

**PRELIMINARY OFFICIAL STATEMENT DATED JULY 6, 2022**

**SERIAL BONDS**

**RATING: SEE “RATING” HEREIN**

*In the opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the Town, under existing statutes and court decisions and assuming continuing compliance with certain tax certifications described herein, (i) interest on the Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Bonds is not treated as a preference item in calculating the alternative minimum tax under the Code. In addition, in the opinion of Bond Counsel to the Town, under existing statutes, interest on the Bonds is exempt from personal income taxes of New York State and its political subdivisions, including The City of New York. (See “Tax Matters” herein).*

*The Town will not designate the Bonds as “qualified tax-exempt obligations” pursuant to Section 265(b)(3) of the Code.*

**TOWN OF CLARENCE  
ERIE COUNTY, NEW YORK**

**\$22,645,000  
PUBLIC IMPROVEMENT SERIAL BONDS – 2022  
(the “Bonds”)**

**Dated Date: Date of Delivery**

**Maturity Date: July 15, 2023-2051**

The Bonds are general obligations of the Town and will contain a pledge of the faith and credit of the Town for the payment of the principal thereof and the interest thereon. For the payment of such principal and interest the Town has the power and statutory authorization to levy ad valorem taxes on all taxable real property in the Town, subject to certain statutory limitations imposed by Chapter 97 of the New York Laws, as amended. (See “Tax Levy Limit Law” herein).

The Bonds are dated their Date of Delivery and will bear interest from that date until maturity at the annual rate or rates as specified by the purchaser of the Bonds, payable on July 15, 2023, and semiannually thereafter on January 15 and July 15 in each year until maturity. The Bonds shall mature on July 15 in each year in the principal amounts specified on the inside cover page hereof. The Bonds maturing on or after July 15, 2031 will be subject to optional redemption prior to maturity. (See “Optional Redemption,” herein.)

The Bonds will be issued in fully registered form, and when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”), which will act as securities depository for the Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or integral multiples thereof. Purchasers, as the Beneficial Owners, will not receive certificates representing their ownership interest in the Bonds. Payments of principal of and interest on the Bonds will be made by the Town to DTC, which will in turn remit such principal and interest to its Participants, for subsequent distribution to the Beneficial Owners of the Bonds (see “Book-Entry-Only System” herein).

The Bonds are offered when, as and if issued and received by the purchaser(s) and subject to the receipt of the final approving opinion of Hawkins Delafield & Wood LLP, New York, New York, Bond Counsel to the Town. Capital Markets Advisors, LLC has served as Municipal Advisor to the Town in connection with the issuance of the Bonds. It is expected that delivery of the Bonds in book-entry form will be made on or about July 28, 2022.

THIS PRELIMINARY OFFICIAL STATEMENT IS IN A FORM “DEEMED FINAL” BY THE TOWN FOR THE PURPOSES OF THE SECURITIES AND EXCHANGE COMMISSION RULE 15c2-12 (THE “RULE”). FOR A DESCRIPTION OF THE TOWN'S AGREEMENT TO PROVIDE CONTINUING DISCLOSURE FOR THE BONDS AS DESCRIBED IN THE RULE, SEE “DISCLOSURE UNDERTAKING,” HEREIN.

Dated: July \_\_, 2022

This Preliminary Official Statement and the information contained herein are subject to completion or amendment without notice. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of these securities, in any jurisdiction in which such offer, solicitation, or sale would be unlawful prior to the registration or qualification under the securities laws of such jurisdiction.

The Bonds will mature on July 15 in the following years and principal amounts:

<u>Year</u>	<u>Principal Amount*</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP***</u>	<u>Year</u>	<u>Principal Amount*</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP***</u>
2023	\$710,000				2038**	\$710,000			
2024	730,000				2039**	720,000			
2025	745,000				2040**	730,000			
2026	760,000				2041**	735,000			
2027	775,000				2042**	745,000			
2028	790,000				2043**	755,000			
2029	800,000				2044**	765,000			
2030	815,000				2045**	775,000			
2031**	830,000				2046**	785,000			
2032**	845,000				2047**	800,000			
2033**	855,000				2048**	805,000			
2034**	870,000				2049**	815,000			
2035**	885,000				2050**	820,000			
2036**	875,000				2051**	700,000			
2037**	700,000								

\* The principal amounts of the Bonds are subject to adjustment following the sale of the Bonds, pursuant to the terms of the accompanying Notice of Sale.

\*\* Subject to optional redemption prior to maturity as described herein.

\*\*\* CUSIP numbers have been assigned by an independent company not affiliated with the Town and are included solely for the convenience of the holders of the Bonds. The Town is not responsible for the selection or uses of these CUSIP numbers and no representation is made to their correctness on the Bonds or as indicated above.

**TOWN OF CLARENCE  
ERIE COUNTY, NEW YORK**

**Patrick Casilio  
Town Supervisor**

**TOWN BOARD**

Peter DiCostanzo ..... Council Member  
Robert A. Geiger ..... Council Member  
Paul Shear ..... Council Member  
Daniel Michnik ..... Council Member

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Karen Hawes ..... Town Clerk  
Lawrence M. Meckler ..... Town Attorney  
Kimberly Ignatowski ..... Director of Administration and Finance

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**BOND COUNSEL**

**Hawkins Delafield & Wood LLP  
New York, New York**

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**MUNICIPAL ADVISOR**



**Capital Markets Advisors, LLC  
Western Region ♦ New York City ♦ Long Island  
Southern Tier ♦ Hudson Valley  
(716) 662-3910**

No person has been authorized by the Town to give any information or to make any representations not contained in this Official Statement and, if given or made, such other information or representations must not be relied upon as having been authorized by the Town. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The information, estimates and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Town since the date hereof.

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**OFFICIAL STATEMENT**  
**TOWN OF CLARENCE**  
**ERIE COUNTY, NEW YORK**

**Relating to**  
**22,645,000\***  
**PUBLIC IMPROVEMENT SERIAL BONDS – 2022**

This Official Statement, which includes the cover page, inside cover page and appendices thereto has been prepared by the Town of Clarence, in the County of Erie, in the State of New York (the “Town,” “County,” and “State,” respectively), in connection with the sale of \$22,645,000\* Public Improvement Serial Bonds– 2022 (the “Bonds”).

All quotations from and summaries and explanations of the provisions of the Constitution and Laws of the State and acts and proceedings of the Town contained herein do not purport to be complete and are qualified in their entirety by reference to the official compilations thereof, and all references to the Bonds and the proceedings of the Town relating thereto are qualified in their entirety by reference to the definitive form of the Bonds and such proceedings.

**THE BONDS**

***Description***

The Bonds will be dated their Date of Delivery, which is expected to be July 28, 2022 and will bear interest from such date at the annual rate or rates as specified by the purchaser, payable on July 15, 2023 and semi-annually hereafter on January 15 and July 15 in each year until maturity. The Bonds will mature in each of the years and will bear interest at the rates as shown on the inside cover page hereof. The Bonds maturing on or after July 15, 2031 will be subject to redemption prior to their stated maturity. (“See “Optional Redemption”, herein).

The record date for the Bonds will be the close of business on the last business day of the month preceding each interest payment date.

For those Bonds issued in book-entry form, the Town will act as Fiscal Agent and for those Bonds registered in the name of the purchaser, the purchaser will act as Fiscal Agent. Paying Agent or Fiscal Agent fees, if any, will be paid by the successful purchaser. The Town contact information is as follows: Kimberly Ignatowski, Director of Administration and Finance; phone: 716-407-8937, email: KIgnatowski@clarence.ny.us.

***Authorization and Purpose***

The Bonds are issued pursuant to the Constitution and Laws of the State, including among others, the Town Law and the Local Finance Law, and various bond resolutions duly adopted by the Town Board on the dates set forth below:

<u>Purpose:</u>	<u>Authorization Date</u>	<u>Original Issue Date</u>	<u>Amount Outstanding</u>	<u>New Money</u>	<u>The Bonds</u>
Construction of New Highway Building	11/18/20	7/29/2021	\$790,000	\$11,360,000	\$12,150,000
Construction of New Highway Building	5/25/22	7/28/2022	0	7,550,000	7,550,000
Improvements to Highway Building	11/18/20	7/29/2021	40,000	5,000	45,000
Construction of Pocket Park	11/18/20	7/29/2021	170,000	2,280,000	2,450,000
Sewer District #9	5/10/2017	5/30/2018	450,000	0	450,000
<b>Totals</b>			<u>\$1,450,000</u>	<u>\$21,195,000</u>	<u>\$22,645,000</u>

\* Preliminary, subject to change.

### ***Optional Redemption***

The Bonds maturing in the years 2023 to 2030, inclusive, are not subject to redemption prior to maturity.

The Bonds maturing on or after July 15, 2031 will be subject to redemption prior to maturity, at the option of the Town, on any date on or after July 15, 2030, in whole or in part, and if in part in any order of their maturity and in any amount within a maturity (selected by lot within a maturity), at the redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest to the date of redemption.

The Town may select the maturities of the Bonds to be redeemed and the amount to be redeemed of each maturity selected, as the Town shall determine to be in the best interest of the Town at the time of such redemption. If less than all of the Bonds of any maturity are to be redeemed prior to maturity, the particular Bonds of such maturity to be redeemed shall be selected by the Town by lot in any customary manner of selection as determined by the Town. Notice of such call for redemption shall be given by mailing such notice to the registered owner(s) of the Bonds to be redeemed not more than sixty (60) days nor less than thirty (30) days prior to the proposed redemption date. Notice of redemption having been given as aforesaid, the Bonds so called for redemption shall, on the date of redemption set forth in such call for redemption, become due and payable, together with accrued interest to such redemption date, and interest shall cease to be paid thereon after such redemption date.

### ***Nature of the Obligation***

Each Bond when duly issued and paid for will constitute a contract between the Town and the holder thereof.

The Bonds will be general obligations of the Town and will contain a pledge of the faith and credit of the Town for the payment of the principal thereof and the interest thereon. For the payment of such principal of and interest on the Town has the power and statutory authorization to levy ad valorem taxes on all taxable real property in the Town, subject to certain statutory limitations imposed by Chapter 97 of the New York Laws of 2011, as amended (the "Tax Levy Limit Law." (See "*Tax Levy Limit Law*" herein).

Under the Constitution of the State, the Town is required to pledge its faith and credit for the payment of the principal of and interest on the Bonds, and the State is specifically precluded from restricting the power of the Town to levy taxes on real estate therefor. The Tax Levy Limit Law imposes a statutory limitation upon the Town's power to increase its annual tax levy. As a result, the power of the Town to levy real estate taxes on all the taxable real property within the Town is subject to statutory limitations set forth in Tax Levy Limit Law, unless the Town complies with certain procedural requirements to permit the Town to levy certain year-to-year increases in real property taxes. (See "*Tax Levy Limit Law*," herein).

### **REMEDIES UPON DEFAULT**

Neither the Bonds, nor the proceedings with respect thereto, specifically provide any remedies which would be available to owners of the Bonds should the Town default in the payment of principal of or interest on the Bonds, nor do they contain any provisions for the appointment of a trustee to enforce the interests of the owners of the Bonds upon the occurrence of any such default. The Bonds are general obligation contracts between the Town and the owners for which the faith and credit of the Town are pledged and while remedies for enforcement of payment are not expressly included in the Town's contract with such owners, any permanent repeal by statute or constitutional amendment of a bondholder's remedial right to judicial enforcement of the contract should, in the opinion of Bond Counsel, be held unconstitutional.

Upon default in the payment of principal of or interest on the Bonds at the suit of the owner, a Court has the power, in proper and appropriate proceedings, to render judgment against the Town. The present statute limits interest on the amount adjudged due to contract creditors to nine per centum per annum from the date due to the date of payment. As a general rule, property and funds of a municipal corporation serving the public welfare and interest have not been judicially subjected to execution or attachment to satisfy a judgment. A Court also has the power, in proper and appropriate proceedings, to order payment of a judgment on such bonds or notes from funds lawfully available therefor or, in the absence thereof, to order the Town to take all lawful action to obtain the same, including the raising of the required amount in the next annual tax levy. In exercising its discretion as to whether to issue such an order, the Court

may take into account all relevant factors, including the current operating needs of the Town and the availability and adequacy of other remedies. Upon any default in the payment of the principal of or interest on the Bonds, the owners of such Bonds could, among other remedies, seek to obtain a writ of mandamus from a Court ordering the governing body of the Town to assess, levy and collect an ad valorem tax, upon all taxable property of the Town subject to taxation by the Town sufficient to pay the principal of and interest on the Bonds as the same shall come due and payable (and interest from the due date to date of payment) and otherwise to observe the covenants contained in the Bonds and the proceedings with respect thereto all of which are included in the contract with the owners of the Bonds. The mandamus remedy, however, may be impracticable and difficult to enforce. Further, the right to enforce payment of the principal of or interest on the Bonds may be limited by bankruptcy, insolvency, reorganization, moratorium and similar laws and equitable principles, which may limit the specific enforcement of certain remedies.

In 1976, the New York Court of Appeals, the State's highest court, held in *Flushing National Bank v. Municipal Assistance Corporation for the City of New York*, 40 N.Y.2d 731 (1976), that the New York State legislation purporting to postpone the payment of debt service on New York City obligations was an unconstitutional moratorium in violation of the New York State constitutional faith and credit mandate included in all municipal debt obligations. While that case can be viewed as a precedent for protecting the remedies of Bondholders or Noteholders, there can be no assurance as to what a Court may determine with respect to future events, including financial crises as they may occur in the State and in municipalities of the State, that require the exercise by the State of its emergency and police powers to assure the continuation of essential public services. (See also, *Flushing National Bank v. Municipal Assistance Corporation for the City of New York*, 40 N.Y.2d 1088 (1977), where the Court of Appeals described the pledge as a direct Constitutional mandate.)

As a result of the Court of Appeals decision, the constitutionality of that portion of Title 6-A of Article 2 of the Local Finance Law enacted at the 1975 Extraordinary Session of the State legislature authorizing any county, city, town or village with respect to which the State has declared a financial emergency to petition the State Supreme Court to stay the enforcement against such municipality of any claim for payment relating to any contract, debt or obligation of the municipality during the emergency period, is subject to doubt. In any event, no such emergency has been declared with respect to the Town.

Pursuant to Article VIII, Section 2 of the State Constitution, the Town is required to provide an annual appropriation of monies for the payment of due and payable principal of and interest on indebtedness. Specifically this constitutional provision states: "If at any time the respective appropriating authorities shall fail to make such appropriations, a sufficient sum shall be set apart from the first revenues thereafter received and shall be applied to such purposes. The fiscal officer of any county, city, town, village or school district may be required to set aside and apply such revenues as aforesaid at the suit of any holder of obligations issued for any such indebtedness." This constitutes a specific non-exclusive constitutional remedy against a defaulting municipality or school district; however, it does not apply in a context in which monies have been appropriated for debt service but the appropriating authorities decline to use such monies to pay debt service. However, Article VIII, Section 2 of the Constitution of the State also provides that the fiscal officer of any county, city, town, village or school district may be required to set apart and apply such revenues at the suit of any holder of any obligations of indebtedness issued with the pledge of the faith of the credit of such political subdivision. In *Quirk v. Municipal Assistance Corp.*, 41 N.Y.2d 644 (1977), the Court of Appeals described this as a "first lien" on revenues, but one that does not give holders a right to any particular revenues. It should thus be noted that the pledge of the faith and credit of a political subdivision in the State is a pledge of an issuer of a general obligation bond or note to use its general revenue powers, including, but not limited to, its property tax levy, to pay debt service on such obligations, but that such pledge may or may not be interpreted by a court of competent jurisdiction to include a constitutional or statutory lien upon any particular revenues. The Constitutional provision providing for first revenue set asides does not apply to tax anticipation notes, revenue anticipation notes or bond anticipation notes.

While the courts in the State have historically been protective of the rights of holders of general obligation debt of political subdivisions, it is not possible to predict what a future court might hold.

In prior years, certain events and legislation affecting a holder's remedies upon default have resulted in litigation. While courts of final jurisdiction have generally upheld and sustained the rights of bondholders and/or noteholders, such courts might hold that future events, including a financial crisis as such may occur in the State or in political

subdivisions of the State, may require the exercise by the State or its political subdivisions of emergency and police powers to assure the continuation of essential public services prior to the payment of debt service.

### ***No Past Due Debt***

No principal or interest payment on Town indebtedness is past due. The Town has never defaulted in the payment of the principal of and/or interest on any indebtedness.

### ***Municipal Bankruptcy***

The undertakings of the Town should be considered with reference, specifically, to Chapter IX of the Bankruptcy Act, 11 U.S.C. §401, et seq., as amended (“Chapter IX”) and, in general, to other bankruptcy laws affecting creditors’ rights and municipalities. Chapter IX permits any political subdivision, public agency or instrumentality that is insolvent or unable to meet its debts (i) to file a petition in a Court of Bankruptcy for the purpose of effecting a plan to adjust its debts provided such entity is authorized to do so by applicable state law; (ii) directs such a petitioner to file with the court a list of a petitioner’s creditors; (iii) provides that a petition filed under such chapter shall operate as a stay of the commencement or continuation of any judicial or other proceeding against the petitioner; (iv) grants priority to debt owed for services or material actually provided within three (3) months of the filing of the petition; (v) directs a petitioner to file a plan for the adjustment of its debts; and (vi) provides that the plan must be accepted in writing by or on behalf of creditors holding at least two-thirds (2/3) in amount or more than one-half (1/2) in number of the listed creditors.

Bankruptcy proceedings by the Town could have adverse effects on holders of bonds including (a) delay in the enforcement of their remedies, (b) subordination of their claims to those supplying goods and services to the Town after the initiation of bankruptcy proceedings and to the administrative expenses of bankruptcy proceedings and (c) imposition without their consent of a reorganization plan reducing or delaying payment of the Bonds. The Bankruptcy Code contains provisions intended to ensure that, in any reorganization plan not accepted by at least a majority of a class of creditors such as the holders of general obligation bonds, such creditors will have the benefit of their original claim or the “indubitable equivalent”. The effect of these and other provisions of the Bankruptcy Code cannot be predicted and may be significantly affected by judicial interpretation.

Accordingly, enforceability of the rights and remedies of the owners of the Bonds, and the obligations incurred by the Town, may become subject to Chapter IX and applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the enforcement of creditor’s rights generally, now or hereafter in effect, equity principles which may limit the specific enforcement under State law of certain remedies, the exercise by the United States of America of the powers delegated to it by the Constitution, the reasonable and necessary exercise, in certain exceptional situations, of the police powers inherent in the sovereignty of the State and its governmental bodies in the interest of serving a significant and legitimate public purpose and the limitations on remedies against public agencies in the State. Bankruptcy proceedings, or the exercise of powers by the federal or State government, if initiated, could subject the owners of the Bonds to judicial discretion, interpretation and of their rights in bankruptcy or otherwise, and consequently may entail risks of delay, limitation, or modification of their rights.

The State has consented (see Title 6-A of the Local Finance Law) that any municipality in the State may file a petition with any United States district court or court of bankruptcy under any provision of the laws of the United States, now or hereafter in effect for the composition or adjustment of municipal indebtedness. However, it is noted that there is no record of any recent filings by a New York municipality. Since the New York City fiscal crisis in 1975, the State has legislated a finance control or review board and assistance corporations to monitor and restructure finance matters in addition to New York City, for the Cities of Yonkers, Troy and Buffalo and for the Counties of Nassau and Erie. Similar active intervention pursuant to State legislation to relieve fiscal stress for the Town in the future cannot be assured.

No current state law purports to create any priority for holders of the Bonds should the Town be under the jurisdiction of any court, pursuant to the laws of the United States, now or hereafter in effect, for the composition or adjustment of municipal indebtedness.



The above references to the Bankruptcy Act are not to be construed as an indication that the Town is currently considering or expects to resort to the provisions of the Bankruptcy Act.

### **FINANCIAL CONTROL BOARDS**

Pursuant to Article IX Section 2(b)(2) of the State Constitution, any municipality in the State may request the intervention of the State in its “property, affairs and government” by a two-thirds vote of the total membership of its legislative body or on request of its chief executive officer concurred in by a majority of such membership. This has resulted in the adoption of special acts for the establishment of public benefit corporations with varying degrees of authority to control the finances (including debt issuance) of the Cities of Buffalo, Troy and Yonkers and the County of Nassau. The specific authority, powers and composition of the financial control boards established by these acts varies based upon circumstances and needs. Generally, the State legislature has granted such boards the power to approve or disapprove budget and financial plans and to issue debt on behalf of the municipality, as well as to impose wage and/or hiring freezes and in certain cases approve or disapprove collective bargaining agreements. Implementation is generally left to the discretion of the board of the public benefit corporation. Such a State financial control board was first established for New York City in 1975. In addition, upon the issuance of a certificate of necessity of the Governor reciting facts which in the judgment of the Governor constitute an emergency requiring enactment of such laws, with the concurrences of two-thirds of the members elected in each house of the State legislature, the State is authorized to intervene in the “property, affairs and governments” of local government units. This occurred in the case of the County of Erie in 2005. The authority of the State to intervene in the financial affairs of a local government is further supported by Article VIII, Section 12 of the Constitution which declares it to be the duty of the State legislature to restrict, subject to other provisions of the Constitution, the power of taxation, assessment, borrowing money and contracting indebtedness and loaning the credit of counties, cities, towns and villages so as to prevent abuses in taxation and assessment and in contracting indebtedness by them.

In 2013, the State established a new state advisory board to assist counties, cities, towns and villages in financial distress. The Financial Restructuring Board for Local Governments (the “FRB”), is authorized to conduct a comprehensive review of the finances and operations of any such municipality deemed by the FRB to be fiscally eligible for its services upon request by resolution of the municipal legislative body and concurrence of its chief executive. The FRB is authorized to make recommendations for, but cannot compel improvement of fiscal stability, management and delivery of municipal services, including shared services opportunities and is authorized to offer grants and/or loans of up to \$5,000,000 through a Local Government Performance and Efficiency Program to undertake certain recommendations. If a municipality agrees to undertake the FRB recommendations, it will be automatically bound to fulfill the terms in order to receive the aid.

The FRB is also authorized to serve as an alternative arbitration panel for binding arbitration.

Although from time to time there have been proposals for the creation of a statewide financial control board with broad authority over local governments in the State, the FRB does not have emergency financial control board powers to intervene in the finances and operations of entities such as the public benefit corporations established by special acts as described above.

Several municipalities in the State are presently working with the FRB. The Town has not applied to the FRB and does not reasonably anticipate submission of a request to the FRB for a comprehensive review of its finances and operations. School districts and fire districts are not eligible for FRB assistance.

### **BOOK-ENTRY SYSTEM**

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Bonds issued as book-entry notes. The Bonds and such Notes will be issued as fully-registered Bonds registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered bond certificate will be issued for each maturity of the Bonds, and will be deposited with DTC. One fully-registered note certificate will be issued for each Note bearing the same rate of interest and CUSIP number, and will be deposited with DTC.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of the Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each bond and note ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Town as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the County, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC or the Town, subject to any statutory or regulatory requirements as may be in effect from time to time.

Payment of principal and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Town, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the Town. Under such circumstances, in the event that a successor depository is not obtained, bond and note certificates are required to be printed and delivered.

The Town may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, bond and note certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Town believes to be reliable, but the Town takes no responsibility for the accuracy thereof.

Source: The Depository Trust Company

## **RISK FACTORS**

There are certain potential risks associated with an investment in the Bonds, and investors should be thoroughly familiar with this Official Statement, including its appendices, in order to make an informed investment decision. Investors should consider, in particular, the following factors:

The Town's credit rating could be affected by circumstances beyond the Town's control. Economic conditions such as the rate of unemployment and inflation, termination of commercial operations by corporate taxpayers and employers, as well as natural catastrophes, could adversely affect the assessed valuation of Town property and its ability to maintain fund balances and other statistical indices commensurate with its current credit rating. As a consequence, a decline in the Town's credit rating could adversely affect the market value of the Bonds.

If and when an owner of any of the Bonds should elect to sell a Bond prior to its maturity, there can be no assurance that a market will have been established, maintained and continue in existence for the purchase and sale of any of those Bonds. The market value of the Bonds is dependent upon the ability of holder to potentially incur a capital loss if such Bond is sold prior to its maturity.

There can be no assurance that adverse events including, for example, the seeking by another municipality in the State or elsewhere of remedies pursuant to the Federal Bankruptcy Act or otherwise, will not occur which might affect the market price of and the market for the Bonds. In particular, if a significant default or other financial crisis should occur in the affairs of the State or any of its municipalities, public authorities or other political subdivisions thereby possibly further impairing the acceptability of obligations issued by those entities, both the ability of the Town to arrange for additional borrowing(s) as well as the market for and market value of outstanding debt obligations, including the Bonds, could be adversely affected.

The Town is dependent in part upon financial assistance from the State in the form of State aid as well as grants and loans to be received ("State Aid"). The availability of such monies and the timeliness of such payment may be affected by a delay in the adoption of the State budget, the impact to the State's economy and financial condition due to the COVID-19 outbreak and other circumstances, including State fiscal stress. State aid appropriated and apportioned to the Town can be paid only if the State has such monies available therefor. Should the Town fail to receive all or a portion of the amounts of State Aid expected to be received from the State in the amounts and at the times anticipated, occasioned by a delay in the payment of such moneys the Town is authorized pursuant to the Local Finance Law ("LFL") to provide operating funds by borrowing in anticipation of the receipt of such uncollected State Aid, however, there can be no assurance that, in such event, the Town will have market access for any such borrowing on a cost effective basis. (See also "State Aid" herein.)

Future amendments to applicable statutes whether enacted by the State or the United States of America affecting the treatment of interest paid on municipal obligations, including the Bonds, for income taxation purposes could have an adverse effect on the market value of the Bonds (see “*Tax Matters*” herein).

The enactment of the Tax Levy Limit Law, which imposes a tax levy limitation upon municipalities, school districts and fire districts in the State, including the Town, without providing exclusion for debt service on obligations issued by municipalities and fire districts, including the Town, may affect the market price and/or marketability for the Bonds. (See “*Tax Levy Limit Law*” herein.)

Federal or State legislation imposing new or increased mandatory expenditures by municipalities, school districts and fire districts in the State, including the Town, could impair the financial condition of such entities, including the Town, and the ability of such entities, including the Town, to pay debt service on the Bonds.

An outbreak of disease or similar public health threat, such as the COVID-19 outbreak, or fear of such an event, could have an adverse impact on the Town’s financial condition and operating results by potentially delaying the receipt of real property taxes or resulting in a delay or reduction by the State in the payment of State aid. Currently, the COVID-19 outbreak has spread globally, including to the United States, and has been declared a pandemic by the World Health Organization. The outbreak of the disease has affected travel, commerce and financial markets globally and is widely expected to continue to affect economic growth worldwide. The outbreak caused the Federal government to declare a national state of emergency, which was followed by the enactment of a variety of stimulus measures designed to address financial stability and liquidity issues caused by the outbreak. The State also declared a state of emergency and the Governor has taken steps designed to mitigate the spread and impacts of COVID-19, including closing schools and non-essential businesses. Efforts to contain the spread of COVID-19 have reduced the spread of the virus and there have been recent efforts to relax some of the restrictions put in place following the initial outbreak. Nevertheless, the outbreak of COVID-19 and the dramatic steps taken by the Federal government and State to address it are expected to negatively impact federal and local economies, including the economy of the State. The full impact of COVID-19 on the State’s operations and financial condition is not expected to be known for some time. Similarly, the degree of the impact to the Town’s operations and finances as a result of COVID-19 is extremely difficult to predict due to the uncertainties relating to its (i) duration, and (ii) severity, as well as with regard to what actions have been or may continue to be taken by governmental and other health care authorities, including the State, to contain or mitigate its impact. The spread of the outbreak or resurgence later in the year could have a material adverse effect on the State and municipalities and school districts located in the State, including the Town. The Town is monitoring the situation and will take such proactive measures as may be required to maintain its operations and meet its obligations.

## **CYBERSECURITY**

The Town, like many other public and private entities, relies on technology to conduct its operations. As a recipient and provider of personal, private, or sensitive information, the Town faces multiple cyber threats including, but not limited to, hacking, viruses, malware and other attacks on computer and other sensitive digital networks and systems. To mitigate the risk of business operations impact and/or damage from cyber incidents or cyber-attacks, the Town invests in various forms of cybersecurity and operational controls; however, no assurances can be given that such security and operational control measures will be completely successful to guard against cyber threats and attacks. The results of any such attack could impact business operations and/or damage Town digital networks and systems and the costs of remedying any such damage could be substantial.

## **TAX MATTERS**

### ***Opinion of Bond Counsel***

In the opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the Town, under existing statutes and court decisions and assuming continuing compliance with certain tax certifications described herein, (i) interest on the Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Bonds is not treated as a preference item in calculating the alternative minimum tax under the Code. In rendering its opinion, Bond Counsel has relied on certain representations, certifications of fact, and statements of reasonable expectations made by the Town in connection with the Bonds, and Bond Counsel has assumed compliance by the Town with certain ongoing covenants to comply with

applicable requirements of the Code to assure the exclusion of interest on the Bonds from gross income pursuant to Section 103 of the Code.

In addition, in the opinion of Bond Counsel to the Town, under existing statutes, interest on the Bonds is exempt from personal income taxes of New York State and its political subdivisions, including The City of New York.

Bond Counsel expresses no opinion as to any federal, state or local tax consequences arising with respect to the Bonds, or the ownership or disposition thereof, except as stated above. Bond Counsel renders its opinion under existing statutes and court decisions as of the issue date, and assumes no obligation to update, revise or supplement this opinion to reflect any action thereafter taken or not taken, any fact or circumstance that may thereafter come to its attention, any change in law or interpretation thereof that may thereafter occur, or for any other reason. Bond Counsel expresses no opinion as to the consequence of any of the events described in the preceding sentence or the likelihood of their occurrence. In addition, Bond Counsel expresses no opinion on the effect of any action taken or not taken in reliance upon an opinion of other counsel regarding federal, state or local tax matters, including, without limitation, exclusion from gross income for federal income tax purposes of interest on the Bonds.

### ***Certain Ongoing Federal Tax Requirements and Certifications***

The Code establishes certain ongoing requirements that must be met subsequent to the issuance and delivery of the Bonds in order that interest on the Bonds be and remain excluded from gross income under Section 103 of the Code. These requirements include, but are not limited to, requirements relating to use and expenditure of gross proceeds of the Bonds, yield and other restrictions on investments of gross proceeds, and the arbitrage rebate requirement that certain excess earnings on gross proceeds be rebated to the federal government. Noncompliance with such requirements may cause interest on the Bonds to become included in gross income for federal income tax purposes retroactive to their issue date, irrespective of the date on which such noncompliance occurs or is discovered. The Town, in executing the Tax Certificate, will certify to the effect that the Town will do and perform all acts and things necessary or desirable to assure the exclusion of interest on the Bonds from gross income under Section 103 of the Code.

### ***Certain Collateral Federal Tax Consequences***

The following is a brief discussion of certain collateral federal income tax matters with respect to the Bonds. It does not purport to address all aspects of federal taxation that may be relevant to a particular owner of a Bond. Prospective investors, particularly those who may be subject to special rules, are advised to consult their own tax advisors regarding the federal tax consequences of owning and disposing of the Bonds.

Prospective owners of the Bonds should be aware that the ownership of such obligations may result in collateral federal income tax consequences to various categories of persons, such as corporations (including S corporations and foreign corporations), financial institutions, property and casualty and life insurance companies, individual recipients of Social Security and railroad retirement benefits, individuals otherwise eligible for the earned income tax credit, and taxpayers deemed to have incurred or continued indebtedness to purchase or carry obligations the interest on which is excluded from gross income for federal income tax purposes. Interest on the Bonds may be taken into account in determining the tax liability of foreign corporations subject to the branch profits tax imposed by Section 884 of the Code.

### ***Original Issue Discount***

“Original issue discount” (“OID”) is the excess of the sum of all amounts payable at the stated maturity of a Bond (excluding certain “qualified stated interest” that is unconditionally payable at least annually at prescribed rates) over the issue price of that maturity. In general, the “issue price” of a maturity (a bond with the same maturity date, interest rate, and credit terms) means the first price at which at least 10 percent of such maturity was sold to the public, i.e., a purchaser who is not, directly or indirectly, a signatory to a written contract to participate in the initial sale of the Bonds. In general, the issue price for each maturity of Bonds is expected to be the initial public offering price set forth on the cover page of the Official Statement. Bond Counsel further is of the opinion that, for any Bonds having OID (a “Discount Bonds”), OID that has accrued and is properly allocable to the owners of the Discount Bonds under

Section 1288 of the Code is excludable from gross income for federal income tax purposes to the same extent as other interest on the Bonds.

In general, under Section 1288 of the Code, OID on a Discount Bond accrues under a constant yield method, based on periodic compounding of interest over prescribed accrual periods using a compounding rate determined by reference to the yield on that Discount Bond. An owner's adjusted basis in a Discount Bond is increased by accrued OID for purposes of determining gain or loss on sale, exchange, or other disposition of such Bond. Accrued OID may be taken into account as an increase in the amount of tax-exempt income received or deemed to have been received for purposes of determining various other tax consequences of owning a Discount Bond even though there will not be a corresponding cash payment.

Owners of Discount Bonds should consult their own tax advisors with respect to the treatment of original issue discount for federal income tax purposes, including various special rules relating thereto, and the state and local tax consequences of acquiring, holding, and disposing of Discount Bonds.

### ***Bond Premium***

In general, if an owner acquires a bond for a purchase price (excluding accrued interest) or otherwise at a tax basis that reflects a premium over the sum of all amounts payable on the bond after the acquisition date (excluding certain "qualified stated interest" that is unconditionally payable at least annually at prescribed rates), that premium constitutes "bond premium" on that bond (a "Premium Bond"). In general, under Section 171 of the Code, an owner of a Premium Bond must amortize the bond premium over the remaining term of the Premium Obligation, based on the owner's yield over the remaining term of the Premium Bond determined based on constant yield principles (in certain cases involving a Premium Bond callable prior to its stated maturity date, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such bond). An owner of a Premium Bond must amortize the bond premium by offsetting the qualified stated interest allocable to each interest accrual period under the owner's regular method of accounting against the bond premium allocable to that period. In the case of a tax-exempt Premium Bond, if the bond premium allocable to an accrual period exceeds the qualified stated interest allocable to that accrual period, the excess is a nondeductible loss. Under certain circumstances, the owner of a Premium Bond may realize a taxable gain upon disposition of the Premium Bond even though it is sold or redeemed for an amount less than or equal to the owner's original acquisition cost. Owners of any Premium Bonds should consult their own tax advisors regarding the treatment of bond premium for federal income tax purposes, including various special rules relating thereto, and state and local tax consequences, in connection with the acquisition, ownership, amortization of bond premium on, sale, exchange, or other disposition of Premium Obligation.

### ***Information Reporting and Backup Withholding***

Information reporting requirements apply to interest paid on tax-exempt bonds, including the Bonds. In general, such requirements are satisfied if the interest recipient completes, and provides the payor with, a Form W-9, "Request for Taxpayer Identification Number and Certification," or if the recipient is one of a limited class of exempt recipients. A recipient not otherwise exempt from information reporting who fails to satisfy the information reporting requirements will be subject to "backup withholding," which means that the payor is required to deduct and withhold a tax from the interest payment, calculated in the manner set forth in the Code. For the foregoing purpose, a "payor" generally refers to the person or entity from whom a recipient receives its payments of interest or who collects such payments on behalf of the recipient.

If an owner purchasing a Bond through a brokerage account has executed a Form W-9 in connection with the establishment of such account, as generally can be expected, no backup withholding should occur. In any event, backup withholding does not affect the excludability of the interest on the Bonds from gross income for federal income tax purposes. Any amounts withheld pursuant to backup withholding would be allowed as a refund or a credit against the owner's federal income tax once the required information is furnished to the Internal Revenue Service.

## ***Miscellaneous***

Tax legislation, administrative actions taken by tax authorities, or court decisions, whether at the federal or state level, may adversely affect the tax-exempt status of interest on the Bonds under federal or state law or otherwise prevent beneficial owners of the Bonds from realizing the full current benefit of the tax status of such interest. In addition, such legislation or actions (whether currently proposed, proposed in the future, or enacted) and such decisions could affect the market price or marketability of the Bonds.

Prospective purchasers of the Bonds should consult their own tax advisors regarding the foregoing matters.

## **LEGAL MATTERS**

Legal matters incident to the authorization, issuance and sale of the Bonds are subject to the approving legal opinion of Hawkins Delafield & Wood LLP, New York, New York, Bond Counsel, which will be in substantially the form attached hereto in Appendix D.

## **DISCLOSURE UNDERTAKING**

This Official Statement is in a form “deemed final” by the Town for the purposes of Securities and Exchange Commission Rule 15c2-12 (the “Rule”). In order to assist the purchasers in complying with the Rule with respect to the Bonds, the Town will execute an Undertaking to Provide Continuing Disclosure for the Bonds, the form of which is attached hereto as Appendix E.

## **MUNICIPAL ADVISOR**

Capital Markets Advisors, LLC, Orchard Park, New York, (the “Municipal Advisor”) is an independent municipal advisor registered with the United States Securities and Exchange Commission and the Municipal Securities Rulemaking Board. The Municipal Advisor has served as the independent financial advisor to the Town in connection with this transaction.

In preparing the Official Statement, the Municipal Advisor has relied upon governmental officials, and other sources, who have access to relevant data to provide accurate information for the Official Statement. The Municipal Advisor has not been engaged, nor has it undertaken, to independently verify the accuracy of such information. The Municipal Advisor is not a public accounting firm and has not been engaged by the Town to compile, review, examine or audit any information in the Official Statement in accordance with accounting standards. The Municipal Advisor is not a law firm and does not provide legal advice with respect to this or any debt offerings of the Town. The Municipal Advisor is an independent advisory firm and is not engaged in the business of underwriting, trading or distributing municipal securities or other public securities and therefore will not participate in the underwriting of the Bonds.

## **RATING**

Moody's Investors Service, Inc. ("Moody's") has assigned a rating of “Aa1” to the uninsured outstanding bonded indebtedness of the Town. The Town is awaiting a rating on the Bonds.

Such rating reflects only the view of such organization, and an explanation of the significance of such rating should be obtained only from Moody's at the following address: Moody's Investors Service, Inc., 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. There can be no assurance that such rating will continue for any specified period of time or that such rating will not be revised or withdrawn, if in the judgment of Moody's circumstances so warrant. Any such change or withdrawal of such rating may have an adverse effect on the market price of the Bonds or the availability of a secondary market for the Bonds.

## **ADDITIONAL INFORMATION**

Additional information may be obtained from the Town's Director of Administration & Finance, Kimberly Ignatowski at 1 Town Place, Clarence, New York 14031, phone: (716) 407-8937, email: KIgnatowski@clarence.ny.us or from the Town's Municipal Advisor, Capital Markets Advisors, LLC, (716) 662-3910.

Any statements in this Official Statement involving matters of opinion or estimates, whether or not expressly so stated, are intended as such and not as representations of fact. No representation is made that any of such statements will be realized. This Official Statement is not to be construed as a contract or agreement between the Town and the original purchasers or holders of any of the Bonds.

Capital Markets Advisors, LLC may place a copy of this Official Statement on its website at [www.capmark.org](http://www.capmark.org). Unless this Official Statement specifically indicates otherwise, no statement on such website is included by specific reference or constitutes a part of this Official Statement. Capital Markets Advisors, LLC has prepared such website information for convenience, but no decisions should be made in reliance upon that information. Typographical or other errors may have occurred in converting original source documents to digital format, and neither the Town nor Capital Markets Advisors, LLC assumes any liability or responsibility for errors or omissions on such website. Further, Capital Markets Advisors, LLC and the Town disclaim any duty or obligation either to update or to maintain that information or any responsibility or liability for any damages caused by viruses in the electronic files on the website. Capital Markets Advisors, LLC and the Town also assume no liability or responsibility for any errors or omissions or for any updates to dated website information.

The statements contained in this Official Statement and the appendices hereto that are not purely historical are forward-looking statements. Such forward-looking statements can be identified, in some cases, by terminology such as "may," "will," "should," "expects," "intends," "plans," "anticipates," "believes," "estimates," "predicts," "potential," "illustrate," "example," and "continue," or the singular, plural, negative or other derivations of these or other comparable terms. Readers should not place undue reliance on forward-looking statements. All forward-looking statements included in this Official Statement are based on information available to such parties on the date of this Official Statement, and the Town assumes no obligation to update any such forward-looking statements. The forward-looking statements included herein are necessarily based on various assumptions and estimates and are inherently subject to various risks and uncertainties, including, but not limited to, risks and uncertainties relating to the possible invalidity of the underlying assumptions and estimates and possible changes or developments in various important factors. Accordingly, actual results may vary from the projections, forecasts and estimates contained in this Official Statement and such variations may be material.

This Official Statement is submitted only in connection with the sale of the Bonds by the Town and may not be reproduced or used in whole or in part for any other purpose.

**TOWN OF CLARENCE  
ERIE COUNTY, NEW YORK**

By: /s/ Patrick Casilio  
Patrick Casilio  
Town Supervisor

DATED: July \_\_, 2022



## **APPENDIX A**

## **THE TOWN**

### ***General Information***

The Town, with a land area of approximately 52 square miles, is a rural residential community, located in northeast Erie County, adjacent to the Towns of Lancaster and Amherst, approximately 15 miles to the east of the City of Buffalo. The Town had a population of 26,123 according to the 2000 U.S. census, an increase of 30.3% over the 1990 census. According to the 2010 U.S. Census population estimates, the Town population continues to grow and is estimated at 30,673.

The area itself is primarily residential in nature with commercial activity concentrated around the center of town. In addition, the Town is home to a few of Western New York's more prominent light industrial manufacturing firms including Wilson Greatbatch Ltd. and Innovative Concepts in Entertainment, Inc. Many of the residents are employed within the Town while others find employment in the commercial and industrial activities of the City of Buffalo and Western New York.

The Town is served primarily by the Clarence Central School District; however, two additional central school districts, Williamsville and Akron, are located in part within the Town, each of which relies upon its own taxing powers granted by the State to raise revenues for school district purposes. The school districts use the Town's assessment roll as their basis for taxation of property within the Town.

### ***The Government***

The Town was established as the first Township in Erie County in 1808. The taxable real property in the Town is subject to taxation for certain purposes.

Subject to the provisions of the State Constitution, the Town operates pursuant to the Town Law, the Local Finance Law, and any special laws applicable to the Town, and is classified as a first class town. Under such laws, there is no authority for the Town to have a charter, but pursuant to the Town Law and other laws generally applicable to home rule, the Town may, from time to time, adopt local laws.

The legislative power of the Town is vested in the Town Board, which consists of five members, including the Supervisor, who is the chief executive officer of the Town, elected for a term of four years. The four other members of the Town Board are elected to four-year terms, which terms are staggered such that two council members are elected every two years. All the Town Board members are elected at large and there is no limitation to the number of terms each may serve.

The Town Clerk and the Highway Superintendent are elected for four-year terms. The Town Board appoints the Assessor for a six-year term and the Town Attorney for a two-year term.

### ***Town Services***

Electricity and natural gas are supplied throughout the Town by New York State Electric and Gas and National Fuel Gas Distribution Corporation, respectively.

The Erie County Water Authority supplies water for a portion of the Town and is responsible for the maintenance of the necessary facilities. The Authority charges the cost for the water service against the property or property owners served. The Town's five sewer districts are responsible for wastewater operations through most of the Town.

Police protection is provided by the State and County Sheriff's Department. Fire Protection is provided by local volunteer fire companies which contract with the Town to provide such service.

### ***Employees***

The Town provides services through 103 full-time, 61 part-time and approximately 44 seasonal employees. The Civil Service Employees Association ("CSEA") represents approximately 53 employees of the Parks

and Highway Departments. CSEA also represents approximately 20 full-time clerical employees of the Town. New contracts were issued with a new expiration of December 31, 2025.

***Employee Pension Benefits***

Substantially all employees of the Town are members of the New York State and Local Employees’ Retirement System (the “ERS”). The ERS is a cost-sharing multiple public employer retirement system. The obligations of employers and employees to contribute and the benefits to employees are governed by the New York State Retirement and Social Security Law (the “Retirement System Law”). The Retirement Systems offer a wide range of plans and benefits which are related to years of service and final average salary, vesting of retirement benefits, death and disability benefits and optional methods of benefit payments. As of April 9, 2022, Tier V and VI members only need five years of service credit to be vested. This affects members of both ERS and PFRS. Previously, Tier V and VI members needed 10 years of service to be eligible for a service retirement benefit. All benefits generally vest after five years of credited service, except for members hired after January 1, 2010 whose benefits vest after ten years of credited service. The Retirement System Law generally provides that all participating employers in the Retirement Systems are jointly and severally liable for any unfunded amounts. Such amounts are collected through annual billings to all participating employers. Generally, all employees, except certain part-time employees, participate in the Retirement Systems. The Retirement Systems are non-contributory with respect to members hired prior to July 27, 1976. All members hired on or after July 27, 1976 through and including December 31, 2009, must contribute three percent of their gross annual salary toward the costs of retirement programs until they attain ten years in the Retirement Systems, at such time contributions become voluntary. As discussed herein, members hired after January 1, 2010 must contribute three percent of their gross annual salary toward the costs of retirement programs for the duration of their employment.

The employer contribution for a given fiscal year is based on the value of the pension fund on the prior April 1. As a result, the Town is notified of and can include the actual cost of the employer contribution in its budget. The law also requires a minimum payment of 4.5% of payroll each year, including years in which investment performance of the fund would make a lower employer contribution possible. The annual pension payment date for all local governments is February 1.

The New York State Retirement System has advised the Town that municipalities can elect to make employer contribution payments in the December or the following February, as required. If such payments are made in the December prior to the scheduled payment date in February, such payments may be made at a discount amount. The Town prepaid its employer contributions in December 2012 through 2021.

On December 10, 2009, the Governor signed into law a new pension tier - Tier V. The law is effective for ERS employees hired from January 1, 2010 through March 31, 2012. Tier V employees contribute 3% of their salaries. There is no provision for these contributions to cease after a certain period of service.

On March 16, 2012, the Governor signed into law the new pension tier - Tier VI - effective for new ERS and TRS employees hired after April 1, 2012. The Tier VI legislation provides, among other things, for increased employee contribution rates of between 3% and 6%, an increase in the retirement age from 62 to 63 years, a readjustment of the pension multiplier, and a change in the time period for final average salary calculation from 3 years to 5 years. Tier VI employees will vest in the system after ten years of employment and will continue to make employee contributions throughout employment.

The following schedule reflects the Town's contribution to ERS for the last five audited fiscal years and the current budgeted fiscal year.

<u>YEAR</u>	<u>ERS</u>
2022 <i>Budgeted</i>	\$850,000
2021	1,002,284
2020	921,628
2019	919,278
2018	903,995
2017	921,217

As a result of significant capital market declines in certain years in the recent past, in certain years the State’s Retirement System portfolio has experienced negative investment performance and severe downward trends in market earnings. As a result of the foregoing, it is anticipated that the employer contribution rate for the State’s Retirement System in future years maybe higher than the minimum contribution rate established under applicable law. Since 2010, various forms of legislation have been enacted to allow local governments and school districts the option of amortizing required contributions to the Retirement System. However, although these options reduce near term payments, it will require higher than normal contributions in later years. The Town has not found it necessary to amortize any payments to the retirement system to date; however, the option to do so in future years is expected to be made available to the Town through these various form of legislation.

***Other Post Employment Benefits***

In June 2015, GASB released GASB Statement No. 75 (“GASB 75”), which was required to be implemented in the Town’s 2018 fiscal year. GASB 75 replaces the requirements of GASB 45 and establishes new standards for recognizing and measuring liabilities, deferred outflows of resources, deferred inflows of resources, and expense/expenditures. Under GASB 75, governments must report a liability on the face of the financial statements for the post-employment benefits (“OPEB”) that they provide; such liability can no longer be a footnote as was allowed under GASB 45.

During the year ended December 31, 2021, the Town implemented GASB statements No. 75.

	<u>Total OPEB Liability</u>
Balance at January 1, 2020	<u>\$20,768,395</u>
Changes for the year:	
Service cost	583,262
Interest	425,933
Differences between expected & actual experience	(3,798,720)
Changes of assumptions or other inputs	897,821
Benefit payments	<u>(109,993)</u>
Net changes	<u>(2,001,697)</u>
Balance at December 31, 2021	<u>\$18,766,698</u>

Should the Town be required to fund its unfunded actuarial accrued OPEB liability, it could have a material adverse impact upon the Town’s finances and could force the Town to reduce services, raise taxes or both. At the present time, however, there is no current or planned requirement for the Town to partially fund its actuarial accrued OPEB liability. At this time, New York State has not developed guidelines for the creation and use of irrevocable trusts for the funding of OPEB. As a result, the Town has decided to continue funding the expenditure on a pay-as-you-go basis.

Legislation has been proposed to create an optional investment pool to help the State and local governments fund retiree health insurance and other post-employment benefits. The proposed legislation would authorize the creation of irrevocable OPEB trusts so that the State and its local governments can help fund their OPEB liabilities, establish an OPEB investment fund in the sole custody of the State Comptroller for the investment of OPEB assets of the State and participating eligible local governments, designate the president of the Civil Service Commission as the trustee of the State’s OPEB trust and the governing boards as trustee for local governments and allow school districts to transfer certain excess reserve balances to an OPEB trust once it is established. Under the proposed legislation, there are no limits on how much a local government can deposit into the trust. The Town cannot predict at this time whether such proposed legislation will be enacted into law.

**FINANCIAL FACTORS**

***Annual Financial Report***

The Town retains Lumsden McCormick, LLP, independent certified public accountants, to audit its financial statements. In addition, the Town is also subject to periodic audit by the State Comptroller's Office to review compliance with legal requirements and the rules and regulations established by the State.

Appendix B to this Official Statement presents a summary of the results of operations for the prior fiscal years. Appendix C to this Official Statement provides a link to the Independent Auditor’s Report for the fiscal year ending December 31, 2021.

***Fund Structures and Accounts***

The financial statements of the Town conform to those prescribed by generally accepted accounting principles as applied to governmental units.

Revenues are recorded when measurable and available to pay liabilities of the current period. Revenues susceptible to accrual include real property taxes, state and federal aid, sales tax and certain user charges.

Expenditures are recorded when the fund liability is incurred. Exceptions to this rule are (1) prepaid and most inventory-type items are generally recognized at the time of disbursement; (2) unmatured interest on general long-term debt which is recognized when due; and (3) compensated absences, such as vacation and sick leave which vests or accumulates and is charged as an expenditure when paid.

The encumbrance method of accounting is employed in the governmental funds, whereby commitments for contracts and outstanding purchase orders are reported as a reservation of fund balance. Such commitments are recorded as expenditures in the accounting period in which the liability is incurred.

The General Fund is the principal fund of the Town and includes all operations not required to be recorded in other funds. Special Revenue Funds account for the proceeds of specific revenue sources that are legally restricted to expenditures for specific purposes. These funds include the, Special Grants, Park Lands and Special District Funds. Special Districts have been established for water, sewer, wastewater, drainage, lighting, fire protection, aquatic growth and central alarm.

***Revenues***

The Town derives its revenues from a tax levy on real property, State aid from non-property taxes like the County sales tax, and from departmental fees and charges. A summary of such revenues for the Town’s General and Special Revenue Funds over the last five fiscal years is presented in “Statement of Revenues, Expenditures and Changes in Fund Balances” in Appendix B.

***Real Property Tax.*** The Town derives a major portion of its revenues from a tax on real property (see “Statement of Revenues, Expenditures and Changes in Fund Balance” in Appendix B, herein.) Property taxes accounted for 25.2% of total general fund revenues, for the fiscal year ended December 31, 2021. The Tax Levy Limit Law imposes a tax levy limitation upon the municipalities, school districts and fire districts in the State, including the Town. See “*Tax Levy Limit Law*,” herein.

The following table sets forth total general fund revenues and real property tax revenues during the last five audited fiscal years and the amount budgeted for the prior and current fiscal years:

<u>Fiscal Year</u>	<u>Total Revenues</u> <sup>(1)</sup>	<u>Real Property Taxes</u>	<u>Real Property Taxes to Revenues</u>
2017	\$12,340,483	\$3,515,653	28.5%
2018	12,405,691	3,569,124	28.8%
2019	13,183,113	3,562,018	27.0%
2020	12,755,474	3,625,311	28.4%
2021	14,537,878	3,659,496	25.2%
2022 Budget	12,544,460	3,516,309	28.0%

(1) General Fund only  
Source: Town’s Audited Financial Reports and Adopted Budgets.

**Non-Property Taxes.** The County is authorized and levies a sales and compensating use tax of 4.75%, a portion of which is shared with the Town, in addition to the 4% tax levied by the State. Such sales tax collections in New York are administered by the State Tax Commissioner and the proceeds are paid to the County quarterly. The following table sets forth general fund non-property tax (sales tax and franchise fees) revenues received by the Town during the last five audited fiscal years and the amount budgeted for the prior and current fiscal years:

**Table 2**  
**Non-Property Taxes**

<u>Fiscal Year</u>	<u>Total Revenues</u> <sup>(1)</sup>	<u>Non-Property Taxes</u>	<u>Non-Property Taxes to Revenues</u>
2017	\$12,340,483	\$6,259,383	50.7%
2018	12,405,691	6,247,434	50.4%
2019	13,183,113	6,750,285	51.2%
2020	12,755,474	6,415,798	50.3%
2021	14,537,878	7,590,468	52.2%
2022 <i>Budget</i>	12,544,460	6,425,259	51.2%

(1) General Fund only

*Source: Town's Audited Financial Reports and Adopted Budgets.*

**State Aid.** The Town also receives a portion of its revenues in the form of State aid (per capita, mileage and valuation, and mortgage tax). However, there is no assurance that the State appropriation for State aid to municipalities will continue, either pursuant to existing formulas or in any form whatsoever. The State is not constitutionally obligated to maintain or continue such aid. State budgetary restrictions, which eliminate or substantially reduce State aid could have an adverse effect upon the Town, requiring either a counterbalancing increase in revenues from other sources to the extent available, or a curtailment of expenditures.

The State's finances have been adversely impacted by the COVID-19 pandemic, which may affect State aid. See "COVID-19," herein, the further details on such pandemic and its effects on the State.

The City of New York was an early epicenter of the COVID-19 pandemic in the United States, and as a result the State suffered significant revenue shortfalls and unanticipated expenses beginning at the end of the State's 2019-2020 fiscal year, and continuing during the State's 2020-2021 fiscal year.

In response, the enacted State budget for the 2020-21 fiscal year allowed the State to reduce expenditures (including aid to local school districts and municipalities) if tax receipts were lower than anticipated. Accordingly, in June, 2020 the State Division of the Budget ("DOB") began withholding 20 percent of most local aid payments, although such aid was restored in full later in that same fiscal year.

Many of the State's 2020-2021 budget decisions were based on the uncertainty of future federal aid. In the period of time since such decisions were made, the \$1.9 trillion American Rescue Plan Act was signed into law (on March 11, 2021), which legislation includes almost \$24 billion in funding for various levels of government in the State, including approximately \$12.5 billion for the State, \$6 billion for New York City, and \$4 billion to be divided among counties in the State; another \$12 billion was intended to be used toward the safe reopening of K-12 schools as well as colleges and universities.

The State enacted budget for the 2022-2023 fiscal year continues to provide increased funding for schools and local governments. School districts will benefit from a \$1.5 billion increase in Foundation Aid, continuing the phase-in to fully restore the level of Foundation Aid that was originally promised in 2007, along with a \$125 million expansion of full-day prekindergarten and a \$451 million increase in all other school aid programs. For local governments, the level of AIM funding is maintained at \$715 million, fully funding this program. Additionally, this budget puts an end to the intercept of sales tax to pay \$59 million in AIM-related payments to various villages and towns within the state. Further, the budget includes a \$32.8 billion five-year capital plan for programs and projects administered by the State Department of Transportation with a focus on investments in State and local roads and bridges primarily serving smaller municipalities. This budget continues to provide a similar level of funding for various transportation aid programs as the prior year, while also allocating \$100 million to the creation of a new "Pave our Potholes" program.

Accordingly, the State enacted budget for the 2021-2022 fiscal year was more expansive (about 10% higher) than the prior budget, including significantly increased funding for schools and local governments. School districts benefitted from a \$1.4 billion increase in Foundation Aid and will benefit from a three-year Foundation Aid full restoration phase-in that will allow all school districts to receive, by the 2023-2024 State fiscal year, the increased level of Foundation Aid that was originally promised in 2007, along with a \$105 million expansion of full-day prekindergarten. Local governments received a full restoration of proposed cuts to Aid and Incentives for Municipalities (AIM) funding. Further, municipalities that host Video Lottery Terminal (“VLT”) facilities received a full restoration of \$10.3 million in proposed VLT aid cuts.

Should the Town fail to receive State aid expected from the State in the amounts and at the times expected, occasioned by a delay in the payment of such monies or by a mid-year reduction in State aid, the Town is authorized by the Local Finance Law to provide operating funds by borrowing in anticipation of the receipt of uncollected State aid.

The following table sets forth total general fund revenues and State aid during the last five audited fiscal years and the amount budgeted for the current fiscal year:

**Table 3**  
**State Aid**

<u>Fiscal Year</u>	<u>Total Revenues</u> <sup>(1)</sup>	<u>State Aid</u>	<u>State Aid to Revenues</u>
2017	\$12,340,483	\$1,372,505	11.2%
2018	12,405,691	1,425,378	11.5%
2019	13,183,113	1,508,875	11.4%
2020	12,755,474	1,764,238	13.8%
2021	14,537,878	2,018,796	13.9%
2022 <i>Budget</i>	12,544,460	1,579,544	12.6%

(1) General Fund only

Source: Town’s Audited Financial Reports and Adopted Budgets.

***Budget Process***

The Supervisor, acting as budget officer, prepares a preliminary budget and presents it to the Town Clerk and Town Board on September 30th. Subsequent to the budget hearing, revisions, if any, are made and the budget is then adopted the first Wednesday in November and filed with Erie County by the 20th of November by the Town Board as its final budget for the coming calendar year. The budget is not subject to voter approval; however the tax levy for each budget is subject to the provisions of the Tax Levy Limit Law. See “*The Tax Levy Limit Law*” herein.

The Town adopted the 2022 fiscal year budget on November 4, 2021.

Appendix B sets forth summaries of the Town's budgets for the 2021 and 2022 fiscal years.

***Investment Policy***

Pursuant to State law, including Sections 10 and 11 of the General Municipal Law (the "GML"), the Town is generally permitted to deposit monies in banks and trust companies located and authorized to do business in the State. All such deposits, including special time deposit accounts and certificates of deposit, in excess of the amount insured under the Federal Deposit Insurance Act, are required to be secured in accordance with the provisions of and subject to the limitations of Section 10 of the GML.

The Town may also temporarily invest monies in: (1) obligations of the United States of America; (2) obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America; (3) obligations of the State of New York; (4) with the approval of the New York State Comptroller, in tax anticipation notes or revenue anticipation notes issued by any municipality, school district, or district corporation, other than those notes issued by the Town; (5) certificates of participation issued by political subdivisions of the State pursuant to Section 109-

b(10) of the GML; (6) obligations of a New York public benefit corporation which are made lawful investments for municipalities pursuant to the enabling statute of such public benefit corporation; or (7) in the case of monies held in certain reserve funds established by the Town pursuant to law, in obligations of the Town.

All of the foregoing instruments and investments are required to be payable or redeemable at the option of the owner within such times as the proceeds will be needed to meet expenditures for purposes for which the monies were provided and, in the case of instruments and investments purchased with the proceeds of bonds, shall be payable or redeemable in any event, at the option of the owner, within two years of the date of purchase. Unless registered or inscribed in the name of the Town, such instruments and investments must be purchased through, delivered to and held in custody of a bank or trust company in the State pursuant to a written custodial agreement as provided in Section 10 of the GML.

The Town Board has adopted an investment policy and such policy conforms to applicable laws of the State governing the deposit and investment of public monies. All deposits and investments of the Town are made in accordance with such policy.

### ***The State Comptroller's Fiscal Stress Monitoring System***

The New York State Comptroller has reported that New York State's school districts and municipalities are facing significant fiscal challenges. As a result, the Office of the State Comptroller has developed a Fiscal Stress Monitoring System ("FSMS") to provide independent, objectively measured and quantifiable information to school district and municipal officials, taxpayers and policy makers regarding the various levels of fiscal stress under which the State's school districts and municipalities are operating.

The fiscal stress scores are based on financial information submitted as part of each school district's ST-3 report filed with the State Education Department annually, and each municipality's annual report filed with the State Comptroller. Using financial indicators that include year-end fund balance, cash position and patterns of operating deficits, the system creates an overall fiscal stress score which classifies whether a school district or municipality is in "significant fiscal stress", in "moderate fiscal stress," as "susceptible to fiscal stress" or "no designation". Entities that do not accumulate the number of points that would place them in a stress category will receive a financial score but will be classified in a category of "no designation." This classification should not be interpreted to imply that the entity is completely free of fiscal stress conditions. Rather, it means that the entity's financial information, when objectively scored according to the FSMS criteria, did not generate sufficient points to place them in one of the three established stress categories.

The most current applicable report of the State Comptroller designates the Town as "No Designation". (<https://www.osc.state.ny.us/files/local-government/fiscal-monitoring/pdf/2020-munis-summary.pdf>)

### ***New York State Comptroller's Audit***

The financial affairs of the Town are subject to periodic compliance reviews by the Office of the State Comptroller (OSC) to ascertain whether the Town has complied with the requirements of various State and federal statutes.

The last audit conducted by OSC was released on February 14, 2014. The purpose of the audit was to evaluate controls over fuel and the management of the Town's vehicle fleet for the period January 1, 2012 through September 18, 2013. The complete report can be obtained from OSC's website (<https://www.osc.state.ny.us/files/local-government/audits/2017-11/lgsa-audit-town-2014-clarence.pdf>).

## **REAL PROPERTY TAXES**

### ***Real Property Tax Collection Procedures and History***

The Town Clerk collects the County and school district taxes as well as the Town's General, Highway and Special District levies. Pursuant to the Erie County Tax Act, under which the Town collects taxes, any uncollected items are deducted from the amount returned to the County and the County assumes the



responsibility for obtaining payment. Therefore, before the tax rolls are returned to the County at the end of the tax collection period, the Town Clerk pays, in full, all tax levies due to the Town.

Taxes are due and payable without penalty through February 15. Penalties are imposed as follows: 1.5% from February 16<sup>th</sup> through February 28<sup>th</sup>, 3.0% from March 1<sup>st</sup> through March 15<sup>th</sup>, 4.5% from March 16<sup>th</sup> through March 31<sup>st</sup>, 6.0% from April 1<sup>st</sup> through April 15<sup>th</sup>, 7.5% from April 16<sup>th</sup> through April 30<sup>th</sup>, and an additional 1.5% each month thereafter. After July 1, when the rolls are turned over to the County, all taxes are payable to the County with an additional penalty to date of payment.

The following table sets forth the total tax levy and tax rate of the Town's General, Highway and Special District levies, for the past five years.

**Table 4**  
**Total Tax Levy and Tax Rate**

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
General Fund	\$3,409,422	\$3,416,797	\$3,469,077	\$ 3,524,143	\$3,516,309
Highway Fund	\$3,585,598	3,948,705	4,098,220	4,163,276	4,459,957
Special Districts	<u>\$4,657,353</u>	<u>4,801,490</u>	<u>4,896,115</u>	<u>5,004,364</u>	<u>5,235,284</u>
Total Levy	\$11,652,372	\$12,166,992	\$12,463,412	\$ 12,691,783	\$13,211,550
General Fund Tax Rate Per \$1,000 Assessed Value	0.9420	0.8512	0.8512	0.8512	0.7430

*Source: Town officials*

The following table sets forth the assessed and full valuation of taxable real property, the State equalization rate and the Town's real property tax levy for Town purposes for the last five fiscal years.

**Table 5**  
**Assessed and Full Valuation**

	<u>Roll Year 2017</u> <u>Tax Year 2018</u>	<u>Roll Year 2018</u> <u>Tax Year 2019</u>	<u>Roll Year 2019</u> <u>Tax Year 2020</u>	<u>Roll Year 2020</u> <u>Tax Year 2021</u>	<u>Roll Year 2021</u> <u>Tax Year 2022</u>
Taxable Assessed Valuation	\$3,619,058,075	\$ 4,014,215,772	\$ 4,075,636,343	\$ 4,140,332,109	\$ 4,732,429,847
State Equalization Rate	100.00%	100.00%	92.00%	100.00%	95.00%
Full Valuation	\$3,619,058,075	\$4,014,215,772	\$4,430,039,503	\$4,140,332,109	\$4,981,505,102

*Source: Town officials*

***Ten Largest Taxpayers for the 2022 Tax Year***

The following table presents the total 2022 assessed valuations of the Town's largest taxpayers.

**Table 6**  
**Assessed Valuations**

<u>Property Owner</u>	<u>Nature of Business</u>	<u>Assessed Valuation</u>	<u>Percentage of Total Valuation</u> <sup>(1)</sup>
E-Ny State Elec & Gas Total	Utility	\$31,854,131	0.71%
Dist.-National Fuel Gas Total	Utility	20,939,135	0.47%
Benchmark-Clarence Assoc LLC	Retail plaza	19,120,000	0.43%
Coventry Green Apartments LLC	Apartments	17,000,000	0.38%
EGATE-95 LLC Etal. Total	Retail plaza	15,806,071	0.35%
Winterfell Montgomery Park	Apartments	14,800,000	0.33%
Tennessee Gas Pipeline Co	Utility	13,569,550	0.30%
EGATE-ADB LLC Etal.	Large retail	12,202,500	0.27%
Fireside Apts. of Clarence LLC T	Apartments	12,000,000	0.27%
Transitown Plaza Associates Total	Retail plaza	<u>11,250,000</u>	<u>0.25%</u>
	Totals:	<u>\$168,541,387</u>	<u>3.75%</u>

<sup>(1)</sup> Total taxable assessed valuation for 2022 is \$4,495,808,355.

*Source: Town Assessor.*

## ***Tax Levy Limit Law***

Prior to the enactment of Chapter 97 of the New York Laws of 2011 (the “Tax Levy Limit Law”) on June 24, 2011, all the taxable real property within the Town had been subject to the levy of ad valorem taxes to pay the bonds and notes of the Town and interest thereon without limitation as to rate or amount. However, the Tax Levy Limit Law imposes a tax levy limitation upon the Town for any fiscal year commencing after January 1, 2012 without providing an exclusion for debt service on obligations issued by the Town. As a result, the power of the Town to levy real estate taxes on all the taxable real property within the Town, without limitation as to rate or amount, is subject to statutory limitations, according to the formulas set forth in the Tax Levy Limit Law.

The following is a brief summary of certain relevant provisions of Tax Levy Limit Law. The summary is not complete and the full text of the Tax Levy Limit Law should be read in order to understand the details and implications thereof.

The Tax Levy Limit Law imposes a limitation on increases in the real property tax levy of the Town, subject to certain exceptions. The Tax Levy Limit Law permits the Town to increase its overall real property tax levy over the tax levy of the prior year by no more than the “Allowable Levy Growth Factor”, which is the lesser of one and two-one hundredths or the sum of one plus the Inflation Factor; provided, however that in no case shall the levy growth factor be less than one. The "Inflation Factor" is the quotient of: (i) the average of the 20 National Consumer Price Indexes determined by the United States Department of Labor for the twelve-month period ending six months prior to the start of the coming fiscal year minus the average of the National Consumer Price Indexes determined by the United States Department of Labor for the twelve-month period ending six months prior to the start of the prior fiscal year, divided by: (ii) the average of the National Consumer Price Indexes determined by the United States Department of Labor for the twelve-month period ending six months prior to the start of the prior fiscal year, with the result expressed as a decimal to four places. The Town is required to calculate its tax levy limit for the upcoming year in accordance with the provision above and provide all relevant information to the New York State Comptroller prior to adopting its budget. The Tax Levy Limit Law sets forth certain exclusions to the real property tax levy limitation of the Town, including exclusions for certain portions of the expenditures for retirement system contributions and tort judgments payable by the Town. The governing board of the Town may adopt a budget that exceeds the tax levy limit for the coming fiscal year, only if the governing board of the Town first enacts, by a vote of at least sixty percent of the total voting power of the governing board of the Town, a local law to override such limit for such coming fiscal year.

The Town did not override the tax limit for the 2016 through 2021 fiscal years and does not plan to for the fiscal year 2022.

The Tax Levy Limit Law does not contain an exception from the levy limitation for the payment of debt service on either outstanding general obligation bonds or notes of the Town or such indebtedness incurred after the effective date of the Tax Levy Limit Law. As such, there can be no assurances that the Tax Levy Limit Law will not come under legal challenge for violating (i) Article VIII, Section 12 of the State Constitution for not providing an exception for debt service on obligations issued prior to the enactment of the Tax Levy Limit Law, (ii) Article VIII, Section 10 of the State Constitution by effectively eliminating the exception for debt service to general real estate tax limitations, and (iii) Article VIII, Section 2 of the State Constitution by limiting the pledge of its faith and credit by a municipality or school district for the payment of debt service on obligations issued by such municipality or school district.

## **TOWN INDEBTEDNESS**

### ***Constitutional Requirements***

The New York State Constitution limits the power of the Town (and other municipalities and school districts of the State) to issue obligations and to otherwise contract indebtedness. Such constitutional limitations include the following, in summary form, and are generally applicable to the Bonds.

***Purpose and Pledge.*** The Town shall not give or loan any money or property to or in aid of any individual or private corporation or private undertaking or give or loan its credit to or in aid of any of the foregoing or any public corporation.

The Town may contract indebtedness only for a Town purpose and shall pledge its faith and credit for the payment of principal thereof and interest thereon.

***Payment and Maturity.*** Except for certain short-term indebtedness contracted in anticipation of taxes, or to be paid in one of the two fiscal years immediately succeeding the fiscal year in which such indebtedness was contracted, indebtedness shall be paid in annual installments commencing no later than two years after the date such indebtedness shall have been contracted and ending no later than the expiration of the period of probable usefulness of the object or purpose (as determined by statute) or, in the alternative, the weighted average period of probable usefulness of the several objects or purposes for which such indebtedness is to be contracted; no installment may be more than fifty per centum in excess of the smallest prior installment unless the Town determines to issue debt amortized on the basis of substantially level or declining annual debt service. The Town is required to provide an annual appropriation for the payment of interest due during the year on its indebtedness and for the amounts required in such year for amortization and redemption of its serial bonds and bond anticipation notes.

***General.*** The Town is further subject to constitutional limitation by the general constitutionally imposed duty of the State Legislature to restrict the power of taxation and contracting indebtedness to prevent abuses in the exercise of such powers. As has been noted under “Nature of the Obligation”, the State Legislature is prohibited by a specific constitutional provision from restricting the power of the Town to levy taxes on real estate for the payment of interest on or principal of indebtedness theretofore contracted. However, the Tax Levy Limit Law imposes a statutory limitation on the Town’s power to increase its annual tax levy. See “Tax Levy Limit Law,” herein.

### ***Statutory Procedure***

In general, the State Legislature has authorized the power and procedure for the Town to borrow and incur indebtedness subject, of course, to the constitutional provisions set forth above. The power to spend money, however, generally derives from other law, including the Town Law and the General Municipal Law.

Pursuant to the Local Finance Law, the Town authorizes the incurrence of indebtedness, including bonds and bond anticipation notes issued in anticipation of such bonds, by the adoption of a resolution, approved by at least two-thirds of the members of the Town Board, the finance board of the Town. Certain such resolutions may be subject to permissive referendum, or may be submitted to the Town voters at the discretion of the Town Board.

The Local Finance Law also provides a twenty-day statute of limitations after publication of a bond resolution, which, in effect, estops thereafter legal challenges to the validity of obligations authorized by such bond resolution except for alleged constitutional violations. The Town has complied with such procedure with respect to the Bonds.

Each bond resolution usually authorizes the construction, acquisition or installation of the object or purpose to be financed, sets forth the plan of financing and specifies the maximum maturity of the bonds subject to the legal (Constitution, Local Finance Law and case law) restrictions relating to the period of probable usefulness with respect thereto.

Each bond resolution also authorizes the issuance of bond anticipation notes prior to the issuance of bonds. Statutory law in New York permits notes to be renewed each year provided that principal is amortized and provided that such renewals do not (with certain exceptions) extend five years beyond the original date of borrowing. However, notes issued in anticipation of the sale of bonds for assessable improvements are not subject to such five year limit and may be renewed subject to annual reductions of principal for the entire period of probable usefulness of the purpose for which such notes were originally issued.

In addition, under each bond resolution, the Town Board may delegate, and has delegated the power to issue and sell bonds and notes to the Supervisor, the chief fiscal officer of the Town.

In general, the Local Finance Law contains similar provisions providing the Town with power to issue general obligation revenue anticipation notes, tax anticipation notes and budget notes.

**Debt Limit.** The Town has the power to contract indebtedness for any Town purpose so long as the principal amount thereof shall not exceed seven per centum of the most recent five-year average full valuation of taxable real estate of the Town and subject to certain enumerated exclusions and deductions such as water and certain sewer facilities and cash appropriations for current debt service. The constitutional method for determining full valuation is by taking the assessed valuation of taxable real estate for the last completed assessment roll and applying thereto the final equalization rate as determined by the State Board of Real Property Services. The State Legislature is required to prescribe the manner by which such rate shall be determined. The average full valuation is determined by taking the sum of full valuations of such last completed assessment roll and the four preceding assessment rolls, and dividing such sum by five.

There is no constitutional limitation on the amount that may be raised by the Town by tax on real estate in any fiscal year to pay principal of and interest on all indebtedness. However, the Tax Levy Limit Law imposes a statutory limitation on the power of the Town to increase its annual tax levy. The amount of such increases is limited by the formulas set forth in the Tax Levy Limit Law, unless the Town complies with certain procedural requirements to permit the Town to levy certain year-to-year increases in real property taxes. See “Tax Levy Limit Law,” herein.

***Constitutional Debt Limit***

The following table sets forth the constitutional debt limit of the Town, as of July 6, 2022.

**Table 7**  
**Constitutional Debt Limit**

<b><u>Assessment Roll</u></b>	<b><u>Assessed Valuation</u></b>	<b><u>Equalization Ratio</u></b>	<b><u>Full Valuation</u></b>
2017	\$3,619,058,075	100.00%	\$3,619,058,075
2018	4,014,215,772	100.00%	4,014,215,772
2019	4,075,636,343	92.00%	4,430,039,503
2020	4,140,332,109	100.00%	4,140,332,109
2021	4,732,429,847	95.00%	<u>4,981,505,102</u>
Total Five-Year Full Valuation			\$21,185,150,561
Average Five-Year Full Valuation			\$4,237,030,112
Debt Limit – 7% of Average Full Valuation			\$296,592,108

Source: Town Assessor's Office

**Statement of Debt Contracting Power**

**Table 8**  
**Statutory Debt Limit and Net Indebtedness**

	As of <u>July 6, 2022</u>	As of <u>July 29, 2022</u>
Debt Contracting Limitation	\$296,592,108	\$296,592,108
Inclusions:		
Serial Bonds	21,585,000	43,580,000
Bond Anticipation Notes	<u>1,450,000</u>	<u>0</u>
Total Gross Direct Indebtedness	23,035,000	43,580,000
Exclusions and Deductions:		
Bond Appropriations	965,000	315,000
Bond Anticipation Note Appropriations	<u>0</u>	<u>0</u>
Total Exclusions and Deductions	965,000	345,000
Total Net Indebtedness	<u>\$22,070,000</u>	<u>\$43,265,000</u>
Net Debt-Contracting Margin	<u>\$274,522,108</u>	<u>\$253,327,108</u>
Percentage of Debt-Contracting Margin Exhausted	<u>7.44%</u>	<u>14.59%</u>

**Trend of Outstanding Indebtedness**

The following table provides information relating to the capital indebtedness outstanding at year-end for the last five fiscal years.

**Table 9**  
**Outstanding Indebtedness**

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Serial Bonds	\$14,951,000	\$26,438,000	\$24,545,000	\$22,540,000	\$22,550,000
Bond Anticipation Notes	<u>13,437,449</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,450,000</u>
Total Outstanding Debt	<u>\$28,388,449</u>	<u>\$ 26,438,000</u>	<u>\$ 24,545,000</u>	<u>\$22,540,000</u>	<u>\$24,000,000</u>

*Source: Audited Financial Statements*

**Short Term Indebtedness**

Following the issuance of the Bonds, the Town will have no bond anticipation notes outstanding.

***Debt Service Schedule***

The following table sets forth all principal and interest payments required on the Town's outstanding bonded indebtedness, as of July 6, 2022.

**Table 12  
Bond Principal and Interest Maturity**

<u>FYE:</u>	<u>Principal</u>	<u>Interest</u>	<u>Total Debt Service</u>
2022	\$965,000	\$361,423	\$1,326,423
2023	1,775,000	757,856	2,532,856
2024	1,840,000	681,400	2,521,400
2025	1,800,000	602,325	2,402,325
2026	1,735,000	524,719	2,259,719
2027	1,765,000	450,394	2,215,394
2028	1,630,000	382,394	2,012,394
2029	1,630,000	320,719	1,950,719
2030	1,675,000	259,119	1,934,119
2031	1,175,000	196,969	1,371,969
2032	1,140,000	160,725	1,300,725
2033	1,015,000	128,700	1,143,700
2033	1,025,000	98,950	1,123,950
2033	755,000	67,981	822,981
2033	600,000	45,925	645,925
2033	210,000	32,650	242,650
2033	205,000	25,778	230,778
2033	205,000	18,859	223,859
2033	205,000	11,813	216,813
2033	175,000	5,163	180,163
2033	<u>60,000</u>	<u>1,050</u>	<u>61,050</u>
	<u>\$21,585,000</u>	<u>\$5,134,912</u>	<u>\$26,719,912</u>

*Source: Audited Financial Statements*

***Direct and Overlapping Indebtedness***

The real property taxpayers of the Town are responsible for a proportionate share of outstanding debt obligations of the County and other governmental units. Such taxpayers' share of this overlapping debt is based upon the amount of the Town's equalized property values taken as a percentage of each separate unit's total values. The table below sets forth both the total outstanding principal amount of debt issued by the Town and the approximate magnitude of the burden on taxable property in the Town of the debt instruments issued and outstanding by such other political units. Authorized but unissued debt has not been included.

**Table 10**  
**Statement of Direct and Overlapping Indebtedness**

<b><u>Direct Debt</u></b>				
Gross Direct Debt				\$ 23,320,000
Exclusions and Deductions				<u>1,250,000</u>
Net Direct Debt				<u>\$ 22,070,000</u>
<b><u>Overlapping Debt</u></b>				
<u>Issuer</u>	<u>Net Debt</u>		<u>Town</u>	<u>Amount</u>
	<u>Outstanding</u>	<u>As of</u>	<u>Share</u>	<u>Applicable</u>
				<u>To Town</u>
Erie County	\$320,540,000	09/30/21	6.37%	\$20,418,398
School Districts:				
Clarence CSD	16,027,150	12/08/21	91.27%	14,627,980
Williamsville CSD	22,072,263	05/18/22	11.23%	2,478,715
Akron CSD	20,731,661	03/01/22	0.81%	167,926
Net Overlapping Debt				\$37,693,019
Net Direct Debt				<u>\$22,070,000</u>
Total Net Direct and Overlapping Debt				<u>\$59,763,019</u>

Source: Official Statements, State Comptroller's Special Report and School District officials.

***Long-Term Capital Financing Plans***

The Town anticipates that it will finance ongoing capital projects for highway and special district purposes, as needed.

***Debt Ratios***

The following table presents certain debt ratios relating to the Town's net direct and overlapping indebtedness.

**Table 11**  
**Debt Ratios**

	<u>Amount</u>	<u>Debt Per</u> <u>Capita</u> <sup>(1)</sup>	<u>Debt to</u> <u>Full Value</u> <sup>(2)</sup>
Net Direct Debt	\$22,070,000	\$670	0.49%
Net Direct and Overlapping Debt	\$59,763,019	\$1,814	1.33%

(1) The population of the Town is 32,950.

(2) The Town's full value of taxable real property for 2022 is \$4,495,808,355.

**ECONOMIC AND DEMOGRAPHIC DATA**

***Population***

The following table presents population trends for the Town, County and State, based upon recent census data.

**Table 12**  
**Population Trend**

	<u>2010</u>	<u>2020</u>	<u>Percentage</u> <u>Change</u>
Town	30,673	32,950	7.4%
County	919,040	954,236	3.8%
State	19,378,102	20,201,249	4.3%

Source: U.S. Census

## ***Employment and Unemployment***

The following tables provide information concerning employment in the Town, County and State. Data provided for the County and the State may not be representative of the Town. The Town is centrally located in Western New York and as a result, many of its residents are employed throughout the neighboring communities.

**Table 13**  
**Largest Town Employers**

<b><u>Name</u></b>	<b><u>Type</u></b>	<b><u>Approx. # of Employees</u></b>
Brothers of Mercy Nursing & Rehab Center	Nursing Home	813
Clarence Central School District	Educational	716
Integer	Industrial	700
Innovative Concepts in Entertainment, Inc.	Industrial	200

Source: *Buffalo Business First*

**Table 14**  
**Civilian Labor Force**  
(Thousands)

	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>	<b><u>2020</u></b>	<b><u>2021</u></b>
Town	16.7	16.9	17.1	16.5	16.4
County	452.4	451.6	452.5	445.1	435.6
State	9,838.2	9,842.3	9,880.2	9,575.0	9,441.5

Source: *New York State Department of Labor, Bureau of Labor Statistics.*

**Table 15**  
**Yearly Average Unemployment Rates**

<b><u>Year</u></b>	<b><u>Town</u></b>	<b><u>County</u></b>	<b><u>State</u></b>
2017	3.7%	5.1%	4.6%
2018	3.3%	4.4%	4.1%
2019	3.1%	4.1%	3.8%
2020	6.2%	9.1%	9.9%
2021	3.9%	5.52%	6.9%

Source: *New York State Department of Labor, Bureau of Labor Statistics.*

**TABLE 16**  
**Monthly Unemployment Rates**

<b><u>Month</u></b>	<b><u>Town</u></b>	<b><u>County</u></b>	<b><u>State</u></b>
May 2021	3.9%	5.4%	7.0%
June	3.9%	5.8%	7.5%
July	3.8%	5.5%	7.1%
August	3.6%	5.2%	6.7%
September	2.8%	4.4%	5.7%
October	2.7%	4.2%	5.3%
November	2.6%	3.9%	4.9%
December	2.5%	3.4%	4.5%
January 2022	3.3%	4.3%	5.3%
February	3.2%	4.5%	5.1%
March	3.0%	4.2%	4.7%
April	2.4%	3.5%	4.2%

Source: *New York State Department of Labor, Bureau of Labor Statistics. Information not seasonally adjusted.*

## ***Financial Institutions***

M&T Bank, KeyBank and the Bank of Akron all have one or more offices located within the Town.



### ***Transportation***

Transportation facilities include an excellent network of highways, the New York State Thruway (Interstate 90), NYS Routes 78 & 5 and the Metro Bus System. Several major airlines operate from the Buffalo-Niagara International Airport located only 10 miles outside the Town. These facilities make the Town accessible from the large diversified industrial area of the Niagara Frontier and other parts of the State.

### ***Income***

**TABLE 17**  
**Income**  
**(In 2020 dollars)**

	<b><u>Town</u></b>	<b><u>County</u></b>	<b><u>State</u></b>
Median Household Income (2016-2020)	\$102,770	\$59,464	\$71,114
Per Capita Income (2016-2020)	54,357	35,050	40,898

*Source: U.S. Census Bureau*

### **LITIGATION**

The Town is subject to a number of lawsuits in the ordinary conduct of its affairs. The Town Attorney does not believe, however, that adverse decisions in such suits either individually or in the aggregate, are likely to have a material adverse effect on the financial condition of the Town.

*End of Appendix A*

## **APPENDIX B**

### **Financial Statement and Budget Summaries**

**Town of Clarence, New York**  
**Comparative Balance Sheet**  
**(General Fund and Highway & Fire Protection Funds)**  
**At December 31**

	<u>General Fund</u>		<u>Fire and Highway Protection Fund</u>	
	<u>2020</u>	<u>2021</u>	<u>2020</u>	<u>2021</u>
<b><u>ASSETS</u></b>				
Cash	\$9,384,656	\$13,342,694	\$1,808,661	\$1,663,844
Due from Other Governments	232,160	253,752	0	14,608
Accounts Receivable	494,543	253,449	3,647	25,787
Due from Other Funds	0	65,000	0	191,000
Prepaid Expenses	167,292	244,104	66,144	94,717
Investments, restricted	0	0	4,362,341	4,755,506
Total Assets	<u>\$10,278,651</u>	<u>\$14,158,999</u>	<u>\$6,240,793</u>	<u>\$6,745,462</u>
<b><u>LIABILITIES AND FUND EQUITY</u></b>				
Liabilities:				
Accounts Payable	\$214,599	\$279,149	\$70,217	\$93,574
Accrued Liabilities	391,153	487,581	96,783	78,523
Unearned Revenue		1,687,482	\$0	0
Due to other governments	0	0	0	0
Total Liabilities	<u>605,752</u>	<u>2,454,212</u>	<u>167,000</u>	<u>172,097</u>
Fund Balances				
Nonspendable::				
Prepaid Expenses	167,292	244,104	66,144	94,717
Restricted:				
Debt	1,906,115	1,988,474	297,906	494,197
Workers' Compensation	230,055	230,200	61,288	61,327
Highway	0		1,047,773	940,954
Fire Protection	0		4,600,682	4,982,170
Assigned:				
Designated for Subsequent Years' Expenditures	819,750	800,000	0	0
Other purposes	89,691	151,258	0	0
Unassigned	6,459,996	8,290,751	0	0
Total Fund Equity	<u>9,672,899</u>	<u>11,704,787</u>	<u>6,073,793</u>	<u>6,573,365</u>
Total Liabilities & Fund Balance	<u>\$10,278,651</u>	<u>\$14,158,999</u>	<u>\$6,240,793</u>	<u>\$6,745,462</u>

Source: Compiled from audited financial reports from prior years, although this statement was not subject to audit.

**Town of Clarence, New York**

**General Fund  
Statement of Revenues, Expenditures and Changes in Fund Balances**

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
<b>Revenues:</b>					
Real Property Taxes	\$3,515,653	\$3,569,124	\$3,562,018	\$3,625,311	\$3,659,496
Non-property Tax Items	6,259,383	6,247,434	6,750,285	6,415,798	7,590,468
Departmental Income	135,526	220,749	290,912	251,370	240,843
Use of Money and Property	38,936	111,050	192,766	97,738	74,314
Licenses and Permits	479,567	431,048	511,505	376,954	405,141
Fines and Forfeitures	328,003	277,262	289,797	183,125	299,840
Sale of Property & Compensation for Loss	7,273	89,783	5,680	1,002	41,602
Miscellaneous	203,637	33,863	38,388	34,204	202,888
Interfund Revenue	0	0	32,887	5,734	4,490
State Aid	1,372,505	1,425,378	1,508,875	1,764,238	2,018,796
<b>Total Revenues</b>	<u>12,340,483</u>	<u>12,405,691</u>	<u>13,183,113</u>	<u>12,755,474</u>	<u>14,537,878</u>
<b>Expenditures:</b>					
General Government Support	2,350,137	2,590,350	2,769,269	2,826,412	2,843,442
Public Safety	774,956	854,266	943,242	961,999	990,027
Transportation	710,683	759,721	947,223	826,863	720,939
Economic Opportunity & Development	500	500	500	0	0
Culture and Recreation	2,695,134	2,834,937	2,815,149	2,212,146	2,524,684
Home and Community Service	255,737	277,162	289,297	282,056	274,039
Employee Benefits	2,344,390	2,444,381	2,489,758	2,607,811	2,492,648
Debt Service – Principal	1,436,553	1,703,706	1,410,349	1,388,675	1,279,845
Debt Service – Interest	527,850	524,302	849,216	617,826	618,224
<b>Total Expenditures</b>	<u>11,095,940</u>	<u>11,989,325</u>	<u>12,514,003</u>	<u>11,723,788</u>	<u>11,743,848</u>
<b>Excess of Revenues Over (Under)</b>					
Expenditures	<u>1,244,543</u>	<u>416,366</u>	<u>669,110</u>	<u>1,031,686</u>	<u>2,794,030</u>
<b>Other Financing Sources (Uses):</b>					
Operating Transfers Out	(584,202)	(481,376)	(1,390,000)	892,578	(844,500)
Bond premiums	0	0	0	923,609	82,358
Proceeds from advance refunding	0	454,155	0	3,530,000	0
Payment to escrow agent	0	0	0	(4,367,386)	0
<b>Total Other Financing Sources (Uses)</b>	<u>(584,202)</u>	<u>(27,221)</u>	<u>(1,390,000)</u>	<u>978,801</u>	<u>(762,142)</u>
<b>Excess of Revenues and Other Financing Sources Over (Under) Expenditures (Uses)</b>	660,341	389,145	(720,890)	2,010,487	2,031,888
<b>Fund Balance at January 1</b>	<u>7,333,816</u>	<u>7,994,157</u>	<u>8,383,302</u>	<u>7,662,412</u>	<u>9,672,899</u>
<b>Fund Balance at December 31</b>	<u>\$7,994,157</u>	<u>\$8,383,302</u>	<u>\$7,662,412</u>	<u>\$9,672,899</u>	<u>\$11,704,787</u>

Source: Compiled from audited financial reports from prior years, although this statement was not subject to audit.

**Town of Clarence, New York**

**Special Revenue Funds  
Statement of Revenues, Expenditures and Changes in Fund Balances**

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
<b>Revenues:</b>					
Real Property Taxes	\$8,087,679	\$8,286,178	\$8,737,232	\$9,014,637	\$9,185,573
Departmental Income	675,255	626,468	675,816	883,501	647,630
Use of Money and Property	121,133	76,216	385,936	242,318	263,571
Sale of Property & Compensation for Loss	0	14,960	4,870	23,773	86,244
Miscellaneous	211,194	17,644	23,956	20,194	71,194
Interfund Revenues	194,770	181,808	211,212	170,270	180,574
State Aid	242,529	242,695	242,802	194,219	339,013
<b>Total Revenues</b>	<u>\$9,532,560</u>	<u>\$9,445,969</u>	<u>\$10,281,824</u>	<u>\$10,548,912</u>	<u>\$10,773,799</u>
<b>Expenditures:</b>					
General Government Support	0	0	0	0	0
Public Safety	2,111,989	2,145,621	2,190,005	2,232,429	2,269,192
Transportation	3,638,118	3,605,336	3,508,963	3,408,949	4,068,758
Culture and Recreation	0	0	0	0	0
Home and Community Service	2,002,908	1,784,086	1,979,803	1,898,438	2,103,731
Employee Benefits	1,325,219	1,342,892	1,363,233	1,505,965	1,536,655
Debt Service – Principal	428,447	496,743	482,651	491,325	535,155
Debt Service – Interest	108,161	158,976	226,875	172,022	196,199
<b>Total Expenditures</b>	<u>9,614,842</u>	<u>9,533,654</u>	<u>9,751,530</u>	<u>9,709,128</u>	<u>10,709,690</u>
<b>Excess of Revenues Over (Under)</b>					
Expenditures	(82,282)	(87,685)	530,294	839,784	64,109
<b>Other Financing Sources (Uses):</b>					
Operating Transfers In	470,000	481,376	350,000	250,000	350,000
Bond Premium				126,423	204,102
Operating Transfers Out	0	87,069	0	0	0
<b>Total Other Financing Sources (Uses)</b>	<u>470,000</u>	<u>568,445</u>	<u>350,000</u>	<u>376,423</u>	<u>554,102</u>
<b>Excess of Revenues and Other Financing Sources Over (Under) Expenditures (Uses)</b>					
	387,718	480,760	880,294	1,216,207	618,211
Cumulative effect of a change in accounting principle	3,035,988	0	0	0	0
Fund Balance at January 1	<u>4,667,612</u>	<u>8,091,318</u>	<u>8,572,078</u>	<u>9,452,372</u>	<u>10,668,579</u>
<b>Fund Balance at December 31</b>	<u>\$8,091,318</u>	<u>\$8,572,078</u>	<u>\$9,452,372</u>	<u>\$10,668,579</u>	<u>\$11,286,790</u>

*Source: Compiled from audited financial reports from prior years, although this statement was not subject to audit.*

**Town of Clarence, New York  
Budget Summary**

**GENERAL FUND**

	<u>2021</u>	<u>2022</u>
Estimated Revenues:		
Real Property Taxes	\$3,524,143	\$3,516,309
Real Property Tax Items	111,815	112,000
Non Property Tax Items	6,286,985	6,425,259
Departmental Income	88,000	107,500
Use of Money and Property	193,134	194,548
Licenses and Permits	325,100	330,100
Fines and Forfeitures	252,500	250,000
Sale of Property	2,000	2,000
Miscellaneous	27,200	27,200
Interfund Revenues	20,000	0
State Aid	1,266,716	1,579,544
Total Estimated Revenues	<u>12,097,593</u>	<u>12,544,460</u>
Transfer from Debt Reserve	410,305	200,000
Appropriated Fund Balance	819,750	800,000
Total Est. Revenues and Appr. Fund Balance	<u><u>\$13,327,648</u></u>	<u><u>\$13,544,460</u></u>

Budget Appropriations:		
General Government Support	2,951,694	3,204,310
Public Safety	1,049,923	1,047,220
Transportation	772,497	764,358
Economic Assistance and Opportunity	500	500
Culture and Recreation	2,996,883	3,074,858
Home and Community Service	323,482	336,394
Employee Benefits	2,984,600	2,833,300
Debt Service	1,898,069	1,933,518
Interfund Transfer	350,000	350,000
Total Budget Appropriations	<u><u>\$13,327,648</u></u>	<u><u>\$13,544,460</u></u>

**SUMMARY OF ALL FUNDS 2022**

	<u>Appropriation</u>	<u>Revenue</u>	<u>Appropriated Fund Balance</u>	<u>Debt Reserve</u>
General Fund	13,544,460	9,028,151	800,000	200,000
Highway Fund	6,273,616	1,408,659	350,000	55,000
Central Alarm	303,000	165	20,000	0
Aquatic Growth Control District	1,200	8	500	0
Townwide Drainage District	534,000	750	50,000	0
Fire Protection District	2,965,045	300	-	0
Lighting District No. 1	5,800	4	500	0
Lighting District No. 2	2,900	8	400	0
Sewer District No. 2	409,500	2,180	2,500	0
Sewer District No. 4	55,000	10,840	12,750	0
Sewer District No. 6	245,000	18,180	13,530	0
Sewer District No. 7	28,500	20	5,925	0
Sewer District No. 9	390,554	750	29,600	20,000
Sewer District No. 10	35,000	7,215	8,500	0
Consolidated Water District	462,000	100	10,000	0
Special Assessments	4,560	0	0	0
Property Maintenance (32mnt)	7,950	0	0	0
	<u><u>25,268,085</u></u>	<u><u>10,477,330</u></u>	<u><u>1,304,205</u></u>	<u><u>275,000</u></u>
TOTALS				

**APPENDIX C**

**INDEPENDENT AUDITORS' REPORT  
FOR THE FISCAL YEAR ENDED  
DECEMBER 31, 2021**

**Can be accessed on the Electronic Municipal Market Access (“EMMA”) website  
of the Municipal Securities Rulemaking Board (“MSRB”)  
at the following link:**

**<https://emma.msrb.org/P11608968-P11240682-P11664103.pdf>**

**The audited financial statements referenced above are hereby incorporated into the  
attached Official Statement.**

**\* Such Financial Statements and opinion are intended to be representative only as  
of the date thereof. Lumsden & McCormick, LLP has not been requested by the  
Town to further review and/or update such Financial Statements or opinion in  
connection with the preparation and dissemination of this Official Statement.**

**APPENDIX D**

**Form of Approving Legal Opinion of Bond Counsel**



# *Hawkins Delafield & Wood LLP*

7 WORLD TRADE CENTER  
250 GREENWICH STREET  
NEW YORK, NY 10007  
WWW.HAWKINS.COM

\_\_\_\_\_, 2022

The Town Board of the  
Town of Clarence, in the  
County of Erie, New York

Ladies and Gentlemen:

We have acted as Bond Counsel to the Town of Clarence (the “Town”), in the County of Erie, New York, a municipal corporation of the State of New York, and have examined a record of proceedings relating to the authorization, sale and issuance of the \$1,825,000 Public Improvement Serial Bonds-2022 (the “Bonds”) of the Town, dated and delivered on the date hereof.

In such examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity with originals of all documents submitted to us as copies thereof.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

1. The Bonds are valid and legally binding general obligations of the Town for which the Town has validly pledged its faith and credit and, unless paid from other sources, all the taxable real property within the Town is subject to the levy of ad valorem real estate taxes to pay the Bonds and interest thereon, subject to certain statutory limitations imposed by Chapter 97 of the New York Laws of 2011, as amended. The enforceability of rights or remedies with respect to such Bonds may be limited by bankruptcy, insolvency or other laws affecting creditors’ rights or remedies heretofore or hereafter enacted.

2. Under existing statutes and court decisions and assuming continuing compliance with certain tax certifications described herein, (i) interest on the Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Bonds is not treated as a preference item in calculating the alternative minimum tax under the Code.

The Code establishes certain requirements which must be met subsequent to the issuance of the Bonds in order that the interest on the Bonds be and remain excluded from gross income for federal income tax purposes under Section 103 of the Code. These requirements include, but are not limited to, requirements relating to the use and expenditure of proceeds of the Bonds, restrictions on the investment of proceeds of the Bonds prior to expenditure and the requirement that certain earnings be rebated to the federal government. Noncompliance with such requirements may cause the interest on the Bonds to become subject to federal income taxation retroactive to the date of issuance thereof, irrespective of the date on which such noncompliance occurs or is ascertained.

On the date of issuance of the Bonds, the Town will execute a Tax Certificate relating to the Bonds containing provisions and procedures pursuant to which such requirements can be satisfied. In executing the Tax Certificate, the Town represents that it will comply with the provisions and procedures set forth therein and that it will do and perform all acts and things necessary or desirable to assure that the interest on the Bonds will, for federal income tax purposes, be excluded from gross income.

In rendering the opinion in this paragraph 2, we have relied upon and assumed (i) the material accuracy of the Town's representations, statements of intention and reasonable expectations, and certifications of fact contained in the Tax Certificate with respect to matters affecting the status of the interest on the Bonds, and (ii) compliance by the Town with the procedures and representations set forth in the Tax Certificate as to such tax matters.

3. Under existing statutes, interest on the Bonds is exempt from personal income taxes of New York State and its political subdivisions, including The City of New York.

We express no opinion as to any other federal, state or local tax consequences arising with respect to the Bonds, or the ownership or disposition thereof, except as stated in paragraphs 2 and 3 above. We render our opinion under existing statutes and court decisions as of the date hereof, and assume no obligation to update, revise or supplement our opinion to reflect any action hereafter taken or not taken, any fact or circumstance that may hereafter come to our attention, any change in law or interpretation thereof that may hereafter occur, or for any other reason. We express no opinion as to the consequence of any of the events described in the preceding sentence or the likelihood of their occurrence. In addition, we express no opinion on the effect of any action taken or not taken in reliance upon an opinion of other counsel regarding federal, state or local tax matters, including, without limitation, exclusion from gross income for federal income tax purposes of interest on the Bonds

We give no assurances as to the adequacy, sufficiency or completeness of the Preliminary Official Statement and/or Official Statement relating to the Bonds or any proceedings, reports, correspondence, financial statements or other documents, containing financial or other information relative to the Town, which have been or may hereafter be furnished or disclosed to purchasers of ownership interests in the Bonds.

Very truly yours,

## APPENDIX E

### UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE

#### Section 1. Definitions

“Annual Information” shall mean the information specified in Section 3 hereof.

“EMMA” shall mean the Electronic Municipal Market Access System implemented by the MSRB.

“Financial Obligation” shall mean “financial obligation” as such term is defined in the Rule.

“GAAP” shall mean generally accepted accounting principles as in effect from time to time in the United States.

“Holder” shall mean any registered owner of the Securities and any beneficial owner of Securities within the meaning of Rule 13d-3 under the Securities Exchange Act of 1934.

“Issuer” shall mean the **Town of Clarence**, in the County of Erie, a municipal corporation of the State of New York.

“MSRB” shall mean the Municipal Securities Rulemaking Board established in accordance with the provisions of Section 15B(b)(1) of the Securities Exchange Act of 1934, or any successor thereto or to the functions of the MSRB contemplated by this Agreement.

“Purchaser” shall mean the financial institution referred to in the Certificate of Award, executed by the Supervisor as of July 13, 2022.

“Rule” shall mean Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934 (17 CFR Part 240, §240.15c2-12), as amended, as in effect on the date of this Undertaking, including any official interpretations thereof issued either before or after the effective date of this Undertaking which are applicable to this Undertaking.

“Securities” shall mean the Issuer’s **\$22,645,000 Public Improvement Serial Bonds-2022**, dated July 28, 2022, maturing in various principal amounts on July 15 in each of the years 2022 to 2051, inclusive, and delivered on the date hereof.

Section 2. Obligation to Provide Continuing Disclosure. (a) The Issuer hereby undertakes, for the benefit of Holders of the Securities, to provide or cause to be provided either directly or through Capital Markets Advisors, LLC, 4211 North Buffalo Road, Suite 19, Orchard Park, New York New York, to the EMMA System:

- (i) (A) no later than six (6) months after the end of each fiscal year, commencing with the fiscal year ending December 31, 2022, the Annual Information relating to such fiscal year, and (B) no later than six (6) months after the end of each fiscal year, commencing with the fiscal year ending

December 31, 2022, the audited financial statements of the Issuer for each fiscal year, if audited financial statements are prepared by the Issuer and then available; provided, however, that if audited financial statements are not prepared or are not then available, unaudited financial statements shall be provided and audited financial statements, if any, shall be delivered to EMMA within sixty (60) days after they become available and in no event later than one (1) year after the end of each fiscal year; provided further, however, that the unaudited financial statement shall be provided for any fiscal year only if the Issuer has made a determination that providing such unaudited financial statement would be compliant with federal securities laws, including Rule 10b-5 of the Securities Exchange Act of 1934 and Rule 17(a)(2) of the Securities Act of 1933; and

- (ii) in a timely manner, not in excess of ten (10) business days after the occurrence of such event, notice of any of the following events with respect to the Securities:
  - (1) principal and interest payment delinquencies;
  - (2) non-payment related defaults, if material;
  - (3) unscheduled draws on debt service reserves reflecting financial difficulties;
  - (4) unscheduled draws on credit enhancements reflecting financial difficulties;
  - (5) substitution of credit or liquidity providers, or their failure to perform;
  - (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Securities, or other events affecting the tax status of the Securities;
  - (7) modifications to rights of Securities holders, if material;
  - (8) Bond calls, if material, and tender offers;
  - (9) defeasances;
  - (10) release, substitution, or sale of property securing repayment of the Securities, if material;
  - (11) rating changes;
  - (12) bankruptcy, insolvency, receivership or similar event of the Issuer;

Note to clause (12): For the purposes of the event identified in clause (12) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Issuer in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or government authority has assumed jurisdiction over substantially all of the assets or business of the Issuer, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer;

- (13) the consummation of a merger, consolidation, or acquisition involving the Issuer or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (15) incurrence of a Financial Obligation, of the Issuer, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Issuer, any of which affect security holders, if material; and
- (16) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Issuer, any of which reflect financial difficulties.

- (iii) in a timely manner, not in excess of ten (10) business days after the occurrence of such event, notice of a failure to provide by the date set forth in Section 2(a)(i) hereof any Annual Information required by Section 3 hereof.

(b) Nothing herein shall be deemed to prevent the Issuer from disseminating any other information in addition to that required hereby in the manner set forth herein or in any other manner. If the Issuer disseminates any such additional information, the Issuer shall have no obligation to update such information or include it in any future materials disseminated hereunder.

(c) Nothing herein shall be deemed to prevent the Issuer from providing notice of the occurrence of certain other events, in addition to those listed above, if the Issuer determines that any such other event is material with respect to the Securities; but the Issuer does not undertake

to commit to provide any such notice of the occurrence of any event except those events listed above.

Section 3. Annual Information. (a) The required Annual Information shall consist of the financial information and operating data for the preceding fiscal year, in a form generally consistent with the information contained or cross-referenced in the Issuer's final official statement relating to the Securities in Appendix A under the headings: "THE TOWN," "FINANCIAL FACTORS," "REAL PROPERTY TAXES," "TOWN INDEBTEDNESS," "ECONOMIC AND DEMOGRAPHIC DATA" and "LITIGATION," and in Appendix B.

(b) All or any portion of the Annual Information may be incorporated in the Annual Information by cross reference to any other documents which are (i) available to the public on the EMMA System or (ii) filed with the SEC. If such a document is a final official statement, it also must be available from the EMMA System.

(c) Annual Information for any fiscal year containing any modified operating data or financial information (as contemplated by Section 7(e) hereof) for such fiscal year shall explain, in narrative form, the reasons for such modification and the effect of such modification on the Annual Information being provided for such fiscal year. If a change in accounting principles is included in any such modification, such Annual Information shall present a comparison between the financial statements or information prepared on the basis of the modified accounting principles and those prepared on the basis of the former accounting principles.

Section 4. Financial Statements. The Issuer's annual financial statements for each fiscal year, if prepared, shall be prepared in accordance with GAAP or New York State regulatory requirements as in effect from time to time. Such financial statements, if prepared, shall be audited by an independent accounting firm. The Issuer's Annual Financial Report Update Document prepared by the Issuer and filed annually with New York State in accordance with applicable law, shall not be subject to the foregoing requirements.

Section 5. Remedies. If the Issuer shall fail to comply with any provision of this Undertaking, then any Holder of Securities may enforce, for the equal benefit and protection of all Holders similarly situated, by mandamus or other suit or proceeding at law or in equity, this Undertaking against the Issuer and any of the officers, agents and employees of the Issuer, and may compel the Issuer or any such officers, agents or employees to perform and carry out their duties under this Undertaking; provided that the sole and exclusive remedy for breach of this Undertaking shall be an action to compel specific performance of the obligations of the Issuer hereunder and no person or entity shall be entitled to recover monetary damages hereunder under any circumstances. Failure to comply with any provision of this Undertaking shall not constitute an event of default on the Securities.

Section 6. Parties in Interest. This Undertaking is executed to assist the Purchaser to comply with paragraph (b)(5) of the Rule and is delivered for the benefit of the Holders. No other person shall have any right to enforce the provisions hereof or any other rights hereunder.

Section 7. Amendments. Without the consent of any holders of Securities, the Issuer at any time and from time to time may enter into any amendments or changes to this Undertaking for any of the following purposes:

- (a) to comply with or conform to any changes in Rule 15c2-12 (whether required or optional);
- (b) to add a dissemination agent for the information required to be provided hereby and to make any necessary or desirable provisions with respect thereto;
- (c) to evidence the succession of another person to the Issuer and the assumption of any such successor of the duties of the Issuer hereunder;
- (d) to add to the duties of the Issuer for the benefit of the Holders, or to surrender any right or power herein conferred upon the Issuer;
- (e) to modify the contents, presentation and format of the Annual Information from time to time to conform to changes in accounting or disclosure principles or practices and legal requirements followed by or applicable to the Issuer or to reflect changes in the identity, nature or status of the Issuer or in the business, structure or operations of the Issuer or any mergers, consolidations, acquisitions or dispositions made by or affecting any such person; provided that any such modifications shall comply with the requirements of Rule 15c2-12 or Rule 15c2-12 as in effect at the time of such modification; or
- (f) to cure any ambiguity, to correct or supplement any provision hereof which may be inconsistent with any other provision hereof, or to make any other provisions with respect to matters or questions arising under this Undertaking which, in each case, comply with Rule 15c2-12 or Rule 15c2-12 as in effect at the time of such amendment or change;

provided that no such action pursuant to this Section 7 shall adversely affect the interests of the Holders in any material respect. In making such determination, the Issuer shall rely upon an opinion of nationally recognized bond counsel.

Section 8. Termination. This Undertaking shall remain in full force and effect until such time as all principal, redemption premiums, if any, and interest on the Securities shall have been paid in full or the Securities shall have otherwise been paid or legally defeased pursuant to their terms. Upon any such legal defeasance, the Issuer shall provide notice of such defeasance to the EMMA System. Such notice shall state whether the Securities have been defeased to maturity or to redemption and the timing of such maturity or redemption.

In addition, this Agreement, or any provision hereof, shall be null and void in the event that those portions of the Rule which require this Agreement, or such provision, as the case may be, do not or no longer apply to the Securities, whether because such portions of the Rule are invalid, have been repealed, or otherwise.

Section 9. Undertaking to Constitute Written Agreement or Contract. This Undertaking shall constitute the written agreement or contract for the benefit of Holders of Securities, as contemplated under Rule 15c2-12.

Section 10. Governing Law. This Undertaking shall be governed by the laws of the State of New York determined without regard to principles of conflict of law.

IN WITNESS WHEREOF, the undersigned has duly authorized, executed and delivered this Undertaking as of July 28, 2022.

TOWN OF CLARENCE

By \_\_\_\_\_  
Supervisor and Chief Fiscal Officer