station, and these escalators play a key role in this as well. For these reasons, it is critical to have these escalators operational at all times, and any maintenance or repairs required are done so in an expedited fashion.

As part of this installation, the original equipment manufacturer and installer, Kone Inc., provided a two-year warranty on parts and equipment, contingent that they were also the sole provider of all required maintenance and repair work during that period. Call-back maintenance, which includes any maintenance rework, are not covered under the warranty if it is not deemed preventable through routine maintenance, and are therefore billable to the City.

Non-Routine Maintenance Work

Routine maintenance is typically scheduled and was performed satisfactorily. From time to time non-routine maintenance, or call-backs, were required to both diagnose issues and service the units to place them back into service. A few examples of these call backs include activation of units that have been shut off due to the triggering of safety related mechanisms that shut down the escalator upon sensing excessive force. As per the Technical Standards and Safety Authority (T.S.S.A.), only a certified competent escalator technician can reset an escalator after a safety fault or when a device has been de-activated. For example, jewellery, debris and other foreign objects periodically get stuck causing a safety device to trip at which point Kone Inc. would be called in to inspect the unit, make the necessary adjustments, and place the unit back in service. While on site to inspect and bring the units back into service, Kone Inc. would determine the cause of the issue. If the cause of the fault is not deemed preventable through routine maintenance, these services would be billable to the City, otherwise the service would be covered through the warranty.

Required Maintenance Performed Outside Regular Business Hours

The warranty also only covered maintenance performed during regular business hours. The City was not able to safely shut down and work on the escalators during regular business hours as these units were critical to the barrier free access and flow of pedestrians through Union Station. Required maintenance, including safety code testing and maintenance, along with replacement of equipment required due to defect or wear and tear, were performed by Kone Inc. and covered by the warranty. However, the City was obligated to pay for the labour costs associated with having this work performed outside of regular business hours, which is standard business practice. From the period of April 2021 to March 2023, the City proceeded to have Kone Inc. perform the work in a prompt manner to ensure the safe operation of the escalators and to avoid service disruption, while it worked with Kone Inc. over this period to validate and ensure these services were in fact not covered under warranty and were billable. Staff have reviewed and validated services performed from April 2021 and March 2023 and determined some services are billable and will be proceeding to process payment for these rendered services through the non-competitive Purchase Order for a total amount of

\$43,588 net of all taxes and charges (\$44,355 net of H.S.T. recoveries) requested through this report.

Requirement for a Non-Competitive Purchase Order for Services Rendered

While the City does have a City-wide elevating devices maintenance contract in place, utilizing this contract was not an option for addressing these service needs as the warranty for these escalators stipulated that Kone Inc. perform necessary maintenance and replacement or risk voiding the warranty. Typically when a vendor installs equipment the contract for the installation would carry an amount to cover work that is billable but performed during a warranty period. In this instance, the installation was procured through a third party general contractor as part of the broader Union Station Revitalization Project and the City did not have a direct relationship with Kone Inc. and no contract in place to cover billable services over the warranty period. Alternatively, a Divisional Purchase Order or low value contract can be issued to the vendor as costs during this period are typically low. However, in 2018, just prior to the award of the current City-wide elevating devices with Schindler, City Council approved a non-competitive bridge contract with Kone Inc. in the amount of \$977,865 net of all taxes (\$995,075 net of H.S.T. recoveries) for the period from July 1, 2018, to December 31, 2018. This bridge was to ensure these critical elevating devices maintenance services continued and allowed for sufficient time needed to award and execute a new City-wide contract, as the previous contract had expired. Only approximately \$170,000 of the total \$977,865 was required during this period as the award, execution and transition to the new City-wide contract in 2019 proceeded faster than anticipated. This bridge contract was subsequently closed out. Since the cumulative value of non-competitive procurements with Kone Inc. in the last five years exceeds the allowable \$500,000 threshold, any further non-competitive awards to this vendor for similar services requires authorization from Council, as per the City of Toronto Non-Competitive Procurement Procedure.

The warranty period has expired as of February 28, 2023. Staff took the necessary steps to ensure the servicing and maintenance of these escalators are included in the City-wide elevating devices contract with Schindler Elevator Corporation (Contract 47021864) and no further work will be required from Kone Inc. going forward.

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SIGNATURE

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