

Ord 541
2000
00-09

NOTICE

CITY OF FRIEND, NEBRASKA

On the 2nd day of May, 2000, the Mayor and City Council of the City of Friend, Nebraska, adopted an ordinance entitled:

ORDINANCE NO. 541

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF SEWER UTILITY BOND ANTICIPATION NOTES, 2000 SERIES, IN THE AMOUNT OF THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000) FOR THE PAYMENT OF COSTS IN CONNECTION WITH THE CONSTRUCTION OF ENLARGEMENTS AND ADDITIONS TO THE SANITARY SEWER PLANT AND SYSTEM OF THE CITY OF FRIEND, NEBRASKA; AGREEING TO ESTABLISH RATES AND CHARGES TO PROVIDE FOR COSTS OF OWNERSHIP, OPERATION AND DEBT SERVICE; AGREEING TO ISSUE REVENUE BONDS TO PAY THE NOTES AND ACCRUED INTEREST AT MATURITY AND ORDERING THE PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM

Said Ordinance as published in pamphlet form and copies thereof are available at the office of the City Clerk.

Ann J. Betka
City Clerk

Clerk please note:

Publish one (1) time as soon as possible after adoption of ordinance published in pamphlet form. (Must be published within 15 days of passage).

Publish 1 time - May 10, 2000 ✓

Need 2 proofs

ORDINANCE NO. 541

FRIEND, NEBRASKA

ORDINANCE NO. 541

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

Section 1. The Mayor and Council of the City of Friend, Nebraska, hereby find and determine that it is necessary and in the public interest that the City construct enlargements and additions to the existing sewage treatment facility of the City, hereinafter referred to as the sewer system, owned and operated by the City; that for this purpose the City will issue revenue bonds payable from the revenues and earnings of the sewer system of the City after further determination as to the total costs of the improvements, which costs, including the cost of issuance of the Notes are presently estimated to be in excess of \$350,000, and after finding an appropriate market for the bonds; and that pending the permanent revenue financing the City shall issue and sell Notes to be designated Sewer Utility Bond Anticipation Notes, 2000 Series, to pay the costs of improvements to the said sewer system which shall not be a debt of the municipality within the meaning of any constitutional, statutory or other limitation on the creation of general obligation indebtedness, and the municipality shall not be liable for the payment of the principal thereof out of any money of the municipality other than the money received by the issuance and sale of bonds as contemplated herein or from the funds of the City available to pay interest on said Notes and to pay a portion of the cost of the project so as to reduce the required financing by revenue bonds which may include the proceeds of the issuance of General Obligation Sewer Bonds if the City would determine that this would be a cheaper method of financing. The City hereby agrees that it will establish, maintain, revise and collect charges and rates with respect to its sewer utility throughout the life of the Notes sufficient to provide for all costs associated with the ownership, operation, maintenance, renewal and replacement of the facilities for which the Notes were issued and the payment of the principal and interest on all indebtedness incurred with respect thereto as well as all outstanding bonded indebtedness payable from the earnings of the sewer system and to produce earnings sufficient to enable the City to issue its Sewer Revenue Bonds in an amount sufficient to pay the principal and interest thereon of all Notes issued pursuant hereto and that it will issue such Sewer Revenue

Bonds in an amount sufficient to pay the Notes, both principal and interest, and will use the proceeds of the sale of said bonds for such payment at or before maturity.

Section 2. Notes to be designated Sewer Utility Bond Anticipation Notes, 2000 Series, in the amount of \$350,000 which shall be in denominations of \$5,000 each or any integral multiple thereof as determined by the City Treasurer prior to delivery, are hereby authorized to be issued, to become due June 1, 2001, to be optional for prepayment at par plus accrued interest on December 1, 2000, or at any time thereafter, and to bear interest from the date of delivery until maturity at the rate of four and sixty-five hundredths per centum (4.65%) per annum, payable semiannually on December 1 and at maturity. If any Note or an interest payment thereon is not paid at maturity or due date, the Note or interest installment shall bear interest thereafter until paid at a rate equal to the rate assessed against delinquent taxes under Section 45-104.01 R.R.S. Nebraska 1998, as now existing or as the same may be amended from time to time by the Nebraska Legislature. Said Notes shall be dated the date of their delivery, be executed on behalf of the City of Friend by the manual signatures of the Mayor and Clerk and shall have the City's seal affixed thereto. Said Notes shall be delivered to Ameritas Investment Corp., upon receipt of payment for said Notes, at the purchase price therefor equal to 99% of the principal amount of the Notes. Anything in this ordinance to the contrary notwithstanding, the Paying Agent and Registrar shall provide for payments of interest on the notes by wire transfer to The Depository Trust Company, of New York, New York, (or any successor thereto as a clearing agency), in accordance with wire instructions provided by such company (or any such successor), if and when such company (or any such successor) is or becomes the registered owner of any of the notes. Said Notes are sold to the purchaser subject to the opinion of independent bond counsel that said Notes are lawfully issued; that said Notes constitute a valid obligation of the City; and that under existing laws and regulations, the interest on said Notes is exempt from both Nebraska state and federal income taxes.

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

for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the notes. Upon issuance of the notes as "book-entry-only" notes, the following provisions shall apply:

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

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

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

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

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

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

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any note is registered in the name of the Depository or any nominee thereof,

all payments with respect to such note and all notices with respect to such note shall be made and given, respectively, to the Depository as provided in the Letter of Representations.

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

(i) any successor securities depository or its nominee:

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

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

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

Section 4. All Notes authorized by this ordinance shall be fully registered notes pursuant to Section 10-135 R.R.S. Neb. 1997. The City Treasurer is hereby designated as Paying Agent and Registrar for the Notes. Said Paying Agent and Registrar shall keep and maintain for the City books for the registration and transfer of the Notes at its principal office in Friend, Nebraska. The names and registered addresses of the initial registered owner or owners of the Notes shall be recorded in such books prior to the issuance thereof. Any Note may be transferred pursuant to its provisions

at the office of the Paying Agent and Registrar upon surrender of the Note for notation of transfer, accompanied by a written instrument of transfer, in form satisfactory to such Paying Agent and Registrar, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Paying Agent and Registrar will register the transfer upon the registration books and make notation thereof on the Note and deliver the same to the transferee registered owner (or send it by registered mail to the transferee owner at such owner's expense). The City Treasurer is hereby authorized and directed to transfer, from any monies of the City available for the purpose, funds required to pay interest and principal on the Notes when and as the same become due, to the Paying Agent and Registrar on or before each interest and principal payment date. Payment of interest, except for payment of interest at maturity or upon redemption, shall be mailed to the registered owners of the Notes as of the record date for each interest payment date. The record date shall be the close of business on the fifteenth day of the month immediately preceding the month in which each interest payment date occurs. The principal, together with accrued interest then due, shall be payable at maturity or on redemption prior to maturity upon presentation and surrender of each Note at the office of the Paying Agent and Registrar in Friend, Nebraska. The City and the Paying Agent and Registrar shall not be required to transfer Notes during any period from any record date until its immediately following interest payment date or to transfer any Notes called for redemption for a period of thirty days next preceding any date fixed for redemption prior to maturity.

Section 5. The fully registered Sewer Utility Bond Anticipation Notes, 2000 Series, shall be in substantially the following form:

CITY OF FRIEND, NEBRASKA
SEWER UTILITY BOND ANTICIPATION NOTE
2000 SERIES

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Delivery</u>	<u>Cusip Number</u>
4.65%	June 1, 2001	June 5, 2000	

Registered Owner: _____

Principal Amount: _____

The City of Friend, Nebraska, hereby promises to pay to the registered owner specified above the sum specified above on the maturity date specified above, together with interest thereon from the date of delivery hereof until maturity (or earlier redemption) at the rate per annum specified above, payable semiannually on the first day of December and at maturity. The interest hereon shall be paid on each interest payment date by the City Treasurer, as Paying Agent and Registrar, by wire transfer, check or draft mailed to the registered owner hereof as of the close of business on the last day of the month immediately preceding the month in which the interest payment date occurs, at such owner's registered address as it appears on the books of registration of the City as maintained by said Paying Agent and Registrar. The principal of this Note and the interest due at maturity or upon call for redemption prior to maturity are payable on presentation and surrender to said Paying Agent and Registrar at its principal office in Friend, Nebraska. If this Note or any interest installment hereon is not paid upon maturity or due date, the Note or interest installment shall bear interest thereafter until paid at a rate equal to the rate assessed against delinquent taxes under Section 45-104.01 R.R.S. Nebraska, 1998, as now existing or as the same may be amended from time to time by the Nebraska Legislature. This Note and interest accruing hereon shall be payable from funds received by the City from the issuance and sale of its Sewer Revenue Bonds and is optional for payment on December 1, 2000 or at any time thereafter at par plus accrued interest. This Note is one of an issue of \$350,000 in total principal amount issued pursuant to Ordinance No. _____.

All of the provisions and agreements of said Ordinance are by reference made a part of this instrument and all such agreements accrue to the registered owner of this Note. This Note shall not be a debt of the City of Friend within the meaning of any constitutional, statutory or charter limitation upon the creation of general obligation indebtedness of said City and said City shall not be liable for the payment of the principal thereof out of any money of the City other than from proceeds of the issuance of bonds, as aforesaid, or other funds of the City available to pay interest on said Note or a portion of the cost of the project so as to reduce the required financing.

This note is transferable by the registered owner or such owner's attorney duly authorized

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

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

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

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

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

CITY OF FRIEND, NEBRASKA

By _____ (Do not sign)
Mayor

ATTEST:

(Do not sign)
City Clerk

(S E A L)

CERTIFICATE OF AUTHENTICATION

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

Friend City Treasurer, as Paying Agent and Registrar

By _____ (Do not sign)
Authorized Officer

(FORM OF ASSIGNMENT)

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

Date: _____

Registered Owner

SIGNATURE GUARANTEED

By _____

Authorized Officer

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

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

Section 8. The City Treasurer is hereby instructed to deposit all funds received from the

issuance of the Notes authorized herein into a Sewer Construction Fund which is hereby created and the City agrees to use the monies in the Fund only for the construction of additions and improvements to the sanitary sewer utility system. If Notes are issued in excess of immediate needs the Treasurer is authorized to invest any surplus funds in the account in obligations of the United States Government or in obligations guaranteed by the United States Government or in properly collateralized certificates of deposit. The City agrees to have the Treasurer's bond be sufficient to cover any portion of the funds which shall be in her hands at any time and all such funds shall be held and disbursed from accounts subject to dual signature requirements.

Section 9. The City of Friend, Nebraska, hereby covenants to the purchasers and holders of the Notes hereby authorized that it will make no use of the proceeds of said Note issue, including monies held in any sinking fund for the payment of said Notes, which would cause said Notes to be arbitrage bonds within the meaning of Sections 103(b) and 148 of the Internal Revenue Code of 1986, as amended (the "Code") and further covenants to comply with said Sections 103 and 148 and all applicable regulations thereunder throughout the term of said Note issue. The City hereby covenants and agrees to take all actions necessary under the Code to maintain the tax-exempt status of interest payable on the Notes with respect to taxpayers generally but not including insurance companies or corporations subject to the additional minimum tax. The City hereby designates the Notes as its "qualified tax-exempt obligations" pursuant to Section 265(b)(3)(B)(i)(III) of the Code and covenants and warrants that it does not anticipate issuing tax-exempt obligations in calendar year 2000 in an amount in excess of \$10,000,000.

Section 10. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED this 2nd day of May, 2000.

Mayor

ATTEST:

Ann L. Betka
City Clerk



STATE OF NEBRASKA)
) SS.
COUNTY OF SALINE)

PROOF OF PUBLICATION

Ann Betka, being first duly sworn under oath says that she is the Clerk of the City of Friend, Nebraska, and that the attached and foregoing copy of Ordinance No. 541 is a true and correct copy of said ordinance as passed by the Mayor and City Council at the meeting of May 2nd, 2000, and that said ordinance was published in pamphlet form and filed in my office this 10th day of May, 2000.

Ann R. Betka

City Clerk

