

**ORDINANCE NO. 2023-17**

**AN ORDINANCE OF THE CITY OF WAYNE, NEBRASKA AMENDING ORDINANCE NO. 2023-6 TO AUTHORIZE A STATED PRINCIPAL AMOUNT OF NOT TO EXCEED TEN MILLION DOLLARS (\$10,000,000) TAX SUPPORTED MUNICIPAL IMPROVEMENT BONDS, SERIES 2023, OF THE CITY OF WAYNE, NEBRASKA, AND AMENDING CERTAIN PARAMETERS FOR SUCH BONDS; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET OR ELECTRONIC FORM.**

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WAYNE, NEBRASKA:

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

(a) that the City Council has passed and approved Ordinance No. 2023-6 (the “Bond Ordinance”) authorizing the issuance of its Tax Supported Municipal Improvement Bonds, Series 2023, (the “Bonds”) in a principal amount of not to exceed \$7,500,000 with a final maturity date of December 15, 2026; and

(b) that the City has determined that costs of the improvements to be financed (as described in the Bond Ordinance) remaining after application of fund available to the City for such purposes are such that it is advisable and necessary to amend the Bond Ordinance to authorize not to exceed \$10,000,000 in stated principal amount of the Bonds; and

(c) that the City has determined that the interest rate markets are such that it is advisable and necessary to amend the Bond Ordinance to authorize issuance of Bonds with a final maturity of not later than December 15, 2027.

**Section 2.** Section 1 of the Bond Ordinance is hereby repealed and replaced with the following:

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

(a) The City imposes a sales and use tax in the amount of 1.50% (the “**Sales Tax**”) upon the same transactions within the City on which the State of Nebraska is authorized to impose a tax pursuant to the Local Option Revenue Act (Sections 77-27,142 to 77-27,148, R.R.S. Neb., as amended, the “**Act**”).

(b) Pursuant to Ordinance No. 2023-1 of the City adopted on March 7, 2023, the Sales Tax has been continued until June 30, 2039, unless further extended, and when collected shall be deposited in the general fund of the City of Wayne, Nebraska, and divided as follows:

- 1) for the first 1.0%:
  - i. until July 1, 2024, three-fifths of one percent (0.6%) for general capital improvements over \$5,000.00 initial cost and having a useful life expectancy of more than seven years (such as fire trucks, swimming pool); two-fifths of one percent (0.4%) to fund economic activities under the Wayne Economic Development Program as described in its adopted Wayne Economic Development Plan; and
  - ii. from and after July 1, 2024, eighty-five hundredths of one percent (0.85%) for general capital expenditures to include, but not limited to, property development, infrastructure, fire, police, and street improvements, and fifteen hundredths of one percent (0.15%) to fund economic activities under the Wayne Economic Development Program as described in its adopted Wayne Economic Development Plan;
- 2) for the last 0.5%:
  - i. until all of the indebtedness evidenced by bonds of the City approved by the voters of the City of Wayne, Nebraska on November 4, 2014 (including refunding bonds issued to refund such indebtedness) are no longer outstanding and unpaid, for the purpose of paying the principal and interest of the City of Wayne, Nebraska bonds approved by the voters on November 4, 2014, in the principal amount not to exceed \$2,900,000.00 and paying costs related to such purpose; and
  - ii. from and after such date, for parks and recreation purposes for the City.

The portion of the Sales Tax which may be used for capital improvements and capital expenditures, and which may be used for parks and recreation purposes for the City, are herein referred to as the **“Pledged Sales Tax.”**

(c) The City is authorized to issue bonds pursuant to the Act for any municipal purpose, including payment of the cost of park and recreation improvements, infrastructure improvements and other capital expenditures for property to be owned by the City, (together, the **“Project”**) and to pledge receipts of the Pledged Sales Tax and dedicate a portion of its property tax levy authority as provided in Section 77-3442, R.R.S. Neb., as amended, for payment of such bonds.

(d) All conditions, acts and things required to exist or to be done precedent to the issuance of Tax Supported Municipal Improvement Bonds, Series 2023, (or such other title as determined in a Designation as described below, the **“Bonds”**) of the City of Wayne, Nebraska, in one or more series in the aggregate principal amount of not to exceed Ten Million Dollars (\$10,000,000) pursuant to the Act to provide financing for a portion of the cost of the Project do exist and have been done as required by law.

**Section 3.** Section 2 of the Bond Ordinance is hereby repealed and replaced with the following:

Section 2. (a) To provide funds for the purpose of paying and reimbursing the costs of the Project as set forth in Section 1 hereof, there shall be and there are hereby ordered issued the Tax Supported Municipal Improvement Bonds of the City in one or more series, in the aggregate stated principal amount of not to exceed Ten Million Dollars (\$10,000,000); provided, however, such amount may be increased as necessary to the extent the Bonds are sold at a net original issue discount.

(b) The Bonds or any portion thereof are hereby authorized to be sold pursuant to a negotiated sale with D.A. Davidson & Co., as initial purchaser (the “**Underwriter**”). In connection with such sale, the Mayor, City Clerk, Finance Director and City Administrator (each, an “**Authorized Officer**”) are hereby authorized to specify, determine, designate, establish and appoint, as the case may be, in one or more written designations which may be included in a bond purchase agreement (each, a “**Designation**”), the following with respect to the Bonds: (i) the aggregate purchase price of the Bonds and the underwriting discount which shall not exceed 1.00% of the aggregate stated principal amount thereof; (ii) the form and contents of any bond purchase agreement in connection with such sale; (iii) for each series, the title, dated date, aggregate principal amount (which aggregate stated principal amount shall not exceed \$10,000,000; provided, however, such amount may be increased as necessary to the extent the Bonds are sold at a net original issue discount); (iv) the final maturity date, which shall not be later than December 15, 2027, provided that any or all portions of the maturity schedules may be structured such that the amortization period and future repayment schedule (after refinancing) is longer than the initial term of the financing (commonly referred to as a balloon payment); (v) the principal amounts maturing in each year and whether maturities will be issued as serial or term bonds; (vi) the rate or rates of interest to be borne by each principal maturity, and any original issue premium or original issue discount, provided that the true interest cost of the Bonds shall not exceed 5%; (vii) the principal payment dates and interest payment dates; (viii) whether to establish a debt service reserve fund for each series of Bonds, and the amount and provisions related such debt service reserve fund; (ix) the prepayment provisions whether the

Bonds will be subject to redemption prior to their stated maturity, and if subject to such optional redemption, the provisions governing such redemption, including a redemption price not to exceed 104% of the principal amount then being redeemed plus accrued interest to the date of redemption; (x) the amount and due date of each sinking fund installment for any of the Bonds issued as term Bonds; (xi) the designation of the Paying Agent and Registrar and the form and content of any agreement between the City and such entity; and (xii) all other terms and provisions of the Bonds not otherwise specified or fixed by this Ordinance.

(c) The Bonds shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. The date of original issue for the Bonds shall be date of original delivery. Interest on the Bonds, at the respective rates for each maturity, shall be payable on such dates as determined in the Designation, each an "Interest Payment Date", and the Bonds shall bear interest from the date of original issue or the most recent Interest Payment Date, whichever is later. The interest due on each Interest Payment Date shall be payable to the registered owners of record as of the fifteenth day immediately preceding the Interest Payment Date (the "Record Date"), subject to the provisions of Section 4 hereof. The Bonds shall be numbered from 1 upwards in the order of their issuance. No Bond shall be issued originally or upon transfer or partial redemption having more than one principal maturity. The initial bond numbering and principal amounts for each of the Bonds issued shall be as directed by the initial purchaser thereof. Payments of interest due on the Bonds prior to maturity or earlier redemption shall be made by the Paying Agent and Registrar, as designated pursuant to Section 3 hereof, by mailing a check or draft in the amount due for such interest on each Interest Payment Date to the registered owner of each Bond, as of the Record Date for such Interest Payment Date, to such owner's registered address as shown on the books of registration as required to be maintained in Section 3 hereof. Payments of principal due at maturity or at any date fixed for redemption prior to maturity, together with unpaid accrued interest thereon, shall be made by said Paying Agent and Registrar to the registered owners upon presentation and surrender of the Bonds to said Paying Agent and Registrar. The City and said Paying Agent and Registrar may treat the

registered owner of any Bond as the absolute owner of such Bond for the purpose of making payments thereon and for all other purposes and neither the City nor the Paying Agent and Registrar shall be affected by any notice or knowledge to the contrary, whether such Bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of any Bond in accordance with the terms of this Ordinance shall be valid and effectual and shall be a discharge of the City and said Paying Agent and Registrar, in respect of the liability upon the Bonds or claims for interest to the extent of the sum or sums so paid.

**Section 4.** The provisions of the Bond Ordinance are hereby confirmed in all respects, except to the extent modified or amended by the terms of this ordinance.

**Section 5.** This Ordinance shall take effect and be in full force from and after its passage and publication in pamphlet or electronic form as provided by law.

PASSED AND APPROVED this 15<sup>th</sup> day of August, 2023.

THE CITY OF WAYNE, NEBRASKA

By: \_\_\_\_\_  
Cale Giese, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk