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**BLUE ROUTE SHEET - CITY MANAGER REVIEW/APPROVAL REQUIRED**

Originating Department: Facilities Date Submitted: 4/13/21 Return To: Dawn Phone Ext.: 2242

(1) Document: Amendment #1 with Kone, Inc  
[NAME OF DOCUMENT AND CONTRACTOR/OTHER PARTY]

- (2) Indicate signature authority:
- Electric, Water and Sewer Service Agreements with a value of \$150,000 or less and All Other Service Agreements with a value of \$100,000 or less per Ordinance 1941 (CC Action – June 16, 2015)
  - Miscellaneous Agreements including those that allow the use of the City name; rental agreements for City-owned property; licensing or conditional use agreements; confidentiality agreements; nondisclosure agreements; and partnership, cost sharing, in-kind and service agreements with other public or private entities per Resolution 6603 (CC Action - July 13, 1999)
  - Certificate of Acceptance for Designated Property Interests per Resolution 5600 (CC Action – May 28, 1991)
  - Routine Police Agreements including the use of City facilities; off-duty officers; special events; hold harmless and indemnification agreements from third parties; and releases of liability per Resolution 6000 (CC Action - April 4, 1995)
  - Other: \_\_\_\_\_

(3) Cost impact: NA - City Manager Approval

(4) **FINANCE**

Was this service budgeted for this fiscal year?

Yes

No. If no, please describe below how the department will fund this unbudgeted service and consult with department's assigned budget analyst to ensure that there is sufficient funding.

(5) Is insurance compliant?

Yes, per attached EBIX printout.

No, this agreement requires Risk Management review.

(6) Department head originating agreement: *[Signature]*  
[SIGNATURE]

(7) **RISK MANAGEMENT**

Please describe why contract does not require EBIX approval:

Approved: \_\_\_\_\_ Date: \_\_\_\_\_  
[RISK MANAGER]

(8) **CITY ATTORNEY'S OFFICE**

Approved as to form: *[Signature]* Date: 4/20/21

[CITY ATTORNEY/AUTHORITY COUNSEL]

Assignment Number: A21.0189  
Reviewing Attorney's Initials: CA

(9) **CITY CLERK'S OFFICE**

Attached: 1 original(s) \_\_\_\_\_ copy(ies)

\_\_\_\_\_ Transmit the attached original / copy to contractor

1 Fully executed original on file in City Clerk's Office

emailed to Dawn Date Processed by Clerk's Office: 04-26-21

**AMENDMENT NO. 1  
TO THE AGREEMENT FOR SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
KONE, INC.**

**PREAMBLE**

This agreement ("Amendment No. 1") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and KONE, Inc., a California corporation, (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

**RECITALS**

- A. The Parties previously entered into an agreement entitled "Agreement for Services between the City of Santa Clara, California, and KONE, Inc., dated March 4, 2021 (Agreement); and
- B. The Parties entered into the Agreement for the purpose of having Contractor provide citywide elevator maintenance and repair services, and the Parties now wish to amend the Agreement to add services for the City's Library facilities.

NOW, THEREFORE, the Parties agree as follows:

**AMENDMENT TERMS AND CONDITIONS**

1. Section 6 of the Agreement, entitled "COMPENSATION AND PAYMENT" is hereby amended to read as follows:

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with Revised Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement for scheduled services shall not exceed Two Hundred Three Thousand Five Hundred Forty-Two Dollars and Twenty Cents (\$203,542.20), and the maximum compensation for unscheduled as-needed repair services including materials shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000), for a total not to exceed maximum compensation of **Four Hundred Fifty-Three Thousand Five Hundred Forty-Two Dollars and Twenty Cents (\$453,542.20)** during the Initial Term, subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in excess of the maximum compensation

shall be at Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance.

2. Exhibit A2 of the Agreement as Amended, entitled "Schedule of Performance" is hereby amended to read as shown in Revised Exhibit A2, attached herein.
3. Exhibit B of the Agreement as Amended, entitled "Schedule of Fees" is hereby amended to read as shown in Revised Exhibit B, attached herein.
4. Except as set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect. In case of a conflict in the terms of the Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 1 as evidenced by the following signatures of their duly authorized representatives.

**CITY OF SANTA CLARA, CALIFORNIA**  
a chartered California municipal corporation

Approved as to Form:

  
\_\_\_\_\_  
BRIAN DOYLE  
City Attorney

Digitally signed by Caio  
Arellano  
Date: 2021.04.20 11:05:03  
-07'00'

Dated:

4/23/2021  
  
\_\_\_\_\_  
DEANNA J. SANTANA  
City Manager  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

"CITY"

**KONE, INC.**  
a California corporation

Dated: 03/24/2021  
By (Signature): Josh Miller  
Name: Josh Miller  
Title: Service Sales Manager  
Principal Place of Business Address: 15021 Wicks Blvd  
San Leandro, CA 94577  
Email Address: josh.miller@kone.com  
Telephone: (510) 502-9049  
Fax: N/A  
"CONTRACTOR"

**REVISED EXHIBIT A2  
SCHEDULE OF PERFORMANCE**

<b>Line Number</b>	<b>Service Level</b>	<b>Location</b>	<b>Location Address</b>	<b>Service Hours</b>	<b>Equipment</b>	<b>Equipment #</b>	<b>Frequency of Service</b>
1	Basic Plan	City Hall	1500 Warburton Avenue	8am-5pm, M-F	Passenger-Hydro	50162	Quarterly
2	Basic Plan	Fire Station 2	1900 Walsh Avenue	8am-5pm, M-F	Passenger-Hydro	127099	Quarterly
3	Base with 24/7 Connected Service	Police Department	601 El Camino Real	24/7	Passenger-Hydro	118614	Quarterly
4	Base with 24/7 Connected Service	Police Department	602 El Camino Real	24/7	Passenger-Hydro	118615	Quarterly
5	Base with 24/7 Connected Service	Santa Clara Recreation Center	969 Kiely Blvd.	As Needed	Stage Lift	126652	Annually
6	Basic Plan	Berman Building	1405 Civic Center Drive	8am-5pm, M-F	Passenger-Hydro	40408	Quarterly
7	Base with 24/7 Connected Service	Gun Range	1990 Walsh Avenue	8am-5pm, M-F	Dumbwaiter	102595	Annually
8	Base with 24/7 Connected Service	Santa Clara Senior Center	1303 Fremont Street	8am-5pm, M-F	Passenger-Hydro	138485	Quarterly
9	Base with 24/7 Connected Service	Santa Clara Senior Center	1303 Fremont Street	8am-5pm, M-F	Passenger-Hydro	67312	Quarterly
10	Base with 24/7 Connected Service	Santa Clara Senior Center	1303 Fremont Street	As Needed	Stage Lift	62646-I	Annually
11	Basic Plan	Donald Von Raesfeld Power Plant	850 Duane Avenue	8am-5pm, M-F	Passenger-Hydro	135821	Quarterly
12	Advanced Plan	Tasman Garage	2525 Tasman Ave	24 Hours/7 Days Wk.	Gearless Traction MRL – Passenger	159760	Quarterly
13	Advanced Plan	Tasman Garage	2525 Tasman Ave	24 Hours/7 Days Wk.	Gearless Traction MRL – Passenger	159756	Quarterly

Line Number	Service Level	Location	Location Address	Service Hours	Equipment	Equipment #	Frequency of Service
14	Advanced Plan	Tasman Garage	2525 Tasman Ave	24 Hours/7 Days Wk.	Gearless Traction MRL – Passenger	159757	Quarterly
15	Advanced Plan	Tasman Garage	2525 Tasman Ave	24 Hours/7 Days Wk.	Gearless Traction MRL – Passenger	159758	Quarterly
16	Advanced Plan	Tasman Garage	2525 Tasman Ave	24 Hours/7 Days Wk.	Gearless Traction MRL – Passenger	159759	Quarterly
17	Basic Plan	Santa Clara Convention Center	5001 Great America Parkway	24 Hours/7 Days Wk.	Passenger-Hydro	83179	Quarterly
18	Basic Plan	Santa Clara Convention Center	5001 Great America Parkway	24 Hours/7 Days Wk.	Passenger-Hydro	83180	Quarterly
<b>AMENDMENT NO. 1 - New Location Added</b>							
19	Base with 24/7 Connected Service	Central Park Library	235 Homestead	7am-2pm, M-F	Passenger-Hydro	135533	Quarterly
20	Base with 24/7 Connected Service	Central Park Library	235 Homestead	7am-2pm, M-F	Passenger-Hydro	135534	Quarterly
21	Base with 24/7 Connected Service	Central Park Library	235 Homestead	7am-2pm, M-F	Passenger-Hydro	135535	Quarterly

## REVISED EXHIBIT B SCHEDULE OF FEES

### 1. Compensation

- 1.1. The maximum compensation of this Agreement for scheduled services shall not exceed Two Hundred Three Thousand Five Hundred Forty-Two Dollars and Twenty Cents (\$203,542.20), and the maximum compensation for unscheduled as-needed repair services including materials shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000), for a total not to exceed maximum compensation of **Four Hundred Fifty-Three Thousand Five Hundred Forty-Two Dollars and Twenty Cents (\$453,542.20)** during the Initial Term, subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in excess of the maximum compensation shall be at Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance.
- 1.2. All payments are based upon City's acceptance of Contractor's performance of services specified in Exhibit A-1, Scope of Services. City shall have no obligation to pay unless Contractor has successfully completed the work for which payment is due.
- 1.3. City shall pay Contractor monthly for scheduled services at the rates set forth in Revised Table 2 herein of this Revised Exhibit B.
- 1.4. The City reserves the right to add or delete sites and/or equipment for scheduled services from Revised Exhibit A-2, Schedule of Performance adjust the maximum compensation accordingly by a written executed amendment.

### 2. As-Needed Repair Services

- 2.1. In the event the City requires as-needed repair services as set forth in Section 3 of Exhibit A-1, Scope of Services Contractor shall provide a written quotation, at no cost to the City, for the type of as-needed repair services requested and the time required to complete requested work. The quote must be approved by the City prior to any work being performed.
- 2.2. The labor rates and material equipment markup rates for as-needed repair services is set forth in Table 1 below:

**Table 1. Labor Rates and Material/Equipment Markup**

<b>Labor Description</b>	<b>Hourly Labor Rate</b>
As-Needed Repair Services (Normal Business Hours)	\$435.55
As-Needed Repair Services (Overtime/After Hours)	\$729.24
<b>Material/Equipment</b>	<b>Markup %</b>
Material/ Equipment Markup Over Cost	20%

- 2.3. The total amount of compensation for as-needed repair services shall not exceed **Two Hundred Fifty Thousand Dollars (\$250,000)** during the Initial Term of the Agreement.
- 2.4. The City reserves the right to request a fixed price quote in lieu of time and materials. Any fixed price quotes shall be consistent with the agreed-upon as-needed repair services rate in Section 2.2 above and must be good for at least 90 days.

### **3. Monthly Invoice**

- 3.1. Contractor shall submit to City a monthly invoice within fifteen (15) working days of the last day of each month, in arrears, for payment of services performed pursuant to this Agreement. The monthly invoices shall include a statement of work performed during the month. City shall review the monthly invoice submitted by Contractor and within ten (10) working days of receipt of the invoice, City shall notify Contractor of any discrepancies or deficiencies in said invoice.
- 3.2. The City shall incur no obligation for out of scope work that is not authorized in advance in writing. These monthly invoices shall provide a breakdown of cost of the work performed and shall have an attachment itemizing the work for each of the following:
  - 3.2.1. Contractor shall invoice the City for maintenance and repair services, preventative maintenance services, and callback services at the end of each calendar month in which the work was performed in accordance with Exhibit A1, Scope of Services, and shall be paid for actual services performed per the monthly payment schedule as set forth in Table 2 of this Exhibit.
  - 3.2.2. Contractor shall submit copies of tags with monthly invoices. Work tag shall include date, facility, time in, time out, and ID numbers of equipment serviced. Contractor shall not invoice the City of travel to or from work

sites.

- 3.3. Contractor will invoice City on a monthly basis for Services provided by Contractor during the preceding month on an invoice and in a format approved by City and subject to verification and approval by City. City will pay Contractor within thirty (30) days of City's receipt of an approved invoice.

**4. Price Adjustments**

- 4.1. Contractor may request adjustments to the compensation rates on each one- year anniversary after the initial year of the Agreement, plus any one-year options to renew the Agreement after the Initial Term. Contractor must demonstrate to the satisfaction of the City that a price increase is warranted. Price adjustments are subject to the City's approval
- 4.2. Agreed to price adjustments during the Initial Term must be executed through an Amendment.
- 4.3. Agreed to price adjustments for one-year options must be executed through Exhibit E, Notice of Exercise of Option to Extend Agreement.

**5. Liquidated Damages for Performance Standards**

- 5.1. Contractor understands and agrees that one of the City's primary goals is to ensure that the customer service provided is of the highest caliber and consistent with the City's performance standards. Contractor further agrees that City will suffer damage if Contractor fails to meet these standards and that, due to the nature of certain breaches, the actual damage to the City would be impractical or very difficult to fix.
- 5.2. Performance Standard Breaches
  - 5.2.1. The following specified items shall be referred to as "Performance Standard Breaches". Contractor agrees to pay to the City the amount specified below as liquidated damages for the applicable breach.

**Performance Standard Breaches**

Failure to respond to emergency calls for service on time	\$250 per occurrence, subject to a discussion between the City and Contractor as to why the response time was missed.
Failure to arrive on site on time	\$250 per occurrence, subject to a discussion between the City and Contractor as to why the response time was missed.

5.2.2. If the Contractor is found unduly responsive to service calls, the City reserves the right to request and authorize repairs for defective equipment with a third-party vendor and the Contractor shall credit the City for the repairs cost from the third-party repairs work. In such cases, the City shall provide prior notification to the Contractor of its intention.

**REVISED TABLE 2  
COMPENSATION FOR SCHEDULED SERVICES**

Row	Location	Equipment Description and Number	Initial Term					
			Monthly Price	Annual Price				
				Year 1 of 5	Year 2 of 5	Year 3 of 5	Year 4 of 5	Year 5 of 5
1	City Hall	Passenger-Hydro (50162)	\$78.20	\$938.40	\$938.40	\$938.40	\$938.40	\$938.40
2	Fire Station 2	Passenger-Hydro (127099)	\$130.79	\$1,569.48	\$1,569.48	\$1,569.48	\$1,569.48	\$1,569.48
3	Police Department	Passenger-Hydro (118614)	\$224.34	\$2,692.08	\$2,692.08	\$2,692.08	\$2,692.08	\$2,692.08
4	Police Department	Passenger-Hydro (118615)	\$224.34	\$2,692.08	\$2,692.08	\$2,692.08	\$2,692.08	\$2,692.08
5	Santa Clara Recreation Center	Stage Lift (126652)	\$34.80	\$417.60	\$417.60	\$417.60	\$417.60	\$417.60
6	Berman Building	Passenger-Hydro (40408)	\$78.20	\$938.40	\$938.40	\$938.40	\$938.40	\$938.40
7	Gun Range	Dumbwaiter (10595)	\$34.80	\$417.60	\$417.60	\$417.60	\$417.60	\$417.60
8	Santa Clara Senior Center	Passenger-Hydro (138485)	\$195.79	\$2,349.48	\$2,349.48	\$2,349.48	\$2,349.48	\$2,349.48
9	Santa Clara Senior Center	Passenger-Hydro (67312)	\$143.20	\$1,718.40	\$1,718.40	\$1,718.40	\$1,718.40	\$1,718.40

Row	Location	Equipment Description and Number	Initial Term					
			Monthly Price	Annual Price				
				Year 1 of 5	Year 2 of 5	Year 3 of 5	Year 4 of 5	Year 5 of 5
10	Santa Clara Senior Center	Stage Lift (62646-I)	\$34.80	\$417.60	\$417.60	\$417.60	\$417.60	\$417.60
11	Donald Von Raesfeld Power Plant	Passenger-Hydro (135821)	\$130.79	\$1,569.48	\$1,569.48	\$1,569.48	\$1,569.48	\$1,569.48
12	Tasman Garage	Gearless Traction MRL – Passenger (159670)	\$250.58	\$3,006.96	\$3,006.96	\$3,006.96	\$3,006.96	\$3,006.96
13	Tasman Garage	Gearless Traction MRL – Passenger (159756)	\$250.58	\$3,006.96	\$3,006.96	\$3,006.96	\$3,006.96	\$3,006.96
14	Tasman Garage	Gearless Traction MRL – Passenger (159757)	\$250.58	\$3,006.96	\$3,006.96	\$3,006.96	\$3,006.96	\$3,006.96
15	Tasman Garage	Gearless Traction MRL – Passenger (159758)	\$250.58	\$3,006.96	\$3,006.96	\$3,006.96	\$3,006.96	\$3,006.96
16	Tasman Garage	Gearless Traction MRL – Passenger (159759)	\$250.58	\$3,006.96	\$3,006.96	\$3,006.96	\$3,006.96	\$3,006.96
17	Santa Clara Convention Center	Passenger-Hydro (83179)	\$78.20	\$938.40	\$938.40	\$938.40	\$938.40	\$938.40
18	Santa Clara Convention Center	Passenger-Hydro (83180)	\$78.20	\$938.40	\$938.40	\$938.40	\$938.40	\$938.40
<b>AMENDMENT NO. 1 (NEW SITE ADDED)</b>								
19	Central Park Library	Passenger-Hydro (135533)	\$224.34	\$2,692.08	\$2,692.08	\$2,692.08	\$2,692.08	\$2,692.08

Row	Location	Equipment Description and Number	Initial Term					
			Monthly Price	Annual Price				
				Year 1 of 5	Year 2 of 5	Year 3 of 5	Year 4 of 5	Year 5 of 5
20	Central Park Library	Passenger-Hydro (135534)	\$224.34	\$2,692.08	\$2,692.08	\$2,692.08	\$2,692.08	\$2,692.08
21	Central Park Library	Passenger-Hydro (135535)	\$224.34	\$2,692.08	\$2,692.08	\$2,692.08	\$2,692.08	\$2,692.08
<b>TOTAL</b>				<b>\$40,708.44</b>	<b>\$40,708.44</b>	<b>\$40,708.44</b>	<b>\$40,708.44</b>	<b>\$40,708.44</b>
							<b>Grand Total</b>	<b>\$203,542.20</b>