

CHANGE ORDER

183993

PROJECT: Portland Streetcar Loop Project **TO:** Stacy and Witbeck, Inc.
 403 S.E. Caruthers
 Portland, OR 97214

OWNER: City of Portland **DESIGN ENGINEER:** URS
 1120 S.W. Fifth Avenue, Suite 800
 Portland, Oregon 97204

PROJECT MANAGER: Shiels Oblatz Johnsen **CHANGE ORDER NO.:** 26
 1140 SW 11th Avenue, suite 500
 Portland, Oregon 97205

CONTRACT NO.: 30000609 **INITIATION DATE:** June 21, 2010

CONTRACT EFFECTIVE DATE: June 24, 2009 **RELATED DOCUMENT:** Payment Schedule E
 Amendment No. 5

THE CONTRACT IS HEREBY CHANGED AS FOLLOWS:

A. DESCRIPTION OF WORK:

Furnish and install wheel truing machine (WTM), chip conveyor and chip hopper in accordance with Contract Amendment No. 5 Issued for Construction plans and Specification dated March 2010. Infrastructure such as embedded electrical conduits, concrete and rebar support pads for the WTM have been previously included in the total Contract amount for Amendment No. 5 unless otherwise noted in the final Contractor's proposal as being included under this Change Order.

B. MEASUREMENT AND PAYMENT:

Payment for the work shall be made as outlined in the terms and conditions identified under Stacy and Witbeck Wheel Truing Machine Cost Proposal dated 6/22/10. Interim milestone payments for design, manufacturing, factory testing, installation and final acceptance for the WTM lump sum amount shall be made to the Contractor in the percentages as identified in the Contractor's Proposed Change Order. Payment of other lump sum items identified in the proposal shall be made as completed and accepted by the Owner. Payment of the Contractor's CM/GC Fee shall be made in seventeen (17) equal payments from the issuance of the Notice to Proceed with the work. Payment of a portion or the entire Provisional Sum amount for the Safety Interlock Connection shall only be made by upon further authorization by the Owner.

This Change Order results in an additional cost to the Contract in the amount of \$1,986,072.00.

C. TIME IMPACT:

No adjustment of Contract Time shall result from this Change Order. All work shall be substantially complete by December 31, 2011.

D. DOCUMENTS INCORPORATED BY REFERENCE: Stacy and Witbeck Wheel Truing Machine Cost Proposal, dated 6/21/10

E. ATTACHMENTS: Stacy and Witbeck Wheel Truing Machine Cost Proposal, dated 6/21/10

Except as provided herein, all terms and conditions of the contract as heretofore modified remain unchanged. The terms and conditions of this Change Order constitute a full accord and satisfaction for all costs, including labor, materials, equipment, direct and indirect costs, overhead, profit, schedule impacts, delays and extended overhead, if any, related to the actions described or referenced herein.

| | |
|---|------------------|
| The original Contract Amount No. 30000609 | \$ 6,636,265.00 |
| Net Change by Contract Amendment #1 thru #5..... | \$ 96,326,900.05 |
| Net Change by previously authorized Change Orders #1 thru #25 | \$ 1,649,474.02 |
| The Contract Amount prior to this Change Order | \$104,612,639.07 |
| The Contract Amount will be (increased) (decreased) (unchanged) by..... | \$ 1,986,072.00 |
| The new Contract Amount, including this Change Order, will be | \$106,598,711.07 |
| Percent (increase) (decrease) of the Original Contract Amount Plus Amendments | 3.53% |
| The Contract Time will be (increased) (decreased) (unchanged) | 0 days |
| The Date of Substantial Completion for Water Construction is..... | 3/29/11 |
| The Date of Substantial Completion for Sewer Construction is..... | 9/15/10 |
| The Date of Substantial Completion for Civil/Track/Systems Construction is..... | 12/31/11 |
| The Date of Project Final Completion for the Loop Project is | 1/30/12 |

APPROVED FOR ISSUANCE:

Shiels Oblatz Johnsen _____ Date

APPROVED:

Project Engineer _____ Date

APPROVED:

Stacy & Witbeck, Inc. _____ Date

APPROVED:

City of Portland – Project Manager, PBOT _____ Date

APPROVED:

City of Portland – Chief Engineer, PBOT _____ Date

APPROVED:

City of Portland – Director, PBOT _____ Date


APPROVED:

Sam Adams, Mayor _____ Date

APPROVED:

LaVonne Griffin-Valade, Auditor _____ Date

APPROVED AS TO FORM:



Mark Moline, Senior Deputy City Attorney _____ Date

- COPIES TO:
- PSI 3305
 - Diede
 - MacNichol
 - Bradley (TriMet)
 - Knox
 - Korsak
 - Hopkins
 - Lostra

Stacy and Witbeck, Inc.

GENERAL ENGINEERING CONTRACTORS

183993

June 22, 2010

Serial # 00256

City of Portland
Bureau of Transportation
1120 SW 5th Avenue Room 800
Portland, OR 97204

RECEIVED

JUN 22 2010

&

Shiels Oblatz Johnsen, Inc. (SOJ)
1140 SW 11th Avenue, Suite 500
Portland, OR 97205

SHIELS OBLETZ JOHNSEN

Attention: Vicky L. Diede
Portland Streetcar Project Manager
&
Carter MacNichol
Project Director

Subject: Contract No.: 30000609 – Portland Streetcar Loop
Wheel Truing Machine (WTM)

Re: Wheel Truing Machine Cost Proposal

Dear Vicky and Carter:

Stacy and Witbeck, Inc. (SWI) has recently completed a final pricing exercise for the Simmons Machine Tool Corporation (SMTC) supplied wheel truing machine (WTM). The result of this final price cost proposal is presented herein as Exhibit A. This proposal was produced from coordination and clarification between the Owner's Representative Shiels Oblatz Johnsen, Inc., SWI, project's design team, and SMTC. As such, SWI is able to present the overall total project construction cost proposal for the furnishing and installation of the WTM. The overall price is based on MFE IFC Set of documents as summarized below:

WTM based on Issued for Construction Documents Dated September March 2010

- Proposed Cost for WTM \$ 1,892,398
- CM/GC Fee \$ 93,674
- Total Proposed Cost and Fee \$ 1,986,072

Stacy and Witbeck, Inc.
307 NE Holladay Street, Portland, OR 97232
503-232-6200 (tel) 503-232-6204 (fax)
OR 97081 • CA 414305

Stacy and Witbeck, Inc.

GENERAL ENGINEERING CONTRACTORS

183993

Exhibit C – SMTC quote dated June 15, 2010 of three (3) pages is attached. Cover letter notes payment terms and that pricing is valid for forty five (45) days.

Also, SMTC is unable to provide a material and warranty bond at this time for their entire contract value. In lieu of a bond SMTC will provide a Letter of Credit (LC) the terms of which are detailed in Exhibit B. In addition to this LC a payment and performance bond will be provided by SMTC for the install portion of the WTM contract.

Exhibit B – Assumptions and Exclusions for the Issued for Construction Documents for the wheel truing machine are attached separately to help define and further clarify the cost proposal.

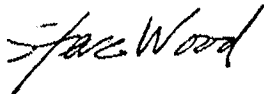
Three (3) copies of each Exhibit are attached.

The cost proposal for the wheel truing machine installation assumes this work substantially complete by December 31, 2011 provided a NTP is received for the WTM no later than August 2, 2010.

Should you have any further questions and/or comments regarding this correspondence, please contact me at your earliest convenience at 503-232-6200.

Sincerely,

Stacy and Witbeck, Inc.



Steve Wood
Project Manager

Cc: JA, JB and GPO/SWI

Stacy and Witbeck, Inc.
307 NE Holladay Street, Portland, OR 97232
503-232-6200 (tel) 503-232-6204 (fax)
OR 97081 • CA 414305

Stacy and Witbeck, Inc.
GENERAL ENGINEERING CONTRACTORS

Contract No. 30000609
Portland Streetcar Loop Project
Maintenance Facility Expansion (MFE) - Wheel Truing Machine
Cost Proposal Summary

| Scope | Unit | Amount |
|----------------------|-----------------|-----------------|
| Wheel Truing Machine | Lump Sum | \$ 1,784,481.00 |
| Safety Interlock | Provisional Sum | \$ 5,000.00 |
| Electrical | Lump Sum | \$ 15,000.00 |
| General Conditions | Lump Sum | \$ 58,029.00 |
| Bond | Lump Sum | \$ 10,038.00 |
| Insurance | Lump Sum | \$ 19,850.00 |
| | | \$ 1,892,398.00 |
| | CM/GC Fee | \$ 93,674.00 |
| | | \$ 1,986,072.00 |

Exhibit B
Assumptions and Exclusions

Assumptions as part of Stacy and Witbeck, Inc
Permit Set
Wheel Truing Machine Cost Proposal

1. All pricing is based upon the following project documents:
 - Portland Streetcar Loop Maintenance Facility Expansion (MFE) - Issued for Construction Set, March 2010
 - City of Portland 2007 Standard Construction Specifications.
 - Bureau of Transportation Portland Streetcar Loop Maintenance Facility Expansion – Special Provisions, Issued for Construction Set, March 2010
 - Bureau of Transportation Issued for Bid Submittal for Portland Streetcar Loop.
 - RFI M-021 – WTM UL Requirements
2. Simmons Machine Tool Corporation (SMTC) is unable to provide a material and warranty bond at this time for their entire contract value. In lieu of a bond SMTC has provided Letter of Credit (LC) the terms and coverage of which are detailed in SMTC's proposal. In addition to this LC a payment and performance bond will be provided by SMTC for the install portion of the WTM contract only.
3. This estimate assumes current material, labor and fuel costs. No allowance has been made for escalation.
4. Assumes a notice to proceed of August 2, 2010, or sooner.
5. Assumes continuous access to the Maintenance Facility Expansion site from August 2, 2010. No accommodations have been made for moratoriums in this estimate.
6. Specification section 11 11 14 B, at the time of this cost proposal, the MFE project has been excavated and structural concrete is being installed. SWI has made every effort to coordinate with the SMTC and the MFE design team to ensure conformance between the WTM and the MFE Contract Drawings the results of which are reflected in CCD M001. However, until the WTM submittal is generated by SMTC and approved, conformance with the MFE Contract Drawings cannot be confirmed. Therefore, SWI assumes that the structural, mechanical and electrical systems as reflected and modified in CCD M001 will accommodate the wheel truing machine. The costs for modifications in CCD M001 are not included in this cost proposal.
7. Includes control and power conduit, wire and terminations from the wheel truing machines integral panel to the chip conveyor motor. Connection of building power to the integral panel is also included.
8. Specification Section 11 14, 2.03, W, requires a "Safety Interlocking" with the Overhead Contact System (OCS) system. SMTC has clarified what signals will be generated by and are required to be received by the WTM. After discussion with LTK and Elcon Associates, Inc, no accommodation for this interlocking at the time of this proposal was included in the design of the OCS electrical system nor the MFE electrical system. A \$5,000 provisional sum has been included in this cost proposal to accommodate this "Safety Interlocking"

PORTLAND STREETCAR LOOP

Stacy and Witbeck, Inc.
307 NE Holladay St., Portland, OR 97232
503-232-6200 (tel) 503-232-6204 (fax)

6/22/2010

Exhibit B
Assumptions and Exclusions

and to provide the required permissives for the WTM to operate. At the time of the cost proposal the following is assumed:

- A limit switch will be installed at the manual OCS knife switch in the MFE;
 - When this knife switch is manually opened or closed it will trip the limit switch thereby sending the required signal to the WTM;
 - The provisional sum includes labor, material and equipment for the following to a limit of \$5,000.00: limit switch at the OCS knife switch conduit and wire from WTM to OCS limit switch.
9. Assumes installation of the WTM is substantially complete by December 31, 2011 in accordance with Contract Amendment No. 3.
10. Per RFI M021, an inspection and certification service from an independent third party inspector will be performed on the fully assembled WTM onsite in Portland, Oregon.
11. Assumes all payment terms and Letter of Credit terms will be accepted by the Owner without exception in accordance with SMTC proposal dated June 15, 2010. Payment terms are as follows and will apply to the total lump sum price (TLSP) of SMTC's proposal:
- 15 % payment upon delivery and approval of final designs drawings – net 45
 - 35 % payment on notification of 50% manufacturing complete – net 45
 - 30 % payment on successful completion of factory acceptance tests – net 45
 - 20 % payment on completion of installation, testing, and acceptance – net 45

Note – a 5% retainage will be held on all payment until completion of punchlist and training – net 45

Letter of Credit terms:

| <u>Progress Payment to SMTC</u> | <u>Total Lump Sum Price</u> | <u>Letter or Credit Increased to</u> |
|-------------------------------------|---------------------------------|--|
| 1 | 15% | 15% of TLSP |
| 2 | 35% | 50% of TLSP |
| 3 | 30% | 80% of TLSP |

End of Assumptions

Exhibit B
Assumptions and Exclusions**Exclusions as Identified per Stacy and Witbeck, Inc.**
Permit Set
Wheel Truing Machine Cost Proposal

1. Excludes cost of freight for shipment of streetcar trucks to manufacture's facility in Albany, New York for truing during the testing period.
2. Excludes cost for City of Portland representative to attend in-factory testing.

End of Exclusions



SINCE 1910

SIMMONS

MACHINE TOOL CORPORATION

1700 NORTH BROADWAY ALBANY, NEW YORK 12204
 TELEPHONE 518-462-5431 FAX: 518-462-0371
 EMAIL: BTEAL@SMTGROUP.COM

June 15, 2010

To: Steve Wood, Gary Otto - Stacy & Witbeck, Inc.
 403 SE Caruthers
 Portland, OR 97214

Subject: Portland Streetcar Loop Maintenance Facility
Contract No.: 30000609
Your Job No.: 1415
SMTC: Q2567

Dear Sirs,

Simmons Machine Tool Corporation (SMTC) is pleased to offer the following proposal for the Under Floor Wheel Lathe described in specification 11 11 14 for the above referenced contract. This document is our final offer and supersedes any previous communications, including SMTC's offer submitted to Stacy & Witbeck on 5/11/10:

SMTC Proposal No.: Q2567-04

The Total Bid Price indicated below includes the Wheel Lathe, comprised of the following;

- Furnish Machine and Subsystems as defined by below
 - Portland Streetcar Loop Specification 11 11 14
- Delivery to the jobsite;
- Offloading of equipment at jobsite;
- Installation of Equipment at Customer site;
- Commissioning of the machine at customer location;
- Operation and maintenance training;
- Maintenance Service Package;
- 3yr Equipment Warranty;
- SMTC standard insurance coverage;

Exclusions:

- Foundation construction work or civil engineering of any kind;
- Fees, permits, and certifications of any kind;
- Taxes of any kind (Buyer to supply Prepaid Tax or Resale Certificate to SMTC);
- Contractor's license or certification;
- Professional Engineer license or certification;
- Structural design or load calculations of any kind;
- Storage of any kind;



EXHIBIT C



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SIMMONS

MACHINE TOOL CORPORATION

1700 NORTH BROADWAY ALBANY, NEW YORK 12204

TELEPHONE 518-462-5431 FAX: 518-462-0371

EMAIL: BTEAL@SMTGROUP.COM

- Documentation or procedures of any kind beyond SMTC's standard submittal package. Examples of non-standard documentation include detail drawings, catalogue cuts of various components or subcomponents, bills of materials, custom manuals, site safety plan, etc.;
- Bonding of any kind;
 - As previously discussed with Gary Otto the market for bonding of specialty equipment is not readily attainable at this time. LC terms will be established in place of bonding. See attached.
- Liquidated damages of any kind.
- Furnish and Install of devices/switches that disable and enable the OCS. SMTC only provides the communication or signal wires to trigger the interlock function with said devices/switches not supplied by SMTC. See attached schematic for detail.

Qualifications:

- SMTC is a Supplier of the specified equipment, *not* a Subcontractor.
- Construction materials, methods, and other equipment design elements shall not be subject to review and/or approval during the submittal process. The equipment is manufactured to a proven design which is not subject to change.

Currency:

All pricing is quoted in US dollars (\$).

Milestone Payment Terms:

Pricing is offered in conjunction with SMTC standard milestone payment terms indicated below:



- 15 % payment Upon delivery and approval of final designs drawings – net 45
- 35 % payment on notification of 50% manufacturing complete – net 45
- 30 % payment on successful completion of factory acceptance tests – net 45
- 20 % payment on completion of installation, testing, and acceptance – net 45
- 5% Retainage, upon completion of punchlist and training – net 45



SMTC reserves the right to adjust pricing based upon payment terms other than those contained in this section.

Payment shall not be contingent upon payment of General Contractor by Owner.





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SIMMONS

MACHINE TOOL CORPORATION

1700 NORTH BROADWAY ALBANY, NEW YORK 12204
 TELEPHONE 518-462-5431 FAX: 518-462-0371
 EMAIL: BTEAL@SMTGROUP.COM

Pricing Summary:

| | |
|--|---------------|
| Shop Drawings, Project Coordination | \$6,900.00 ✓ |
| Furnish and Install Wheel Truing Machine | \$1,612,780 ✓ |
| Startup, Commissioning LC | \$91,818.00 |
| Installers Performance Bond | \$23,000.00 |
| UL Listing | \$19,785.00 |
| Total Bid Price | \$30,198.00 |
| | \$1,784,481 |

Delivery:

- Shipment from SMTC to installation site is approximately 12 months from the last date of proposal validity. Actual delivery is based on current shop work loading schedule and subject to confirmation at order entry.
- See attached preliminary manufacturing schedule of the subject equipment.

Validity:

- All prices quoted are valid for a period of 45 days from the date of proposal.

Forms/Documentation:

- SMTC requires at least one week notice to review and complete any documentation or forms related to this project. SMTC will not be responsible for completion of any forms or documentation not specifically requested in advance by your organization.

Again Simmons thanks you for this opportunity to provide our equipment to Stacy & Witbeck. If you have any questions or concerns, please do not hesitate to contact me at (518) 462-5431.

Best regards,

Brandon R. Teal
Machine Tool Sales

