

ALLIANCE CITY COUNCIL

REGULAR MEETING, TUESDAY, NOVEMBER 2, 2021

STATE OF NEBRASKA)
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COUNTY OF BOX BUTTE) §
)
CITY OF ALLIANCE)

The Alliance City Council met in a Regular Meeting, November 2, 2021, at 7:00 p.m. in the Alliance Learning Center Community Meeting Room, 1750 Sweetwater Avenue, Alliance, Nebraska. A notice of meeting was published in the Alliance Times Herald on October 27, 2021. The notice stated the date, hour and place of the meeting, that the meeting was open to the public, and that an agenda of the meeting, kept continuously current, was available for public inspection at the office of the City Clerk in City Hall; provided the Council could modify the agenda at the meeting if it determined an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each of the City Council Members. An agenda, kept continuously current, was available for public inspection at the office of the City Clerk during regular business hours from the publication of the notice to the time of the meeting.

Mayor Dafney opened the November 2, 2021 regular meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Dafney, Council Members Mischnick, Jones, Bentley and McGhehey. Also present were City Manager Sorenson, Finance Director Waggener, City Attorney Hoelsing and City Clerk Johnson.

- Mayor Dafney read the Open Meetings Act Announcement.
- The Consent Calendar was the first item on the agenda. A motion was made by Councilman Mischnick and seconded by Councilman Jones to approve the Consent Calendar as follows:

CONSENT CALENDAR – November 2, 2021

1. Approval: Minutes of the Regular Meeting, October 19, 2021 and Special Meeting, October 22, 2021.
2. Approval: Payroll Costs for October 22, 2021: \$240,770.53
3. Approval: Claims against the following funds: General, General Debt Service, Trust and Agency, Street, Electric, Refuse Collection and Disposal, Sanitary Sewer, Water, Golf Course, Downtown Improvement Districts, R.S.V.P., Keno, and Capital Improvement; \$227,858.11.
4. Approval: Submittal of Unclaimed Property to the Nebraska State Treasurer’s office in the amount of \$382.17.

5. Approval: The Alliance City Council authorized staff to apply for funding through the American Rescue Plan Act (ARPA). State law requires that the City have an Agency Agreement completed to allow the Nebraska Department of Transportation Aeronautics Division to act as the Airport's agent for these funds. Resolution No. 21-113 authorizes the Mayor to sign the Agency Agreement with the Nebraska Department of Transportation Aeronautics Division.
6. Approval: Resolution No. 21-114 authorizing a Building Lease Agreement for Building No. 3209 at the airport with Terry and Kathleen Mahaffey, and Seth Vrbka. The lease term is for one year with a month-to-month automatic renewal.

NOTE: City Manager Sorensen and Finance Director Waggener have reviewed these expenditures and to the best of their knowledge confirm that they are within budgeted appropriations to this point in the fiscal year.

Any item listed on the Consent Calendar may, by the request of any single Council Member, be considered as a separate item in the Regular Agenda.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

- The next item on the agenda for Council was the second reading of Ordinance No. 2928 which will amend the Alliance Municipal Code to include the use of scooters, bicycles, and other modes of transportation within the City's Right-of-Way. The following information was provided:

[Bird Rides, Inc. has requested the opportunity to expand their scooter sharing business in Alliance on a trial basis. The Municipal Code does not currently contain provisions for mobility sharing within the City Rights of Way including scooters and bicycles.

The amendment to Section 24-82 would allow scooters, bicycles, and other similar modes of transportation within the City Rights of Way with permission from the City or if owned by the City.

The addition of Section 26-232 provides the mechanism that the City will use to allow such modes of transportation and the basic rules and guidelines for any entity providing mobility sharing services.

The attached Memorandum of Understanding (MOU) documents both the City's and Bird Rides, Inc. expectations and addresses the various issues brought forth by each party. The MOU was included with the proposed code change ordinance for Councils review. The MOU should not be approved until after the adoption of the ordinance should Council choose to do so.

The basic method of use is that Bird will place scooters at various locations around Alliance that they believe will attract people to use them. A rider will need to download an app on their smartphone, scan the QR code on the scooter, and arrange payment via the app. Once at their location, they leave the scooter. Depending on the final destination, Bird may return the scooter to a more desirable location to ensure it remains in use. They will employ someone local to keep the scooters in desirable locations, keep them charged, and maintained.

Bird Rides, Inc. will be available via phone to clarify the process and answer any questions council may have.]

A motion was made by Councilman Bentley, seconded by Councilman Mischnick to approve the second reading of Ordinance No. 2928. City Clerk Johnson read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2928

AN ORDINANCE AMENDING THE ALLIANCE MUNICIPAL CODE, AMENDING SECTION 24-82 TO ALLOW FOR THE STORAGE OF SHARED, PUBLICALLY AVAILABLE SCOOTERS OR OTHER SIMILAR MODES OF TRANSPORTATION ON RIGHTS OF WAY; ADOPTING SECTION 26-232 TO PROVIDE FOR THE REGULATION OF SHARED, PUBLICALLY AVAILABLE SCOOTERS; REPEALING DIVISION 2 OF ARTICLE VI, CHAPTER 26, REGARDING PERMITTING OF BICYCLES; REPEALING EXISTING ORDINANCES, RESOLUTIONS, POLICIES, OR PORTIONS THEREOF NOT CONSISTENT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. The City Code, at Section 24-82, provides that certain obstruction or activities in the avenue, street, or sidewalk are prohibited. The City desires to allow the development of private enterprise for a shared, publically available scooter or motorized bicycle system. Such a system anticipates storage of scooters and similar modes of transportation on the City sidewalk or right of way. Accordingly, to accommodate the system, Section 24-82 is amended to read as follows:

“Sec. 24-82. – Obstructions.

- (a) It shall be unlawful for any person to place, leave, or permit to be placed or left, with his/her consent, on any avenue, street, alley, sidewalk, curbstone, gutter, crosswalk, or any public right-of-way or easement, any truck, trailer, automobile, barrow, hand cart, sleigh, or other vehicle, any fence, lumber, wood, benches, seats, chairs, rubbish, rock, gravel, sand, dirt, animals or any other article, device, or things whatsoever except as follows:
 - (1) *Construction.* Obstruction permits may be issued if the adjacent property has a valid building, mechanical, or plumbing permit procured through the city and the city manager or designee finds there is no practical way to

perform such work without obstructing a portion of the right-of-way.

- (2) *Signs.* Signs shall only be permitted in the C-2, Central Business District in accordance with the sign code for that specific district.
- (3) *Scooters, Trash Cans, or Bicycle Racks.* Shared, publically available scooters or similar modes of transportation, trash cans, and bicycle racks may be permitted if upon agreement with or owned by the City.”

SECTION 2. To further allow the development of private enterprise for a shared, publically available scooter or motorized bicycle system, and to regulate the anticipated concerns thereto, Section 26-232 is hereby created to read as follows:

“Sec. 26-232. – Publically Shared Scooters and Transport.

- (a) Upon agreement with the City, there shall be allowed on all streets, alleys, and sidewalks, the use of shared, publically available scooters or other similar micromobility modes of transportation.
- (b) Publically available scooters or other similar micromobility modes of transportation may not have the capacity to exceed 25 miles per hour. The rules of the road of the State of Nebraska as it relates to bicycles on roadways and sidewalks shall apply to the operation of such scooters or other similar micromobility modes of transportation. Operators of such scooters or other similar micromobility modes of transportation must yield the right of way to all pedestrian traffic on sidewalks or roadways.
- (c) When operated on a street, avenue, or roadway, the operation shall comply with all applicable requirements of Article VIII of Chapter 26 above, except that (1) persons operating may be 16 years of age or older, (2) annual permits, proof of insurance, and decal placement with the City police department shall not be required by an operator before operation, and (3) operation may occur on Box Butte Avenue between First Street and 16th Street and on Third Street.
- (d) After use, operators must place all such scooters and other similar micromobility modes of transportation in locations so that the right-of-way is not obstructed to pedestrian, vehicle, or other traffic. It shall be unlawful to leave any such scooter other similar micromobility modes of transportation on any public right-of-way in a manner that obstructs the lawful use of the right-of-way.
- (e) Violation of this section shall constitute a violation of the Alliance Municipal Code, punishable under section 1-8, and the City may enforce the provisions of this section by arrest or by traffic or criminal citation in lieu or arrest as necessary.”

SECTION 3. Currently, Alliance Municipal Code, at Division 2, Article VI, Chapter 26, requires the permitting and plating of bicycles in the City. The City no longer believes such permitting and plating requirements to be enforceable or necessary. Accordingly, Division 2, Article VI, Chapter 26, specifically sections 26-189 through section 26-192, is hereby repealed. Sections 26-189

through 26-222 of the Alliance Municipal Code shall remain reserved by the City.

SECTION 4. That current applicable ordinances, resolutions, and policy of the City in conflict to this Ordinance, and all other ordinances or parts of ordinances in conflict herewith, are hereby repealed to the extent of such conflict.

SECTION 5. This ordinance shall be in full force and effect following its approval, passage, and publication according to law.

A motion was made by Councilman Bentley, seconded by Councilman Mischnick to suspend the statutory rule requiring three separate readings of Ordinance No. 2928.

Roll call vote with the following results:

Voting Aye: Dafney, Jones, Mischnick, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

Roll call to approve Ordinance No. 2928 on final reading with the following results:

Roll call vote with the following results:

Voting Aye: Dafney, Jones, Mischnick, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

Mayor Dafney stated, “the passage and adoption of Ordinance No. 2928 has been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- Ordinance No. 2929 was next before Council on second reading and will amend the 2021-2022 Classification Plan to include an Executive Administrative Assistant/Tourism position and modify the title of Outreach Services at the library to Technical Services Librarian. The following information was provided:

[Upon approval, the attached ordinance will modify the current Classification Plan.

The Classification Plan has the following changes from the most recent version approved by Council:

- Add New Position: Executive Administrative Assistant/Tourism
- Add Outreach to Technical Services Librarian job title

Responsibilities for the new position includes administrative, public information and tourism. The change to the Technical Services Librarian position is to reflect additional outreach duties including the book mobile program.]

A motion was made by Councilman McGhehey, seconded by Councilman Bentley to approve the first reading of Ordinance No. 2929. City Clerk Johnson read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2929

AN ORDINANCE ADOPTING REVISED CLASSIFICATION AND COMPENSATION PLANS FOR THE CITY OF ALLIANCE, NEBRASKA.

WHEREAS, Section 16-310 of R.R.S. 1943 authorizes the Mayor and Council to establish the compensation for employees and officers by stating that "The officers and employees in cities of the first class shall receive such compensation as the mayor and council shall fix by ordinance;" and,

WHEREAS, The Alliance City Council adopted the Fiscal Year 2021-2022 Budget which included funds for revised Classification/Compensation Plans.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA:

SECTION 1. That the attached Classification Schedule for the City of Alliance and the attached Compensation Schedules for Exempt, Non-Exempt and Fire employees are hereby adopted by this reference.

SECTION 2. This Ordinance shall become effective following the first full pay period following adoption.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

- The next item on the agenda for Council was the first reading of Ordinance No. 2930 which will adopt the proposed 2022 City Council meeting schedule. The following information was provided:

[Council has previously established its meeting calendar as 7:00 p.m. at Alliance Learning Center Community Meeting Rooms on the first and third Tuesdays of each month. At first sight, staff does not see any conflicts to our normal scheduling.

Although set forth by ordinance, Council may alter the established time and date that is to its members' convenience. Should Council wish to make any further changes, amendments may be made to the proposed ordinance.]

A motion was made by Councilman Jones, seconded by Councilman McGhehey to approve the first reading of Ordinance No. 2930. City Clerk Johnson read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2930

AN ORDINANCE ESTABLISHING THE TIME AND PLACE OF REGULAR COUNCIL MEETINGS FOR THE CALENDAR YEAR 2022.

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

SECTION 1. Nebraska Statutes at Section 19-615 provide that ". . . the Council shall meet at such time and place as it may prescribe by ordinance, but not less frequently than twice each month in cities of the first class."

SECTION 2. The City Code provides at Section 2-25, that "The City Council shall hold its regular meeting on the first and third Tuesday of each month. The Council may, by adoption of a calendar each year, establish regular meeting dates other than the first and third Tuesday of each month."

SECTION 3. Attached hereto is a "proposed 2022 calendar," which is incorporated herein by reference as if fully set forth.

SECTION 4. The City Council of Alliance, Nebraska shall conduct regular meetings during calendar year 2022 on the dates that are indicated on the attached proposed 2022 calendar at the hour of 7:00 o'clock P.M. at the Alliance Learning Center Community Meeting Rooms, 1750 Sweetwater Avenue, Alliance, Nebraska. The time and place of these meetings may be changed from time to time as provided by law.

SECTION 5. This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

- Next before Council was Ordinance No. 2931 on first reading and will dissolve the Park and Tree Board and replace it with an advisory board. The following information was provided:

[In response to long standing issues with filling vacancies on the Park and Tree Board, city staff began considering new ways to gather community input regarding recreation facilities. The three remaining members of the Park and Tree Board met with City staff to discuss their experiences and provide input

specific to how the group might improve and be a more positive experience for participants.

Staff discussed that for many years, there has been extensive turnover of board members and vacancies have been difficult to fill. Often, as projects are introduced and implemented, membership of individuals with specific interests increase for a short time. As an example, when the dog park was being proposed and constructed, several key individuals in the project became members of the Park and Tree Board. Their input was valuable during that time, but once the project was complete, the interest in the board lessened. The existing members recognized and discussed that several of them also have specific areas of interest within the parks system that they are passionate about and have first-hand knowledge of because they utilize these areas frequently. Their input on these specific areas of knowledge is invaluable when making decisions regarding that specific area. The group agreed that the best information regarding facilities would be provided by individuals who frequently use or operate programs at each facility.

It was discussed that it might be more productive to have individuals who utilize facilities regularly participate in a less formal information gathering process several times each year. This would allow staff to get suggestions and guidance directly from users of the diverse facilities contained within the Culture & Leisure Services Department. Staff also stated that this type of meeting could make individuals who only see the needs of one facility realize the diverse demands on the Culture & Leisure Department budget.

The group agreed that selecting individuals with information specific to facilities and meeting less frequently would give that group a clearer purpose and would provide higher quality input for City staff. For that reason, staff is recommending that the Park and Tree Board be eliminated and an advisory group be assembled to meet less frequently and to provide specific input regarding projects as necessary.

In addition to recommending the formation of this new advisory group, staff is recommending that the Culture & Leisure Services Director and the Parks Superintendent be designated as responsible parties for decisions that influence community trees. City employees will consult with a professional forester or an arborist for more technical or specialized decisions regarding Alliance's community forest. This designation will ensure the City of Alliance continues to comply with requirements for Tree City USA designation through the Arbor Day Foundation.]

Park and Tree Board	Stakeholder Advisory Group
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<ul style="list-style-type: none"> + Formal Advisory Capacity to Council + Terms set by Council should provide consistency in membership +/- More frequent meetings - Members lose interest after project completion - Less focused purpose and roll for board members. - Difficulty getting a quorum at meetings - Members are not frequent users of ALL facilities so input regarding some areas is limited 	<ul style="list-style-type: none"> + Less formal meeting environment + Specific stakeholders are invited to discussions + Less stringent meeting requirements to foster open communication. + Opportunity to educate recreation users regarding all needs within the community. + Specific group purpose and roll + Quorum not required + Provides relevant & specific input from individuals regularly using the facilities - No “official” advisory capacity - Participants may have tunnel vision regarding their specific facility
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A motion was made by Councilman Jones, seconded by Councilman Bentley to approve the first reading of Ordinance No. 2931. City Clerk Johnson read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2931

AN ORDINANCE AMENDING THE ALLIANCE MUNICIPAL CODE REPEALING CHAPTER 2, ARTICLE VI, DIVISION 3, MORE SPECIFICALLY SECTIONS 2-281 THROUGH 2-285, TO DISESTABLISH THE BOARD OF PARK AND TREES COMMISSIONERS, RESERVING SECTIONS 2-281 THOUGH 2-300 OF THE ALLIANCE MUNICIPAL CODE, REPEALING PORTIONS THEREOF, RESOLUTIONS, OR POLICIES NOT CONSISTENT HEREWITH, AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. The City Code establishes a board of park and trees commissioners. The City has determined that the board of park and trees commissioners has served its purposes, and it no longer desires to formally appoint a volunteer, advisory board to serve the purposes set forth in the Alliance Municipal Code. The City desires that the City Manager or designee assign duties of the board of park and trees commissioners to specific departments and staff of the City, and that the City work informally with other non-profit entities of the community that serve similar purposes as the board of park and trees commissioners. Accordingly, sections 2-281 through 2-285 of the Alliance Municipal Code, at Chapter 2, Article VI, Division 3, are hereby repealed and the board of park and trees commissioners is disestablished.

SECTION 2. Sections 2-281 through 2-300 of the Alliance Municipal Code are hereby reserved for future use. Divisions 4, 5, 6, and 7 of Article VI, Chapter 2 of the Alliance Municipal Code are hereby re-designated Divisions 3, 4, 5, and 6, respectively.

SECTION 3. Any other ordinances, resolutions, or policies of the City in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 4. This Ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

- The first reading of Ordinance No. 2932 was next on the agenda for Council. This ordinance relates to the City's General Obligation Highway Allocation Fund Pledge Bonds in the aggregate principal amount not to exceed \$3,200,000 for the purpose of paying the costs of constructing and improving certain streets and related improvements of the City. The following information was provided:

[The City included \$3.2 million in new street improvement projects within its 2020-21 budget with the hopeful intent of taking advantage of lower materials costs and ready availability of contractors that were anticipated at the time of the budget approval. A bonding intent Resolution 21-03 was adopted at the January 21, 2021 meeting to protect the city's ability to fund with tax-exempt issues and to take advantage of lower market interest rates. Of the \$3.2 million in anticipated projects, just over \$500,000 was paid on the Burlington project (Resolution 21-68) and a down-payment of \$417,300 was paid toward the State Third Street project during the 2020-21 fiscal year. Completion of the State project is anticipated yet this year (approximate cost of \$750,000) and an asphalt overlay project in the amount of almost \$1 million has already been approved for the spring of 2022 (Resolution 21-69).

Staff is recommending that an application be made to First National Capital Markets, Inc. for a bond or private placement in the amount not to exceed \$3.2 million with potential to extend payments up to 20 years, if prudent based on final rates. This borrowing process will allow flexibility in final terms based on strategic plans and should be completed prior to the end of the calendar year.]

A motion was made by Councilman Mischnick, seconded by Councilman Bentley to approve the first reading of Ordinance No. 2932. City Clerk Johnson read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2932

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE BY THE CITY OF ALLIANCE, NEBRASKA OF ITS GENERAL OBLIGATION HIGHWAY ALLOCATION FUND PLEDGE BONDS, SERIES 2021, IN ONE OR MORE SERIES IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED THREE MILLION TWO HUNDRED THOUSAND DOLLARS (\$3,200,000) TO PAY THE COSTS OF CONSTRUCTING AND

IMPROVING CERTAIN STREETS AND RELATED IMPROVEMENTS OF THE CITY; AUTHORIZING CERTAIN OFFICIALS TO DETERMINE THE FINAL AGGREGATE PRINCIPAL AMOUNT, MATURITIES, RATES, REDEMPTION PROVISIONS, AND OTHER TERMS AND DETAILS OF SUCH BONDS; PLEDGING FUNDS RECEIVED FROM THE NEBRASKA HIGHWAY ALLOCATION FUND AND PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS; DESIGNATING THE BONDS AS QUALIFIED TAX-EXEMPT OBLIGATIONS; ADOPTING CERTAIN POST-ISSUANCE TAX COMPLIANCE AND DISCLOSURE POLICIES AND PROCEDURES WITH RESPECT TO THE BONDS; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA AS FOLLOWS:

FINDINGS AND DETERMINATIONS

The Mayor and the City Council (the “**Council**”) of the City of Alliance, Nebraska (the “**City**”) hereby make the following findings and determinations:

1. It is necessary, desirable and advisable that the City construct and improve certain streets and related improvements of the City (collectively, the “**Project**”) pursuant to plans, specifications and estimates of costs prepared by the City’s special engineers.
2. The estimated costs for such improvements are not less than \$3,200,000.
3. Pursuant to the provisions of Section 66-4,101 et seq., Reissue Revised Statutes of Nebraska, as amended (the “**Act**”), the City is authorized (a) to issue its general obligation highway allocation fund pledge bonds to pay the costs of the Project, (b) to pledge funds received from the State of Nebraska Highway Allocation Fund (the “**Highway Allocation Fund**”) to the payment of the principal thereof and the interest thereon, and (c) to levy and collect a tax upon all the taxable property in the City at such rate or rates within any applicable statutory as will provide funds which, together with receipts from the Highway Allocation Fund pledged to the payment of such bonds, will be sufficient in amount to pay the principal of such bonds and the interest thereon when and as the same become due.
4. The City has no other funds on hand to pay the costs of the Project.
5. The City expects to receive the sum of \$1,015,826 from the Nebraska Highway Allocation Fund during the fiscal year ending September 30, 2022.
6. Taking into consideration the available funds of the City for such purposes, it will be necessary for the City to issue its general obligation highway allocation fund pledge bonds in

one or more series in an aggregate principal amount not to exceed \$3,200,000 (the “**Bonds**”) to pay the costs of the Project, including any related warrant or note indebtedness.

7. Annual debt service on the Bonds herein authorized is not expected to exceed the expected annual revenues from the Highway Allocation Fund.

8. All conditions, acts and things required to exist or to be done precedent to the issuance of the Bond, the pledging of funds and the levying of taxes as provided in this Ordinance do exist and have been done as required by law.

ARTICLE I

DEFINITIONS

Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms used in this Ordinance have the following meanings:

“**Act**” means Sections 66-4,101 et seq., Reissue Revised Statutes of Nebraska, as amended.

“**Authorized Denomination**” means \$5,000 and any whole multiple thereof, unless otherwise determined by an Authorized Officer.

“**Authorized Officer**” means the Mayor or the City Clerk, including anyone authorized to act on behalf of any such officer.

“**Beneficial Owner**” means any Person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“**Bond Counsel**” means Kutak Rock LLP, or other attorney or firm of attorneys with a nationally recognized standing in the field of municipal bond financing selected by the City.

“**Bond Register**” means the books for the registration, transfer and exchange of the Bond kept at the office of the Paying Agent.

“**Bonds**” means one or more series of the City’s General Obligation Highway Allocation Fund Pledge Bonds, Series 2021, or such other designation as an Authorized Officer shall determine, authorized and issued by the City pursuant to this Ordinance.

“**Business Day**” means a day other than a Saturday, Sunday or holiday on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its banking operations.

“**Cede & Co.**” means Cede & Co., as nominee of The Depository Trust Company, New York, New York.

“**City**” means the City of Alliance, Nebraska.

“**City Clerk**” means the clerk of the City, or such other person duly authorized to sign on his or her behalf.

“**City Treasurer**” means the treasurer of the City, or such other person duly authorized to sign on his or her behalf.

“**Code**” means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the Treasury Department proposed or promulgated thereunder.

“**Construction Fund**” means the fund by that name referred to in **Section 501**.

“**Council**” has the meaning set forth in the Findings and Determinations hereto.

“**Debt Service Fund**” means the fund by that name referred to in **Section 501**.

“**Defaulted Interest**” means interest on the Bond which is payable but not paid on any Interest Payment Date.

“**Defeasance Obligations**” means any of the following obligations:

(a) Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(i) (A) the obligations are not subject to redemption prior to maturity or (B) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(ii) the obligations are secured by cash or Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(iii) such cash and the principal of and interest on such Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(iv) such cash and Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(v) such cash and Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(vi) the obligations are rated at least "Aa" by Moody's Investors Service, Inc. or "AA" by Standard & Poor's Ratings Group.

"Designated Office" means (a) the corporate trust administration office maintained by the Paying Agent at which the Paying Agent discharges its obligations under this Ordinance, or (b) the office of the City Treasurer if the City Treasurer is the Paying Agent, and which may be changed by the Paying Agent upon written notice to the City and to each Registered Owner.

"Government Obligations" means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States, including evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the United States, or securities which represent an undivided interest in such obligations, which obligations are rated at least "Aa" by Moody's Investors Service, Inc. or "AA" by Standard & Poor's Ratings Group and such obligations are held in a custodial account for the benefit of the City.

"Highway Allocation Fund" has the meaning set forth in the Findings and Determinations above.

"Interest Payment Date" means the dates established by the Authorized Officer pursuant to **Section 210** for the payment of interest on the Bonds.

"Lender" has the meaning set forth in **Section 209** hereof.

"Maturity" when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for redemption or otherwise.

"Mayor" means the Mayor of the City, or such other person duly authorized to sign on his or her behalf.

"Ordinance" means this Ordinance passed and approved by the Mayor and the Council, authorizing the issuance of the Bonds, as amended from time to time.

"Outstanding" means, when used with reference to the Bonds, as of any particular date of determination, the Bonds theretofore authenticated and delivered hereunder, except the following Bonds:

(a) Bonds theretofore cancelled by the Paying Agent or delivered to the Paying Agent for cancellation;

(b) Bonds deemed to be paid in accordance with the provisions of Article VII hereof; and

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered hereunder.

“**Paying Agent**” means the City Treasurer or a third-party financial institution designated by an Authorized Officer in accordance with **Sections 203** and **210** hereof, and any successors or assigns.

“**Permitted Investments**” means any of the investments permitted by the constitution and statutes of the State for funds of the City.

“**Person**” means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

“**Placement Agent**” has the meaning set forth in **Section 209** hereof.

“**Private Purchaser**” has the meaning set forth in **Section 209** hereof.

“**Project**” means constructing and/or improving certain of the City’s streets and related improvements.

“**Purchaser**” means the Underwriter, the Private Purchaser or the Lender, as specified by an Authorized Officer in accordance with the provisions of **Section 209** hereof.

“**Record Date**” for the interest payable on any Interest Payment Date means the fifteenth day of the month (whether or not a business day) immediately preceding each Interest Payment Date.

“**Redemption Date**” when used with respect to any Bond to be redeemed means the date fixed for the redemption of such Bond pursuant to the terms of this Ordinance.

“**Redemption Price**” when used with respect to any Bond to be redeemed means the price at which such Bond is to be redeemed pursuant to the terms of this Ordinance.

“**Registered Owner**” when used with respect to any Bond means the Person in whose name such Bond is registered on the Bond Register.

“**Replacement Bond**” means a Bond issued to an Owner in accordance with **Section 207** hereof.

“**Securities Depository**” means, initially, The Depository Trust Company, New York, New York, and its successors and assigns.

“**Special Record Date**” means the date fixed by the Paying Agent pursuant to **Section 204** hereof for the payment of Defaulted Interest.

“**State**” means the State of Nebraska.

“**Tax Certificate**” means the Federal Tax Certificate executed and delivered by the City in connection with the issuance of the Bonds, as the same may be amended or supplemented in accordance with the provisions thereof.

“**Underwriter**” has the meaning set forth in **Section 209** hereof.

“**United States**” means the United States of America.

ARTICLE II

AUTHORIZATION OF BONDS

Section 201. Authorization of Bonds. The City is hereby authorized and directed to issue the Bonds in one or more series and in an aggregate principal amount not to exceed \$3,200,000 to pay the costs of the Project and issuing the Bonds.

Section 202. Description of Bonds. Unless otherwise determined by an Authorized Officer, the Bonds shall consist of fully registered bonds, each series numbered from R-1 upward in order of issuance, in Authorized Denominations. The Bonds shall be subject to registration, transfer and exchange as provided in **Section 205** hereof. All of the Bonds shall be dated the date of delivery thereof, shall become due and payable in the amounts on the Stated Maturities, subject to redemption and payment prior to their Stated Maturities as provided in **Article III** hereof and as determined by an Authorized Officer, and shall bear interest at the rates determined by the Authorized Officer in accordance with the provisions of **Section 210** hereof. Unless otherwise determined by an Authorized Officer, the Bonds shall bear interest computed on the basis of a 360-day year of twelve 30-day months from the date thereof or from the most recent Interest Payment Date to which interest has been paid.

Each of the Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be in substantially the form set forth in **Exhibit A** attached hereto.

Section 203. Paying Agent. The City will at all times maintain a Paying Agent meeting the qualifications herein described for the performance of the duties hereunder. The Paying Agent shall serve as paying agent for the payment of the principal or Redemption Price of and interest on the Bonds and as bond registrar with respect to the registration, transfer and exchange of the Bonds. If the Paying Agent is other than the City Treasurer, the Paying Agent shall serve in such capacities under the terms of an agreement entitled “Bond Registrar and Paying Agent Agreement” between the City and the Paying Agent (the “**Paying Agent Agreement**”) in a form approved by an Authorized Officer in accordance with the provisions of **Section 210** hereof. Any Authorized Officer may execute the Paying Agent Agreement.

The City reserves the right, and does hereby authorize the Authorized Officers, or any individually, to appoint a successor Paying Agent by (a) filing with the Paying Agent then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent and appointing a successor, and (b) causing notice of the appointment of the successor Paying Agent to be given by first-class mail to each Registered Owner. No resignation or removal of the Paying Agent shall become effective until a successor has been appointed and has accepted the duties of Paying Agent.

Unless the Paying Agent is the City Treasurer, every Paying Agent appointed hereunder shall at all times be a commercial banking association or corporation or trust company organized and doing business under the laws of the United States or of a state of the United States, authorized under such laws to exercise trust powers and subject to supervision or examination by federal or state regulatory authority.

Section 204. Method and Place of Payment of Bonds. The principal or Redemption Price of and interest on the Bonds shall be payable in legal currency of the United States. The principal or Redemption Price of each Bond shall be paid at Maturity by check or draft to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the Designated Office of the Paying Agent. The interest payable on each Bond on any Interest Payment Date shall be paid to the Registered Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the Bond Register.

Notwithstanding the foregoing provisions of this **Section 204**, any Defaulted Interest with respect to any Bond shall cease to be payable to the Registered Owner of such Bond on the relevant Record Date and shall be payable to the Registered Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as specified in this paragraph. The City shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the City of such Special Record Date and, in the name and at the expense of the City, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, by first-class mail, postage prepaid, to each Registered Owner of a Bond entitled to such notice at the address of such Registered Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of the payment of the principal or Redemption Price of and interest on all Bonds and at least annually shall forward a copy or summary of such records to the City.

Section 205. Registration, Transfer and Exchange of Bonds. The City covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be kept at the office of the Paying Agent. The Bond when issued shall be registered in the name of the Registered Owner thereof on the Bond Register. At reasonable times and under reasonable regulations established by the Paying Agent, the Bond Register may be inspected and copied by the Registered Owners of 10% or more in aggregate principal amount of the Bonds then Outstanding or any designated representative of such Registered Owners whose authority is evidenced to the satisfaction of the Paying Agent.

Bonds may be transferred and exchanged only on the Bond Register as provided in this **Section 205**. Upon surrender of any Bond at the Designated Office, the Paying Agent shall transfer or exchange such Bond for a new Bond or Bonds in any Authorized Denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange. Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Paying Agent, duly executed by the Registered Owner thereof or by the Registered Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The City shall pay the fees and expenses of the Paying Agent for the registration, transfer and exchange of Bonds provided for by this Ordinance and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Paying Agent, are the responsibility of the Registered Owners of the Bonds. In the event any Registered Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Registered Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Code, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Registered Owner hereunder or under the Bonds.

The City and the Paying Agent shall not be required (a) to register the transfer or exchange of any Bond that has been called for redemption after notice of such redemption has been mailed by the Paying Agent pursuant to **Section 303** hereof and during the period of 15 days next preceding the date of mailing of such notice of redemption, or (b) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the City of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to **Section 204** hereof.

The City and the Paying Agent may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Registered Owner or upon the Registered Owner's order shall be valid and effective to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the City nor the Paying Agent shall be affected by any notice to the contrary.

Section 206. Execution, Registration, Authentication and Delivery of Bonds. Each of the Bonds, including any Bonds issued in exchange or as substitutions for the Bonds initially delivered, shall be signed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk, or any persons authorized to act on their behalf. In case any officer whose signature appears on any Bond ceases to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

The Mayor and the City Clerk are hereby authorized and directed to prepare and execute the Bonds in the manner herein specified, and, when duly executed and registered, to deliver the Bonds to the Paying Agent for authentication.

The Bonds shall have endorsed thereon a certificate of authentication substantially in the form set forth in **Exhibit A** attached hereto, which shall be manually executed by the Paying Agent. No Bond shall be entitled to any security or benefit under this Ordinance or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Paying Agent. Such executed certificate of authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Ordinance. Upon authentication, the Paying Agent shall deliver the Bonds to the Purchasers upon payment of the purchase price of the Bonds plus accrued interest thereon to the date of its delivery.

Section 207. Mutilated, Destroyed, Lost and Stolen Bonds. If (a) any mutilated Bond is surrendered to the Paying Agent or the Paying Agent receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the Paying Agent such security or indemnity as may be required by the Paying Agent, then, in the absence of notice to the Paying Agent that such Bond has been acquired by a bona fide purchaser, the City shall execute and, upon the City's request, the Paying Agent shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount. Upon the issuance of any new Bond under this **Section 207**, the City may require the payment by the Registered Owner of an amount sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith. Every new Bond issued pursuant to this **Section 207** shall constitute a replacement of the prior obligation of the City, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds. If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the City, in its discretion, may pay such Bond instead of issuing a new Bond.

Section 208. Cancellation and Destruction of Bonds Upon Payment. All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Bonds so cancelled and destroyed and shall file an executed counterpart of such certificate with the City.

Section 209. Sale of Bonds. In accordance with and subject to the provisions of **Section 210**, the Authorized Officers, or each individually, are hereby authorized to sell the Bonds pursuant to one or more of the following methods:

- (a) The City is authorized to sell the Bonds to First National Capital Markets, Inc., as original purchaser of the Bonds (the "**Underwriter**"), in accordance with **Section 210** of this Ordinance. Delivery of the Bonds shall be made to the Underwriter as soon as practicable after the adoption of this Ordinance, upon payment therefor in accordance with the terms of sale. The City is authorized to enter into a Bond Purchase Agreement (the "**Purchase Agreement**") between the City and the Underwriter in form and substance

acceptable to the Authorized Officers, or each individually. Such Authorized Officer is authorized to execute the Purchase Agreement, in form and substance acceptable to such Authorized Officer, for and on behalf of the City, such officer's signature thereon being conclusive evidence of such official's and the City's approval thereof. The Underwriter shall have the right to direct the registration of the Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. Such Underwriter and its agents, representatives and counsel (including 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 Bonds, including, without limitation, authorizing the release of the Bonds by the Depository at closing.

(b) The City is further authorized to place the Bonds with a private purchaser (the "**Private Purchaser**") with the assistance of First National Capital Markets, Inc., as placement agent of the Bonds (the "**Placement Agent**") in accordance with **Section 210** of this Ordinance. The Private Purchaser shall have the right to direct the registration of the Bonds and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The Placement Agent and its agents, representatives and counsel (including 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 placement of the Bonds.

(c) The City is further authorized to (i) issue the Bonds directly to a bank or other institutional lender (the "**Lender**") to evidence or secure a loan from such Lender to the City or (ii) enter into a loan agreement with a Lender in lieu of issuing the Bonds, in accordance with **Section 210** of this Ordinance and subject to the other restrictions of this Ordinance. Such Lender may be identified with the assistance of the Placement Agent. The Lender shall have the right to direct the registration of the Bonds and the denominations thereof within each maturity, and shall have the right to sell participation interests in the Bonds to other banks and institutional lenders, all subject to the restrictions of this Ordinance. The Placement Agent and its agents, representatives and counsel (including bond counsel) are hereby authorized to take such actions on behalf of the City as are necessary to effectuate the closing of the issuance of the Bonds.

Section 210. Parameters and Authorization of Award Certificate. The Authorized Officers, or each individually, is authorized and directed, in the exercise of his or her independent judgment and absolute discretion, to hereafter, from time to time, specify, set, designate, determine, establish and appoint, as the case may be, and in each case in accordance with and subject to the provisions of this Ordinance pursuant to a certificate executed by any Authorized Officer (the "**Award Certificate**"): (a) the dates of original issue, (b) the aggregate principal amount of Bonds to be issued, not exceeding aggregate principal amount set forth in **Section 201** hereof, (c) the Maturity Dates and the principal amount of the Bonds to mature on each of such dates, (d) the final Maturity Date of the Bonds, which shall in no event be later than December 31, 2041, (e) the dates upon which the Bonds shall be sold, which shall not be later than one year from adoption of this Ordinance, (f) the rate or rates of interest to be carried by each maturity, such that the true interest cost shall not exceed 3.00%, (g) the method by which such rate or rates of interest shall be calculated, (h) the Interest Payment Dates for the Bonds, (i) the redemption dates and prices and all terms relating thereto, including the amount and sinking fund installment dates of any Bonds issued as "term bonds" and the amount of each sinking fund installment therefor, and all terms relating thereto, if any, (j) the identity of the Paying Agent, if other than the City

Treasurer; (k) any financial covenants, including modification of those set forth herein; (l) the form, content, terms and provisions of the Purchase Agreement (as defined in **Section 209** hereof), if applicable, (m) the fee of the Purchaser, which shall not be more than 1.00% of the aggregate principal amount of the Bonds; (n) the purchase price for the Bonds, which shall not be less than 96.00% of the aggregate principal amount of the Bonds (inclusive of the Purchaser's discount or fee and any original issue discount); (o) the identity of the Purchaser and structure of the financing as contemplated in **Section 209** hereof; (p) the form and contents of any Offering Document (as such term is defined in **Section 212** hereto); (q) the form, content, terms, and provisions of any closing and other documentation executed and delivered by the City in connection with the authorization, issuance, sale and delivery of the Bonds; and (r) all of the other terms of the Bonds not otherwise determined or fixed by the provisions of this Ordinance.

Section 211. Book-Entry Bonds; Securities Depository.

(a) Unless otherwise directed by the Purchaser, the Bonds shall initially be registered to Cede & Co., as nominee for the Securities Depository, and no Beneficial Owner will receive any certificate representing its respective interest(s) in the Bonds, except if the Paying Agent issues Replacement Bonds as provided in **Section 211(b)** hereof. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of the principal or Redemption Price of and interest on the Bonds to the Participants until and unless the Paying Agent authenticates and delivers Replacement Bonds to the Beneficial Owners as described in **Section 211(b)**.

(b) If the City determines (A) that the Securities Depository is unable to properly discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended (the "**Exchange Act**"), or (C) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Registered Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, or (ii) if the Paying Agent receives written notice from Participants having interests in not less than 50% in aggregate principal amount of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Registered Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, then the Paying Agent shall notify the Registered Owners of such determination or such notice and of the availability of certificates to Registered Owners requesting the same, and the Paying Agent shall register in the name of and authenticate and deliver Replacement Bonds to the Beneficial Owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption, provided that in the case of a determination under this Section 209(b)(i)(A) or (B), the City, with the consent of the Paying Agent, may select a successor securities depository in accordance with Section 211(c) hereof to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Paying Agent, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository resigns and the City, the Paying Agent or Registered Owners are unable to locate a qualified successor of the Securities Depository in accordance with

Section 211(c), then the Paying Agent shall authenticate and cause delivery of Replacement Bonds to Registered Owners as provided herein. The Paying Agent may rely on information from the Securities Depository and its Participants as to the names of the Beneficial Owners of the Bonds. The cost of printing Replacement Bonds shall be paid for by the City.

(c) If the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities Exchange Act of 1934, as amended, the City may appoint a successor Securities Depository, provided the Paying Agent receives written evidence satisfactory to the Paying Agent with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Paying Agent upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in appropriate denominations and form as provided herein.

(d) If so directed by the Purchaser, no Securities Depository shall be utilized in connection with the Bonds.

Section 212. Offering Documents. The use and distribution of any official statement, offering circular, term sheet, request for lenders or any other offering document (including any preliminary thereof, the “**Offering Document**”) by the Underwriter or the Placement Agent in connection with the Bonds is hereby authorized. Any Authorized Officer is authorized to approve the final Offering Document as so supplemented, amended and completed, and the use and distribution of the final Offering Document by the Underwriter or the Placement Agent in connection with the Bonds is hereby authorized. Any Authorized Officer is hereby authorized to execute and deliver a certificate pertaining to such Offering Document as prescribed therein, dated as of the date of payment for and delivery of the Bonds.

If requested by the Purchaser, the City agrees to provide to the Underwriter or the Placement Agent within seven Business Days of the date of the sale of Bonds sufficient copies of the final Offering Document to enable the Underwriter or the Placement Agent to comply with the requirements of Rule 15c2-12(b)(4) of the Securities and Exchange Commission and with the requirements of Rule G-32 of the Municipal Securities Rulemaking Board, if applicable.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption of Bonds.

(a) **Optional Redemption by City.** Unless a shorter period shall be determined by an Authorized Officer, any Bonds maturing after the date five years from their date of original issue shall be subject to redemption at the option of the City on the date five years from their date of original issue and any date thereafter, as a whole, or in part in such principal amounts and at the

Redemption Prices determined by an Authorized Officer in accordance with the provisions of **Section 210** hereof.

(b) **Mandatory Sinking Fund Redemption.** The Authorized Officers, or any individually, may designate in a certificate certain Bonds as “**Term Bonds**”, portions of which are to be redeemed on such dates of the years (each such date being herein referred to as a “**Sinking Fund Payment Date**”) and in the amounts (hereinafter referred to as a “**Mandatory Sinking Fund Payment**”) set forth in such certificate. The Paying Agent shall select and call for redemption, in accordance with this subsection (b), from the Term Bonds the amounts specified by the Authorized Officer in the certificate, and the Term Bonds selected by the Paying Agent shall become due and payable on such date. If Term Bonds are redeemed at the option of the City pursuant to **Section 301(a)**, the Term Bonds so optionally redeemed may, at the option of the City, be applied as a credit against any subsequent Mandatory Sinking Fund Payment with respect to Term Bonds otherwise to be redeemed thereby, such credit to be equal to the principal amount of such Term Bonds redeemed pursuant to **Section 301(a)**, provided that the City shall have delivered to the Paying Agent not less than 45 days prior to such Sinking Fund Payment Date a City certificate stating its election to apply such Term Bonds as such a credit. In such case, the Paying Agent shall reduce the amount of Term Bonds to be redeemed on the Sinking Fund Payment Date specified in such City certificate by the principal amount of Term Bonds so redeemed pursuant to **Section 301(a)**. Any credit given to Mandatory Sinking Fund Payments pursuant to this subsection (c)(ii) shall not affect any subsequent Mandatory Sinking Fund Payments, which shall remain payable as otherwise provided in this subsection, unless and until another credit is given in accordance with the provisions hereof.

Section 302. Selection of Bonds to Be Redeemed.

(a) The Paying Agent shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Paying Agent at least 45 days prior to the Redemption Date (or such shorter period as may be acceptable to the Paying Agent) of written instructions of the City specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. The Paying Agent may in its discretion waive such notice period so long as the notice requirements set forth in **Section 303** are met. The foregoing provisions of this paragraph shall not apply to the mandatory redemption of Bonds hereunder, and Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the City and whether or not the Paying Agent shall hold in the Debt Service Fund moneys available and sufficient to effect the required redemption.

(b) Bonds shall be redeemed in Authorized Denominations, and if less than all of the principal amount thereof is to be redeemed, in such case upon the surrender of such Bond there shall be issued to the Registered Owner thereof without charge therefor, for the then unredeemed balance of the principal amount thereof, registered bonds of like series, maturity and interest rates in any of the Authorized Denominations provided by this Ordinance. If less than all of the Bonds of a maturity are to be called for redemption, the Paying Agent shall select the particular Bonds of such maturity to be redeemed by lot.

Section 303. Notice and Effect of Call for Redemption. Unless waived by any Registered Owner of Bonds to be redeemed, official notice of any redemption shall be given by

the Paying Agent on behalf of the City by mailing a copy of an official redemption notice by first class mail at least 30 days (or such shorter period as may be acceptable to the then-Registered Owner of the Bonds) prior to the Redemption Date to the Purchaser of the Bonds and each Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;
- (d) a statement that, if the Paying Agent has sufficient funds on the Redemption Date to pay the Redemption Price thereof on such date, the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and
- (e) the place where such Bonds are to be surrendered for payment of the Redemption Price, which shall be the Designated Office of the Paying Agent.

The failure of any Registered Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Prior to any Redemption Date, the City shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on that date. If such deposit does not occur or if the Paying Agent does not have sufficient funds on the Redemption Date to pay the Redemption Price, the redemption notice shall be canceled and the Bonds shall continue to bear interest as if the Bonds had not been called for redemption.

Official notice of redemption having been given as provided, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the City defaults in the payment of the Redemption Price) such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Registered Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been surrendered for redemption shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

The Paying Agent is also directed to comply with any mandatory or voluntary standards then in effect for processing redemptions of municipal securities established by the Securities and

Exchange Commission. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.

ARTICLE IV

SECURITY FOR AND PAYMENT OF BONDS

For the prompt payment of the Bonds and all interest thereon, when and as the same shall become due, the Council hereby pledges all receipts now or hereafter received by the City from the Highway Allocation Fund. Such pledge shall not prevent the City from applying receipts from the Highway Allocation Fund to other qualifying uses under the Act. The City further reserves the right to issue additional highway allocation fund pledge bonds that are payable on par with the Bonds and equally and ratably secured by a pledge of receipts from the Highway Allocation Fund.

To the extent that receipts from the Highway Allocation Fund and any other legally available moneys of the City appropriated for such purposes are insufficient to timely pay the principal of and the interest on the Bonds, the Council hereby covenants and agrees that it will cause to be levied and collected annually a tax on all taxable property in the City, in addition to all other taxes now or hereafter authorized to be levied by the City, sufficient in amount to pay the principal of and interest on the Bonds until the same is fully paid. The full faith, credit and resources of the City are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due, whether at maturity or earlier redemption.

The taxes referred to above shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the other ad valorem taxes of the City are levied and collected. The proceeds derived from such taxes shall be deposited in the Debt Service Fund, shall be kept separate and apart from all other funds of the City and shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due, whether at maturity or earlier redemption, and the fees and expenses of the Paying Agent. If at any time said taxes are not collected in time to pay the principal of or interest on the Bonds when due, the City Treasurer is hereby authorized and directed to pay such principal or interest out of the general funds of the City and to reimburse the general funds for money so expended when such taxes are collected.

The provisions of this Ordinance shall constitute a contract between the City and the registered owners of the Bonds, and any registered owners of any Bond may either in law or equity or suit, action, mandamus or other proceedings enforce or compel performance of this Ordinance.

ARTICLE V

ESTABLISHMENT OF FUNDS; DEPOSIT AND APPLICATION OF MONEY

Section 501. Establishment of Funds. The Council hereby establishes in the treasury of the City the following separate funds, which shall be held and administered by the City Treasurer:

- (a) Construction Fund; and
- (b) Debt Service Fund.

Section 502. Deposit of Bond Proceeds. The net proceeds received from the sale of the Bonds shall be deposited simultaneously with the delivery of the Bond as follows:

(a) All accrued interest received from the sale of the Bonds shall be deposited in the Debt Service Fund and applied in accordance with **Section 504** hereof.

(b) The remaining balance of the proceeds derived from the sale of the Bonds shall be deposited in the Construction Fund and shall be applied in accordance with **Section 503** hereof.

Section 503. Application of Money in the Construction Fund. Money in the Construction Fund shall be used by the City solely for the purpose of (a) paying the costs of the Project in accordance with the plans and specifications therefor prepared by the City's engineers approved by the Council and on file in the office of the City Clerk, including any alterations in or amendments to such plans and specifications deemed advisable by the City's engineers and approved by the Council, and (b) paying the costs and expenses of issuing the Bonds. The City Treasurer shall make a withdrawal from the Construction Fund to pay Project costs only upon receipt of a certificate executed by the City's engineers stating that such payment is being made for a purpose within the scope of this Ordinance and that the amount of such payment represents only the contract price of the property, equipment, labor, materials or service being paid for or, if such payment is not being made pursuant to an express contract, that such payment is not in excess of the reasonable value thereof. Nothing hereinbefore contained shall prevent the payment out of the Construction Fund of all costs and expenses incident to the issuance of the Bond without a certificate from the City's engineers. Upon completion of the Project, any surplus remaining in the Construction Fund shall be transferred to and deposited in the Debt Service Fund.

Section 504. Application of Money in the Debt Service Fund. All amounts paid and credited to the Debt Service Fund shall be expended and used by the City for the sole purpose of paying the principal or Redemption Price of and interest on the Bonds as and when the same become due and the usual and customary fees and expenses of the Paying Agent. The City Treasurer is authorized and directed to withdraw from the Debt Service Fund sums sufficient to pay both principal or Redemption Price of and interest on the Bonds and the fees and expenses of the Paying Agent as and when the same become due, and to forward such sums to the Paying Agent in a manner which ensures that the Paying Agent will receive immediately available funds in such amounts on or before the Business Day immediately preceding the dates when such principal, interest and fees of the Paying Agent will become due. If, through the lapse of time or otherwise, the Registered Owner of any Bond is no longer entitled to enforce payment of such Bond or the interest thereon, the Paying Agent shall return such funds to the City. All money deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Ordinance and shall be held in trust by the Paying Agent for the benefit of the Registered Owners of the Bonds entitled to payment from such money. Any money or investments remaining in the Debt Service Fund after the retirement of the Bonds shall be transferred and paid into the general fund of the City.

Section 505. Deposits and Investment of Money. Money in each of the funds created by and referred to in this Ordinance shall be deposited in a bank or banks or other legally permitted financial institutions that are members of the Federal Deposit Insurance Corporation. All such deposits shall be continuously and adequately secured by the financial institutions holding such

deposits as provided by the laws of the State. All money held in the funds created by this Ordinance shall be kept separate and apart from all other funds of the City so that there shall be no commingling of such funds with any other funds of the City.

Money held in any fund referred to in this Ordinance may be invested by the City Treasurer at the direction of the Council, in accordance with this Ordinance and the Tax Certificate, in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than the date when the money invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any fund shall accrue to and become a part of such fund.

Section 506. Payments Due on Saturdays, Sundays and Holidays. If any payment on any Bond is due on a date which is not a Business Day, then such payment need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such payment date, and no interest shall accrue for the period after such payment date.

Section 507. Nonpresentment of the Bonds. If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent all liability of the City to the Registered Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Registered Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Ordinance or on, or with respect to, such Bond. If any Bond is not presented for payment within four years following the date when such Bond becomes due at Maturity, the Paying Agent shall repay to the City the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the City, and the Registered Owner thereof shall be entitled to look only to the City for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the City shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

ARTICLE VI

REMEDIES

Section 601. Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Registered Owners of the Bonds, and the Registered Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Registered Owners of Bonds similarly situated:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Registered Owner or Owners against the City and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of this Ordinance or by the constitution and laws of the State;

(b) by suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Registered Owners of the Bonds.

Section 602. Limitation on Rights of Owners. The covenants and agreements of the City contained herein and in the Bonds shall be for the equal benefit, protection and security of the legal owners of any or all of the Bonds. All of the Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, or date of Maturity or right of prior redemption as provided in this Ordinance. No one or more Owners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Registered Owners of such Outstanding Bonds.

Section 603. Remedies Cumulative. No remedy conferred herein upon the Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Registered Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies consequent thereon. No delay or omission of any Registered Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Registered Owners of the Bonds by this Ordinance may be enforced and exercised from time to time and as often as may be deemed expedient. If any suit, action or proceedings taken by any Registered Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or has been determined adversely to such Registered Owner, then, and in every such case, the City and the Registered Owners of the Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

ARTICLE VII

DEFEASANCE

When any or all of the Bonds or scheduled interest payments thereon have been paid and discharged, then the requirements contained in this Ordinance and the pledge of the City's faith and credit hereunder and all other rights granted hereby shall terminate with respect to the Bonds or scheduled interest payments thereon so paid and discharged. Bonds or scheduled interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Ordinance if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State and having full trust powers, at or prior to the Stated Maturity or Redemption Date of such Bonds or the interest payments thereon, in trust for and irrevocably

appropriated thereto, money and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of such Bonds and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments; provided, however, that if any such Bonds are to be redeemed prior to their Stated Maturity, (a) the City has elected to redeem such Bonds, and (b) either notice of such redemption has been given, or the City has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Paying Agent to give such notice of redemption in compliance with **Section 302(a)** of this Ordinance. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the City, for the purpose of paying and discharging any of the Bonds, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Registered Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All money and Defeasance Obligations deposited with the Paying Agent or other bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Ordinance.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 801. Tax Covenants.

(a) The Council covenants and agrees that (i) the City will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from federal gross income of the interest on the Bonds, and (ii) the City will not use or permit the use of any proceeds of Bonds or any other funds of the City, nor take or permit any other action, or fail to take any action, which would adversely affect the exclusion from federal gross income of the interest on the Bonds. The City will also adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with other applicable future law, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

(b) The Council covenants and agrees that (i) the City will use the proceeds of the Bonds as soon as practicable and with all reasonable dispatch for the purposes for which the Bonds are issued, and (ii) the City will not invest or directly or indirectly use or permit the use of any proceeds of the Bonds or any other funds of the City in any manner, or take or omit to take any action, that would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.

(c) The Council covenants and agrees that the City will pay or provide for the payment from time to time of all arbitrage rebate to the United States pursuant to Section 148(f) of the Code and the Tax Certificate. This covenant shall survive payment in full or defeasance of the Bonds. The Tax Certificate may be amended or replaced if, in the opinion of Bond Counsel, such amendment or replacement will not adversely affect the exclusion from federal gross income of the interest on the Bonds.

(d) The Council covenants and agrees that the City will not use any portion of the proceeds of the Bonds, including any investment income earned on such proceeds, directly or indirectly, (i) in a manner that would cause any Bond to be a “private activity bond” within the meaning of Section 141(a) of the Code, or (ii) to make or finance a loan to any Person.

(e) The Council makes the following representations in connection with the exception for small governmental units from the arbitrage rebate requirements under Section 148(f)(4)(D) of the Code:

(i) the City is a governmental unit under Nebraska law with general taxing powers;

(ii) the Bonds are not private activity bonds as defined in Section 141 of the Code;

(iii) ninety-five percent or more of the net proceeds of the Bonds are to be used for local governmental activities of the City;

(iv) the aggregate face amount of all tax-exempt bonds (other than private activity bonds and certain refunding bonds) issued by the City (and all subordinate entities thereof) during the calendar year in which the Bonds are issued is not reasonably expected to exceed \$5,000,000; and

(v) the City (including all subordinate entities thereof) will not issue in excess of \$5,000,000 of tax-exempt bonds (including the Bonds but excluding private activity bonds and certain refunding bonds) during the calendar year in which the Bonds are issued without first obtaining an opinion of Bond Counsel that the exclusion of the interest on the Bond from federal gross income will not be adversely affected thereby.

(f) The Council hereby designates the Bonds as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Code. In addition, the City hereby represents that:

(i) the aggregate face amount of all tax-exempt obligations (other than private activity bonds which are not “qualified 501(c)(3) bonds” and certain refunding bonds) which will be issued by the City (and all subordinate entities thereof) during the calendar year in which the Bonds are issued is not reasonably expected to exceed \$10,000,000; and

(ii) the City (including all subordinate entities thereof) will not issue an aggregate principal amount of obligations designated by the City to be “qualified tax-exempt obligations” during the calendar year in which the Bonds are issued, including the Bonds, in excess of \$10,000,000, without first obtaining an opinion of Bond Counsel that the designation of the Bond as a “qualified tax-exempt obligation” will not be adversely affected.

The Authorized Officers, or each individually, are hereby authorized to take such other action as may be necessary to make effective the designation in this **Section 801(f)**.

(g) The Council hereby adopts the Post-Issuance Tax Compliance Procedures attached to this Ordinance as Exhibit B to ensure that all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of the Bonds which are intended to be tax-exempt are met. The City reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions as it may determine. The City also reserves the right to change these policies and procedures from time to time, without notice.

(h) The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the Bonds pursuant to **Article VII** of this Ordinance or any other provision of this Ordinance, until the final Maturity of the Bond.

Section 802. Continuing Disclosure.

(a) If applicable, the City (i) authorizes and directs any Authorized Officer to execute and deliver, on the date of the issuance of the Bonds, a Continuing Disclosure Undertaking (the “**Undertaking**”) in such form that satisfies the requirements of Rule 15c2-12 promulgated under the Exchange Act (“**Rule 15c2-12**”) and is acceptable to the Purchaser and Bond Counsel and (ii) covenants that it will comply with and carry out all of the provisions of the Undertaking. The Authorized Officers, or each individually, may designate a dissemination agent thereunder to assist with compliance. Notwithstanding any other provisions of this Ordinance, failure of the City to comply with the Undertaking will not be considered a default under this Ordinance or the Bonds; however, any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Section and the Undertaking. For purposes of this Section, “Beneficial Owner” means any person who (i) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (ii) is treated as the owner of any Bonds for federal income tax purposes.

(b) The City hereby adopts the Disclosure Policies and Procedures attached to this Ordinance as Exhibit C to ensure the City satisfies the requirements of Rule 15c2-12 and the Undertaking. The City reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions as it may determine. The City also reserves the right to change such policies and procedures from time to time, without notice.

Section 803. Amendments. The rights and duties of the City and the Registered Owners, and the terms and provisions of the Bonds or of this Ordinance, may be amended or modified at any time in any respect by an ordinance of the City with the written consent of the Registered Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Registered Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk.

Without the written consent of the Registered Owners of all of the Bonds at the time Outstanding, no modification or alteration of this Ordinance shall:

- (a) extend the maturity of any payment of principal or interest due upon any Bond;
- (b) effect a reduction in the amount which the City is required to pay as principal of or interest on any Bond;
- (c) permit preference or priority of any Bond over any other Bond; or
- (d) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Ordinance.

Without notice to or the consent of any Registered Owners, the City may amend or supplement this Ordinance for the purpose of curing any formal defect, omission, inconsistency or ambiguity therein or in connection with any other change therein which is not materially adverse to the interests of the Registered Owners.

Every amendment or modification of the provisions of the Bonds or of this Ordinance, to which the written consent of the Registered Owners is given, as above provided, shall be expressed in an ordinance adopted by the Council amending or supplementing the provisions of this Ordinance and shall be deemed to be a part of this Ordinance. A certified copy of every such amendatory or supplemental ordinance, if any, and a certified copy of this Ordinance shall always be kept on file in the office of the Secretary, shall be made available for inspection by the Registered Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Ordinance, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental ordinance of this Ordinance will be sent by the City Clerk to any such Registered Owner or prospective purchaser.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the City Clerk a copy of such amendatory or supplemental ordinance of the City, duly certified, as well as proof of any required consent to such modification by the Registered Owners of the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

The City shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Ordinance which affects the duties or obligations of the Paying Agent under this Ordinance.

Section 804. Notices, Consents and Other Instruments by Registered Owners. Any notice, consent, request, direction, approval or other instrument to be signed and executed by any Registered Owner may be in any number of concurrent writings of similar tenor and may be signed or executed by such Registered Owner in person or by an agent with written authorization. Proof of the execution of any such instrument or writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Ordinance, and shall be conclusive in favor of the City and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

- (a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument

acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Register.

In determining whether the Registered Owners of the requisite aggregate principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Ordinance, Bonds owned by the City shall be disregarded and deemed not to be Outstanding under this Ordinance, except that, in determining whether the Registered Owners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Registered Owners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as provided if the pledgee establishes to the satisfaction of the Registered Owners the pledgee's right so to act with respect to such Bonds and that the pledgee is not the City.

Section 805. General and Specific Authorizations; Ratification of Prior Actions.

Without in any way limiting the power, authority or discretion elsewhere herein granted or delegated, the Council hereby (a) authorizes and directs the Authorized Officers and all other officers, officials, employees and agents of the City to carry out or cause to be carried out, and to perform such obligations of the City and such other actions as they, or any of them, in consultation with Bond Counsel, any Purchaser and its counsel shall consider necessary, advisable, desirable or appropriate in connection with this Ordinance, including without limitation the execution and delivery of all related documents, instruments, certifications and opinions, and (b) delegates, authorizes and directs the Authorized Officers the right, power and authority to exercise his or her independent judgment and absolute discretion in (i) determining and finalizing all terms and provisions to be carried by the Bonds not specifically set forth in this Ordinance and (ii) the taking of all actions and the making of all arrangements necessary, proper, appropriate, advisable or desirable in order to effectuate the issuance, sale and delivery of the Bonds. The execution and delivery by any Authorized Officer or by any such other officers, officials, employees or agents of the City of any such documents, instruments, certifications and opinions, or the doing by them of any act in connection with any of the matters which are the subject of this Ordinance, shall constitute conclusive evidence of both the City's and their approval of the terms, provisions and contents thereof and of all changes, modifications, amendments, revisions and alterations made therein and shall conclusively establish their absolute, unconditional and irrevocable authority with respect thereto from the City and the authorization, approval and ratification by the City of the documents, instruments, certifications and opinions so executed and the actions so taken.

All actions heretofore taken by any Authorized Officer and all other officers, officials, employees and agents of the City, including without limitation the expenditure of funds and the selection, appointment and employment of Bond Counsel and financial advisors and agents, in connection with issuance and sale of the Bonds, together with all other actions taken in connection with any of the matters which are the subject hereof, be and the same is hereby in all respects authorized, adopted, specified, accepted, ratified, approved and confirmed.

Section 806. Benefits of Ordinance Limited to the City and the Owners. With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to

be implied from this Ordinance or the Bonds is intended or should be construed to confer upon or give to any person other than the City and the Owners of the Bonds any legal or equitable right, remedy or claim under or by reason of or in respect to this Ordinance or any covenant, condition, stipulation, promise, agreement or provision herein contained. This Ordinance and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the City and the Owner from time to time of the Bonds as herein and therein provided.

Section 807. No Personal Liability. No officer or employee of the City shall be individually or personally liable for the payment of the principal of or interest on any Bond. Nothing herein contained shall, however, relieve any such officer or employee from the performance of any duty provided or required by law.

Section 808. Severability. If any section or other part of this Ordinance, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance.

Section 809. Governing Law. This Ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 810. Effective Date. This Ordinance shall take effect and be in full force from and after its passage and publication in pamphlet form as provided by law.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

- Council next considered Resolution No. 21-116 which will approve the renewal contracts and rates with Regional Care, Inc. our third party administrator; Symetra our reinsurance carrier; and our other vendors of health services. The following information was provided:

[Hays Companies, the City's health benefit broker, has conducted the City's insurance renewal and shopped the market for competitive rates for benefits the City offers its employees. The City looks to continue to provide the same level of coverage without reducing or eliminating benefits as the national cost of health coverage continues to rise.

Administration - Administration for the health insurance program will continue through Regional Care Inc. (RCI). The City is adding a Teledoc option for plan participants, which will increase costs 4.2% but allow employees access to a doctor for non-emergency issues 24/7 via phone, web or mobile app at an employee cost of \$45. Symetra will be the new provider of reinsurance (or stop-loss) coverage. Fixed costs will increase 6.3% as will claims liability at 32.4%. As a reminder, the City plans to meet fixed cost expenditures; however, claims

liability will depend on usage. To date, medical claims this year total approximately \$972,000 with three individuals accounting for 54% of those claims.

Projections provided by Hays Companies sees an overall increase of 17.4% when budgeting at expected claims liability for 2022 and calculating two lasers. If the lasers were removed, Hays projects a 2.5% decrease from current year expenses. Laser are for participants with a specific medical condition (which means the City will pay all claims up to this amount before stop-loss will contribute). Symetra is also provided a clause that guarantees no new lasers a 50% maximum for renewal costs (no matter the claims experienced during the plan year).

The City would like to expand some employee benefits to make the coverage more attractive for both current and future employees. Employee costs for medical, dental and vision will remain unchanged; however, Employer dental premiums are projected to increase 9% (or \$5,257 annually) increasing the maximum dental coverage from \$1,500 to \$2,000. The new rate includes orthodontia. Vision coverage will increase 40.2% (or \$2,364 annually) by increasing retail allowance for contact lenses and frames from \$130 to \$200.

The City will also start an Airlink Census Plan in 2022 that will include all eligible medical plan participants supplemental air ambulance service coverage that ensures no out-of-pocket costs when flown by a provider. The expected cost is \$60 per year per employee costing approximately \$6,000 per year.]

A motion was made by Councilman Bentley, seconded by Councilman Mischnick to approve Resolution No. 21-116 which follows in its entirety:

RESOLUTION NO. 21-116

WHEREAS, The City of Alliance has engaged in a process with Hays Corporation, our benefit broker, evaluating its current health care benefit plans offered to employees; and

WHEREAS, Various options and proposals have been considered by staff and Hays Corp., and staff has recommended the options contained herein; and

WHEREAS, The City of Alliance has received a proposal to renew its contract with the Third-Party Administrator, Regional Care Incorporated; and

WHEREAS, The City of Alliance recommends a proposal to change our contract for reinsurance carrier to Symetra as set forth herein; and

WHEREAS, The City of Alliance has received a proposal to renew its contract with the Unum to provide term-life employee coverage; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the contract proposal with Regional Care Incorporated for Third-Party Administrator is hereby approved.

BE IT FURTHER RESOLVED, Monthly premium payments per employee to Symetra as the reinsurance carrier effective January 1, 2022, shall be as follows:

Specific Single Premium	\$ 195.22
Specific Family Premium	\$ 547.79
Aggregate Premium	\$ 24.49
Transplant Coverage	
Single	\$ 10.02
Family	\$ 24.88
Vision Coverage	
Single	\$ 10.24
Family	\$ 21.64
Life Insurance	
Single	\$ 7.70
Family	\$ 8.70

BE IT FURTHER RESOLVED, administrative service fees to Regional Care, Incorporated, shall be \$31.30 monthly per covered employee, effective January 1, 2022.

BE IT FURTHER RESOLVED, the City of Alliance shall make monthly payments into its Health Support Fund, effective January 1, 2022 for a dental program up to the following amount:

Per Employee	\$ 79.00
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BE IT FURTHER RESOLVED, the City of Alliance shall make monthly contributions to our Health Support Fund, effective January 1, 2022 for the payment of medical claims up to the following amounts:

Per Single Employee	\$ 771.80
Per Family Employee	\$1,271.63

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

● Resolution No. 21-117 was next on the agenda for Council. This resolution will authorize the purchase of a 2022 Ford F-250 4x4 extended cab pickup equipped with a service utility box from Cover-Jones Motor Company of Alliance. The following information was provided:

[The Electric Department has a 2016 Ford F 250 pickup equipped with a service/utility box that was rescheduled to be replaced as part of the 2021-22 budget. Staff has collected bids as indicated below.

Vendor	Description	Bid
Nebraska State Purchasing Contract	2022 Ford F-250 Extended Cab 4x4	\$41,645
Cover-Jones Motor Company Quote	2022 Ford F-250 Extended Cab 4x4	\$41,645

Electric Superintendent Bridge has recommended the purchase of a 2022 Ford F-250 Extended Cab 4x4 pickup for \$41,645 from Cover-Jones Motor Company of Alliance, Nebraska. Cover-Jones is in process of acquiring pricing on a service utility box, but has guaranteed price will not exceed \$13,500. The total price of the pickup with the service utility box will not exceed \$55,145. Cover-Jones has informed staff that if the pickup is not ordered by November 10, Ford will have all production slots full for 2022.

The purchase of this unit is budgeted within Capital Outlay - Vehicles (GL 05-51-53-59-960). The 2016 pickup being replaced will be transferred to the Parks Department.]

A motion was made by Councilman McGhehey, seconded by Councilman Jones to approve Resolution No. 21-117 which follows in its entirety:

RESOLUTION NO. 21-117

WHEREAS, The City of Alliance Electric Department scheduled to replace their 2016 Ford F-250 4x4 Extended Cab Service Utility Truck with a 2022 Ford F-250 4x4 Extended Cab Service Utility Truck as part of the 2021-22 budget; and

WHEREAS, Two quotes were received for this replacement; and

WHEREAS, Staff is recommending the purchase of a 2022 Ford F-250 4x4 Extended Cab Service Utility Truck from Cover-Jones Motor Company, in an amount not to exceed Fifty-five Thousand One Hundred Forty-five and no/100th Dollars (\$55,145) and

WHEREAS, Adequate funding is available for this purchase from the Electric Capital Outlay-Vehicles Account No. 05-51-53-59-960.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that the Mayor is authorized to enter into a purchase agreement with Cover-Jones Motor in an amount not to exceed Fifty-five Thousand One Hundred Forty-five and no/100th Dollars (\$55,145) for the purchase of a 2022 Ford F-250 4x4 Extended Cab Service Utility Truck for the Electric Department.

BE IT FURTHER RESOLVED the 2016 Ford F-250 4x4 Extended Cab Service Utility Truck will be transferred to the Parks Department.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

- Resolution No. 21-118 was next before Council and indicates the intent of the City to fund the upcoming library HVAC project utilizing tax-exempt financing and allows the reimbursement of City payments with proceeds. The following information was provided:

[The City of Alliance has included budget authority for \$1 million for library HVAC system upgrades for fiscal year 2021-22. While staff is pursuing grant opportunities, this project will most likely exceed the amount of general capital project reserve funds as well as available current cash flows.

In order to preserve the tax-exempt status of any future financing, IRS regulations require that the City adopt a resolution stating the intent to borrow. This resolution must be passed prior to the beginning of project(s) (or shortly thereafter) in order to allow the City to be reimbursed for project payments from tax-exempt borrowings. The resolution before Council indicates the intent of the City to fund the upcoming library HVAC project utilizing tax-exempt financing and allows the reimbursement of City payments with the proceeds.]

A motion was made by Councilman Mischnick, seconded by Councilman Bentley to approve Resolution No. 21-118 which follows in its entirety:

Resolution No. 21-118

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA TO DECLARE ITS OFFICIAL INTENT UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, TO REIMBURSE CERTAIN CAPITAL EXPENDITURES FROM THE PROCEEDS OF TAX-EXEMPT OR TAX-FAVORED DEBT OBLIGATIONS.

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WHEREAS, the United States Department of the Treasury has promulgated final regulations under the Internal Revenue Code of 1986, as amended (the "Code"), that impose requirements on the City of Alliance, Nebraska (the "Issuer") when it desires to reimburse itself for capital expenditures relating to the capital projects described herein from the proceeds of its tax-exempt or tax-favored debt obligations or such debt obligations issued on its behalf; and

WHEREAS, the Issuer has determined that it is necessary to upgrade and improve library HVAC systems within the Issuer (collectively, the "Project") and to finance the costs of such Project with the proceeds of tax-exempt or tax-favored debt obligations to be issued by the Issuer or by an entity authorized to issue such obligations; and

WHEREAS, the Issuer anticipates that the Issuer will spend its moneys to pay Project costs (the "Prior Capital Expenditures") prior to the issuance of any tax-exempt or tax-favored debt obligations; and

WHEREAS, the Issuer reasonably expects to be reimbursed for such Prior Capital Expenditures with proceeds of tax-exempt or tax-favored debt obligations to be issued by the Issuer or by an entity authorized to issue such obligations (the "Reimbursement Debt") in the maximum principal amount of \$1,000,000 plus such additional principal amount necessary to pay costs of issuance and to fund any reserves; and

WHEREAS, the Issuer expects that the Reimbursement Debt will be incurred and allocated to reimburse the Prior Capital Expenditures no later than 18 months after the later of (a) the date on which it pays the Prior Capital Expenditures, or (b) the date on which the Project is placed in service, but in no event not later than 3 years after the original date of such Prior Capital Expenditures, or (c) such other date that is permitted by law; and

WHEREAS, the Issuer finds it necessary to adopt this resolution to ensure that its declaration of intent to reimburse itself for such Prior Capital Expenditures satisfies the "Official Intent Requirement" described in Treasury Regulations Section 1.150-2 (the "Regulations").

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA, AS FOLLOWS:

Section 1. The Issuer hereby declares its official intent to reimburse itself for the Prior Capital Expenditures relating to the Project out of the proceeds of the Reimbursement Debt to be issued by the Issuer or by an entity authorized to issue such obligations on its behalf. With such declaration, the Issuer hereby satisfies the "Official Intent Requirement" of the Regulations.

Section 2. Other than (a) expenditures to be paid or reimbursed from sources other than the Reimbursement Debt, (b) expenditures constituting "preliminary expenditures" within the meaning of Section 1.150-2(f)(2) of the Regulations or (c) expenditures in a "de minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Project have been paid by the Issuer more than 60 days prior to the date of execution and delivery of this Resolution.

Section 3. This resolution does not constitute approval of any kind with respect to the issuance of the Reimbursement Debt or any other tax-exempt or tax-favored debt obligations and

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does not legally or morally obligate the Issuer or any other entity to issue such obligations on its behalf.

Section 4. This resolution shall be operative, effective and valid upon its passage by the City Council.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

- Finance Director Waggener presented the Fourth Quarter Financial Statement to the Council for acceptance.

Councilman Jones motioned to approved the Fourth Quarter Financial Statement as presented. Councilman Mischnick seconded the motion.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

There being no further business before Council, Mayor Dafney adjourned the meeting at 7:37 p.m.



Mike Dafney, Mayor

(SEAL)



Tarrah S. Johnson, City Clerk