

# REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
7	06/13/11	Open	Action	05/31/11

Subject: Repealing Board Resolution No. 11-04-0057 and Approving the Third Amendment to the Contract for Procurement of Traction Power Substations with Powell Electrical Systems, Inc.

## ISSUE

Whether or not to Repeal Resolution No. 11-04-0057 and Approve the Third Amendment to the Contract for Procurement of Traction Power Substations with Powell Electrical Systems, Inc. including revised delivery dates.

## RECOMMENDED ACTION

Adopt Resolution No. 11-06-\_\_\_\_, Repealing Resolution No. 11-04-0057 and Approving the Third Amendment to the Contract for Procurement of Traction Power Substations with Powell Electrical Systems, Inc.

## FISCAL IMPACT

Budgeted:	Yes	This FY:	\$(115,990)
Budget Source:	Capital	Next FY:	\$
Funding Source:	Local: MSA POF, Developer Fees, ECOS Lawsuit Loan	Annualized:	\$
Cost Cntr/GL Acct(s) or Capital Project #:	910800 404.07.03.02	Total Amount:	\$(115,990)
Total Budget:	\$(115,990)		
TPSS Contract		\$ 2,464,204.00	
Amendment 1		\$ 175,888.00	
Amendment 2		\$ No Cost	
Amendment 3		\$ (115,990.00)	
Contract Total		\$ 2,524,102.00	
Estimated CA Taxes		\$ 190,975.81	

## DISCUSSION

On December 14, 2009, the Board approved the First Amendment to the Contract with Powell Electrical Systems, Inc. (PESI) to change the procurement from two 12 kV traction power substations (TPSS) to one 12 kV TPSS and one 21 kV TPSS. The 21 kV TPSS was to be used on the new Green Line Project to accommodate the 21 kV SMUD distribution voltage in the Downtown area. Although there was a cost of \$175,888 associated with this change, Staff

Approved:

Presented:

Final 6/2/11

General Manager/CEO

Senior Systems Engineer

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anticipated that the cost would be substantially offset by a credit from Stacy and Witbeck, Inc. (the Design-Builder for Green Line 1) due to elimination of the requirement to provide a step down transformer, which would be necessary to provide electrical service to a 12 kV TPSS. Upon execution of the First Amendment, RT gave direction to PESI to begin the engineering and submittal process for the 21 kV TPSS to ensure timely delivery of the 21kv TPSS and avoid a delay to the Green Line Project.

Staff negotiated for months with Stacy and Witbeck, but Stacy and Witbeck was unwilling to give RT a sufficient credit for the step down transformer to offset the increased cost of the 21 kv TPSS. When it became clear that it was not cost-effective to procure the 21kv TPSS, RT directed PESI to stop work on the TPSS.

To meet the time commitment in the Green Line contract for delivery of the TPSS to Stacy and Witbeck, RT was able to recondition a spare 12 kV TPSS that was in storage. Subsequent to the stop work directive, PESI provided Change Order Request (COR) #004 totaling \$59,898 for non-refundable engineering services associated with work performed on the 21 kV TPSS prior to the stop work directive. RT wishes to amend the Contract to eliminate the requirement to provide a 21 kv TPSS and instead return to the original Contract base order of two 12 kV TPSSs. In addition, RT desires to accept PESI COR #004. Eliminating the 21kv TPSS and accepting PESI COR #004 will result in a net reduction of \$115,990 in the total consideration.

The contractual delivery dates for both TPSSs have passed; however because there are no financial or construction schedule impacts associated with the late delivery of the TPSSs, RT is granting a waiver of liquidated damages and revising the delivery dates to August 31, 2011 for the first TPSS and December 15, 2011 for the second TPSS. On April 25, 2011, the Board approved the Third Amendment to the Contract, which included the changes described in the previous paragraph; however the amendment did not include revised delivery dates for both substations along with a waiver of liquidated damages for delayed deliveries. Because the revised delivery dates and liquidated damages waiver were not included in the contractual language, PESI was unwilling to sign the amendment. The Third Amendment now includes revised delivery dates and a waiver of liquidated damages.

Staff recommends (1) rescinding Resolution No. 11-04-0057, original Third Amendment of the Contract for Traction Power Substations with Powell Electrical Systems, Inc., and (2) approving the Third Amendment of the Contract for Traction Power Substations with Powell Electrical Systems, Inc. to eliminate the requirement to provide a 21 kv TPSS, restore the base order to 2 12 kv TPSSs, accept PESI COR #004, reduce the total consideration by \$115,990, waive liquidated damages for delivery delays, and revise the delivery dates for both substations.

RESOLUTION NO. 11-06-\_\_\_\_\_

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

JUNE 13, 2011

**REPEALING BOARD RESOLUTION NO. 11-04-0057 AND APPROVING THE THIRD AMENDMENT TO THE CONTRACT FOR PROCUREMENT OF TRACTION POWER SUBSTATIONS WITH POWELL ELECTRICAL SYSTEMS, INC.**

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, Resolution No. 11-04-0057 is hereby repealed.

THAT, the Third Amendment to the Contract for Purchase of Traction Power Substations ("Principal Agreement") by and between the Sacramento Regional Transit District (therein "RT") and Powell Electrical Systems, Inc. (therein "CONTRACTOR") whereby the parties agree to eliminate the requirement to provide a 21 kV TPSS, restore the base order to 2 12 kV TPSSs, accept Contractor's Change Order Request #004, reduce the total consideration by \$115,990, waive liquidated damages for past delivery delays and revise the delivery dates of both TPSSs, is hereby approved.

THAT, the Chair and General Manager/CEO are hereby authorized and directed to sign said Third Amendment.

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DON NOTTOLI, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: \_\_\_\_\_  
Cindy Brooks, Assistant Secretary