



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: K-2021-121**

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<b>File ID:</b> K-2021-121	<b>Type:</b> Contract	<b>Status:</b> Consent Item
<b>Version:</b> 1	<b>Reference:</b> Item 27	<b>In Control:</b> City Council
<b>Department:</b> Utilities Department	<b>Cost:</b>	<b>File Created:</b> 04/23/2021
<b>File Name:</b> Biostar Solar Contract	<b>Final Action:</b>	

**Title:** CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, POSSIBLE TRANSFER, AND/OR POSTPONEMENT OF CONTRACT K-2021-121: A CONTRACT BY AND BETWEEN BIOSTAR E LIGHT JV, LLC, THE NORMAN UTILITIES AUTHORITY, AND THE CITY OF NORMAN IN THE AMOUNT OF \$4,775,000 FOR THE DESIGN, CONSTRUCTION, OPERATION AND MAINTENANCE OF A SOLAR PHOTOVOLTAIC SYSTEM TO PROVIDE ENERGY SAVINGS AND PRODUCTION GUARANTY; AND BUDGET TRANSFERS AS OUTLINED IN THE STAFF REPORT.

**Notes:**

**Agenda Date:** 05/11/2021

**Agenda Number:** 27

**Attachments:** K-2021-121, Exhibit City of Norman Energy Savings and Production Output Guaranty Agreement\_EXECUTION VERSION\_BSR-EXECUTED\_20210505

**Project Manager:** Nathan Madenwald, Capital Projects Engineer

**Entered by:** kathryn.walker@normanok.gov

**Effective Date:**

### History of Legislative File

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Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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### Text of Legislative File K-2021-121

Body

**BACKGROUND:** On January 12, 2021, the City Council adopted Ordinance O-2021-28, which amended the City Code, Section 8- 204 to allow performance-based efficiency contracts as an exception to competitive bidding requirements for City contracts. Performance-based efficiency contracts are contracts “for the design, development, financing, installation and service of any improvement, repair, alteration or betterment of any building or facility owned, operated or planned by a public entity; or any equipment, fixture or furnishing to be added or used in any such building or facility; or any maintenance or operational strategy that is designed

and implemented that will reduce utility consumption or lower operating costs, result in annual cost savings, generate additional revenues or avoid capital cost incurrence” {Oklahoma Statutes, Title 62. Section 318(A)(2)}.

Performance-based Efficiency Contracts are designed for a certain type of project; primarily projects where benefit exists in the form of savings or reduction in costs that offset the cost of the contract or service. The current version of Section 318 was adopted by the State Legislature in 2018 and made these types of contracts available to political subdivisions and public trusts, operating essentially as an exception to competitive bidding requirements.

With performance-based efficiency contracts, the public entity enters into a contract with a provider deemed by the public entity to be qualified to, among other things, finance performance-based efficiency projects for the greater of 20 years or the useful life of the project. In the case of a project that produces cost savings, the qualified provider must provide a guarantee of the anticipated savings over the term of the contract. If such savings are not achieved, the public entity is made whole by the payment of the difference between anticipated and guaranteed savings and the actual savings.

On March 2, 2021, the Norman Utilities Authority (NUA) Trustees received a presentation from Connor Energy of San Diego, California, and BioStar Renewables, LLC (BioStar) of Overland Park, Kansas, regarding a proposal to locate solar energy production facilities at the NUA’s Water Treatment and Water Reclamation facilities.

**DISCUSSION:** The City adopted Resolutions R-1718-119 and R-1718-120 on May 22, 2018. The first resolution (R-1718-119) was brought forth adopting the Environmental Control Advisory Board’s (ECAB) updated recommendations to implement the Mayors’ Climate Agreement. One of the Mayors’ Climate Agreement recommendations focused on increasing renewable energy throughout the city and its utility enterprises with a goal of reaching 100% renewable energy consumption by the year 2050. This goal seemed achievable in step with OG&E efforts to replace their electric generation efforts with renewable energy as their large facilities are updated and large existing machinery is retired.

The second resolution (R-1718-120) was brought forth by the Sierra Club’s “Ready for 100”. Their initiative is for the City and its utility enterprises to achieve 100% renewable energy by the year 2035. This initiative is more aggressive and, either way, the City of Norman is heading towards utilizing more renewable energy as we go into the future.

The proposed contract utilizes the performance-based efficiency contract model to achieve electrical power cost savings at the Water Reclamation Facility and the Water Treatment Plant using solar power in furtherance of the 100% renewable energy goal.

The NUA will pay Biostar \$4,775,000 to pay for design and construction of a solar power generation field and related facilities and equipment at the Water Treatment Plant and Water Reclamation Facility, or on suitable land nearby. Under this agreement, BioStar will guarantee cost savings over a 20-year term enabling the NUA, at a minimum, to recoup its costs through lower electrical energy costs. If the solar field doesn’t produce the anticipated cost savings in a

year in the agreement, BioStar will submit a true-up payment for that year period within six months.

The fiscal year 2020-2021 budget for the Water Treatment Plant allocated \$383,110 to Electricity-Basic (account 31955234-44310) and the Water Reclamation Facility allocated \$526,222 to Electricity-Basic (account 32955246-44310). Assuming the annual electric savings of \$272,361 and less the annual maintenance fee of \$40,000, the payback of the \$4,775,000 contract to BioStar will occur within the life of the design life of the installation.

BioStar will provide bonds for the initial installation, the guaranty over the 20-year term, and will provide annual maintenance for facility at \$40,000 per year (with 2% annual escalation). The City will provide a usable site for the solar fields, will insure the facility and will maintain the property and installation outside of what is included in the annual maintenance agreement.

Norman Utilities Authority staff has identified the initial costs of \$4,775,000 million in the Water Fund and the Water Reclamation Fund; both funds will see the benefit of the anticipated cost savings. It is proposed that the NUA Trustees approve the following fund transfers of Water Fund (031) and Water Reclamation Fund (032) capital project allocations:

**ACCOUNTS TRANSFERRED FROM:**

- Project WA0329, Water Line Maintenance Building, Construction (31995521-46101) - \$1,500,000
- Project WW0329, Sewer Line Maintenance Building, Construction (32995521-46101) - \$1,500,000
  
- Project WW0318, Water Reclamation Facility Storage Building, Construction (32999911-46101) - \$660,000
- Project WW0170, Water Reclamation Facility Land Purchase 20 Acres, (32999911-46001) - \$215,000
- Project WW0312, Sludge Co-Composting, Construction, (32993363-46101- \$1,035,000

**ACCOUNTS TRANSFERRED TO:**

- Project WA0370, WTP Solar Facility, Construction (31993395-46101) - \$1,500,000
- Project WW0331, WRF Solar Facility, Construction, (32999911-46101) - \$3,410,000

**RECOMMENDATION:** Staff recommends Norman Utilities Authority approval of Contract K-2021-121 between the Norman Utilities Authority and BioStar E Light JV, LLC, for the design, construction, operation and maintenance of a solar photovoltaic system to provide energy savings and production in the amount of \$4,775,000 and approval of capital project budget transfers within the Water Fund (\$1,500,000) and Water Reclamation Fund (\$3,410,000).