

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FIRST AMENDMENT TO A CONTRACT BETWEEN THE CITY OF DENTON AND KIRBY-SMITH MACHINERY, INC., AMENDING THE CONTRACT APPROVED BY THE CITY COUNCIL ON SEPTEMBER 20, 2022, IN THE NOT-TO-EXCEED AMOUNT OF \$1,000,000.00; SAID FIRST AMENDMENT TO CONTINUE TO PROVIDE KOMATSU HEAVY EQUIPMENT REPAIR SERVICES FOR THE FLEET DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (IFB-BV 8026 – PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$250,000.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$1,250,000.00).

WHEREAS, on September 20, 2022, City Council awarded a contract to Kirby-Smith Machinery, Inc. in the amount of \$1,000,000.00, for Komatsu heavy equipment repair services for the Fleet Department; and

WHEREAS, this procurement was undertaken as part of the City’s governmental function; and

WHEREAS, the additional fees under the proposed First Amendment are fair and reasonable and are consistent with, and not higher than, the recommended practices and fees applicable to the Provider’s profession, and such fees do not exceed the maximum provided by law; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The First Amendment, increasing the amount of the contract between the City and Kirby-Smith Machinery, Inc., which is on file in the office of the Purchasing Agent, in the amount of Two Hundred Fifty Thousand and 0/100 (\$250,000.00) Dollars, is hereby approved, and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be effective upon the execution of the amendment attached hereto. The total contract amount increases to \$1,250,000.00.

SECTION 2. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by _____ and seconded by _____. This ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____

Paul Meltzer, District 3: _____
Joe Holland, District 4: _____
Brandon Chase McGee, At Large Place 5: _____
Jill Jester, At Large Place 6: _____

PASSED AND APPROVED this the _____ day of _____, 2024.

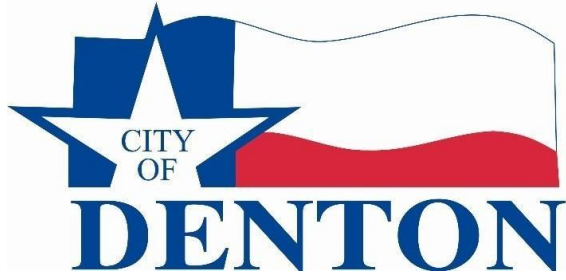
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn



DocuSign City Council Transmittal Coversheet

IFB	8026
File Name	Komatsu Repair
Purchasing Contact	Kayla Clark
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND KIRBY-SMITH MACHINERY, INC

THIS FIRST AMENDMENT TO CONTRACT 8026 (this “Amendment”) by and between the City of Denton, Texas (“City”) and KIRBY-SMITH MACHINERY, INC (“Contractor”) to that certain contract executed on September 20, 2022, in the original not-to-exceed amount of \$1,000,000 (the “Agreement”); for services related to the **Komatsu Heavy Equipment Repair Services**.

WHEREAS, the City deems it necessary to further expand the services provided by Contractor to the City pursuant to the terms of the Agreement, and to provide an additional not-to-exceed amount **\$250,000** with this First Amendment for an aggregate not-to-exceed amount of **\$1,250,000**; and

WHEREAS, this amendment incorporates any previously executed documents between the parties including but not limited to pricing adjustments.

WHEREAS, the City deems it necessary to further expand the goods/services provided by Contractor to the City; and

WHEREAS, the original not-to-exceed amount may not be increased by more than 25.0% as provided in Texas Local Government Code Sec. 252.048; and

NOW THEREFORE, the City and Contractor (hereafter collectively referred to as the “Parties”), in consideration of their mutual promises and covenants, as well as for other good and valuable considerations, do hereby AGREE to the following First Amendment, which amends the following terms and conditions of the said Agreement, to wit:

1. This Amendment modifies the Agreement amount to provide an additional \$250,000 for additional services and materials to be provided in accordance with the terms of the Agreement with a revised aggregate not-to-exceed total of \$1,250,000.

The Parties hereto agree, that except as specifically provided for by this Amendment, that all of the terms, covenants, conditions, agreements, rights, responsibilities, and obligations of the Parties, set forth in the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and the Contractor, have each executed this Amendment, by and through their respective duly authorized representatives and officers on this date _____.

“CONTRACTOR”

KIRBY SMITH MACHINERY, INC

By: David Kellerstrass
AUTHORIZED SIGNATURE, TITLE

“CITY”

CITY OF DENTON, TEXAS

A Texas Municipal Corporation

By: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:
By: Marcella Lunn
4B070831B4AA438...

ATTEST:
LAUREN THODEN, CITY SECRETARY

By: _____

THIS AGREEMENT HAS BEEN
BOTH REVIEWED AND APPROVED
as to financial and operational
obligations and business terms.

DocuSigned by:
[Signature] Thomas Gramer
SIGNATURE PRINTED NAME

Director
TITLE
Fleet
DEPARTMENT

Certificate Of Completion


Envelope Id: 71FCCA16BB1A48649DB190AEEF9E45F8	Status: Sent
Subject: Please DocuSign: City Council Contract 8026 Komatsu Repair	
Source Envelope:	
Document Pages: 3	Signatures: 3
Certificate Pages: 6	Initials: 1
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Kayla Clark
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	901B Texas Street
	Denton, TX 76209
	kayla.clark@cityofdenton.com
	IP Address: 198.49.140.10

Record Tracking

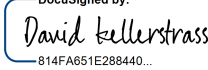
Status: Original	Holder: Kayla Clark	Location: DocuSign
6/4/2024 7:57:15 AM	kayla.clark@cityofdenton.com	

Signer Events

Signer Events	Signature	Timestamp
Kayla Clark kayla.clark@cityofdenton.com Buyer City of Denton Security Level: Email, Account Authentication (None)	Completed Using IP Address: 198.49.140.10	Sent: 6/4/2024 8:01:24 AM Viewed: 6/4/2024 8:01:31 AM Signed: 6/4/2024 8:01:43 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/4/2024 8:01:44 AM Viewed: 6/4/2024 8:12:56 AM Signed: 6/4/2024 8:14:02 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 6/4/2024 8:14:03 AM Viewed: 6/5/2024 12:31:44 PM Signed: 6/5/2024 12:32:37 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

David Kellerstrass bcampbell@kirby-smith.com Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 174.227.88.79 Signed using mobile	Sent: 6/5/2024 12:32:39 PM Resent: 6/10/2024 6:17:25 AM Resent: 6/12/2024 8:10:00 AM Viewed: 6/12/2024 5:55:40 PM Signed: 6/12/2024 5:56:46 PM
Electronic Record and Signature Disclosure: Accepted: 6/12/2024 5:55:40 PM ID: e722f3bc-a79e-45f3-89fe-a39a1d8ceecf		

Signer Events**Signature****Timestamp**

Thomas Gramer
 Tom.Gramer@cityofdenton.com
 Director
 Facilities and Fleet
 Security Level: Email, Account Authentication
 (None)


 Signature Adoption: Drawn on Device
 Using IP Address: 47.218.91.50
 Signed using mobile

Sent: 6/12/2024 5:56:47 PM
 Viewed: 6/12/2024 5:57:18 PM
 Signed: 6/12/2024 5:57:29 PM

Electronic Record and Signature Disclosure:

Accepted: 6/12/2024 5:57:18 PM
 ID: 510c6019-1b82-447f-bff5-839fa2e76655

Cheyenne Defee
 cheyenne.defee@cityofdenton.com
 Procurement Administration Supervisor
 City of Denton
 Security Level: Email, Account Authentication
 (None)

Sent: 6/12/2024 5:57:33 PM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Sara Hensley
 sara.hensley@cityofdenton.com
 Security Level: Email, Account Authentication
 (None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Lauren Thoden
 lauren.thoden@cityofdenton.com
 Security Level: Email, Account Authentication
 (None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp****Intermediary Delivery Events****Status****Timestamp****Certified Delivery Events****Status****Timestamp****Carbon Copy Events****Status****Timestamp**

Cheyenne Defee
 cheyenne.defee@cityofdenton.com
 Procurement Administration Supervisor
 City of Denton
 Security Level: Email, Account Authentication
 (None)

COPIED

Sent: 6/4/2024 8:01:45 AM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Gretna Jones
 gretna.jones@cityofdenton.com
 Legal Secretary
 City of Denton
 Security Level: Email, Account Authentication
 (None)

COPIED

Sent: 6/12/2024 5:57:31 PM
 Viewed: 6/17/2024 7:24:35 AM

Carbon Copy Events	Status	Timestamp
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

City Secretary Office
citysecretary@cityofdenton.com
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Robin Melendez-Martin
robin.melendez-martin@cityofdenton.com
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure

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If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

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Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Denton:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with City of Denton

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.