

MINUTES OF MEETING
OF
SANITARY AND IMPROVEMENT DISTRICT NO. 1
OF CASS COUNTY, NEBRASKA

A meeting of the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, was convened in open and public session at 9:00 a.m. on the 8th day of February, 2023, at the 10250 Regency Circle, Suite 300, Omaha, Nebraska.

Present were: Peggy L. Lawton, Matt Burnham, Wayne Breyfogle, and Scott Pekarek. Also attending was Mark J. LaPuzza, attorney for the District, Ed Hobza of Thompson, Dreessen & Dorner, Inc., Kraig J. Thelen, and Jim Noerrlinger.

Absent: Jon Meyers.

Notice of the meeting was given in advance thereof by publication in the Omaha World Herald on February 2, 2023, a copy of the proof of publication being attached to these minutes. Notice of this meeting was simultaneously given to all members of the Board of Trustees, and a copy of their acknowledgment of receipt of notice is attached to these minutes. Availability of the agenda was communicated in the published notice and in the notice to the Trustees of this meeting. All proceedings of the Board were taken while the convened meeting was open to the attendance of the public. The agenda was at all times available at the office for the District at 10250 Regency Circle, Suite 300, Omaha, Nebraska 68114.

The meeting was called to order. Upon roll call, all of the Trustees were present.

It was first publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy in the room where the meeting was being held.

The Chairman next presented the proof of publication of the Notice to Contractors for the construction of the improvements entitled Lake Wa-Con-Da 2023 Chip Seal.

The Clerk then presented the list of bids and bidders for such work specified within the Notice to Contractors with such bids having been taken on January 26, 2023, in accordance with the provisions of such Notice to Contractors. The bids having been individually reviewed by Thompson, Dreessen & Dorner, Inc., the District's engineers, and upon completion of such review, the engineers have submitted their Letter of Recommendation which the Clerk was directed to attach along with a copy of the bid tabulations to these minutes.

After the Trustees had received the Letter of Recommendation directed to the District, the Clerk reported that the recommendation of the engineers was the bid of Midwest Coatings Company, Inc. for Lake Wa-Con-Da 2023 Chip Seal in the amount of Three Hundred Twenty-Five Thousand Three Hundred Sixty and no/100 Dollars (\$325,360.00). **This bid is Eighty-Seven Thousand and no/100 Dollars (\$87,000.00) over the Engineer's Estimate of the construction cost of this project. Engineer's Estimate for this project was Two Hundred Thirty-Eight Thousand Two Hundred Ninety and no/100 Dollars (\$238,290.00).** The District's engineers then indicated that it was their opinion that the rebidding of such project would yield no more beneficial pricing to the District than that presented by the previously specified bid and again recommended acceptance of such bid. The Clerk further reported that the bid of Midwest Coatings Company, Inc. was accompanied by the required bid bond, contract and maintenance bond in the amount of 100% of the contract price.

After considerable discussion by the Board, the following resolution was duly moved and seconded upon a roll call vote of the Trustees, Peggy L. Lawton, Matt Burnham, Wayne Breyfogle, and Scott Pekarek voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that the bid of Midwest Coatings Company, Inc. in the total amount of \$325,360.00 for the construction of Lake Wa-Con-Da 2023 Chip Seal be accepted and approved and that the Clerk and Chairman of the District be and they hereby are authorized and directed to execute the contract of Midwest Coatings Company, Inc. for and on behalf of the District.

There were next presented various statements and invoices for payment by the District.

There were next presented statements from Kraig J. Thelen, for services rendered in connection with Federal Disaster DR 4420 NE, as follows: (i) Statement No. 45, for the month of November, in the amount of Four Hundred Twenty-Seven and 50/100 Dollars (\$427.50), and (ii) Statement No. 46, for the month of December, in the amount of Three Hundred Sixty-One and no/100 Dollars (\$361.00); said statements being in the aggregate amount of Seven Hundred Eighty-Eight and 50/100 Dollars (\$788.50).

There were next presented invoices from Thompson, Dreessen & Dorner, Inc., engineers for the District, for engineering services rendered for the project entitled Lake Wa-Con-Da 2023 Chip Seal, as follows: (i) Invoice #154617, in the amount of One Thousand Three Hundred Twelve and 50/100 Dollars (\$1,312.50), and (ii) Invoice #155149, in the amount of Six Thousand Two Hundred Ninety-Two and 50/100 Dollars (\$6,292.50); said invoices being in the aggregate amount of Seven Thousand Six Hundred Five and no/100 Dollars (\$7,605.00).

There were next presented statements from Nebraska Public Power District, for lighting at Highway 75, Account #211010041398, from December 16, 2022 through January 18, 2023, **having a credit balance in the amount of One Hundred Sixty-Two and 60/100 Dollars (\$162.60), so no payment is due at this time.**

There were next presented statements from Omaha Public Power District for street lights and other electrical services, Account #5843000090, from October 31, 2022 to December 30, 2022, in the aggregate amount of Two Thousand Nine Hundred Twenty-Five and 17/100 Dollars (\$2,925.17).

There were next presented invoices from One Call Concepts, Inc., for line locates within the District, as follows: (i) Invoice #2100569, in the amount of Eighty Cents (\$0.80), (ii) Invoice #2110571, in the amount of Eighty Cents (\$0.80), and (iii) Invoice #2120573, in the amount of One and 18/100 Dollars (\$1.18); said invoices being in the aggregate amount of Two and 78/100 Dollars (\$2.78). **The Board was next reminded that it has a credit balance in the amount of Seventy-Four and 73/100 Dollars (\$74.73), so no payment is due at this time.**

The Board was next reminded about the 2023 Routine Sample Schedules and Cost Estimates, from Nebraska Public Health Environmental Lab, for water testing for the 2023-year, Public Water System ID #NE3102519, in the amount of Seven Hundred Thirty-Two and no/100 Dollars (\$732.00).

There was next presented an invoice from Layne Christensen Company, for rehab services on the lake fill well, Invoice #2406560, in the amount of Ten Thousand Nine Hundred and no/100 Dollars (\$10,900.00).

There were next presented invoices from Thompson, Dreessen & Dorner, Inc., engineers for the District, for services rendered in miscellaneous District maintenance matters, as follows: (i) Invoice #154615, in the amount of Nine Hundred Thirty-Seven and 20/100 Dollars (\$937.50), (ii) Invoice #154616, in the amount of One Thousand One Hundred Thirty-Eight and no/100 Dollars (\$1,138.00), and (iii) Invoice #155148, in the

amount of Eight Hundred Sixty-Two and 50/100 Dollars (\$862.50); said invoices being in the aggregate amount of Two Thousand Nine Hundred Thirty-Eight and no/100 Dollars (\$2,938.00).

There were next presented invoices from Lake Wa-Con-Da Association, for miscellaneous expenses paid on behalf of the District, as follows: (i) Invoice #2111, for HOA Reimbursement for monthly services rendered, in the amount of Fourteen Thousand and no/100 Dollars (\$14,000.00), (ii) Invoice #2121, for water system backup generator, in the amount of One Hundred Fifty-Two and 99/100 Dollars (\$152.99), (iii) Invoice #2122, for back flow device test performed by Kreifels Plumbing, in the amount of Seventy and no/100 Dollars (\$70.00), (iv) Invoice #2129, for miscellaneous repairs at the caretaker's house, in the amount of Two Hundred Twenty and 60/100 Dollars (\$220.60), and (v) Invoice #2130, for water testing kits for the State Lab and membership to American Water Works Association, in the amount of Four Hundred Seven and 69/100 Dollars (\$407.69); said invoices being in the aggregate amount of Fourteen Thousand Eight Hundred Fifty-One and 28/100 Dollars (\$14,851.28).

There was next presented a statement from Pansing Hogan Ernst & Bachman LLP, attorneys for the District, for legal services performed through December 31, 2022, in the amount of Five Thousand Three Hundred Fifty-Eight and no/100 Dollars (\$5,358.00), and costs advanced in the amount of One Hundred Twenty-Six and 81/100 Dollars (\$126.81); said statement being in the aggregate amount of Five Thousand Four Hundred Eighty-Four and 81/100 Dollars (\$5,484.81).

The previously described bills, invoices, recommendations and statements having been presented for the Board's consideration and after review and discussion of such items, the following resolution was duly moved and passed on a **4-0** vote.

RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that the Chairman and Clerk be and they hereby authorized and directed to execute and deliver Warrant Nos. 6147 through 6149, of the District, dated the date of this meeting, to the following payees and in the following amounts, said Warrants to be drawn on the **BOND** Fund of the District and to draw interest at the rate of five percent (5%) per annum (interest to be payable on February 10 of each year) and to be redeemed no later than **February 8, 2028**, subject to extension of said maturity date by order of the District Court of Cass County, Nebraska, after notice is given as required by law, to-wit:

Warrant No. 6147, for the amount of Seven Hundred Eighty-Eight and 50/100 Dollars (\$788.50), payable to Kraig J. Thelen.

Warrant No. 6148, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6149, for the amount of Two Thousand Six Hundred Five and no/100 Dollars (\$2,605.00), payable to Thompson, Dreessen & Dorner, Inc.

FURTHER RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that the Chairman and Clerk be and they hereby authorized and directed to execute and deliver Warrant Nos. 6150 through 6160 of the District, dated the date of this meeting, to the following payees and in the following amounts, said Warrants to be drawn on the General Fund of the District and to draw interest at the rate of **six percent (6%)** per annum and to be redeemed no later than **February 8, 2026**, subject to extension of said maturity date by order of the District Court of Cass County, Nebraska, after notice is given as required by law, to-wit:

Warrant No. 6150, for the amount of Two Thousand Nine Hundred Twenty-Five and 17/100 Dollars (\$2,925.17), payable to Omaha Public Power District, **Account #584300090**.

Warrant No. 6151, for the amount of Seven Hundred Thirty-Two and no/100 Dollars (\$732.00), payable to Nebraska Public Health Environmental Lab, **ID #NE3102519**.

Warrant Nos. 6152 and 6153, each for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6154, for the amount of Nine Hundred and no/100 Dollars (\$900.00), payable to Layne Christensen Company.

Warrant No. 6155, for the amount of Two Thousand Nine Hundred Thirty-Eight and no/100 Dollars (\$2,938.00), payable to Thompson, Dreessen & Dorner, Inc.

Warrant Nos. 6156 and 6157, each for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6158, for the amount of Four Thousand Eight Hundred Fifty-One and 28/100 Dollars (\$4,851.28), payable to Lake Wa-Con-Da Association.

Warrant No. 6159, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6160, for the amount of Four Hundred Eighty-Four and 81/100 Dollars (\$484.81), payable to Pansing Hogan Ernst & Bachman LLP.

FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that both they and the District hereby find and determine and covenant, and warrant and agree that (a) the facilities for which the above Warrants are issued are for essential governmental functions and are designed to serve members of the general public on an equal basis; (b) there are no persons with rights to use said facilities other than as members of the general public; (c) ownership and operation of said facilities is within the District or another political subdivision; (d) none of the proceeds of the Warrants will be loaned to any person and to the extent that special assessments have been or are to be levied for any said facilities, such special assessments have been or are to be levied under Nebraska law as a matter of general application to all property specially benefited by such facilities in the District; (e) the development of the land in the District is for residential or commercial use; (f) the development of the land in the District for sale and occupation by the general public is proceeding with reasonable speed; and (g) the District hereby authorizes and directs the Chairman or Clerk to file, when due, an information reporting form pursuant to Section 149(e) of the Internal Revenue Code of 1986 pertaining to the above Warrants.

FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that the District hereby covenants, warrants and agrees as follows: (a) to take all actions necessary under current federal law to maintain the tax exempt status (as to taxpayers generally) of interest on the above Warrants; and (b) to the extent that it may lawfully do so, the District hereby designates the above Warrants as its "qualified tax exempt obligations" under Section 265(b)(3)(B)(i)(III) of the Internal Revenue Code of 1986, as amended, and covenants and warrants that the District does not reasonably

expect to issue warrants or bonds or other obligations aggregating in the principal amount of more than \$5,000,000 during the calendar year in which the above Warrants are to be issued.

FURTHER RESOLVED, by the Board of Trustees of Sanitary and Improvement District No. 1 of Cass County, Nebraska, that this and the preceding Resolutions are hereby adopted as the Certificate With Respect to Arbitrage of the District pertaining to the above Warrants and the District and the Chairman and Clerk of the District hereby further certify, as of the date of the registration of the above Warrants with the County Treasurer of Cass County, Nebraska, as follows:

1. No separate reserve or replacement fund has been or will be established with respect to the above Warrants. The District reasonably anticipates that monies in its Bond Fund reasonably attributable to the above Warrants in excess of the lesser of: (a) ten percent (10%) of the net principal proceeds of the above Warrants, (b) the maximum annual debt service due on the above Warrants, or (c) one hundred twenty-five percent (125%) of average annual debt service due on the above Warrants will be expended for payment of principal of and interest on the above Warrants within thirteen (13) months after receipt of such monies. That amount which is currently held in the District's Bond Fund which exceeds the amount which is to be expended for payment of principal and interest on the above Warrants within thirteen (13) months after receipt of such monies, plus that amount arrived at pursuant to the immediately preceding sentence, will not be invested in any securities or any other investment obligations which bear a yield, as computed in accordance with the actuarial method, in excess of the yield on the above Warrants.

2. To the best of their knowledge, information and belief, the above expectations are reasonable.

3. The District has not been notified of any listing of it by the Internal Revenue Service as an issuer that may not certify its bonds.

4. This Certificate is being passed, executed and delivered pursuant to Section 1.148-2(b)(2) of the Income Tax Regulations under the Internal Revenue Code of 1986, as amended.

There were next presented various receipts from Cass County Treasurer representing deposits to the District's bond fund and general fund, as follows: (i) Bond Fund, proceeds sale at 4120 Bull Frog Bay Drive (Image Arts LLC), in the amount of Three Hundred Twenty-Three Thousand Seven Hundred Sixty-Six and 92/100 Dollars (\$323,766.92), and (ii) General Fund, for cash rent from Noerrlinger Farms, Inc., in the amount of Eleven Thousand Eighteen and no/100 Dollars (\$11,018.00).

The Trustees noted that the project was bid requiring work to start after July 4, 2023. The Trustees discussed that, pending weather conditions, it might be better to start work prior to the 4th of July. The District engineer noted that he would carry that request to the contractor. If work were to begin before July 4th, all work would have to be completed, or at least temporarily closed, no later than June 29, 2023 so as not interfere with the use of the streets by residents during the week of July 4th.

The next order of business was discussion regarding the closeout of the FEMA project. Kraig Thelen noted that final inspections will be performed in the Spring for sign off. It was also discussed that Kraig should work with Jim Noerrlinger to prepare forms, checklists, and other information that can be used in the next emergency to maximize repayment by meeting documents needs stated by FEMA in the response to the 2019 project.

The Clerk next reviewed the Agenda which had been available for public inspection in accordance with the law prior to this meeting of the Board of Trustees and reported that all matters considered by the Board at this meeting appeared on the Agenda.

Matt Burnham, as Clerk for Sanitary and Improvement District No. 1 of Cass County, Nebraska (the "District") does hereby certify that the above proceedings are a true and accurate statement of the proceedings had by the District at its February 8, 2023, meeting.



Matt Burnham, Clerk