



**Papio-Missouri River Natural Resources District
Board of Directors Meeting
Suggested Resolutions/Recommendations
May 13, 2021**

***Agenda Item 4 - Agenda**

BE IT RESOLVED that the agenda be adopted.

***Agenda Item 5 – Consent Agenda**

BE IT RESOLVED that the following resolutions on the consent agenda are hereby adopted.

Agenda Item 3.A.:

BE IT RESOLVED that the absences of the following Director(s) from the May 13, 2021 Board of Director Meeting are excused:

Danny Begley.

Agenda Item 7. A. and 7.B.:

BE IT RESOLVED that the April 8, 2021 Papio-Missouri River NRD Board Meeting minutes and the April 14, 2021 Dakota County Rural Water Advisory Board Meeting minutes are approved as printed.

***Agenda Item 9.A. – Programs, Projects and Operations Subcommittee**

BE IT RESOLVED that the minutes of the May 11, 2021 meeting of the Programs, Projects and Operations Subcommittee are accepted, incorporated in these minutes, and the following recommendation(s) of the Subcommittee are hereby adopted and approved.

1. FY 2022 Equipment Requirements: Recommendation that the proposed FY 2022 Equipment Requirements be approved, subject to funding in the FY 2022 Budget.
2. Little Papio Creek Channel Culverts Project, Interlocal Agreement with City of Omaha for Design of Drainage Structure Rehabilitation: Recommendation that the General Manager be authorized to execute the proposed Little Papio Creek Channel Project Design of Drainage Structure Rehabilitation Interlocal Cooperation Agreement with the City of Omaha, with a reimbursement maximum not-to-exceed limit of \$350,000, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

3. 4th Addendum to the Nebraska Land Trust Agreement: Recommendation that the General Manager be authorized to execute the proposed fourth addendum to the March 18, 2009, “Agreement Between Papio-Missouri River Natural Resources District and Nebraska Land Trust for Cooperative Assistance” that allows for an additional three year District commitment in the amount of \$30,000/year, commencing in fiscal year 2022, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.
4. Application for Small Flood Control and Water Quality Structure 319 Program: Recommendation that the proposed application be approved per District Policy 17.37 Small Flood Control and Water Quality Structure Program.
5. Consent and Crossing Agreement with Papio-Missouri River NRD and Lower Elkhorn NRD for Burt County Solar: Recommendation that the General Manager be authorized to execute the proposed Logan East Rural Water Project Consent and Crossing Agreement with Burt County Solar, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.
6. Contract Amendment for Phase 2 of Professional Services Contract with HDR for WP4 Project: Recommendation that the General Manager be authorized to execute Amendment #1 with HDR Engineering, Inc. for Professional Engineering Services for the Final Design and Construction of the WP4 Project in a not-to-exceed amount of \$1,434,813, bringing the total contract amount to \$3,478,636, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.
7. Urban Drainageway Program Application from Douglas County, Ponca Creek at 36th Street: Recommendation that the Urban Drainageway Program application from Douglas County for \$66,968 be approved, subject to funding in the FY 2022 Budget.
8. Second Amendment to the Interlocal Agreement with the City of Tekamah for Wellhead Protection Area Plan Cost-Share: Recommendation that the General Manager be authorized to execute the proposed Second Amendment to the Interlocal Agreement with the City of Tekamah for Wellhead Protection Area Plan Cost-Share, making the maximum not-to-exceed amount for the agreement \$48,550 in District funds, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

***Agenda Item 9.B. – Finance, Expenditure and Legal Subcommittee**

BE IT RESOLVED that the minutes of the May 11, 2021 meeting of the Finance, Expenditure and Legal Subcommittee are accepted, incorporated in these minutes, and the following recommendation(s) of the Subcommittee are hereby adopted and approved.

1. Land Rights for the Elk Creek Levee Repairs: Recommendation that the following resolution be adopted:

RESOLUTION

WHEREAS, the Papio-Missouri River Natural Resources District (“the DISTRICT”) has plans to modify, repair and improve the Elk Creek Levee (the “PROJECT”) in Dakota County, Nebraska; and,

WHEREAS, the PROJECT was and continues to be a plan, facility, work and program within the contemplation of Neb. Rev. Stat. § 2-3229, which provides as follows, to-wit:

2-3229 Districts; purposes. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management.

and,

WHEREAS, the Board of Directors of the DISTRICT does hereby find and determine as follows, to-wit:

The DISTRICT has identified certain permanent and temporary easements (hereinafter referred to as the “EASEMENTS”), hereinafter described, in, on, over and across lands owned by Darlene L. Roost Revocable Trust Dated December 29, 2000 (“CONDEMNEE”) in the SW 1/4 & SE 1/4 of Section 21; and part of the NE 1/4 & the E1/2 NW1/4 and NE1/4 SW 1/4 of Section 28, Township 29 N, Range 8 E of the 6th P.M., Dakota County, Nebraska, that are necessary for the PROJECT; and,

The DISTRICT previously negotiated in good faith with CONDEMNEE in that: the DISTRICT offered to CONDEMNEE an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNEE as a result of the DISTRICT’S acquisition of the EASEMENTS; and, the DISTRICT’S representatives made reasonable efforts to induce CONDEMNEE to accept the DISTRICT’S offer, but such offer was rejected by CONDEMNEE, through a counteroffer that significantly exceeded the appraised damages presented to the DISTRICT. The DISTRICT then made an attempt to offer an amount of money above the full fair market value of the appraised damages and the CONDEMNEE denied such additional offer leaving the negotiations at an impasse.

Economic and physical feasibility necessitates that the PROJECT be constructed in the location of the EASEMENTS.

Approvals by other agencies of this action are not required; and,

It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Neb. Rev. Stat. § 2-3234, in order to acquire for the PROJECT the EASEMENTS, evidenced and legally described in Exhibit A (“Easement Area”), conditioned as follows, to-wit:

The District and its successors and assigns, shall have the permanent, full, and free right, liberty and authority to enter upon and use the Easement Area for the construction,

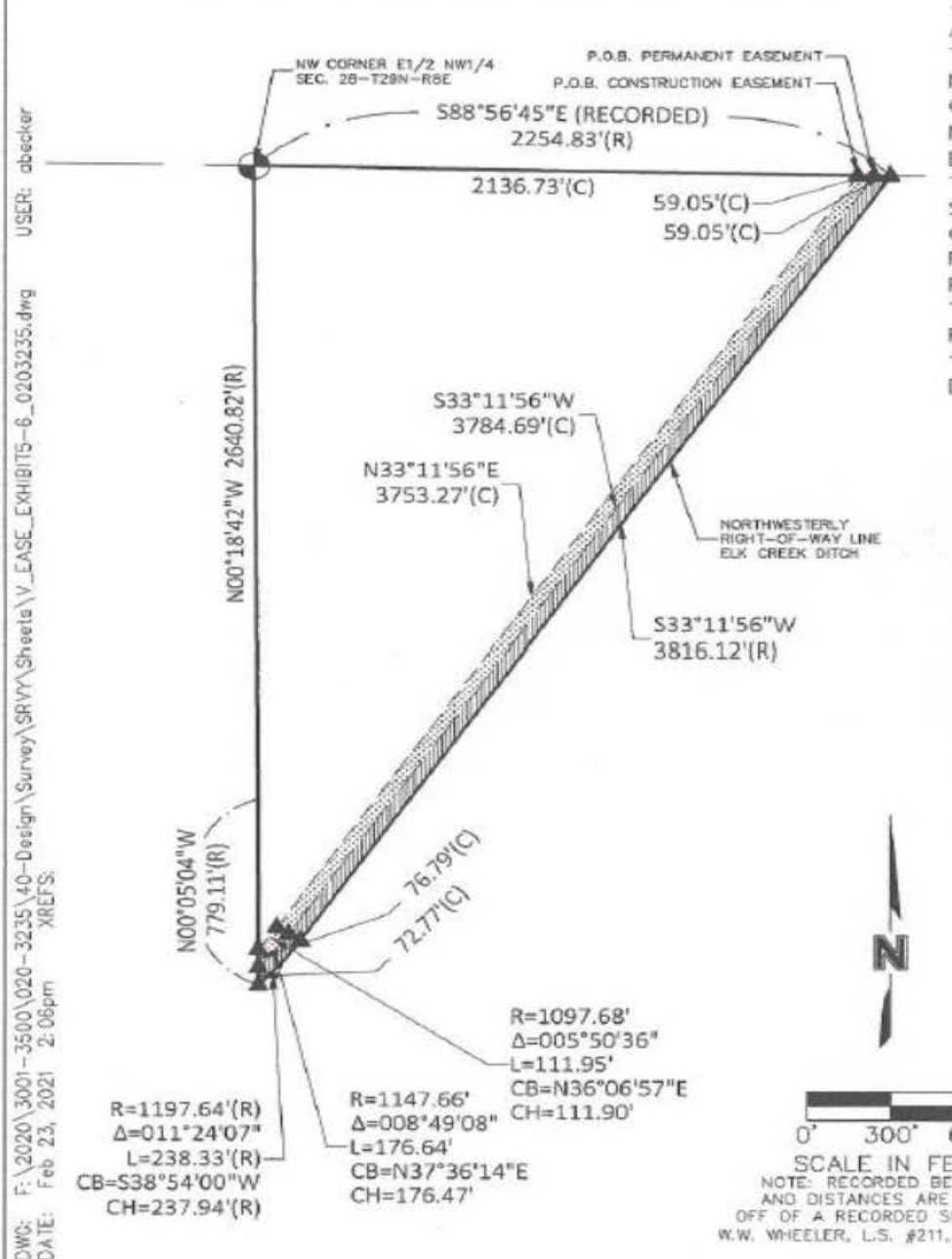
operation and maintenance, repair and replacement of a flood control levee and appurtenances along the Elk Creek to reduce flooding, including, without limitation: clearing and snagging trees, brush, and other debris; construction, replacement, flood barrier and storm water drainage structures (including, but not limited to relief wells); borrow and fill of earthen materials; flowage of waters and sediment; and, for pedestrian, vehicular and machine ingress and egress, including, without limitation, the right to have the air space above the Easement Area free from obstruction to such height as will permit passage and operation of machinery, all subject to the following:

- i. There is reserved to the Grantor, and its successors and assigns, the right and privilege to use the Easement Area at any time, in any manner and for any purpose not inconsistent with the full use by the District, its successors and assigns, of the rights herein granted; provided, however, no structures shall be erected, nor shall any other excavation, filling, or boring, nor any dumping or storage of personal property, be performed or permitted, nor any agricultural products or crops grown in the Easement Area without the prior written consent of the District, or its successors or assigns. In the event the Grantor has property on both sides of the Easement Area, the District will construct ramps sufficient to allow Grantor access and there shall be no severance of the Grantor's property.
- ii. The Grantor shall not be responsible for operation or maintenance of any of the improvements contemplated by this easement.
- iii. This Easement shall not be construed to pass to the District any fee simple interest or title to the Easement Area.
- iv. The Easements granted by this instrument shall run with the land and shall be binding upon and inure to the benefit of the parties to this instrument and their heirs, successors and assigns, respectively.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations should be and are hereby made and adopted; and that, in the absence of voluntary conveyances of the EASEMENTS, the DISTRICT'S Legal Counsel should be, and is hereby, authorized and directed to initiate the filing of a petition in the County Court of Dakota County, Nebraska, on behalf of the DISTRICT, pursuant to the procedures governing eminent domain provided by Neb. Rev. Stat. § 76-701, et seq., for the appointment of appraisers to ascertain and determine the damages that will be sustained by the respective landowners from the DISTRICT'S acquisition of the EASEMENTS.

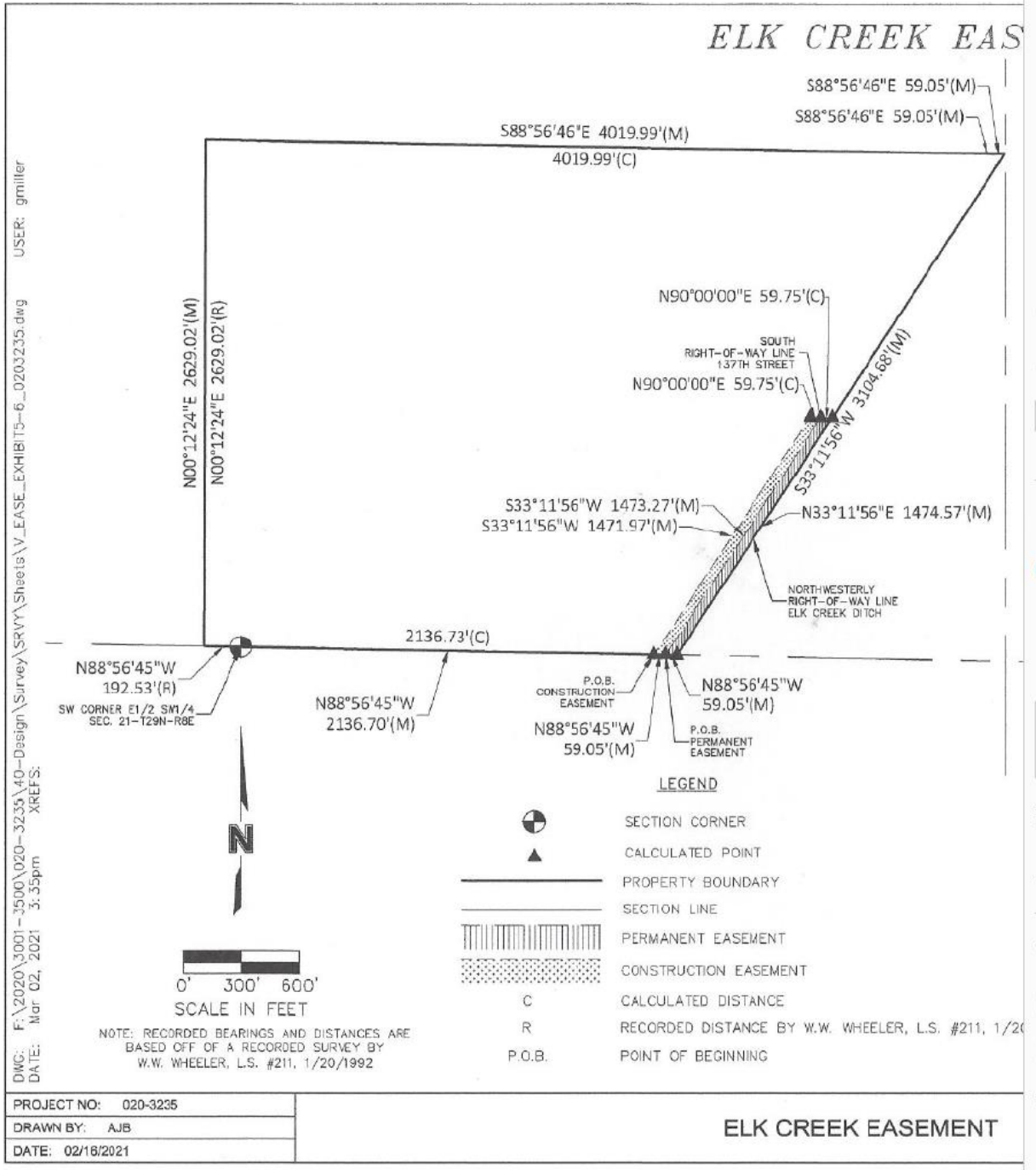
EXHIBITS

ELK CREEK EASEMENT



PROJECT NO:	020-3235
DRAWN BY:	AJB
DATE:	02/15/2021

ELK CREEK EAS



PERMANENT EASEMENT DESCRIPTION

A TRACT OF LAND LOCATED IN A PORTION OF THE EAST HALF OF THE NORTHWEST 1/4, THE NORTHWEST 1/4 OF THE NORTHEAST 1/4, AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4, ALL IN SECTION 28, TOWNSHIP 29 NORTH, RANGE 8 EAST OF THE 6TH P.M., DAKOTA COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID E1/2 NW1/4 AND REFERRING TO A RECORDED BEARING ON THE NORTH LINE OF SAID E1/2 NW1/4 OF S88°56'45"E; THENCE S88°56'45"E AND ON THE NORTH LINE OF SAID SECTION 28 A DISTANCE OF 2195.78 FEET TO THE POINT OF BEGINNING OF THE PERMANENT EASEMENT; THENCE CONTINUING S88°56'45"E AND ON SAID NORTH LINE SEC 28 A DISTANCE OF 59.05 FEET TO THE INTERSECTION OF SAID NORTH LINE SECTION 28 AND THE NORTHWESTERLY RIGHT-OF-WAY LINE OF THE ELK CREEK DITCH; THENCE S33°11'56"W AND ON SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF THE ELK CREEK DITCH, A DISTANCE OF 3816.12 FEET TO A POINT OF CURVATURE; THENCE CONTINUING ALONG NORTHWESTERLY RIGHT-OF-WAY LINE OF ELK CREEK ON A 1197.64 FOOT RADIUS CURVE TO THE RIGHT HAVING A CHORD BEARING OF S38°54'00"W AND A CHORD DISTANCE OF 237.94 FEET WITH AN ARC DISTANCE OF 238.33 FEET TO A POINT ON THE WEST LINE OF SAID NE1/4 OF SW1/4; THENCE N00°05'04"W AND ON SAID WEST LINE NE1/4 SW1/4 A DISTANCE OF 72.77 FEET TO A POINT OF CURVATURE; THENCE CONTINUING PARALLEL TO SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF ELK CREEK ON A 1147.66 FOOT RADIUS CURVE TO THE LEFT HAVING A CHORD BEARING OF N37°36'14"E AND A CHORD DISTANCE OF 176.47 FEET WITH AN ARC DISTANCE OF 176.64 FEET; THENCE CONTINUING N33°11'56"E PARALLEL WITH SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF THE ELK CREEK DITCH A DISTANCE OF 3784.69 FEET TO THE POINT OF BEGINNING. SAID EASEMENT CONTAINS A CALCULATED AREA OF 4.49 ACRES, MORE OR LESS.

PERMANENT EASEMENT DESCRIPTION

A TRACT OF LAND LOCATED IN A PORTION OF THE SOUTHWEST 1/4 AND A PORTION OF THE SOUTHEAST 1/4, ALL IN SECTION 21, TOWNSHIP 29 NORTH, RANGE 8 EAST OF THE 6TH P.M., DAKOTA COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE E1/2 OF THE SW1/4 OF SAID SEC. 21 AND REFERRING TO A RECORDED BEARING ON THE SOUTH LINE OF SAID E1/2 SW1/4 OF S88°56'45"E; THENCE S88°56'45"E AND ON SAID SOUTH LINE E1/2 SW1/4 A DISTANCE OF 2195.78 FEET TO THE POINT OF BEGINNING OF THE PERMANENT EASEMENT; THENCE N33°11'56"E AND PARALLEL WITH THE NORTHWESTERLY RIGHT-OF-WAY LINE OF THE ELK CREEK DITCH, A DISTANCE OF 1473.26 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF 137TH STREET; THENCE EASTERLY ON SAID SOUTH RIGHT-OF-WAY LINE OF 137TH STREET A DISTANCE OF 59.75 FEET TO THE INTERSECTION OF SAID SOUTH RIGHT-OF-WAY LINE OF 137TH STREET AND THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SAID ELK CREEK DITCH; THENCE S33°11'56"W AND ON SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF THE ELK CREEK DITCH A DISTANCE OF 1474.56 FEET MORE OR LESS TO SAID SOUTH LINE SW1/4; THENCE N88°56'45"W AND ON SAID SOUTH LINE SW1/4 A DISTANCE OF 59.05 FEET TO THE POINT OF BEGINNING. SAID EASEMENT CONTAINS A CALCULATED AREA OF 1.69 ACRES, MORE OR LESS.

2. West Papillion Regional Basin 2 (WP2) Surplus Land Sale Agreement: Recommendation that approximately 8.93 acres of land purchased as part of the WP2 project be declared surplus and that the General Manager be authorized to execute a purchase agreement with Celebrity Homes for the sale of 8.93 acres, verified by survey, in the amount of \$57,595 per acre, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

***Agenda Item 10. A.-J. – Treasurer’s Report**

BE IT RESOLVED that the Treasurer is authorized to expend general funds to pay: (l) claims listed in the March 12, 2021 through April 8, 2021, financial report; and, (2) any claims made prior to the next Board meeting for (a) earned salaries of District employees, (b) withholding taxes, (c) social security payments, (d) retirement program contributions, (e) utilities, (f) registration fees and expenses for upcoming meetings and conferences, (g) certified completed CAP and Special Project Area applications, (h) invoices which offer a credit or discount for payment made prior to the next Board meeting, (i) postage, and, (j) building and grounds contract expenses.

BE IT FURTHER RESOLVED that the Treasurer is authorized to pay, from the respective operating accounts of the Dakota County, Thurston County and Washington County Rural Water Supply System, the Elkhorn River Bank Stabilization Project, the Elkhorn Breakout Project, the Elk/Pigeon Creek Drainage Project, the Western Sarpy Drainage District, the Papillion Creek Watershed Partnership, and the Southern Sarpy Watershed Partnership project bills listed on the March 12, 2021 through April 8, 2021, financial report, and future claims for project utilities.

BE IT FURTHER RESOLVED that the financial reports be affixed to and made a part of the minutes.