

Exhibit A

**AMENDMENT NO. 5
TO THE AGREEMENT FOR PROFESSIONAL SERVICES
CONTRACT NO. 37251
PORTLAND STREETCAR LOOP PROJECT**

This Amendment No. 5 modifies the Contract (City/PSI Contract #37251) for Professional Services between the City of Portland (City) and Portland Streetcar, Inc. (PSI) dated April 9, 2007.

RECITALS

Whereas, Portland Streetcar, Inc. (PSI), a public service non-profit corporation registered in the State of Oregon, has had oversight responsibility under contracts with the City for design, financial planning, management, civil and vehicle engineering, construction, community relations, construction mitigation and operation of the Portland Streetcar system; and

Whereas, on March 21, 2007, after a competitive procurement process carried out in accordance with federal requirements and the selection of Shiels Obletz Johnsen, Inc. (SOJ) to perform project management and financial planning services for the Portland Streetcar Loop Project (Loop Project), the City passed Ordinance No. 180838 authorizing City/PSI Contract No. 37251 which assigned to PSI the responsibility for oversight of and subcontracting with SOJ for project management and financial planning services; and

Whereas, the solicitation documents and City/PSI Contract #37251 provide that future amendments would be negotiated for additional services through final design and construction of the Loop Project, subject to successful negotiations of terms and the availability of additional funds; and

Whereas, City/PSI Contract #37251 was amended most recently by Amendment No. 4 authorized by Ordinance No. 183283 passed by the City Council on October 28, 2009, which extends the term to March 1, 2012 and gives PSI, with SOJ as its subcontractor, responsibility for overseeing City contracts for civil construction, procurement of additional streetcar vehicles and others related to completing the Loop Project; and

Whereas, the adopted capital finance plan for the Loop Project includes tax increment, local improvement district and other local funds that provide the local match requirements for a \$75 million federal FTA Small Starts grant, the first streetcar project in the nation to receive approval of a federal Small Starts grant; and

Whereas, FTA requirements and procedures for administration of the Small Starts grant have evolved since grant approval was announced by FTA in October 2009, now including requirements for the direct involvement of SOJ in preparing monthly progress reports in a prescribed format, participation in out-of-town quarterly meetings with regional FTA officials, regular briefings of and correspondence with an FTA Project Management Oversight consultant

assigned to the Loop Project, all requiring additional project management and engineering services beyond what was originally contemplated or budgeted; and

Whereas, on February 28, 2007, the City Council passed Ordinance No. 180788 authorizing a contract with Oregon Ironworks (OIW) (City/OIW Contract No. 37218), an Oregon manufacturing company located in Clackamas, Oregon, for domestically manufacturing a Prototype Streetcar vehicle funded under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) through a National Research Program grant; and

Whereas, on July 8, 2009, after completion of a competitive selection process seeking qualified Oregon manufacturers, the City Council authorized a contract with OIW (City/OIW Contract No. 30001193), for production of six streetcar vehicles for the Loop Project funded under a \$20,000,000 grant from the Oregon Streetcar Fund created by Chapter 746, Oregon Laws 2007 passed by the Oregon State Legislature, with the vehicles to be delivered as individually completed beginning in February 2012; and

Whereas, Skoda in Czech Republic, supplier of the electrical propulsion system for the Prototype Streetcar vehicle and named in City/OIW Contract No. 30001193 as the supplier of that system for the six Loop Project vehicles, was unable or unwilling to deliver a satisfactory electrical propulsion system on the Prototype Streetcar vehicle leading to OIW requesting approval of other suppliers. After protracted analysis and negotiations, an alternative supplier was approved by Change Order No. 1 to City/OIW Contract No. 300001193 changing, among other things, the delivery dates of the vehicles as individually completed beginning in July 2012 and a reduction in the number of vehicles to be produced from six to five with an option for a sixth vehicle; and

Whereas, the delay in delivery of streetcar vehicles for the Loop Project has required a delay in the opening of revenue service on the Loop Project alignment by approximately 5 months to September 21, 2012, the date subject to City and FTA approval; and

Whereas, SOJ has found it necessary to participate in review meetings and to modify specification requirements to coordinate the Loop Project vehicle design with vehicles being manufactured in a parallel process by OIW for the City of Tucson, Arizona to ensure compatibility with the Portland vehicles without incurring additional cost or delay in the delivery schedule; and

Whereas, SOJ has also found it necessary to coordinate with the Portland to Milwaukie Light Rail project to insure compatibility with the current Loop Project at its OMSI terminus and provisions for the use of the Light Rail Bridge by streetcars in conjunction with the future Close-The-Loop streetcar project; and

Whereas, PSI approved and SOJ made unanticipated advance payments totaling \$10,886 required by Union Pacific Railroad (UPRR) prior to their review and approval of the agreement between the City and UPRR providing rights to construct a viaduct over the UPRR mainline right-of-way for the Loop Project; and

Whereas, the cost related to the startup of revenue service with opening of the Loop Project, including management, acquiring and installing maintenance and service equipment, hiring and training of operations, maintenance and management personnel, testing, revising operating schedules, public announcements and others are eligible under the FTA Small Starts grant, allowing uncommitted Loop Project contingency funds to be used for startup costs that in previous phases of Portland Streetcar construction had to be paid with local City, TriMet and PSI funds dedicated to streetcar operations; and

Whereas, Sign Wizard, Inc., registered DBE/WBE #1264, has been proposed by PSI and SOJ, its subcontractor, as a subcontractor for designing, producing and installing signs in shelters, at stop platforms and on Streetcar vehicles including stop names decals, handicapped access signs, braille signs, shelter frame and on-board channel route maps, vehicle numbers, exterior car logos and others; and

Whereas, Wisner Creative, application for DBE certification pending, has been proposed by PSI and SOJ, its subcontractor, as a subcontractor for designing glass etching on the Streetcar shelters and to work with the Regional Arts & Culture Council (RACC), which has agreed to dedicate some of the Loop Project artwork allowance to incorporate artwork into the shelter glass etching; and

Whereas, the civil construction work is scheduled to be substantially completed on December 31, 2011. However, final completion of all contractual and FTA processes are expected to continue well after substantial completion, delivery of the OIW streetcars and the commencement of revenue service; and

Whereas, Loop Project construction contingency funds are adequate to cover the costs of the additional project management services required by this Amendment; and

Whereas, the Portland Bureau of Transportation, City Loop Project Change Order Review Committee and City Project Manager have reviewed this Amendment and recommend its approval; and

Whereas, on June 1, 2011, the PSI Board of Directors adopted Resolution No. 11-07, authorizing its Chair to execute this Amendment.

AGREEMENT

1. **Scope of Services.** PSI, through its subcontractor, shall carry out the professional services in the Scope of Additional Services set out in Exhibit A attached to this Amendment.
2. **Maximum Compensation.** The total Maximum Compensation provided for in the City/PSI Contract #37251 will be increased by \$557,161 from \$4,118,975 to \$4,676,136, in accordance with the Cost Breakdown set out in Exhibit B to this Amendment.

3. Term. The expiration date shall be extended from March 1, 2012 to June 1, 2013.
4. ALL OTHER TERMS AND CONDITIONS OF THE CITY/PSI CONTRACT #37251 AS AMENDED REMAIN UNCHANGED.

AMENDMENT NO. 5 AGREED TO THIS ____ DAY OF _____ 2011:

APPROVALS:

CITY OF PORTLAND

PORTLAND STREETCAR, INC.

By: _____

Sam Adams
Mayor

By: _____

Michael Powell
Chair, Board of Directors

By: _____

LaVonne Griffin-Valade
City Auditor

APPROVED AS TO FORM:

By: _____

Mark Moline
Sr. Deputy City Attorney

By: _____

Heather Martin
PSI Attorney

Exhibit A

**PORTLAND STREETCAR LOOP PROJECT
PROJECT MANAGEMENT****SCOPE OF ADDITIONAL SERVICES****A. Vehicle Procurement**

1. Meetings. Oversee meetings with project participants to investigate alternatives for a substitute electrical propulsion systems supplier proposed by OIW including meetings with Portland Streetcar and TriMet operations personnel, vehicle engineering consultants, OIW and alternative electrical propulsion system suppliers. These services were completed with approval of Change Order No. 1 in July 2010.
2. Recommendation. Evaluate recommendations from project participants and recommend a response to the OIW substitution request. Prepare a Change Order to the City/OIW Contract No. 30001193 providing for the substitution and any revisions in contract amount and delivery schedule for City approval. These services were completed with approval of Change Order No. 1 in July 2010.
3. Coordination with City of Tucson. Coordinate the review and modification of technical specification for design, manufacturing and testing streetcar vehicle in cooperation with the City of Tucson which has entered a contract for purchase of seven similar streetcar vehicles from OIW. The purpose of this extra coordination was to minimize the design differences between the Portland cars and the Tucson cars in order to avoid cost claims and schedule delays. A Change Order No. 2 incorporating the specification changes was approved in January 2011.
4. Design and Production. Continue to oversee regular meetings with project participants to monitor the schedule, design and production of the electrical propulsion system and other elements of the streetcars being manufactured, endeavoring to insure that OIW meets the delayed streetcar vehicle delivery schedule.
5. Technical Capacity and Capability Reporting and Mentoring. As directed by FTA, work with the vehicle engineering consultant to develop a Technical Capability and Capacity Analysis (TCC) of OIW, including analysis of capacity and recommendations to ensure project success. Prepare regular reports regarding implementation of recommendations.
6. Monitor Payments. Continue to review and recommend approval of payment requests from OIW endeavoring to insure that the City is credited with the refunds due it for the substitute electrical propulsion system engineering costs in proportion to the streetcar orders from other cities that OIW with those systems, as provided in Change Order No. 1.

7. Testing. Coordinate vehicle testing on the Loop Project and Westside alignments prior to the startup of revenue service with ongoing streetcar operations and maintenance activities.

B. FTA Grant Compliance/Reporting

1. Quarterly Meetings. Continue preparing and distributing material for and participating in quarterly meetings with TriMet and FTA officials to report on status of the Loop Project construction.
2. Monthly Reports. Prepare and distribute detailed monthly reports on the status of the Loop Project construction including schedule, budget, cash flow expenditures, change order approvals, special problems and issues and other subjects in a format required by the FTA.
3. Project Management Oversight. Continue participating in regular meetings with and providing reports, additional information and analysis to the Project Management Oversight (PMO) consultant retained by FTA.
4. TriMet Coordination. Continue coordinating requests from, contacts with and submittals to the FTA and its PMO consultant with TriMet grants administrative personnel.

C. Loop Project Startup

1. Operations Plan. Recommend a Final Startup Operations Plan for integrating service on the Loop Project alignment with existing Westside streetcar service that includes location of the Westside terminus for Eastside service, service frequencies and schedules, additional personnel, training and space requirements, fares and fare collection system changes, 5-year operating budgets and annual revenue sources, safety program, public information program, promotions and sponsorship program, opening ceremony and others for adoption by the City in advance of starting service on the expanded system.
2. Implementation. Develop a schedule for and oversee implementation of the Final Startup Operations Plan endeavoring to insure an orderly opening of revenue service on the Loop Project alignment on September 21, 2012.
3. Backup Plan. Prepare and assist the City in implementing a backup plan to use Vintage Trolley vehicles or others alternatives in the event that OIW fails to deliver streetcars on schedule. The backup plan was requested by FTA and the related services are partially completed.
4. Hiring and Training. Assist TriMet and the City in hiring and training additional operators, mechanics and supervisory personnel required for service on the expanded streetcar system.

5. Agreements. Assist the City and TriMet in completing amendments to agreements, including the Interagency Agreements between the City and TriMet for Loop Project Federal Funding to provide funds for TriMet and the City costs in hiring and training additional personnel; and the Funding, Personnel and Other Services Agreements revising mutual operating funding commitments and other issues affected by the expansion of streetcar service to the Loop Project alignment.
6. Operations Equipment. Recommend specifications, budget, funding sources, schedule and other details for procurement and installation of special operations equipment not currently included in the contracts for civil construction or vehicle manufacture including fare collection machines, on-board passenger counters, security cameras, stop schedule reader boards, maintenance facility furniture and other appurtenances required for the expanded streetcar system.
7. Signs. Design, produce and install signs in shelters, at stop platforms and on Streetcar vehicles including stop names decals, handicapped access signs, braille signs, shelter frame and on-board channel route maps, vehicle numbers, exterior car logos and others. Shelter frame maps will be installed on existing shelters and on-board channel route maps will be installed on existing vehicles as well as on new Loop Project shelters and vehicles.
8. Shelter Glass Etching. Prepare designs for etching glass in the Loop Project shelters including incorporating etched replicas of selection works from the Ashforth Art Collection and coordination with the RACC. Recommend a Change Order under the civil construction contract to etch the shelter glass prior to installation of the shelters.

Exhibit B					
Amendment No. 5 - Contract No. 37251					
Portland Streetcar Loop Project					
	Project Director	Operations Planning	Senior Project Manager	PSI Controller	
Rate	\$195	\$195	\$220	\$110	TOTALS
Additional Services (SOJ through 3/1/12)					
FTA grant procedures compliance	450				\$87,750
PMLR and Close-the-Loop Project coordination	75	40	25		\$27,925
Propulsion system substitution analysis and negotiations	160	160	120		\$88,800
Coordination with Tuscon, AZ vehicle design/specifications	40				\$7,800
Development/monitor Technical Capacity and Capability Study	60				\$11,700
Subtotal - Additional Services	785	200	145	0	\$223,975
Extended Services (SOJ 3/1/12 through 6/1/13)					
Vehicle manufacturing, testing and certification for revenue service	360				\$70,200
Completion of construction, punch list and close-out	280	140	140	160	\$130,300
FTA procedure compliance	140				\$27,300
Revenue service startup	40	160			\$39,000
Subtotal - Extended Services	820	300	140	160	\$266,800
Subcontracted Services					
Shelter Glass Etching Design					\$8,000
Shelter, Platform, and Vehicle Sign Design and Installation					\$32,500
Subtotal - Subcontracted Services					\$40,500
Reimbursable Expenses					
Payments to UPRR					\$10,886
Project Expenses (Through 6/1/13)					\$15,000
Subtotal - Reimbursable Expenses					\$25,886
TOTAL					\$557,161