



Mollhoff/Via

**RESOLUTION NO. 6422**

**WHEREAS**, on November 14, 2019, the Board of Directors of Omaha Public Power District (District) adopted Resolution No. 6351, which authorized Management to negotiate and enter into one or more contracts to provide all engineering, procurement and construction of up to 600 MW of utility-scale photovoltaic solar generation facilities and up to 600 MW of backup natural gas-fueled generation facilities and to procure associated fuel transportation infrastructure without using the sealed bidding provisions of Sections 70-637 to 70-639 of the Nebraska Revised Statutes; and

**WHEREAS**, the District requires substation and transmission facilities to interconnect the new solar and natural gas generation facilities with the District's existing transmission system; and

**WHEREAS**, the District's Engineer has certified that the work that will be required to interconnect the new solar and natural gas generation facilities to the existing transmission system is technologically complex and involves unique equipment with varying designs and operational concepts and will require a competitive negotiated contract process that will enable the District to obtain optimal pricing and cost efficiencies, enable integration with other plant systems, and provide appropriate risk mitigation; and

**WHEREAS**, the District's Engineer has further certified that it is impractical and not in the public interest to utilize the statutory sealed bid process for this project; and

**WHEREAS**, pursuant to Nebraska Revised Statute Section 70-637 (as amended), and upon approval of the Engineer's Certification by the Board of Directors, the District may negotiate and enter into a contract or contracts related to such project without sealed bidding.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Omaha Public Power District that:

1. The Engineer's Certification requesting that the Board authorize Management to negotiate and enter into one or more contracts to provide services, material, and labor to engineer, procure, and construct substation and transmission facilities to interconnect the photovoltaic solar and natural gas-fueled generation facilities to the existing transmission system, without compliance with the sealed bidding provisions of Sections 70-637 to 70-639 of the Nebraska Revised Statutes, is hereby approved.

2. Management is hereby authorized and directed to negotiate and enter into a contract or contracts with a qualified contractor or contractors to provide all engineering, procurement, and construction of substation and transmission facilities to interconnect with the integrated natural gas-fueled generating facilities and photovoltaic solar facilities, subject to review and approval of the final contract(s) by the District's General Counsel.

3. The notice required by Nebraska Revised Statutes Section 70-637 shall be published in the Omaha World Herald, or other similar newspaper of general circulation.



# Board Action

## BOARD OF DIRECTORS

February 16, 2021

### ITEM

Power with Purpose: Procurement of Substation and Transmission Resources for Interconnection of Photovoltaic and Natural Gas Fueled Generation Facilities

### PURPOSE

Board of Directors authorization for Management to negotiate and enter into contracts for the supply and construction of substation and transmission facilities to support the interconnection of photovoltaic and natural gas fueled generation facilities to the existing transmission system.

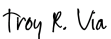
### FACTS

- a. OPPD is currently siting and developing up to 600 megawatts of utility-scale solar photovoltaic generation and up to 600 megawatts of backup natural gas fueled generation. Resolution 6351 authorizes Management to negotiate and enter into one or more contracts to provide all engineering, procurement, and construction of natural gas-fueled generating facilities and output from photovoltaic solar facilities, and to procure associated local fuel transportation infrastructure, without compliance with the sealed bidding provisions of Sections 70-637 to 70-639 of the Nebraska Revised Statutes.
- b. To support the interconnection of these new generating facilities to the existing transmission system, OPPD intends to enter into one or more contracts for services, material, and labor to engineer, procure and construct the associated substation and transmission facilities as determined necessary by transmission analysis.
- c. Contracts for new substation and transmission infrastructure that support interconnection of new generating facilities are technically complex and unique with varying designs to optimize site layouts, enhance performance, and achieve schedule requirements. A negotiated contract approach allows options to be fully explored in a competitive environment and incorporated into customized contract documents.
- d. Due to the unique and complex nature of interconnecting new generating facilities to the existing transmission system, and to ensure completion by the timelines determined through negotiated generation contracts, the District's engineer has certified that compliance with the sealed bidding provisions of the Nebraska Revised Statutes Sections 70-637 through 70-639, as amended, would be impractical and not in the public interest for substation and transmission facilities associated with this integrated generation project.

### ACTION

Approval of the Engineer's Certification and authorization for Management to negotiate and enter into a contract or contracts for services, material and construction labor for substation and transmission facilities associated with the integrated generation project.

#### RECOMMENDED:

DocuSigned by:  
  
 181167221FA24AE  
 Troy R. Via  
 Vice President – Energy Delivery

#### APPROVED FOR BOARD CONSIDERATION:

DocuSigned by:  
  
 8DD1AD88CE8D9D5...  
 Timothy J. Burke  
 President and Chief Executive Officer

TRV:ddb

- Attachments: Letter of Recommendation  
 Engineer's Certificate  
 Legal Opinion  
 Resolution



## MEMORANDUM

Date: January 29, 2021

From: D. D. Buelt

To: T. R. Via

Subject: Power with Purpose: Procurement of Substation and Transmission Resources for Interconnection of Photovoltaic and Natural Gas Fueled Generation Facilities

### 1.00 GENERAL

In November 2019, the Board of Directors of the Omaha Public Power District approved Resolution 6351 authorizing Management to negotiate and enter into one or more contracts for natural gas-fueled generating facilities and output from PV solar facilities, and to procure associated local fuel transportation infrastructure, without compliance with the sealed bidding provisions of Sections 70-637 to 70-639 of the Nebraska Revised Statutes. OPPD is currently in the process of soliciting competitive proposals from qualified contractors for both the natural gas-fueled and photovoltaic generation equipment, construction and other services through negotiated contract processes.

To support the interconnection of these new generating facilities to the existing transmission system, OPPD intends to enter into one or more contracts for services, material, and labor to engineer, procure and construct the associated substation and transmission facilities as determined necessary by transmission analysis. OPPD will solicit competitive proposals from qualified suppliers for these new facilities using contracting strategies that best support the multiple projects and timelines, including the use of engineer, procure, and construct (EPC) contracting processes.

OPPD intends to combine on-site substation facilities into a joint EPC contract with the natural gas-fueled generating facilities to allow for a single point of responsibility for all performance, engineering, procurement and construction tasks for the overall site. A negotiated contract process will allow OPPD to leverage an EPC contractor's expertise to optimize the design, construction requirements, and schedule risks through contractor communications during the negotiation phase.

Resolution 6351 authorizes management to negotiate and enter into contracts for the generating facilities, but did not explicitly address or include substation and transmission

facilities necessary for the interconnection of the new generating facilities to the existing transmission system

While the exact capital cost for the new substation and transmission facilities will not be known until final proposals are received, the engineer's estimate for each of the substations and transmission lines exceed \$500,000, requiring compliance with Nebraska Statutes.

Compliance with the sealed bidding requirement of the Nebraska Statutes is impractical and not in the public interest based upon the technical complexity and unique nature of this project. Use of negotiated contract processes will allow OPPD to take advantage of an EPC contractor's expertise to optimize the overall design, construction requirements, and schedule risks through contractor communications during the negotiation phase. Use of negotiated contract processes will allow OPPD additional contract mechanisms to expedite material and construction schedules if warranted to support timelines for interconnection resulting from negotiated generation contracts.

Therefore, it is in the District's and public's best interest to forgo the sealed bidding process. Instead, competitive bids will be sought through publically available RFPs and negotiation processes. The contracts will be awarded to the vendors with the best evaluated bids.

## 2.00 RECOMMENDATION

An Engineer's Certification documenting the above points in greater detail has been prepared. We recommend and request the Board of Directors approve the Engineer's Certification authorizing Management to negotiate and award competitively bid contracts for substation and transmission facilities associated with this integrated generation project.



Dannie D. Buelt, P.E.  
Director Engineering

## ENGINEER'S CERTIFICATION

Omaha Public Power District (OPPD) is pursuing an integrated generation project that includes combinations of photovoltaic (PV) and natural gas-fueled generation equipment to best meet the growing customer electric load and capacity needs while optimizing affordability, reliability, resiliency and environmental sensitivity.

In November 2019, the Board of Directors of the Omaha Public Power District approved Resolution 6351 authorizing Management to negotiate and enter into one or more contracts to provide all engineering, procurement, and construction of natural gas-fueled generating facilities and output from PV solar facilities, and to procure associated fuel transportation infrastructure, without using the sealed bidding provisions of Sections 70-637 to 70-639 of the Nebraska Revised Statutes. OPPD is currently in the process of soliciting competitive proposals from qualified contractors for both the natural gas-fueled and PV generation equipment, construction, and other services through negotiated contract processes. Resolution No. 6351 did not explicitly address the substation and transmission aspects of this project.

To support the interconnection of these new generating facilities to the existing transmission system, OPPD intends to enter into one or more contracts for services, material, and labor to engineer, procure and construct the associated substation and transmission facilities as determined necessary by analysis of Energy Delivery requirements. OPPD will solicit competitive proposals from qualified contractors for these facilities and services, using contracting strategies that best support the multiple projects and timelines, including the use of engineer, procure, and construct (EPC) contracting processes. Negotiated contract processes will enable OPPD to evaluate the contractors' plans and capabilities, allowing selection of the supplier(s) that provide(s) the best value for OPPD and its customer-owners.

The undersigned professional engineer employed by OPPD certifies that compliance with the sealed bidding requirements of Nebraska statutes, specifically Nebraska Revised Statutes 70-637 to 639, is impractical and not in the public interest for the substation and transmission facilities associated with the new natural gas-fueled and PV solar generation facilities for the following reasons:

- The substation and transmission facilities are technically complex and require integration with generating facilities to optimize site layouts, enhance performance, and achieve schedule requirements.
- Combining on-site substation facilities into a joint EPC contract with the natural gas-fueled generating facilities allows for a single point of responsibility for all performance, engineering, procurement and construction tasks. A negotiated contract process will allow OPPD to negotiate appropriate performance standards, incentives, and liquidated damages, and leverage the EPC contractor's expertise to optimize the design, construction requirements, and schedule risks through contractor communications during the negotiation phase.
- The design of each PV solar facility is unique to the location at which it is sited and the interconnecting substation and transmission facilities will be integral to the overall design and engineering work for each site. Negotiation with prospective contractors will allow for further optimization of land use and interconnection requirements.
- Negotiated contract processes would provide additional mechanisms to expedite material and construction schedules if warranted to support the timelines for interconnecting the natural gas-fueled generating facilities and PV solar facilities to the existing transmission system.
- Negotiated contract processes would enable OPPD to develop optimal pricing and contracts terms and conditions, including risk mitigation provisions.





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January 18, 2021

Omaha Public Power District  
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Omaha, NE 68102

RE: Substation and transmission infrastructure – Engineer's Certification

Ladies and Gentlemen:

We have reviewed the Engineer's Certification of Dannie D. Buel, P.E., a registered professional engineer employed by the District. Mr. Buel's Engineer's Certification explains that, in November, 2019, the Board of Directors approved Resolution No. 6351, which authorized Management to negotiate and enter into contracts to provide engineering, procurement, and construction of natural gas-fueled generating facilities and output from photovoltaic (PV) solar facilities, and to procure associated fuel transportation infrastructure, without using the sealed bidding provisions of Sections 70-637 to 70-639 of the Nebraska Revised Statutes. OPPD currently is in the process of soliciting competitive proposals from qualified contractors for the natural gas-fueled and PV generation assets. Resolution No. 6351 did not explicitly address the substation and transmission aspects of this project.

Mr. Buel's certification further explains that, in order to support the interconnection of the new generating facilities to the existing OPPD transmission station, OPPD intends to enter into one or more contracts for services, material, and labor to engineer, procure, and construct the required substation and transmission facilities. OPPD plans to solicit competitive proposals from qualified contractors for these facilities and services. Mr. Buel certifies that compliance with the sealed bidding requirements of Nebraska statutes is impractical and is not in the public interest for the substation and transmission facilities associated with the new natural gas-fueled and PV solar generation facilities. Mr. Buel's Certification addresses several reasons, including that the facilities are technically complex and require integration with generating facilities, and that combining on-site substation facilities into a joint engineer, procure, and construct contract allows for a single point of responsibility for all performance, engineering, procurement and construction tasks.

Section 70-637 of the Nebraska Revised Statutes authorizes the District's Board of Directors, by a two-thirds vote, to approve an Engineer's Certification for technologically complex equipment projects, where the District's engineer certifies that it would be impractical

January 18, 2021

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or not in the public interest to utilize sealed bidding, and to authorize the District to enter into a contract or contracts to complete the project. The District is required to advertise its intention to enter into any such contract in one or more newspapers of general circulation within the District's service area, with not less than seven (7) days between issues. The contract or contracts cannot be entered into sooner than twenty (20) days after the last advertisement.

It is our opinion the Mr. Buel's Engineer's Certification complies with the requirements of § 70-637 and is in a form that is appropriate for approval by the District's Board of Directors. Therefore, the Board of Directors may approve the Engineer's Certification and authorize Management to negotiate and enter into the necessary contract or contracts to procure the required equipment and services outlined in Mr. Buel's Certification. We recommend that any such contracts be subject to review and approval by the District's General Counsel.

Very truly yours,



Stephen M. Bruckner  
FOR THE FIRM

SMB:sac  
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