

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 on the 21st day of March, 2024, at 9:00 a.m., at 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, Thompson, Dreessen & Dorner, Inc., and Jim Noerlinger.

Absent: Jon Meyers (participated via phone).

Notice of the meeting was given in advance thereof by publication in the Omaha World Herald on March 13, 2024 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 2024 Road Reconstruction (Lake Wa-Con-Da).

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 March 7, 2024, 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 Oldcastle Materials Midwest Co. d/b/a OMNI Engineering of Omaha, Nebraska for 2024 Road Reconstruction (Lake Wa-Con-Da) in the amount of Fifty-Eight Thousand One Hundred and no/100 Dollars (\$58,100.00) and that such amount be accepted. The Clerk reminded the Board that the Engineer's estimate of the construction cost of this project was Seventy-Five Thousand Eight Hundred Twenty-Five and no/100 Dollars (\$75,820.00). 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 Oldcastle Materials Midwest Co. d/b/a OMNI Engineering of Omaha, Nebraska 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 Oldcastle Materials Midwest Co. d/b/a OMNI Engineering of Omaha, Nebraska in the total amount of \$58,100.00 for the construction of 2024 Road Reconstruction (Lake Wa-Con-Da) 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 Oldcastle Materials Midwest Co. d/b/a OMNI Engineering of Omaha, Nebraska for and on behalf of the District.

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

There was next presented an invoice from Thompson, Dreessen & Dorner, Inc., engineers for the District, for engineering services rendered in construction-related matters through February 11, 2024, Invoice #161877, in the amount of Two Thousand Five Hundred Forty-Two and 50/100 Dollars (\$2,542.50).

There was next presented a statement from Kraig J. Thelen, for services rendered in connection with Federal Disaster DR 4420 NE, Statement No. 60, for the amount of Eight Hundred Eighty-Three and 50/100 Dollars (\$883.50).

There was next presented a statement from Nebraska Public Power District, for lighting at Highway 75, Account #211010041398, **having a credit balance in the amount of One Hundred Sixty-Two and 19/100 Dollars (\$162.19).**

There were next presented statements from Omaha Public Power District for street lights and other electrical services, Account #5843000090, from January 3, 2024 to March 1, 2024, in the aggregate amount of Three Thousand Two Hundred Nine and 22/100 Dollars (\$3,209.22).

There was next presented an invoice from Subsurface Solutions, for GPS to "pin" locations within the District, Invoice #23903, in the amount of Four Thousand Eighty and 11/100 Dollars (\$4,080.11).

There was next presented an invoice from Nebraska Public Health Environmental Lab, for testing of water, Invoice #574351, having a zero balance. **The Board was next reminded that it has a credit balance in the amount of Five Hundred Nineteen and no/100 Dollars (\$519.00).**

There were next presented invoices from One Call Concepts, Inc., for line locates within the District, as follows: (i) Invoice #4010602, in the amount of Eighty Cents (\$0.80), and (ii) Invoice #4020603, in the amount of Six and 78/100 Dollars (\$6.78); said invoices being in the aggregate amount of Seven and 58/100 Dollars (\$7.58). **The Board was next reminded that it has a credit balance in the amount of Two Hundred Eleven and 27/100 Dollars (\$211.27).**

There was next presented an invoice from Thompson, Dreessen & Dorner, Inc., engineers for the District, for services rendered in miscellaneous District matters through February 11, 2024, Invoice #161876, in the amount of One Thousand Twenty-Two and 50/100 Dollars (\$1,022.50).

There was next presented a statement from Pansing Hogan Ernst & Buser LLP, attorneys for the District, for legal services performed through February 29, 2024, in the amount of Seven Thousand Seven Hundred Eighty-One and no/100 Dollars (\$7,781.00), and costs advanced in the amount of Seventy and 23/100 Dollars (\$70.23); said statement being in the aggregate amount of Seven Thousand Eight Hundred Fifty-One and 23/100 Dollars (\$7,851.23).

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. 6270 and 6271, 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 **seven percent (7%)** per annum (interest to be payable on February 10 of each year) and to be redeemed no later than **March 21, 2029**, 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. 6270, for the amount of Two Thousand Five Hundred Forty-Two and 50/100 Dollars (\$2,542.50), payable to Thompson, Dreessen & Dorner, Inc.

Warrant No. 6271, for the amount of Eight Hundred Eighty-Three and 50/100 Dollars (\$883.50), payable to Kraig J. Thelen.

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. 6272 through 6276 of the District, dated the date of this meeting, to the following payee and in the following amount, said Warrant to be drawn on the General Fund of the District and to draw interest at the rate of **seven percent (7%)** per annum and to be redeemed no later than **March 21, 2027**, 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. 6272, for the amount of Three Thousand Two Hundred Nine and 22/100 Dollars (\$3,209.22), payable to Omaha Public Power District, Account #5843000090.

Warrant No. 6273, for the amount of Four Thousand Eighty and 11/100 Dollars (\$4,080.11), payable to Subsurface Solutions.

Warrant No. 6274, for the amount of One Thousand Twenty-Two and 50/100 Dollars (\$1,022.50), payable to Thompson, Dreessen & Dorner, Inc.

Warrant No. 6275, for the amount of Five Thousand and no/100 Dollars (\$5,000.00), and Warrant No. 6276, for the amount of Two Thousand Eight Hundred Fifty-One and 23/100 Dollars (\$2,851.23), payable to Pansing Hogan Ernst & Buser 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.

The next order of business was discussion regarding excess dust related to the Chip Seal Road project. The Trustees discussed that several residents raised concerns regarding the level of dust from this project. Ed Hobza noted that there are a number of variables that can impact the level of dust from a Chip Seal project. In this particular instance, variables such as the time of year and temperature likely caused more dust to be produced. Additionally, it was noted that the aggregate used constitutes its own variable and the District as an expense control matter, was not using more expensive materials such as asphalt. The Trustees discussed a concern that the contractor may not have used the necessary amount of oil in the project. Ed Hobza noted the contract quantities were consistent with previous actions of the District and the contractor provided receipts for the quantity of material purchased. There was some discussion whether there was any way to confirm, after the fact, whether the appropriate amount of material was used. Ed Hobza noted that the nature of the chip seal road was such that testing would be unreliable by traditional means but that he would investigate other options for the District Trustees to consider. The Trustees wish to make clear to the contractor that the end result of this work is not up to the standard expected by the District.

The next order of business was discussion regarding a potential road fogging project. The Trustees were reminded that road fogging had previously been considered and the expense involved in light of the circumstances did not appear to be cost-effective. However, under the circumstances of the current road conditions, the Trustees discussed the potential for a road fogging project to remedy the current conditions regarding road dust.

The next order of business was discussion regarding concrete work for certain areas around the caretaker house and shop. The Trustees discussed that concrete repairs and expansion were necessary in these areas as had been previously discussed by the Trustees. A bid had been received for completion of the concrete work from JSM Concrete at a cost of \$7,300.00. It was noted that the bid identifies the work location as "Jim's drive out" but that the work performed was for District project and not any private owner. Upon a motion duly made and seconded and upon a roll call vote, all the Trustees, Peggy Lawton, Matt Burnham Wayne Breyfogle and Scott Pekarek voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED that the estimate received from JSM Concrete is hereby accepted and the work set forth is hereby approved.

RESOLVED FURTHER that Jim Noerrlinger is hereby authorized and directed to act on behalf of the District to coordinate for the work to be performed by JSM Concrete.

The next order of business was discussion regarding tree removal near the Missouri River. Jim Noerrlinger noted that, once the trees had been removed, an area of the riverbank that was missing rock had come to light and water had appeared to be swirling and potentially causing issues in the area. The Trustees directed Ed Hobza to investigate the area and report back.

The next order of business was discussion regarding District water and sewer systems. There was a brief discussion regarding the continued efforts of the District to obtain an inventory and survey of private water system elements. Ed Hobza reported that he had been attempting to contact JEO personnel regarding the cost and timing for obtaining a better estimate of the overall project cost for connection to Nebraska Rural Water Systems. There was also discussion regarding the purchase of two new water tanks as an alternative to connection to a rural water system. Both options would be continued to be discussed as cost estimates could be considered.

There was also discussion regarding sewer systems for the District. Jim Noerrlinger noted concern that availability of space for septic systems, particularly as houses grow larger, would likely eventually necessitate a sewer treatment facility.

The next order of business was discussion regarding stocking fish in the lake. Scott Pekarek noted that he continued his efforts to investigate the options for stocking fish in the lake and had been discussing options with a variety of providers. There was an extensive discussion regarding the type and size of fish to be used in stocking. However, the Trustees noted that the District should consider whether to incur significant expense without more permanent protections and fish habitat in place. It was discussed there had been significant interest and involvement in the restocking by members of the public. The Trustees hoped that this interest would result in action by residents, potentially to allow for some kind of service project or volunteer project for creation and installation of fish habitat. Ultimately, the Trustees discussed that stocking of blue gill and other small fish would be a benefit to the District. Upon a motion duly made and seconded and upon a roll call vote, all the Trustees, Peggy Lawton, Matt Burnham Wayne Breyfogle and Scott Pekarek voted "Aye" with none voting "Nay" thereby adopting the following resolution:

RESOLVED that the District hereby authorizes the purchase, delivery and installation of fish, including blue gill in a cost not to exceed \$7,500.00.

RESOLVED FURTHER that Scott Pekarek is hereby authorized and directed to act on behalf of the District to contract for delivery and installation of the fish.

**[THE BALANCE OF THIS PAGE LEFT INTENTIONALLY BLANK –
SIGNATURES APPEAR ON THE FOLLOWING PAGE]**

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 March 21, 2024, meeting.

A handwritten signature in black ink, appearing to read "Matt Burnham", written over a horizontal line.

Matt Burnham, Clerk