

## ORDINANCE NO. 337 (24)

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF SEWER IMPROVEMENT BOND ANTICIPATION NOTES IN ONE OR MORE SERIES IN THE AMOUNT OF NOT TO EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) FOR THE PURPOSE OF PAYING THE COSTS OF CONSTRUCTING SEWER IMPROVEMENTS WITHIN THE CITY OF ALBION, NEBRASKA AND NECESSARY APPURTENANCES THERETO; PROVIDING FOR A PAYING AGENT AND REGISTRAR OF THE NOTES; AGREEING TO ISSUE BONDS TO PAY THE NOTES AND ACCRUED INTEREST AT MATURITY; PRESCRIBING THE FORM OF THE NOTES; AUTHORIZING THE SALE AND DELIVERY OF THE NOTES TO THE PURCHASER AND ORDERING THE PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ALBION, NEBRASKA:

Section 1. The Mayor and City Council (the “Council”) of the City of Albion, Nebraska (the “City”), hereby find and determine:

(a) That the City has (or will have prior to issuance of the Notes), by ordinance and resolution of necessity, authorized the construction of certain sewer improvements in an area of the City designated as Sewer Improvement District No. 2024-1, Sewer Improvement District No. 2024-2, Sewer Improvement District No. 2024-3, and Sewer Improvement District No. 2024-4 (collectively, the “Districts”) pursuant to Sections 17-913 to 17-925, R.R.S. Nebraska 2012, and all actions and other required facts and conditions for the authorization of the Districts and the construction of improvements therein have occurred as required by law;

(b) That it is necessary and appropriate to construct, and the City is constructing, the sewer improvements in the Districts;

(c) That for this purpose the City will issue its general obligation various purpose bonds or other bonds after further determination as to the total remaining costs of the improvements and after finding an appropriate market for said bonds and that the total costs of such improvements, including the cost of issuance of the Notes authorized herein, are presently estimated to be in excess of \$250,000;

(d) That the City is authorized to issue warrants to pay the costs of said improvements and, pending permanent financing by the issuance of general obligation bonds, it is necessary and desirable in order to provide temporary financing, to issue bond anticipation notes in lieu of issuing warrants; and

(e) That all conditions exist for the issuance of Sewer Improvement Bond Anticipation Notes in the amount of not to exceed \$250,000 pursuant to Sections 10-137 R.R.S. Nebraska 2012.

Section 2. Notes to be designated Sewer Improvement Bond Anticipation Notes, Series 2024 (the “Notes”), in the aggregate principal amount of not to exceed \$250,000, which shall be in denominations of \$5,000 each or any integral multiple thereof as determined by the City Treasurer prior to delivery, are hereby authorized to be issued. The Notes shall be dated as of their date of delivery and shall mature on the date, be issued in the

principal amount and shall bear interest at the rate per annum as determined in the Note Purchase Agreement (the “Agreement”) signed by the Mayor or City Clerk (each an “Authorized Officer”, and together, the “Authorized Officers”) on behalf of the City and agreed to by Northland Securities, Inc. (the “Underwriter”), which Agreement may also set the pricing terms and the terms pursuant to which the Notes may be redeemed prior to maturity, all within the following limitations:

- (a) the aggregate principal amount of the Notes shall not exceed \$250,000;
- (b) the true interest cost (TIC) of the Notes shall not exceed 7.00%;
- (c) the Underwriter’s discount shall not exceed 1.25%; and
- (d) the Notes shall mature no later than September 15, 2026.

Upon and after final approval of creation of the Districts, the Authorized Officers are authorized to establish the final terms for the Notes and arrange for issuance of the Notes without further action by the Council, provided, however, that the authority of the Authorized Officers to act without further action by the Council shall lapse if not exercised on or before March 31, 2025. Interest on the Notes shall be payable on the dates set forth in the Agreement. In accordance with the date for optional redemption established in the Agreement, the City may thereafter select the Notes to be redeemed for optional redemption in its sole discretion. Any Notes to be redeemed in part shall be redeemed only in amounts of \$5,000 or integral multiples thereof. Notes redeemed in part only shall be surrendered to the Paying Agent and Registrar in exchange for a new Note or Notes evidencing the unredeemed principal thereof. Notice of redemption of any Note called for redemption shall be given at the direction of the City by said Paying Agent and Registrar by mail not less than 30 days prior to the date fixed for redemption, first-class, postage prepaid, sent to the registered owner of such Note at such owner’s registered address. Such notice shall designate the Note or Notes to be redeemed by maturity or otherwise, the date of original issue and the date fixed for redemption and shall state that such Note or Notes are to be presented for prepayment at the office of said Paying Agent and Registrar. In case of any Note partially redeemed, such notice shall specify the portion of the principal amount of such Note to be redeemed. If any Note or an interest payment thereon is not paid at maturity or due date, the Note or interest installment shall bear interest thereafter until paid at a rate equal to the rate assessed against delinquent taxes under Section 45-104.01 R.R.S. Nebraska 2010, as now existing or as the same may be amended from time to time by the Nebraska Legislature. Said Notes shall be delivered to the Underwriter upon receipt of payment for said Notes, at the purchase price therefor agreed to in the Agreement in accordance with the authorization granted to the Authorized Officers.

Section 3. Said Notes shall be dated the date of their delivery, be executed on behalf of the City by being signed by the Mayor and the City Clerk, both of which signatures may be facsimile signatures, and shall have the City seal impressed on each Note. After being executed by the Mayor and City Clerk, said Notes shall be delivered to the Paying Agent and Registrar who shall register each Note in the name of its initial registered owner as designated by the initial purchaser. Each Note shall be authenticated on behalf of the City by the Paying Agent and Registrar. The Notes shall be issued initially as “book-entry only” notes using the services of The Depository Trust Company (the “Depository”), with one typewritten Note per maturity being issued to the Depository. In such connection said officers of the City are authorized to execute and deliver a letter of representations and inducement (the “Letter of Representations”) in the form required by the Depository (including any blanket letter previously delivered), for and on behalf of the City, which shall thereafter govern matters with

respect to registration, transfer, payment and redemption of the Notes. Upon issuance of the Notes as “book-entry-only” notes, the following provisions shall apply:

(a) The City and the Paying Agent and Registrar shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which the Depository holds Notes as securities depository (each, a “Note Participant”) or to any person who is an actual purchaser of a Note from a Note Participant while the Notes are in book-entry form (each a “Beneficial Owner”) with respect to the following:

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Note Participant with respect to any ownership interest in the Notes;

(ii) the delivery to any Note Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Notes, including any notice of redemption, or

(iii) the payment to any Note Participant, any Beneficial Owner, or any other person, other than the Depository, of any amount with respect to the Notes. The Paying Agent and Registrar shall make payments with respect to the Notes only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such Notes to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated Note, except as provided in (e) below.

(b) Upon receipt by the Paying Agent and Registrar of written notice from the Depository to the effect that the Depository is unable to or unwilling to discharge its responsibilities, the Paying Agent and Registrar shall issue, transfer and exchange Notes requested by the Depository in appropriate amounts. Whenever the Depository requests the Paying Agent and Registrar to do so, the Paying Agent and Registrar will cooperate with the Depository in taking appropriate action after reasonable notice (i) to arrange, with the prior written consent of the City, for a substitute depository willing and able upon reasonable and customary terms to maintain custody of the Notes, or (ii) to make available Notes registered in whatever name or names the Beneficial Owners transferring or exchanging such Notes shall designate.

(c) If the City determines that it is desirable that certificates representing the Notes be delivered to the ultimate Beneficial Owners of the Notes and so notifies the Paying Agent and Registrar in writing, the Paying Agent and Registrar shall so notify the Depository, whereupon the Depository will notify the Note Participants of the availability through the Depository of Note certificates representing the Notes. In such event, the Paying Agent and Registrar shall issue, transfer and exchange Note certificates representing the Notes as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Note is registered in the name of the Depository or any nominee thereof, all payments with respect to such Note and all notices with respect to such Note shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

(e) Registered ownership of the Notes may be transferred on the books of registration maintained by the Paying Agent and Registrar, and the Notes may be delivered in physical form to the following:

(i) any successor securities depository or its nominee; or

(ii) any person, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant to this Section and the terms of the Paying Agent and Registrar's Agreement (if any).

(f) In the event of any partial redemption of a Note unless and until such partially redeemed Note has been replaced in accord with the provisions of this Ordinance, the books and records of the Paying Agent and Registrar shall govern and establish the principal amount of such Note as is then outstanding and all of the Notes issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository resigns and is not replaced or upon termination by the City of book-entry-only form, the City shall immediately provide a supply of Note certificates for issuance upon subsequent transfers or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Paying Agent and Registrar for issuance of replacement Note certificates upon transfer or partial redemption, the City agrees to order printed an additional supply of Note certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting officers. In case any officer whose signature or facsimile signature shall appear on any Note shall cease to be such officer before the delivery of such Note (including any Note certificates delivered to the Paying Agent and Registrar for issuance upon transfer or partial redemption) such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Note. The Notes shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar. The Notes shall be delivered to the Paying Agent and Registrar for registration and authentication.

Section 4. All Notes authorized by this Ordinance shall be fully registered Notes pursuant to Section 10-135 R.R.S. Nebraska 2012. The City Treasurer is hereby designated as Paying Agent and Registrar for the Notes, provided that the Mayor may, in his or her discretion, appoint a bank with trust powers or trust company to serve as Paying Agent and Registrar under the terms of this Ordinance as may be determined from time to time. The Authorized Officers, or either of them, are authorized, on behalf of the City, to enter into an agreement with said Paying Agent and Registrar for the provisions of such services. Said Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Notes at the Paying Agent and Registrar's office. The names and registered addresses of the initial registered owner or owners of the Notes shall be recorded in such books prior to the issuance thereof. Any Note may be transferred pursuant to its provisions at the office of the Paying Agent and Registrar upon surrender of the Note for notation of transfer, accompanied by a written instrument of transfer, in form satisfactory to such Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar will register such transfer and will deliver at such office (or send by registered mail to the transferee owner or owners thereof at such transferee owner's or owners' risk and expense), registered in the name of such transferee owner or owners, a new Note or Notes of the same interest rate, aggregate principal amount and maturity. To the extent of the denominations authorized for the Notes by this Ordinance, one Note may be transferred for several such Notes of the same interest rate and maturity and for a like aggregate principal amount, and several such Notes may be transferred for one or several such Notes, respectively, of the same interest rate and maturity and for a like aggregate principal amount. In every case of transfer of a Note, the surrendered Note or

Notes shall be canceled and destroyed. All Notes issued upon transfer of the Notes so surrendered shall be valid obligations of the City evidencing the same obligations as the Notes surrendered and shall be entitled to all the benefits and protection of this Ordinance to the same extent as the Notes upon transfer of which they were delivered. The City Treasurer is hereby authorized and directed to transfer, from any monies of the City available for the purpose, funds required to pay interest and principal on the Notes when and as the same become due, to the Paying Agent and Registrar on or before each interest and principal payment date. Payment of interest, except for payment of interest at maturity or upon redemption, shall be mailed to the registered owners of the Notes as of the record date for each interest payment date. The record date for each interest payment date shall be the close of business on the fifteenth day (whether or not a business day) immediately preceding each interest payment date. The principal, together with accrued interest then due, shall be payable at maturity or on redemption prior to maturity upon presentation and surrender of each Note at the office of the Paying Agent and Registrar. The City and the Paying Agent and Registrar shall not be required to transfer Notes during any period from any record date until its immediately following interest payment date or to transfer any Notes called for redemption for a period of thirty days next preceding any date fixed for redemption prior to maturity.

Section 5. The fully registered Sewer Improvement Bond Anticipation Notes shall be in substantially the following form:

CITY OF ALBION, NEBRASKA  
SEWER IMPROVEMENT BOND ANTICIPATION NOTE  
SERIES 2024

No.				\$
<u>No.</u>	<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Delivery</u>	<u>CUSIP</u>
	____%	_____	_____, 2024	

Registered Owner: \_\_\_\_\_

Principal Amount: \_\_\_\_\_

The City of Albion, Nebraska, hereby promises to pay to the registered owner specified above the sum specified above on the maturity date specified above, together with interest thereon from the date of delivery hereof until maturity (or earlier redemption) at the rate per annum specified above, payable on \_\_\_\_\_ and \_\_\_\_\_ of each year, beginning \_\_\_\_\_, 2025. The interest hereon shall be paid on each interest payment date by the City Treasurer, as Paying Agent and Registrar, by wire transfer, check or draft mailed to the registered owner hereof determined as of the fifteenth day (whether or not a business day) immediately preceding each interest payment date, at such owner's registered address as it appears on the books of registration as maintained by said Paying Agent and Registrar. The principal of this note and the interest due at maturity or upon call for redemption prior to maturity are payable on presentation and surrender to said Paying Agent and Registrar at the Paying Agent's office in Albion, Nebraska, or the offices of any successor Paying Agent and Registrar, as applicable. If this note or any interest installment hereon is not paid upon maturity or due date, the note or interest installment shall bear interest thereafter until paid at a rate equal to the rate assessed against delinquent taxes under Section 45-104.01 R.R.S. Nebraska, 2010, as now existing or as the same may be amended from time to time by the Nebraska Legislature. This note and interest accruing hereon shall be payable from funds received by the City from the issuance and sale of its general obligation various purpose bonds or other bonds and is optional for payment on \_\_\_\_\_, 20\_\_, or at any time thereafter at par plus accrued interest. This note is one of an issue of \$\_\_\_\_\_ in total principal amount issued pursuant to an ordinance duly adopted by the City (the "Ordinance"). All the provisions and agreements of said Ordinance are by reference made a part of this instrument and all such agreements accrue to the registered owner of this note. This note shall not be a debt of the City within the meaning of any constitutional, statutory or charter limitation upon the creation of general obligation indebtedness of said City and said City shall not be liable for the payment of the principal thereof out of any money of the City other than from proceeds of the issuance of general obligation bonds, as aforesaid, or other funds of the City available to pay interest on said note or a portion of the cost of the project so as to reduce the required financing.

This note is transferable by the registered owner or such owner's attorney duly authorized in writing at the office of the Paying Agent and Registrar upon surrender and cancellation of this note, and thereupon a new note or notes of the same aggregate principal amount, interest rate and maturity will be issued to the transferee as provided in the Ordinance authorizing said issue of notes, subject to the limitations therein prescribed. The City, its Paying Agent and Registrar and any other person may treat the person in whose name this note is registered as the absolute owner hereof for the purpose of receiving payment hereof and for all purposes and shall not be affected by any notice to the contrary, whether this note be overdue or not.

AS PROVIDED IN THE ORDINANCE REFERRED TO HEREIN, UNTIL THE TERMINATION OF THE SYSTEM OF BOOK-ENTRY-ONLY TRANSFERS THROUGH THE DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (TOGETHER WITH ANY SUCCESSOR SECURITIES DEPOSITORY APPOINTED PURSUANT TO THE ORDINANCE, "DTC"), AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THE ORDINANCE TO THE CONTRARY, A PORTION OF THE PRINCIPAL AMOUNT OF THIS NOTE MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE PAYING AGENT AND REGISTRAR. DTC OR A NOMINEE, TRANSFEREE OR ASSIGNEE OF DTC OF THIS NOTE MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED IN THE MANNER PROVIDED IN THE ORDINANCE.

UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED OFFICER OF DTC (A) TO THE PAYING AGENT AND REGISTRAR FOR REGISTRATION OF TRANSFER OR EXCHANGE OR (B) TO THE PAYING AGENT AND REGISTRAR FOR PAYMENT OF PRINCIPAL, AND ANY NOTE ISSUED IN REPLACEMENT HEREOF OR SUBSTITUTION HEREFOR IS REGISTERED IN THE NAME OF DTC AND ANY PAYMENT IS MADE TO DTC OR ITS NOMINEE, ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL BECAUSE ONLY THE REGISTERED OWNER HEREOF, DTC OR ITS NOMINEE, HAS AN INTEREST HEREIN.

This note shall not be valid and binding on the City until authenticated by the Paying Agent and Registrar.

IN WITNESS WHEREOF, the Mayor and Council of the City of Albion, Nebraska, have caused this note to be executed on behalf of the City by being signed by the Mayor and Clerk, both of which signatures may be facsimile signatures, and by causing the official seal of the City to be affixed hereto all as of the date of delivery shown above.

CITY OF ALBION, NEBRASKA

By: \_\_\_\_\_ (Do not sign)  
Mayor

ATTEST:

\_\_\_\_\_  
(Do not sign)  
City Clerk

(S E A L)

CERTIFICATE OF AUTHENTICATION

This note is one of the notes authorized by an ordinance passed and approved by the Mayor and Council of the City of Albion, Nebraska as described in said notes.

(do not sign)  
\_\_\_\_\_  
City Treasurer, as Paying Agent  
and Registrar

(FORM OF ASSIGNMENT)

For value received \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_ the within note and hereby irrevocably constitutes and appoints \_\_\_\_\_, Attorney, to transfer the same on the books of registration in the office of the within mentioned Paying Agent and Registrar with full power of substitution in the premises.

Date: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
SIGNATURE GUARANTEED  
By \_\_\_\_\_  
\_\_\_\_\_  
Authorized Officer

Registered Owner

Note: The signature(s) of this assignment MUST CORRESPOND with the name as written on the face of the within note in every particular without alteration, enlargement or any change whatsoever, and must be guaranteed by a commercial bank or a trust company or by a firm having membership on the New York, Midwest or other stock exchange.

Section 6. Notice of the call of any of said Notes for payment prior to maturity shall be sufficient if it has been communicated at least thirty days prior to the redemption date by any means by or on behalf of the City to the registered owner of each of the Notes to be redeemed.

Section 7. Additional Sewer Improvement Bond Anticipation Notes can be authorized if deemed necessary by the Council by appropriate ordinance.

Section 8. The proceeds received from the sale of the Notes shall be used to pay project costs as set out in Section 1 hereof.

Section 9. The City covenants and agrees that it will take all steps required to complete the improvements described in Section 1 hereof in a manner to allow it to issue and sell its general obligation various purpose bonds or other bonds. The City further covenants and agrees to issue and sell its general obligation various purpose bonds or other bonds in a sufficient amount and at such time as will enable it to take up and pay off the Notes herein ordered issued, both principal and interest, at or prior to maturity, to the extent not paid from other sources.

Section 10. The City of Albion, Nebraska, hereby covenants to the purchasers and holders of the Notes hereby authorized that it will make no use of the proceeds of said Note issue, including monies held in any sinking fund for the payment of said Notes, which would cause said Notes to be arbitrage bonds within the meaning of Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended (the “Code”) and further covenants to comply with said Sections 103 and 148 and all applicable regulations thereunder throughout the term of said Note issue. The City hereby covenants and agrees to take all actions necessary under the Code to maintain the tax-exempt status of interest payable on the Notes with respect to taxpayers generally but not including insurance companies or corporations subject to the additional minimum tax. The City hereby designates the Notes as its “qualified tax-exempt obligations” pursuant to Section 265(b)(3)(B)(i)(III) of the Code and covenants and warrants that it does not anticipate issuing tax-exempt obligations in the calendar year the Notes are issued in an amount in excess of \$10,000,000.

Section 11. The Notes are hereby sold to Northland Securities, Inc. (the “Initial Purchaser”) upon the terms set forth in the Agreement which is approved by the Authorized Officers and the City Treasurer is authorized to deliver the Notes to the Initial Purchaser upon receipt of said amount plus accrued interest to date of payment. The Notes are sold to the Initial Purchaser subject to the opinion of Rembolt Ludtke LLP, as Initial Purchaser’s bond counsel that the Notes are lawfully issued; that the Notes constitute a valid obligation of the City; and that under existing laws and regulations the interest on the Notes is exempt from both Nebraska state and federal income taxes. Such purchaser and its agents, representatives and counsel (including Initial Purchaser’s bond counsel) are hereby authorized to take such actions on behalf of the City as are necessary to effectuate the closing of the issuance and sale of the Notes, including, without limitation, authorizing the release of the Notes by the Depository (as defined herein) at closing. The proceeds of the Notes shall be applied upon receipt for the purposes described in Section 1 hereof. The City may also pay costs of issuance from the proceeds of the Notes.

Section 12. In order to promote compliance with certain federal tax and securities laws relating to the bonds herein authorized (as well as other outstanding bonds) the City has approved a Post-Issuance Compliance Policy and Procedures which are in full force and effect and are applicable to the Notes.

Section 13. This Ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of July, 2024.

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Mayor

ATTEST:

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City Clerk

(S E A L)

Ord 337 (24) Sewer Bond Anticipation Notes

{First Reading, July 16, 2024}

{Suspension of Rules, July 16, 2024}

{Second and Third Reading, July 16, 2024}

{Final Passage and Approval, July 16, 2024}