

**PRELIMINARY OFFICIAL STATEMENT DATED DECEMBER 20, 2022**

**NEW ISSUE  
BOOK-ENTRY-ONLY BONDS**

**Rating: See “RATING” herein  
SERIAL BONDS**

*In the opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel, based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986. In the further opinion of Bond Counsel, interest on the Bonds is not a specific preference item for purposes of the federal individual alternative minimum tax. Bond Counsel observes that, for tax years beginning after December 31, 2022, interest on the Bonds included in adjusted financial statement income of certain corporations is not excluded from the federal corporate alternative minimum tax. Bond Counsel is also of the opinion that interest on the Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York). Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the amount, accrual or receipt of interest on, the Bonds. See “TAX MATTERS” herein.*

*The Village WILL designate the Bonds as "qualified tax-exempt obligations" pursuant to the provisions of Section 265(b)(3) of the Code.*

**VILLAGE OF ATLANTIC BEACH  
NASSAU COUNTY, NEW YORK**

**\$1,000,000\*  
PUBLIC IMPROVEMENT (SERIAL) BONDS, 2023  
(the “Bonds”)**

**Dated: Date of Delivery**

**Due: January 15, 2024 – 2028**

The Bonds are general obligations of the Village of Atlantic Beach, Nassau County, New York (the “Village”), and all of the taxable real property within the Village is subject to the levy of ad valorem 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 “Tax Levy Limit Law”). (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 January 15, 2024, July 15, 2024 and semi-annually thereafter on January 15 and July 15 in each year until maturity. The Bonds shall mature on January 15 in each year in the principal amounts specified on the inside cover page hereof. The Bonds will not be subject to redemption prior to maturity as described herein. (See “No 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.

Capital Markets Advisors, LLC has served as the Municipal Advisor to the Village in connection with the issuance of the Bonds. The Bonds are offered subject to the final approving opinion of Orrick, Herrington & Sutcliffe LLP, New York, New York, Bond Counsel, and certain other conditions. It is anticipated that the Bonds will be available for delivery through the offices of DTC in Jersey City, New Jersey or as otherwise agreed with the purchasers on or about January 19, 2023.

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

Dated: January \_\_, 2023

\* Preliminary, subject to change.

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

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

<u>Year</u>	<u>Amount*</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP**</u>
2024	\$185,000	%	%	
2025	195,000			
2026	200,000			
2027	205,000			
2028	215,000			

- \* The principal maturities of the Bonds are subject to adjustment following their sale, pursuant to the terms of the accompanying Notice of Private Competitive Bond Sale.
- \*\* CUSIP numbers have been assigned by an independent company not affiliated with the Village and are included solely for the convenience of the holders of the Bonds. The Village is not responsible for the selection or uses of these CUSIP numbers and no representation is made as to their correctness on the Bonds or as indicated above.

**VILLAGE OF ATLANTIC BEACH  
NASSAU COUNTY, NEW YORK**

**MAYOR  
GEORGE PAPPAS**

**BOARD OF TRUSTEES**

Edward A. Sullivan .....Deputy Mayor

Linda L. Baessler..... Trustee

Patricia Beaumont ..... Trustee

Andrew J. Rubin..... Trustee

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Herbert A. Klibanoff, Esq. .... Treasurer

Emily Siniscalchi..... Village Clerk

Dominick Minerva, Esq. .... Village Attorney

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**BOND COUNSEL**

**Orrick, Herrington & Sutcliffe LLP  
New York, New York**

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**MUNICIPAL ADVISOR**



**CAPITAL MARKETS ADVISORS, LLC  
Long Island \* Hudson Valley \* Southern Tier \* Western New York  
(516) 487-9818**

No dealer, broker, salesman or other person has been authorized by the Village to give any information or to make any representations, other than those 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 Village. 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 set forth herein has been obtained by the Village from sources which are believed to be reliable but it is not guaranteed as to accuracy or completeness. The information 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 Village since the date hereof.

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## OFFICIAL STATEMENT

### VILLAGE OF ATLANTIC BEACH NASSAU COUNTY, NEW YORK

#### Relating To

#### **\$1,000,000\*** **PUBLIC IMPROVEMENT (SERIAL) BONDS, 2023** **(the “Bonds”)**

This Official Statement, which includes the cover page, inside cover page and appendices hereto, presents certain information relating to the Village of Atlantic Beach, in the County of Nassau, in the State of New York (the “Village”, “County” and “State,” respectively) in connection with the sale of \$1,000,000\* Public Improvement (Serial) Bonds, 2023 (the “Bonds”).

All quotations from and summaries and explanations of provisions of the Constitution and laws of the State and acts and proceedings of the Village 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 Village relating thereto are qualified in their entirety by reference to the definitive form of the Bonds and such proceedings.

This Official Statement should be read with the understanding that the ongoing COVID-19 global pandemic has created prevailing economic conditions (at the global, national, State and local levels) that are highly uncertain, generally negative, and rapidly changing, and these conditions are expected to continue for an indefinite period of time. Accordingly, the Village’s overall economic situation and outlook (and all of the specific Village related information contained herein) should be carefully reviewed, evaluated and understood in the full light of this unprecedented world-wide event, the effects of which are extremely difficult to predict and quantify.

### **THE BONDS**

#### ***Description of the Bonds***

The Bonds are dated their Date of Delivery and will bear interest from such date payable January 15, 2024, July 15, 2024 and semiannually thereafter on January 15 and July 15 until maturity. The Bonds shall mature on January 15 in each year in the principal amounts specified on the inside cover page hereof. The Bonds will not be subject to redemption prior to maturity as described herein. (See “*No 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 (“DTC”). DTC will act as securities depository for the Bonds. Individual purchases may be made in book-entry form only, in principal amounts of \$5,000 and integral multiples thereof. Purchasers will not receive certificates representing their ownership interests in the Bonds. Principal and interest on the Bonds will be made by the Village to DTC, which will in turn remit such principal and interest to its Participants (defined herein), for subsequent disbursement to the Beneficial Owners of the Bonds as described under “*Book-Entry-Only System*,” herein. The Bonds may be transferred in the manner described on the Bonds and as referenced in certain proceedings of the Village referred to therein.

The record date for payment of principal and interest on the Bonds is the last business day of the calendar month preceding each interest payment date.

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\* Preliminary, subject to change.

## ***Authority for and Purpose of the Bonds***

The Bonds are issued pursuant to the Constitution and Laws of the State, including, among others, the General Municipal Law, Village Law, the Local Finance Law, and a bond resolution duly adopted by the Board of Trustees of the Village on November 14, 2022 for purchase and improvement of real property located at 2035 Park Street for Village purposes. Proceeds from the sale of the Bonds will be used to provide original financing for this purpose.

## ***No Optional Redemption***

The Bonds will not be subject to redemption prior to maturity.

## ***Nature of Obligation***

Each bond or note when duly issued and paid for will constitute a contract between the Village and the holder thereof.

Holders of any series of bonds or notes of the Village may bring an action or commence a proceeding in accordance with the civil practice law and rules to enforce the rights of the holders of such series of bonds or notes.

The Bonds will be general obligations of the Village and will contain a pledge of the faith and credit of the Village for the payment of the principal thereof and the interest thereon as required by the Constitution and laws of the State. For the payment of such principal and interest, the Village has power and statutory authorization to levy ad valorem taxes on all real property within the Village subject to such taxation by the Village, subject to applicable statutory limitations.

Although the State Legislature is restricted by Article VIII, Section 12 of the State Constitution from imposing limitations on the power to raise taxes to pay “interest on or principal of indebtedness theretofore contracted” prior to the effective date of any such legislation, the New York State Legislature may from time to time impose additional limitations or requirements on the ability to increase a real property tax levy or on the methodology, exclusions or other restrictions of various aspects of real property taxation (as well as on the ability to issue new indebtedness). On June 24, 2011, Chapter 97 of the New York Laws of 2011 was signed into law by the Governor (the “Tax Levy Limitation Law”). The Tax Levy Limitation Law applies to local governments and school districts in the State (with certain exceptions) and imposes additional procedural requirements on the ability of municipalities and school districts to levy certain year-to-year increases in real property taxes.

Under the Constitution of the State, the Village is required to pledge its faith and credit for the payment of the principal of and interest on the Bonds and is required to raise real estate taxes, and without specification, other revenues, if such levy is necessary to repay such indebtedness. While the Tax Levy Limitation Law imposes a statutory limitation on the Village’s power to increase its annual tax levy with the amount of such increase limited by the formulas set forth in the Tax Levy Limitation Law, it also provides the procedural method to surmount that limitation. See “Tax Information - Tax Levy Limitation Law,” herein.

The Constitutionally-mandated general obligation pledge of municipalities and school districts in New York State has been interpreted by the Court of Appeals, the State’s highest court, in Flushing National Bank v. Municipal Assistance Corporation for the City of New York, 40 N.Y.2d 731 (1976), as follows:

“A pledge of the City’s faith and credit is both a commitment to pay and a commitment of the city’s revenue generating powers to produce the funds to pay. Hence, an obligation containing a pledge of the City’s “faith and credit” is secured by a promise both to pay and to use in good faith the City’s general revenue powers to produce sufficient funds to pay the principal and interest of the obligation as it becomes due. That is why both words, “faith” and “credit” are used and they are not tautological. That is what the words say and this is what the courts have held they mean . . . So, too, although the Legislature is given the duty to restrict municipalities in order to prevent abuses in taxation, assessment, and in contracting of indebtedness, it may not constrict the City’s

power to levy taxes on real estate for the payment of interest on or principal of indebtedness previously contracted . . . . While phrased in permissive language, these provisions, when read together with the requirement of the pledge and faith and credit, express a constitutional imperative: debt obligations must be paid, even if tax limits be exceeded”.

In addition, the Court of Appeals in the *Flushing National Bank* (1976) case has held that the payment of debt service on outstanding general obligation bonds and notes takes precedence over fiscal emergencies and the police power of political subdivisions in New York State.

The pledge has generally been understood as a promise to levy property taxes without limitation as to rate or amount to the extent necessary to cover debt service due to language in Article VIII Section 10 of the Constitution which provides an exclusion for debt service from Constitutional limitations on the amount of a real property tax levy, insuring the availability of the levy of property tax revenues to pay debt service. As the *Flushing National Bank* (1976) Court noted, the term “faith and credit” in its context is “not qualified in any way”. Indeed, in *Flushing National Bank v. Municipal Assistance Corp.*, 40 N.Y.2d 1088 (1977) the Court of Appeals described the pledge as a direct constitutional mandate. In *Quirk v. Municipal Assistance Corp.*, 41 N.Y.2d 644 (1977), the Court of Appeals stated that, while holders of general obligation debt did not have a right to particular revenues such as sales tax, “with respect to traditional real estate tax levies, the bondholders are constitutionally protected against an attempt by the State to deprive the city of those revenues to meet its obligations.” According to the Court in *Quirk*, the State Constitution “requires the city to raise real estate taxes, and without specification other revenues, if such a levy be necessary to repay indebtedness.”

In addition, the Constitution of the State requires that every county, city, town, village, and school district in the State provide annually by appropriation for the payment of all interest and principal on its serial bonds and certain other obligations, and that, if at any time the respective appropriating authorities shall fail to make such appropriation, a sufficient sum shall be set apart from the first revenues thereafter received and shall be applied to such purposes. In the event that an appropriating authority were to make an appropriation for debt service and then decline to expend it for that purpose, this provision would not apply. However, the Constitution of the State does also provide that the fiscal officer of any county, city, town, village, or school district may be required to set apart and apply such first revenues at the suit of any holder of any such obligations.

In *Quirk v. Municipal Assistance Corp.*, 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 New York 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 not be interpreted by a court of competent jurisdiction to include a constitutional or statutory lien upon any particular revenues.

While the courts in New York 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.

### ***Book-Entry-Only System***

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Bonds. The Bonds 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

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 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 effect 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 securities unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the issuer 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 securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend 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 issuer, on the 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 Village, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Village, 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 Village. Under such circumstances, in the event that a successor depository is not obtained, bond certificates are required to be printed and delivered.

The Village may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, bond 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 Village believes to be reliable, but the Village takes no responsibility for the accuracy thereof.

Source: The Depository Trust Company

## **TAX LEVY LIMITATION LAW**

On June 24, 2011, Chapter 97 of the New York Laws of 2011 was signed into law by the Governor (the "Tax Levy Limitation Law"). The Tax Levy Limitation Law applies to all local governments, including school districts (with the exception of New York City, the counties comprising New York City and the Big 5 City School Districts (New York, Buffalo, Rochester, Syracuse, Yonkers (the latter four of which are affected indirectly by applicability to their respective city). It also applies to independent special districts and to town and county improvement districts as part of their parent municipalities tax levies.

The Tax Levy Limitation Law restricts, among other things, the amount of real property taxes (including assessments of certain special improvement districts) that may be levied by or on behalf of a municipality in a particular year, beginning with fiscal years commencing on or after January 1, 2012. It was set to expire on June 15, 2020 unless extended; recent legislation has made the tax cap permanent. Pursuant to the Tax Levy Limitation Law, the tax levy of a municipality cannot increase by more than the lesser of (i) two percent (2%) or (ii) the annual increase in the consumer price index ("CPI"), over the amount of the prior year's tax levy. Certain adjustments would be permitted for taxable real property full valuation increases or changes in physical or quantity growth in the real property base as defined in Section 1220 of the Real Property Tax Law. A municipality may exceed the tax levy limitation for the coming fiscal year only if the governing body of such municipality first enacts, by at least a sixty percent vote of the total voting strength of the board, a local law (resolution in the case of fire districts and certain special districts) to override such limitation for such coming fiscal year only. There are permissible exceptions to the tax levy limitation provided in the Tax Levy Limitation Law, including expenditures made on account of certain tort settlements and certain increases in the average actuarial contribution rates of the New York State and Local Employees' Retirement System, the Police and Fire Retirement System, and the Teachers' Retirement System. Municipalities are also permitted to carry forward a certain portion of their unused levy limitation from a prior year. Each municipality prior to adoption of its fiscal year budget must submit for review to the State Comptroller any information that is necessary in the calculation of its tax levy for such fiscal year.

The Tax Levy Limitation Law does not contain an exception from the levy limitation for the payment of debt service on either outstanding general obligation debt of municipalities or such debt incurred after the effective date of the Tax Levy Limitation Law (June 24, 2011).

While the Tax Levy Limitation Law may constrict an issuer's power to levy real property taxes for the payment of debt service on debt contracted after the effective date of the Tax Levy Limitation Law, it is clear that no statute is able (1) to limit an issuer's pledge of its faith and credit to the payment of any of its general obligation indebtedness or (2) to limit an issuer's levy of real property taxes to pay debt service on general obligation debt contracted prior to the effective date of the Tax Levy Limitation Law. Whether the Constitution grants a municipality authority to treat debt service payments as a constitutional exception to such statutory tax levy limitation is not clear.

## **SPECIAL PROVISIONS AFFECTING REMEDIES UPON DEFAULT**

**General Municipal Law Contract Creditors' Provision.** Each Bond when duly issued and paid for will constitute a contract between the Village and the holder thereof. Under current law, provision is made for contract creditors of the Village to enforce payments upon such contracts, if necessary, through court action. Section 3-a of the General Municipal Law provides, subject to exceptions not pertinent, that the rate of interest to be paid by the Village upon any judgment or accrued claim against it on an amount adjudged due to a creditor shall not exceed nine per centum per annum from the date due to the date of payment. This provision might be construed to have application to the holders of the Bonds in the event of a default in the payment of the principal of and interest on the Bonds.

**Execution/Attachment of Municipal Property.** 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, although judicial mandates have been issued to officials to appropriate and pay judgments out of certain funds or the proceeds of a tax levy. In accordance with the general rule with respect to municipalities, judgments against the Village may not be enforced by levy and execution against property owned by the Village.

**Authority to File For Municipal Bankruptcy.** The Federal Bankruptcy Code allows public bodies, such as the Village, recourse to the protection of a Federal Court for the purpose of adjusting outstanding indebtedness. Section 85.80 of the Local Finance Law contains specific authorization for any municipality in the State or its emergency control board to file a petition under any provision of Federal bankruptcy law for the composition or adjustment of municipal indebtedness.

The State has consented that any municipality in the State may file a petition with the 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. Subject to such State consent, under the United States Constitution, Congress has jurisdiction over such matters and has enacted amendments to the existing federal bankruptcy statute, being Chapter 9 thereof, generally to the effect and with the purpose of affording municipal corporations, under certain circumstances, with easier access to judicially approved adjustment of debt including judicial control over identifiable and unidentifiable creditors.

No current state law purports to create any priority for holders of the Bonds should the Village 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 rights of the owners of the Bonds to receive interest and principal from the Village could be adversely affected by the restructuring of the Village's debt under Chapter 9 of the Federal Bankruptcy Code. No assurance can be given that any priority of holders of debt obligations issued by the Village (including the Bonds) to payment from monies retained in any debt service fund or from other cash resources would be recognized if a petition were filed by or on behalf of the Village under the Federal Bankruptcy Code or pursuant to other subsequently enacted laws relating to creditors' rights; such monies might, under such circumstances, be paid to satisfy the claims of all creditors generally.

Under the Federal Bankruptcy Code, a petition may be filed in the Federal Bankruptcy court by a municipality which is insolvent or unable to meet its debts as they mature. Generally, the filing of such a petition operates as a stay of any proceeding to enforce a claim against the municipality. The Federal Bankruptcy Code also requires that a plan be filed for the adjustment of the municipality's debt, which may modify or alter the rights of creditors and which could be secured. Any plan of adjustment confirmed by the court must be approved by the requisite number of creditors. If confirmed by the bankruptcy court, the plan would be binding upon all creditors affected by it.

**State Debt Moratorium Law.** There are separate State law provisions regarding debt service moratoriums enacted into law in 1975.

At the Extraordinary Session of the State Legislature held in November, 1975, legislation was enacted which purported to suspend the right to commence or continue an action in any court to collect or enforce certain short-term obligations of The City of New York. The effect of such act was to create a three-year moratorium on actions to enforce the payment of such obligations. On November 19, 1976, the Court of Appeals, the State's highest court,

declared such act to be invalid on the ground that it violates the provisions of the State Constitution requiring a pledge by such City of its faith and credit for the payment of obligations.

As a result of the Court of Appeals decision in Flushing National Bank v. Municipal Assistance Corporation for the City of New York, 40 N.Y.2d 731 (1976), 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 described below 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 Village.

**Right of Municipality or State to Declare a Municipal Financial Emergency and Stay Claims Under State Debt Moratorium Law.** The State Legislature is authorized to declare by special act that a state of financial emergency exists in any county, city, town or village. (The provision does not by its terms apply to school districts or fire districts.) In addition, the State Legislature may authorize by special act establishment of an “emergency financial control board” for any county, city, town or Village upon determination that such a state of financial emergency exists. Thereafter, unless such special act provides otherwise, a voluntary petition to stay claims may be filed by any such municipality (or by its emergency financial control board in the event said board requests the municipality to petition and the municipality fails to do so within five days thereafter). A petition filed in supreme court in the county in which the municipality is located in accordance with the requirements of Title 6-A of the Local Finance Law (“Title 6-A”) effectively prohibits the doing of any act for ninety days in the payment of claims against the municipality, including payment of debt service on outstanding indebtedness.

This includes staying the commencement or continuation of any court proceedings seeking payment of debt service due, the assessment, levy or collection of taxes by or for the municipality or the application of any funds, property, receivables or revenues of the municipality to the payment of debt service. The stay can be vacated under certain circumstances with provisions for the payment of amounts due or overdue upon a demand for payment in accordance with the statutory provisions set forth therein. The filing of a petition may be accompanied with a proposed repayment plan which, upon court order approving the plan, may extend any stay in the payment of claims against the municipality for such “additional period of time as is required to carry out fully all the terms and provisions of the plan with respect to those creditors who accept the plan or any benefits thereunder.” Court approval is conditioned, after a hearing, upon certain findings as provided in Title 6-A.

A proposed plan can be modified prior to court approval or disapproval. After approval, modification is not permissible without court order after a hearing. If not approved, the proposed plan must be amended within ten days or else the stay is vacated and claims, including debt service due or overdue, must be paid. It is at the discretion of the court to permit additional filings of amended plans and continuation of any stay during such time. A stay may be vacated or modified by the court upon motion of any creditor if the court finds after a hearing that the municipality has failed to comply with a material provision of an accepted repayment plan or that due to a “material change in circumstances” the repayment plan is no longer in compliance with statutory requirements.

Once an approved repayment plan has been completed, the court, after a hearing upon motion of any creditor, or a motion of the municipality or its emergency financial control board, will enter an order vacating any stay then in effect and enjoining of creditors who accepted the plan or any benefits thereunder from commencing or continuing any court action, proceeding or other act described in Title 6-A relating to any debt included in the plan.

Title 6-A requires notice to all creditors of each material step in the proceedings. Court determinations adverse to the municipality or its financial emergency control board are appealable as of right to the appellate division in the judicial department in which the court is located and thereafter, if necessary, to the Court of Appeals. Such appeals stay the judgment or appealed from and all other actions, special proceedings or acts within the scope of Section 85.30 of Title 6-A pending the hearing and determination of the appeals.

Whether Title 6-A is valid under the Constitutional provisions regarding the payment of debt service is not known. However, based upon the decision in the Flushing National Bank case described above, its validity is subject to doubt.

While the State Legislature has from time to time adopted legislation in response to a municipal fiscal emergency and established public benefit corporations with a broad range of financial control and oversight powers to oversee such municipalities, generally such legislation has provided that the provisions of Title 6-A are not applicable during any period of time that such a public benefit corporation has outstanding indebtedness issued on behalf of such municipality.

**Fiscal Stress and State Emergency Financial Control Boards.** Pursuant to Article IX Section 2(b)(2) of the State Constitution, any local government 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 approve collective bargaining agreements in certain cases. Implementation is 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, on a certificate of necessity of the governor reciting facts which in the judgment of 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 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 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 Village has not applied to FRB and does not reasonably anticipate doing so. School districts and fire districts are not eligible for FRB assistance.

**Constitutional Non-Appropriation Provision.** There is in the Constitution of the State, Article VIII, Section 2, the following provision relating to the annual appropriation of monies for the payment of due principal of and interest on indebtedness of every county, city, town, Village and school district in the State: “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. See “General Municipal Law Contract Creditors’ Provision” herein.

The Constitutional provision providing for first revenue set asides does not apply to tax anticipation notes, revenue anticipation notes or bond anticipation notes.

**Default Litigation.** In prior years, certain events and legislation affecting a holder’s remedies upon default have resulted in litigation. While courts of final jurisdiction have upheld and sustained the rights of bondholders, such courts might hold that future events including financial crises as they may occur in the State and in political subdivisions of the State 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. See “*Nature of Obligation*” and “*State Debt Moratorium Law*” herein.

**No Past Due Debt.** No principal of or interest on Village indebtedness is past due. The Village has never defaulted in the payment of the principal of and interest on any indebtedness.

## MARKET FACTORS

The financial and economic condition of the Village as well as the market for the Bonds could be affected by a variety of factors, some of which are beyond the Village’s control. There can be no assurance that adverse events in the State and in other jurisdictions, including, for example, the seeking by a municipality or large taxable property owner of remedies pursuant to the Federal Bankruptcy Code or otherwise, will not occur which might affect the market price of and the market for the Bonds. If a significant default or other financial crisis should occur in the affairs of the State or another jurisdiction or any of its agencies or political subdivisions thereby further impairing the acceptability of obligations issued by borrowers within the State, both the ability of the Village to arrange for additional borrowings, and the market for and market value of outstanding debt obligations, including the Bonds, could be adversely affected.

There can be no assurance that the State appropriation for State aid to school districts or municipalities will be continued in future years, either pursuant to existing formulas or in any form whatsoever. State aid appropriated and apportioned to the Village can be paid only if the State has such monies available therefor. The availability of such monies and the timeliness of such payment may also be affected by a delay in the adoption of the State budget or the State’s financial condition due to the COVID-19 outbreak and other circumstances, including fiscal stress. In any event, State aid appropriated and apportioned to the Village can be paid only if the State has such monies available therefor. (See “*State Aid*” and “*Sales Tax*” herein regarding COVID-19 impact on budgeted sales tax revenues).

Should the Village fail to receive monies expected from the State in the amounts and at the times expected, the Village is permitted to issue revenue anticipation notes in anticipation of the receipt of delayed State aid.

If and when a holder of any of the Bonds should elect to sell a Bond prior to its maturity, there can be no assurance that a market shall have been established, maintained and be in existence for the purchase and sale of any of the Bonds. In addition, the price and principal value of the Bonds is dependent on the prevailing level of interest rates; if interest rates rise, the price of a bond will decline, causing the bondholder to incur a potential capital loss if such bond is sold prior to its maturity.

Amendments to the U.S. Internal Revenue Code could reduce or eliminate the favorable tax treatment granted to municipal debt, including the Bonds and other debt issued by the Village. Any such future legislation could have an adverse effect on the market value of the Bonds (See “*Tax Matters*” herein).

The enactment of Chapter 97 of the New York Laws of 2011 on June 24, 2011, which imposes a tax levy limitation upon municipalities, including the Village, school districts, and fire districts in the State could have an impact upon operations of the Village and as a result, the market price for the Bonds. (See “*Tax Levy Limitation Law*,” herein.)

## **CYBERSECURITY**

The Village, 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 Village 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 Village 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 Village digital networks and systems and the costs of remedying any such damage could be substantial. The Village actively mitigates risk in various ways on an on-going basis.

## **LITIGATION**

In common with other Villages, the Village from time to time receives notices of claim and is party to litigation. In the opinion of the attorney for the Village, unless otherwise set forth herein and apart from matters provided for by applicable insurance coverage, there are no claims or action pending which, if determined against the Village, would have an adverse material effect on the financial condition of the Village, except for the following two (2) pending actions:

Village of Atlantic Beach, Petitioner v. M.A. Salazar, Inc., Index Number 607774/2022 in which the Village of Atlantic Beach acquired the property of M.A. Salazar, Inc. by Eminent Domain and M.A. Salazar, Inc. rejected the compensation for acquisition of its property offered by the Village of Atlantic Beach as payment in full.

Chabad of the Beaches v. Incorporated Village of Atlantic Beach, Index Number 2:22-cv-04141 in which the Chabad of the Beaches is seeking damages for alleged violations of the Plaintiff's constitutional rights.

## **TAX MATTERS**

In the opinion of Orrick, Herrington & Sutcliffe LLP ("Bond Counsel"), based upon an analysis of existing laws, regulations, rulings, and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code") and is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York). Bond Counsel is of the further opinion that interest on the Bonds is not a specific preference item for purposes of the federal individual alternative minimum tax. Bond Counsel observes that, for tax years beginning after December 31, 2022, interest on the Bonds included in adjusted financial statement income of certain corporations is not excluded from the federal corporate alternative minimum tax. Bond Counsel expresses no opinion regarding other tax consequences related to the ownership or disposition of, or the amount, accrual, or receipt of interest on, the Bonds. Complete copies of the proposed forms of opinion of Bond Counsel are set forth in Appendix D hereto.

To the extent the issue price of any maturity of the Bonds is less than the amount to be paid at maturity of such Bonds (excluding amounts stated to be interest and payable at least annually over the term of such Bonds), the difference constitutes "original issue discount," the accrual of which, to the extent properly allocable to each owner thereof, is treated as interest on the Bonds which is excluded from gross income for federal income tax purposes and exempt from State of New York personal income taxes. For this purpose, the issue price of a particular maturity of the Bonds is the first price at which a substantial amount of such maturity of the Bonds is sold to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers). The original issue discount with respect to any maturity of the Bonds accrues daily over the term to maturity of such Bonds on the basis of a constant interest rate compounded semiannually (with straight-line interpolations between compounding dates). The accruing original issue discount is added to the adjusted basis of such Bonds to determine taxable gain or loss upon disposition (including sale, redemption, or payment on maturity) of such Bonds. Owners of the Bonds should consult their own tax advisors with respect to the

tax consequences of ownership of Bonds with original issue discount, including the treatment of owners who do not purchase such Bonds in the original offering to the public at the first price at which a substantial amount of such Bonds is sold to the public.

Bonds purchased, whether at original issuance or otherwise, for an amount higher than their principal amount payable at maturity (or, in some cases, at their earlier call date) ("Premium Bonds") will be treated as having amortizable bond premium. No deduction is allowable for the amortizable bond premium in the case of bonds, like the Premium Bonds, the interest on which is excluded from gross income for federal income tax purposes. However, the amount of tax-exempt interest received, and an owner's basis in a Premium Bond, will be reduced by the amount of amortizable bond premium properly allocable to such owner. Owners of Premium Bonds should consult their own tax advisors with respect to the proper treatment of amortizable bond premium in their particular circumstances.

Bond Counsel is of the further opinion that the amount treated as interest on the Bonds and excluded from gross income will depend upon the taxpayer's election under Internal Revenue Notice 94-84. Notice 94-84, 1994-2 C.B. 559, states that the Internal Revenue Service (the "IRS") is studying whether the amount of the stated interest payable at maturity on short-term debt obligations (i.e., debt obligations with a stated fixed rate of interest which mature not more than one year from the date of issue) that is excluded from gross income for federal income tax purposes should be treated (i) as qualified stated interest or (ii) as part of the stated redemption price at maturity of the short-term debt obligation, resulting in treatment as accrued original issue discount (the "original issue discount"). Until the IRS provides further guidance with respect to tax-exempt short-term debt obligations, taxpayers may treat the stated interest payable at maturity either as qualified stated interest or as includable in the stated redemption price at maturity, resulting in original issue discount as interest that is excluded from gross income for federal income tax purposes. However, taxpayers must treat the amount to be paid at maturity on all tax-exempt short-term debt obligations in a consistent manner. Taxpayers should consult their own tax advisors with respect to the tax consequences of ownership of the first maturity of the Bonds if the taxpayer elects original issue discount treatment.

The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Bonds. The Village has covenanted to comply with certain restrictions designed to ensure that interest on the Bonds will not be included in federal gross income. Inaccuracy of these representations or failure to comply with these covenants may result in interest on the Bonds being included in gross income for federal income tax purposes possibly from the date of original issuance of the Bonds. The opinion of Bond Counsel assumes compliance with these covenants. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Bonds may adversely affect the value of, or the tax status of interest on, the Bonds. Further, no assurance can be given that pending or future legislation or amendments to the Code, if enacted into law, or any proposed legislation or amendments to the Code, will not adversely affect the value of, or the tax status of interest on, the Bonds.

Certain requirements and procedures contained or referred to in the Arbitrage Certificate, and other relevant documents may be changed and certain actions (including, without limitation, economic defeasance of the Bonds) may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. Bond Counsel expresses no opinion as to any Bonds or the interest thereon if any such change occurs or action is taken or omitted.

Although Bond Counsel is of the opinion that interest on the Bonds is excluded from gross income for federal income tax purposes and is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including The City of New York), the ownership or disposition of, or the amount, accrual or receipt of interest on, the Bonds may otherwise affect an owner's federal or state tax liability. The nature and extent of these other tax consequences will depend upon the particular tax status of the owner or the owner's other items of income or deduction. Bond Counsel expresses no opinion regarding any such other tax consequences.

Current and future legislative proposals, if enacted into law, clarification of the Code or court decisions may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent owners from realizing the full current benefit of the tax status of

such interest. The introduction or enactment of any such legislative proposals, clarification of the Code or court decisions may also affect the market price for, or marketability of, the Bonds. Prospective purchasers of the Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

The opinion of Bond Counsel is based on current legal authority, covers certain matters not directly addressed by such authorities, and represents Bond Counsel's judgment as to the proper treatment of the Bonds for federal income tax purposes. It is not binding on the Internal Revenue Service ("IRS") or the courts. Furthermore, Bond Counsel cannot give and has not given any opinion or assurance about the future activities of the Village, or about the effect of future changes in the Code, the applicable regulations, the interpretation thereof or the enforcement thereof by the IRS. The Village has covenanted, however, to comply with the requirements of the Code.

Bond Counsel's engagement with respect to the Bonds ends with the issuance of the Bonds, and, unless separately engaged, Bond Counsel is not obligated to defend the Village or the owners regarding the tax-exempt status of the Bonds in the event of an audit examination by the IRS. Under current procedures, owners would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt bonds is difficult, obtaining an independent review of IRS positions with which the Village legitimately disagrees, may not be practicable. Any action of the IRS, including but not limited to selection of the Bonds for audit, or the course or result of such audit, or an audit of bonds presenting similar tax issues may affect the market price for, or the marketability of, the Bonds, and may cause the Village or the owners to incur significant expense.

Payments on the Bonds generally will be subject to U.S. information reporting and possibly to "backup withholding." Under Section 3406 of the Code and applicable U.S. Treasury Regulations issued thereunder, a non-corporate owner of Bonds may be subject to backup withholding with respect to "reportable payments," which include interest paid on the Bonds and the gross proceeds of a sale, exchange, redemption, retirement or other disposition of the Bonds. The payor will be required to deduct and withhold the prescribed amounts if (i) the payee fails to furnish a U.S. taxpayer identification number ("TIN") to the payor in the manner required, (ii) the IRS notifies the payor that the TIN furnished by the payee is incorrect, (iii) there has been a "notified payee underreporting" described in Section 3406(c) of the Code or (iv) the payee fails to certify under penalty of perjury that the payee is not subject to withholding under Section 3406(a)(1)(C) of the Code. Amounts withheld under the backup withholding rules may be refunded or credited against an owner's federal income tax liability, if any, provided that the required information is timely furnished to the IRS. Certain owners (including among others, corporations and certain tax-exempt organizations) are not subject to backup withholding. The failure to comply with the backup withholding rules may result in the imposition of penalties by the IRS.

## **LEGAL MATTERS**

Legal matters incident to the authorization, issuance and sale of the Bonds are subject to the approving legal opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel. Bond Counsel's opinion will be in substantially the form attached hereto as Appendix D.

## **DISCLOSURE UNDERTAKING**

In accordance with the requirements of Rule 15c2-12 as the same may be amended or officially interpreted from time to time (the "Rule") promulgated by the Securities and Exchange Commission (the "Commission"), the Village has agreed to provide, or cause to be provided,

(1) to the Electronic Municipal Market Access ("EMMA") system of the Municipal Securities Rulemaking Board ("MSRB") or any other entity designated or authorized by the Commission to receive reports pursuant to the Rule, during each fiscal year in which the Bonds are outstanding, (i) certain annual financial information and operating data for the preceding fiscal year in a form generally consistent with the information contained or cross-referenced in the Final Official Statement dated January 5, 2023 of the Village relating to the Bonds under the



headings “The Village”, “Financial Factors”, “Tax Information”, “Village Indebtedness”, “Litigation”, and Appendices (other than any related to bond insurance) by the end of the sixth month following the end of each succeeding fiscal year, commencing with the fiscal year ending May 31, 2023, and (ii) a copy of the audited financial statement, if any, (prepared in accordance with accounting principles generally accepted in the United States of America in effect at the time of the audit) for the preceding fiscal year, commencing with the fiscal year ending May 31, 2023 such audit, if any, will be so provided on or prior to the later of either the end of the sixth month of each such succeeding fiscal year or, if an audited financial statement is not available at that time, within sixty days following receipt by the Village of its audited financial statement for the preceding fiscal year, but, in any event, not later than the last business day of each such succeeding fiscal year; and provided further, in the event that the audited financial statement for any fiscal year is not available by the end of the sixth month following the end of any such succeeding fiscal year, unaudited financial statements in the form provided to the State, if available, will be provided no later than said date; provided however, that provision of unaudited financial statements in any year shall be further conditioned upon a determination by the Village of whether such provision is compliant with the requirements of 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;

(2) in a timely manner not in excess of ten business days, to EMMA, notice of the occurrence of any of the following events with respect to the Bonds:

(i) principal and interest payment delinquencies; (ii) non-payment related defaults, if material; (iii) unscheduled draws on debt service reserves reflecting financial difficulties; (iv) unscheduled draws on credit enhancements reflecting financial difficulties; (v) substitution of credit or liquidity providers, or their failure to perform; (vi) 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 Bonds, or other material events affecting the tax status of the Bonds; (vii) modifications to rights of Bondholders, if material; (viii) Bond calls, if material, and tender offers; (ix) defeasances; (x) release, substitution, or sale of property securing repayment of the Bonds, if material; (xi) rating changes; (xii) bankruptcy, insolvency, receivership or similar event of the Village; (xiii) the consummation of a merger, consolidation, or acquisition involving the Village or the sale of all or substantially all of the assets of the Village, 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; and (xiv) appointment of a successor or additional trustee or the change of name of a trustee, if material; (xv) incurrence of a Financial Obligation (as defined in the Rule) of the Village, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Village, any of which affect Bond holders, if material; and (xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Village, any of which reflect financial difficulties.

Event (iii) is included pursuant to a letter for the SEC staff to the National Association of Bond Lawyers dated September 19, 1995. However, event (iii) is not applicable, since no “debt service reserves” will be established for the Bonds.

With respect to event (iv) the Village does not undertake to provide any notice with respect to credit enhancement added after the primary offering of the Bonds.

With respect to event (xii) 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 Village 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 Village, 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 Village.

With respect to events (xv) and (xvi) above, the term “Financial Obligation” means a (a) debt obligation; (b) derivative instrument entered into with, or pledged as security or source of payment for, an existing or planned

debt obligation; or (c) guarantee of (a) or (b). The term Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

The Village may provide notice of the occurrence of certain other events, in addition to those listed above, if it determines that any such other event is material with respect to the Bonds; but the Village does not undertake to commit to provide any such notice of the occurrence of any event except those events listed above; and

(3) in a timely manner, to EMMA, notice of its failure to provide the aforescribed annual financial information and operating data and such audited financial statement, if any, on or before the date specified.

The Village reserves the right to terminate its obligations to provide the aforescribed annual financial information and operating data and such audited financial statement, if any, and notices of material events, as set forth above, if and when the Village no longer remains an obligated person with respect to the Bonds within the meaning of the Rule. The Village acknowledges that its undertaking pursuant to the Rule described under this heading is intended to be for the benefit of the holders of the Bonds (including holders of beneficial interests in the Bonds). The right of holders of the Bonds to enforce the provisions of the undertaking will be limited to a right to obtain specific enforcement of the Village's obligations under its continuing disclosure undertaking and any failure by the Village to comply with the provisions of the undertaking will neither be a default with respect to the Bonds nor entitle any holder of the Bonds to recover monetary damages.

The Village reserves the right to modify from time to time the specific types of information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the Village; provided that, the Village agrees that any such modification will be done in a manner consistent with the Rule.

An undertaking to provide continuing disclosure as described above shall be provided to the Underwriter at the closing.

### **RATING**

The Village has applied to Standard & Poor's Global Ratings ("S&P") for a rating on the Bonds. Such rating is pending at this time.

S&P has assigned a rating of "AA" with a stable outlook to the Village's outstanding uninsured general obligation bonds.

Such rating reflects only the views of S&P and any desired explanation of the significance of such rating should be obtained from S&P, at the following address: Standard & Poor's Global Ratings, 55 Water Street, New York, New York 10041. 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 S&P 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.

### **MUNICIPAL ADVISOR**

Capital Market Advisors, LLC, has served as the independent Municipal Advisor to the Village 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, and 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 Village to compile, review, examine or audit any information in the Official Statement in accordance with accounting standards. 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.

## **MISCELLANEOUS**

Statements in the Official Statement, and the documents included by specific reference, that are not historical facts are “forward-looking statements”, within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, and as defined in the Private Securities Litigation Reform Act of 1995, which involve a number of risks and uncertainties, and which are based on the Village management’s beliefs as well as assumptions made by, and information currently available to, the Village management and staff. Because the statements are based on expectations about future events and economic performance and are not statements of fact, actual results may differ materially from those projected. Important factors that could cause future results to differ include legislative and regulatory changes, changes in the economy, and other factors discussed in this and other documents that the Village files with the repositories. When used in Village documents or oral presentation, the words “anticipate”, “believe”, “intend”, “plan”, “foresee”, “likely”, “estimate”, “expect”, “objective”, “projection”, “forecast”, “goal”, “will, or “should”, or similar words or phrases are intended to identify forward-looking statements.

To the extent any statements made in this Official Statement involve matters of opinion or estimates, whether or not expressly stated, they are set forth as such and not as representations of fact, and no representation is made that any of the statements will be realized. Neither this Official Statement nor any statement which may have been made verbally or in writing is to be construed as a contract with the holder of the Bonds.

Orrick, Herrington & Sutcliffe LLP, New York, New York, bond counsel to the Village, expresses no opinion as to the accuracy or completeness of information in any documents prepared by or on behalf of the Village for use in connection with the offer and sale of the Bonds, including but not limited to, the financial or statistical information in this Official Statement.

References herein to the Constitution of the State and various State and federal laws are only brief outlines of certain provisions thereof and do not purport to summarize or describe all of such provisions.

Concurrently with the delivery of the Bonds, the Village will furnish a certificate to the effect that as of the date of the Official Statement, the Official Statement did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements herein, in the light of the circumstances under which they were made, not misleading, subject to limitation as to information in the Official Statement obtained from sources other than the Village, as to which no representation can be made.

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

The Village hereby disclaims any obligation to update developments of the various risk factors or to announce publicly any revision to any of the forward-looking statements contained herein or to make corrections to reflect future events or developments except to the extent required by Rule 15c2-12 promulgated by the Securities and Exchange Commission.

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 Village nor Capital Markets Advisors, LLC assumes any liability or responsibility for errors or omissions on such website. Further, Capital Markets Advisors, LLC and the Village 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 Village also assume no liability or responsibility for any errors or omissions or for any updates to dated website information.

Additional information may be obtained from the office of the Village Treasurer at (516) 371-4600 or the Village's Municipal Advisor, Capital Markets Advisors, LLC at (516) 487-9818.

VILLAGE OF ATLANTIC BEACH  
NASSAU COUNTY, NEW YORK

By: \_\_\_\_\_  
Herbert A. Klibanoff, Esq.  
Treasurer

DATED: January \_\_, 2023

**APPENDIX A**

**THE VILLAGE**

## **THE VILLAGE**

### ***General Information***

The Village is located in the extreme southwestern section of Nassau County, within the Town of Hempstead, on the New York City border. The Village covers an area of approximately 0.7 square miles at the western end of the Long Beach peninsula. The character of the Village is predominately suburban residential. The majority of houses within the Village are single-family residences with condominium developments in the Village. Due to its prime location on the Atlantic Ocean there are numerous beach clubs along the Village waterfront that offer a variety of recreational activities. Commercial activity is centered on Park Street.

### ***Form of Government***

The Village was incorporated in 1962 as a municipal corporation by the State pursuant to the Village Law and is vested with such powers and has the responsibilities inherent in the operation of a municipal government, including the adoption of rules and regulations to govern its affairs. In addition, the Village may tax real property situated in its boundaries and incur debt subject to the provision of the State's Local Finance Law. School Facilities are provided by the Lawrence Union Free School District. Village residents also pay real property taxes to the Town and the County to support programs conducted by these governmental entities.

Government operations of the Village are subject to the provisions of the State Constitution and various statutes affecting Village governments including the Village Law, the General Municipal Law and the Local Finance Law. Real property assessment, collection, and enforcement procedures are determined by the Real Property Tax Law.

### ***Elected and Appointed Officials***

The Village Board of Trustees (the "Board") is the legislative, appropriating, governing and policy determining body of the Village and consists of a mayor and four trustees, all of whom are elected at large to serve two-year terms. The number of terms which a Trustee may serve is not limited. It is the responsibility of the Board to enact, by resolution, all legislation including ordinances and local laws. Annual operating budgets for the Village must be approved by the Board; modifications and transfers between budgetary appropriation also must be authorized by the Board. The original issuance of all indebtedness is subject to approval by the Board.

The Mayor is the chief elected official of the Village and is elected for a two-year term of office with the right to succeed himself or herself. In addition, the Mayor is a full member of and the presiding officer of the Board.

The Village Treasurer is appointed by the Mayor, to a two-year term and is the chief fiscal officer of the Village. Duties and responsibilities of the position include: collection of taxes, maintenance of the Village's accounting systems and records, which includes the responsibility to prepare and file an annual report with the State Comptroller, custody and investment of Village funds, and debt management.

The Village Clerk is appointed by the Mayor, subject to approval by the Board, to a two-year term. The Clerk has custody of the corporate seal, books, records, and papers of the Village, and all the official reports and communications of the Board and keeps the records of their proceeding and the Village's tax collections. In addition, the Clerk oversees general Village elections. The Clerk is responsible for maintaining the Village code of laws and ordinances as it relates to the codes for building and general ordinances. In addition, the Village Clerk issues various licenses and permits.

### ***Services and Programs***

The Village provides its residents with many of the services traditionally provided by municipal governments. In addition, the Town and County furnish certain other services. A list of these services provided by the Village are as follows: local street maintenance, a local justice court that is responsible for enforcing provisions of the State's Vehicle and Traffic Law and local ordinances as well as having jurisdiction over certain civil and criminal matters; cultural and recreational activities, building code enforcement and planning administration. The Village maintains a

parks department and a public works department. Fire protection and ambulance service are furnished by West Atlantic Beach Fire District.

Pursuant to State law, the County, not the Village, is responsible for funding and providing various social service and health care programs such as Medicaid, aid to the families with dependent children, home relief and mental health programs.

### ***Employees***

The Village generally employs 12 full-time and 71 part-time persons, depending on the season.

## **FINANCIAL FACTORS**

### ***Impacts of COVID-19***

On March 11, 2021, President Biden signed into law the American Rescue Plan Act of 2021 (“ARP”). Included in this bill was \$350 billion in direct aid to state and local governments. Payments to local governments will be made in two tranches, the first half 60 days after enactment and the second half one year later. The funding is available through, and must be spent by, the end of calendar year 2024.

Specifically, eligible uses of the aid include: (i) revenue replacement for the provision of government services to the extent the reduction in revenue is due to the COVID-19 public health emergency relative to revenues collected in the most recent fiscal year prior to the emergency; (ii) premium pay for essential workers; (iii) assistance to small businesses, households, and hard-hit industries, and economic recovery; and (iv) investments in water, sewer and broadband infrastructure. The bill also contains two restrictions on eligible uses: (i) funds cannot be used to directly or indirectly offset tax reductions or delay a tax increase; and (ii) funds cannot be deposited into any pension fund.

### ***Budgetary Procedure***

The Mayor is the budget officer of the Village and submits the tentative budget for the next fiscal year to the Board on or before March 20 of each year. The Board meets on or before March 31 to discuss and review the tentative budget and may make such changes and revisions as they deem appropriate subject to the provisions of law. A public hearing on the budget is held on or before April 15, but may be adjourned from day to day, but not beyond April 20. Members of the public may express their views on the budget, but there is no provision for a formal vote. Following the public hearing, and on or before May 1, the Board meets to adopt the final budget. A copy of such budget must be filed with the Village Clerk and is available on or before March 20 for public inspection.

Budgetary control is the responsibility of the Village Treasurer. Formal integration of the budget with the accounting system is used during the year as a management tool for all governmental funds.

### ***Independent Audits***

The Village retains the firm of Satty, Levine & Ciacco, CPAs, P.C. to audit its financial statements. In addition, the Village is subject to audit by the State Comptroller to review compliance with legal requirements and the rules and regulations established by the State.

The Village utilizes fund accounting to record and report its various service activities. A fund represents both legal and an accounting entity which segregates the transactions of specific programs in accordance with special regulations, restrictions or limitations.

The Village has two basic fund categories (Governmental Funds and Fiduciary Funds) and generic fund types. Governmental Funds are those through which most governmental functions of the Village are financed and include two fund types, as follows. The General Fund is the principal operating fund and includes all operations not required to be recorded in other funds. The Capital Projects Fund accounts for financial resources to be used for the

acquisition or construction of major capital facilities. The other fund category, Fiduciary Funds, is used to account for assets held by the Village in a trustee or custodial capacity and includes a Trust and Agency Fund.

***Basis of Accounting***

The Village maintains its records and reports on the modified accrual basis of accounting for recording transactions in all governmental funds. Under this method, (1) revenues are recorded when received in cash except that for revenues which are material and susceptible to accrual (measurable and available to finance the current year's operations) which are recorded when earned, and (2) expenditures, other than retirement plan contributions, vacation and sick pay, and accrued interest are recorded at the time liabilities are incurred.

***Revenue***

The Village derives most of its revenues from a tax on real property (see "Statement of Revenues, Expenditures and Changes in Fund Balance" in Appendix A, herein.) Property taxes accounted for 69.18% of total General Fund revenues for the fiscal year ended May 31, 2022, while State aid accounted for 0.26%, *based on preliminary, unaudited results, subject to change.*

**Property Tax.** The following table sets forth total General Fund revenues and real property taxes received for each of the last five audited fiscal years, the most recent unaudited fiscal year and the amount budgeted for the current fiscal year.

**General Fund Revenues & Real Property Taxes**

Fiscal Year <u>Ended May 31:</u>	Total <u>Revenues<sup>(1)</sup></u>	Real Property <u>Taxes</u>	Real Property <u>Taxes to</u> <u>Revenues</u>
2017	\$3,003,559	\$2,030,174	67.59%
2018	3,365,155	2,070,180	61.52
2019	3,231,776	2,193,385	67.87
2020	3,106,148	2,243,260	72.22
2021	3,767,822	2,376,311	63.01
2022 (Unaudited)	3,767,340	2,606,177	69.18
2023 (Adopted Budget)	4,035,653	2,815,403	69.76

(1) General Fund, Village-wide.

Source: Audited and Unaudited Financial Statements and Adopted Budgets for the Village. Unaudited results are preliminary, subject to change. Table itself not audited.

**State Aid.** The Village receives financial assistance from the State. State aid accounted for approximately 5.57% of the total general fund revenues of the Village in the 2021 fiscal year.

The State is not constitutionally obligated to maintain or continue State aid to the Village. No assurance can be given that present State aid levels will be maintained in the future. There can be no assurances that the State's financial position will not change materially or adversely from current projections. State budgetary restrictions which eliminate or substantially reduce State aid could have a material adverse effect upon the Village, requiring either a counterbalancing increase in revenues from other sources to the extent available, or a curtailment of expenditures. (See also "RISK Factors" herein.)

The State receives a substantial amount of federal aid for health care, education, transportation and other governmental purposes, as well as federal funding to respond to, and recover from, severe weather events and other disasters. Many of the policies that drive this federal aid may be subject to change under the federal administration and the current Congress. Current federal aid projections, and the assumptions on which they rely, are subject to revision in the future as a result of changes in federal policy.



Reductions in federal funding levels could have a materially adverse impact on the State budget. In addition to the potential fiscal impact of policies that may be proposed and adopted by the federal administration and Congress, the State budget may be adversely affected by other actions taken by the federal government, including audits, disallowances, and changes to federal participation rates or other Medicaid rules.

The State’s 2021-22 Enacted Budget provided \$10.8 billion in State funding to local governments. This funding available for use over multiple years, is designed to support essential workers and government employees, assist COVID-19 vaccination efforts, boost local economies, and support local government services.

The Aid and Incentives for Municipalities (“AIM”) program provides State aid to all of the State’s cities (other than New York City), and 141 towns and villages. AIM was funded at \$656.1 million in the 2021-22 Enacted State Budget. The 2019-20 Enacted State Budget reduced AIM funding by \$59 million, eliminating aid for 1,325 towns and villages determined to be less reliant on AIM. At that time, the State established AIM-Related payments which continued funding for the impacted towns and villages in the amounts that they had previously received through AIM in State Fiscal Year 2018-2019. OSC is required to withhold certain county sales tax revenues and to make AIM-Related payments, paid in December and May each year, pursuant to Chapter 59 of the Laws of 2019.

The \$59 million reduction in the AIM program eliminated funding for those municipalities where the State deemed it was not necessary or significant, and provided that funding to those municipalities by intercepting \$59 million of sales tax revenue before any normal revenue share of sales tax occurred. The 2022-23 State Budget maintains the AIM program at its current level; however, the budget does put an end to the intercept of local sales tax to pay the \$59 million in AIM-Related payments for 479 villages and 846 towns.

Should the Village 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 Village 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 revenues received for each of the last five audited fiscal years, the most recent unaudited fiscal year and the amount budgeted for the current fiscal year.

**General Fund Revenues & State Aid Revenues**

Fiscal Year <u>Ended May 31:</u>	Total <u>Revenues<sup>(1)</sup></u>	<u>State Aid</u>	<u>State Aid to Revenues</u>
2017	\$3,003,559	\$ 9,779	0.33%
2018	3,365,155	132,476	3.94
2019	3,321,776	9,773	0.30
2020	3,106,148	9,779	0.31
2021	3,767,822	209,779	5.57
2022 (Unaudited)	3,767,340	9,779	0.26
2023 (Adopted Budget)	4,035,653	209,000	5.18

(1) General Fund, Village-wide.

Source: Audited and Unaudited Financial Statements and Adopted Budgets for the Village. Unaudited results are preliminary, subject to change. Table itself not audited.

***The State Comptroller’s Fiscal Stress Monitoring System and Compliance Reviews***

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 (“OSC”) 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, 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 Village as "no designation" with a fiscal score of 22.5 and an Environmental Score of 23.3 for the fiscal year ended May 31, 2021.

The financial affairs of the Village are subject to periodic compliance reviews by OSC to ascertain whether the Village has complied with the requirements of various State and federal statutes. The last audit conducted by OSC was released on May 3, 2019. The purpose of the audit was to determine whether Village officials ensured that cash disbursements were properly supported, audited and for valid purposes for the period June 1, 2016 through February 28, 2018. The complete report can be obtained from OSC's website.

See the State Comptroller's official website for more information regarding the foregoing. References to websites and/or website addresses presented herein are for informational purposes only and implies no warranty of accuracy of information therein. Unless specified otherwise, such websites and the information or links contained therein are not incorporated into, and are not part of, this Official Statement.

## **TAX INFORMATION**

### ***Real Estate Tax Levying Limitation***

The Village is responsible for levying taxes for Village purposes. The Village's real property tax levying powers, other than for debt service and certain other enumerated purposes, are limited by the State Constitution to two percent of the five-year average full valuation of taxable real property of the Village.

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The following table sets forth the computation of the Village's real estate tax levying limitation and the determination of its tax margin for the fiscal year ending May 31, 2023.

**Real Property Tax Assessment and Rates**

Assessment <u>Year</u>	Fiscal Year <u>Ending May 31:</u>	Assessed <u>Valuation</u>	State Equalization <u>Ratio</u> <sup>(1)</sup>	<u>Full Valuation</u>
2017	2018	\$1,829,926	0.26%	\$703,817,692
2018	2019	1,768,714	0.24	736,964,167
2019	2020	1,745,122	0.22	793,237,273
2020	2021	1,452,216	0.18	806,786,667
2021	2022	1,490,160	0.19	<u>784,294,736</u>
			Total:	<u>\$3,825,100,535</u>
Five-Year Average Valuation				<u>\$765,020,107</u>
Tax Levying Limitation: 2% of Average Five-Year Full Valuation:				\$15,300,402
Real Estate Tax Levy for 2022-23				2,815,403
Less: Exclusions				445,391
Tax Levy Subject to Tax Limit				<u>2,370,012</u>
Constitutional Net Tax Margin				<u>\$12,930,390</u>
Percent of Tax Limitation Exhausted				<u>15.49%</u>

(1) Equalization rates are established by the New York State Office of Real Property Services

Source: New York State Office of Real Property Services and Village Treasurer.

***Valuations and Tax Data***

The following table shows the trend during the last six years for taxable assessed valuations, state equalization ratios, full valuations, real property taxes and real property tax rates per \$100 assessed valuation.

**Valuations and Tax Data**

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Assessed Value	\$1,829,926	\$1,768,714	\$1,745,122	\$1,452,216	\$1,490,160	\$1,575,506
Equalization Rate	0.26%	0.24%	0.22%	0.18%	0.19%	
Full Value	703,817,692	736,964,167	793,237,273	806,786,667	784,294,736	
Tax Levy	2,059,333	2,139,345	2,231,881	2,359,757	2,690,323	2,815,403
Tax Rate <sup>(1)</sup>	112.54	120.95	127.89	162.49	180.54	178.70

(1) Per \$100 assessed valuation.

Source: Village officials and the New York State Office of Real Property Services.

***Tax Collection Enforcement Procedure and History***

Property taxes are levied annually no later than June 1 and become a lien on the first day of the levy year. Taxes must be paid in one installment on June 1, and become delinquent after June 30. Thereafter penalties and interest are imposed pursuant to the Real Property Tax Law.

After the certification and return of the tax warrant to the Board of the uncollected tax items an annual sale of the tax liens is held pursuant to the provisions of the Real Property Tax Law. Tax Sale Certificates are issued for all uncollected property taxes, in anticipation of the sale of properties in satisfaction of the property tax liens. Unsold tax liens covered by Tax Sale Certificates are fully reserved.

***Ten of the Largest Taxpayers***

The following table sets forth the ten largest taxpayers located in the Village for the fiscal year ended May 31, 2023.

**Taxable Assessments**

<u>Taxpayer Name</u>	<u>Nature of Business</u>	Total Assessed <u>Valuation</u>	% of Assessed <u>Valuation</u> <sup>(1)</sup>
Long Island Water	Utility	\$138,437	8.8%
New Nautilus	Hotel	128,000	8.1
KeySpan	Utility	73,229	4.6
Clearwater Beach Club	Beach Club	41,690	2.6
Michael Properties	Real Estate	39,963	2.5
Sunny Atlantic	Beach Club	36,653	2.3
Sea Isle-Catalina Beach Club	Beach Club	32,887	2.1
Ocean Boulevard LLC	Beach Club	31,341	2.0
Ocean Club	Beach Club	30,400	1.9
Inwood Beach Club	Beach Club	<u>18,866</u>	<u>1.2</u>
	Totals	<u>\$571,466</u>	<u>36.1%</u>

(1) The Village’s total assessed valuation for the 2023 fiscal year was \$1,575,506.

Source: Village Clerk.

**VILLAGE INDEBTEDNESS**

***Constitutional and Statutory Requirements***

The New York State Constitution and Local Finance Law limit the power of the Village (and other municipalities and school districts of the State) to issue obligations and to otherwise contract indebtedness. Such constitutional and statutory limitations include the following, in summary form.

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

Payment and Maturity. Except for certain short-term indebtedness, indebtedness shall be paid in annual installments commencing no later than two years later 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 or, in the alternative, the weighted average period of probable usefulness of the several purposes, for which it is contracted unless the Village determines to issue debt amortizing on the basis of substantially level or declining debt service. No installment may be more than fifty per centum in excess of the smallest prior installment unless the Village determines to issue debt amortizing on the basis of substantially level or declining debt service. The Village 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, bond anticipation notes and capital notes.

General. The Village is further subject to constitutional limitation by the general constitutionally imposed duty on the State Legislature to restrict the power of taxation and contracting indebtedness to prevent abuses in the exercise of such power; however, as has been noted under "Nature of Obligation", the State Legislature is prohibited by a specific constitutional provision from restricting the power of the Village to levy taxes on real estate for the payment of interest on or principal of indebtedness theretofore contracted.

### ***Statutory Procedure***

In general, the State Legislature has, by enactment of the Local Finance Law, authorized the powers and procedures of the Village to borrow and incur indebtedness subject, of course, to the constitutional and statutory provisions set forth above. The power to spend money, however, generally derives from other law, including specifically the Village Law and the General Municipal Law.

Pursuant to the Local Finance Law, the Village authorizes the incurrence of indebtedness, including bonds and bond anticipation notes issued in anticipation of the issuance of such bonds, by the adoption of a bond resolution approved by at least two-thirds of the members of the Board. Certain of such resolutions may be subject to permissive referendum, or may be submitted to the Village voters at the discretion of the Board. The Local Finance Law also provides a twenty-day statute of limitations after publication of a bond resolution, together with a statutory form of notice which, in effect, estops thereafter legal challenges to the validity of obligations authorized by such bond resolution except for alleged constitutional violations.

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 serial bonds. Statutory law in the State permits bond anticipation notes to be renewed each year provided annual principal installments are made in reduction of the total amount of such notes outstanding, commencing no later than two years from the date of the first of such notes, and provided that such renewals do not extend five years beyond the original date of borrowing. (See "Payment and Maturity" under "Constitutional Requirements" herein).

In general, the Local Finance Law contains provisions providing the Village with power to issue certain other short-term general obligation indebtedness including revenue and tax anticipation notes and budget notes.

### ***Debt Limit***

Pursuant to the Local Finance Law, the Village has the power to contract indebtedness for any Village purpose authorized by the Legislature of the State provided the aggregate the principal amount thereof shall not exceed seven per centum of the average full valuation of taxable real estate of the Village and subject to certain enumerated exclusions and deductions such as water and certain sewer facilities and cash or appropriations for current debt service. The constitutional and statutory 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 ratio (equalization rate) which such assessed valuation bears to the full valuation as determined by the New York State Office of Real Property Services. The State Legislature is required to prescribe the manner by which such ratio shall be determined by such Authority. Average full valuation is determined by taking the sum of the full valuation of such last completed assessment roll and the four preceding assessment rolls and dividing such sum by five.

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***Constitutional Debt-Contracting Limitation***

**Debt Contracting Limitation**

Assessment <u>Roll</u>	Fiscal <u>Year</u>	Assessed <u>Valuation</u>	Equalization <u>Rate</u>	Full <u>Valuation</u>
2017	2018	\$1,829,926	0.26%	\$703,817,692
2018	2019	1,768,714	0.24	736,964,167
2019	2020	1,745,122	0.22	793,237,273
2020	2021	1,452,216	0.18	806,786,667
2021	2022	1,490,160	0.19	784,294,736
Total Five-Year Full Valuations				<u>\$3,825,100,535</u>
Average Full Valuation				<u>765,020,107</u>
Debt Limit – Seven (7) per centum of Average Full Valuation				<u>\$ 53,551,407</u>

Source: Office of the State Comptroller, Real Property Services

The following table, based on information furnished by the Village, presents the debt-incurring power of the Village and shows that the Village is within its constitutional debt limit, as of December 20, 2022.

**Statement of Debt-Contracting Power**

Debt-Contracting Limitation:	\$53,551,407
Gross Direct Indebtedness:	
Serial Bonds	\$ 2,780,000
Bond Anticipation Notes	<u>0</u>
Total Gross Direct Indebtedness	\$ 2,780,000
Less Exclusions and Deductions:	
Appropriations for the Current Fiscal Year	<u>0</u>
Total Net Direct Indebtedness <sup>(1)</sup>	\$ 2,780,000
Debt-Contracting Margin	<u>\$50,771,407</u>
Percentage of Debt-Contracting Power Exhausted	<u>5.2%</u>

***Bond Anticipation Notes***

The Village currently has no bond anticipation notes outstanding.

***Tax and Revenue Anticipation Notes***

The Village currently has no tax or revenue anticipation notes outstanding.

*(The remainder of this page has been intentionally left blank.)*

***Trend of Outstanding Indebtedness***

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

	<b><u>Outstanding Indebtedness</u></b>				
	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022<sup>(1)</sup></u>
Serial Bonds	\$4,680,000	\$4,290,000	\$3,490,000	\$3,525,000	\$3,160,000
Bond Anticipation Notes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Totals	<u>\$4,680,000</u>	<u>\$4,290,000</u>	<u>\$3,490,000</u>	<u>\$3,225,000</u>	<u>\$3,160,000</u>

(1) Unaudited.

Source: Village Officials and Audited Financial Statements of the Village.

***Estimated Overlapping and Underlying Debt***

The real property taxpayers of the Village are responsible for a proportionate share of outstanding debt obligations of the County, as well as the Town. Such taxpayers' share of this overlapping debt is based upon the amount of the Village's equalized property values taken as a percentage of each separate units' total values. The table below sets forth both the total outstanding principal amount of debt issued by the Village and the approximate magnitude of the burden on taxable property in the Village of the debt issued and outstanding by such overlapping entities, as of the dates shown.

<u>Issuer</u>	<u>Net Debt Outstanding</u>	<u>Net Indebtedness as of:</u>	<u>Village Share</u>	<u>Amount Applicable To Village</u>
Nassau County	\$3,541,124,000	04/30/22	0.30%	\$10,623,372
Hempstead Town	360,945,215	08/26/22	0.67	2,418,333
Lawrence UFSD	0	06/30/22	9.50	0
Atlantic Beach Fire District	0	12/31/21	86.21	<u>0</u>
Total Net Overlapping Debt				\$13,041,705
Total Net Direct Debt				<u>\$ 2,780,000</u>
Net Direct and Overlapping Debt				<u>\$15,821,705</u>

*(The remainder of this page has been intentionally left blank.)*

***Debt Ratios***

The following table presents certain debt ratios relating to the Village’s direct and overlapping, indebtedness as of December 20, 2022.

	<u><b>Debt Ratios</b></u>		
	<u>Amount</u>	<u>Debt Per Capita<sup>(1)</sup></u>	<u>Debt to Full Value<sup>(2)</sup></u>
Net Direct Debt	\$ 2,780,000	\$1,628.59	0.35%
Net Direct and Overlapping Debt	15,821,705	9,268.72	2.02

(1) The population of the Village is 1,707 according to the 2020 US Census.

(2) The full valuation of real property located in the Village for the 2022 fiscal year is \$784,294,736.

***Debt Service Schedule***

The following table sets forth all principal and interest payments required on the Village's outstanding bonded indebtedness, exclusive of the Bonds, for future fiscal years ending May 31.

<u><b>Debt Service</b></u>			
Fiscal Year Ending <u>May 31</u>	<u>Principal</u>	<u>Interest</u>	<u>Total Debt Service</u>
2023 <sup>(1)</sup>	\$ 380,000	\$ 65,391	\$ 445,391
2024	390,000	55,538	445,538
2025	400,000	45,150	445,150
2026	270,000	37,100	307,100
2027	270,000	31,700	301,700
2028	280,000	26,200	306,200
2029	285,000	20,550	305,550
2030	290,000	14,800	304,800
2031	295,000	8,950	303,950
2032	<u>300,000</u>	<u>3,000</u>	<u>303,000</u>
Totals	<u>3,160,000</u>	<u>\$308,379</u>	<u>\$3,468,379</u>

(1) For the entire fiscal year.

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## ECONOMIC AND DEMOGRAPHIC DATA

### *Population*

The following represents the population trends for the Village, Town, County and State, based on recent census data.

#### Population Trend

	<u>2000</u>	<u>2010</u>	<u>2020</u>	<u>Percentage Change</u> <u>2000/2010</u>	<u>Percentage Change</u> <u>2010/2020</u>
Village	1,986	1,891	1,707	-4.8%	-9.73%
Town	755,924	759,757	793,409	0.51	4.43
County	1,334,544	1,339,532	1,395,774	0.37	4.20
State	18,976,000	19,378,102	20,201,249	2.12	4.25

Source: New York State Department of Economic Development, State Data Center.

### *Income*

The following table presents median income for the Village, Town, County and State.

#### Median Family Income

	<u>2000</u>	<u>2010</u>	<u>2020</u>
Village	\$85,122	\$102,024	\$158,654
Town	77,533	93,140	123,533
County	79,926	97,049	129,807
State	52,280	57,683	80,419

Source: New York State Department of Labor.

### *Employment and Unemployment*

The following tables provide information concerning employment and unemployment in the Village, Town, County and State. Data provided for the Town, County and State are not necessarily representative of the Village.

#### Major Employers in the Village

<u>Name</u>	<u>Industry or Business</u>
Village of Atlantic Beach	Municipal Government
New Nautilus Hotel	Hotel
Plaza Atlantic Properties Inc.	Beach Club
Westbury Atlantic Properties Inc.	Beach Club
Clearwater Holding Inc.	Beach Club
Sea Isle Realty (Catalina )	Beach Club
Inwood Beach Club	Beach Club
Ocean Club	Beach Club
Sunny Atlantic Beach Club	Beach Club

Source: Village Officials and employers.

**Civilian Labor Force**  
**(In Thousands)**

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Town	401.8	403.1	402.9	398.9	403.5
County	705.3	707.9	708.1	698.9	708.3
State	9,561.4	9,574.7	9,514.4	9,289.2	9,2441.5

Source: New York State Department of Economic Development; Bureau of Economic and Demographic Information.

**Yearly Average Unemployment Rates**

<u>Year</u>	<u>Town</u>	<u>County</u>	<u>State</u>
2017	4.2%	4.1%	4.6%
2018	3.6	3.5	4.1
2019	3.4	3.3	3.8
2020	8.4	8.0	9.9
2021	4.7	4.5	6.9

**Monthly Unemployment Rates**

<u>Month</u>	<u>Town</u>	<u>County</u>	<u>State</u>
November 2021	3.3%	3.0%	4.9%
December	2.8	2.6	4.5
January 2022	3.6	3.3	5.3
February	3.7	3.5	5.1
March	3.4	3.2	4.7
April	2.8	2.6	4.2
May	2.8	2.7	4.1
June	3.0	2.9	4.3
July	3.4	3.2	4.8
August	3.5	3.3	4.9
September	2.8	2.7	3.9
October	2.2	2.1	3.6

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

***Utilities***

The residents of the Village receive electricity and natural gas services from the PSEG Long Island and water services from the New York American Water Corporation. Sewer facilities in the area were installed by a special sewer district of the Town of Hempstead.

***Transportation***

The Village is served by a network consisting of all major forms of transportation. Several primary roads, including the Southern State Parkway, the Long Island Expressway, the Meadowbrook Parkway, Loop Parkway, provide easy access to the Village. The main street in the Village is Park Avenue. The Long Island Railroad serves the community with stations in nearby Lawrence to the north and Long Beach to the east. Commuting time to New York City (Manhattan) from these stations is less than one hour. The Metropolitan Suburban Bus Authority operates local bus service to both Long Beach and Far Rockaway. The Nassau County Bridge Authority operates the Atlantic Beach Bridge, a toll bridge, which passes over Reynolds Channel and connects the Village area to the Lawrence area on the mainland. Air transportation is provided by the three New York Metropolitan airports (Kennedy, LaGuardia and Newark).

### ***Education and Culture***

Colleges and universities in the area include Adelphi University, Hofstra University, Molloy College, New York Institute of Technology, Long Island University-C.W. Post, and Nassau Community College.

Primary education is provided by the Lawrence Union Free School District. The residents of the Village are served by the Peninsula Public Library.

**END OF APPENDIX A**

**APPENDIX B**

**SUMMARY OF BUDGETS AND FINANCIAL STATEMENTS**

**Village of Atlantic Beach**  
**Statement of Budgeted Revenues and Expenditures**  
**General Fund**  
**Fiscal Years Ended May 31:**

	<u>2022</u>	<u>2023</u>
<u>Revenues:</u>		
Real Property Tax	\$ 2,690,323	\$ 2,815,403
Real Property Tax Items	15,000	15,000
Non Property Tax Items	71,000	77,000
Departmental Income	187,000	185,000
Use of Money and Property	-	-
Licenses and Permits	249,500	224,800
Fines and Forfeitures	150,000	140,000
Miscellaneous	224,054	269,450
State Aid	134,000	209,000
Federal Aid	100,000	100,000
Appropriated Fund Balance	-	-
	<hr/>	<hr/>
Total Revenues	<u>\$ 3,820,877</u>	<u>\$ 4,035,653</u>
 <u>Expenditures:</u>		
General Government Support	\$ 881,325	\$ 956,942
Public Safety	107,150	140,600
Health	300	300
Transportation	1,048,034	1,062,070
Culture and Recreation	488,700	615,700
Home & Community Services	373,150	411,150
Employee Benefits	482,500	503,500
Debt Service	439,718	445,391
	<hr/>	<hr/>
Total Expenditures	<u>\$ 3,820,877</u>	<u>\$ 4,135,653</u>

Source: Adopted Budgets of the Village. Summary itself has not been audited.

**Village of Atlantic Beach**  
**Comparative Balance Sheets - General Fund**  
**General Fund**  
**Fiscal Year Ended May 31**

	<u>2020</u>	<u>2021</u>	<u>2022</u> <sup>(1)</sup>
<u>Assets:</u>			
Cash	\$ 424,334	\$ 671,899	\$ 742,785
Accounts receivable	112,315	51,261	67,563
Grants receivable	-	-	-
Property tax receivable	-	-	-
	<hr/>	<hr/>	<hr/>
Total Assets and Other Debits	<u>\$ 536,649</u>	<u>\$ 723,160</u>	<u>\$ 810,348</u>
 <u>Liabilities</u>			
Accounts payable and accrued expenses	\$ 114,300	\$ 99,079	\$ 154,436
Compensated absences payable	-	-	-
Security Deposit	2,500	18,000	32,218
Due to fiduciary funds	115,542	108,448	117,172
Due to other funds	-	-	-
Deferred revenue	-	-	-
	<hr/>	<hr/>	<hr/>
Total Liabilities and Deferred Revenues:	\$ 232,342	\$ 225,527	\$ 303,826
 <u>Fund Balances</u>			
Restricted	\$ -	\$ -	\$ -
Assigned	-	100,000	100,000
Unassigned	304,307	397,633	406,522
	<hr/>	<hr/>	<hr/>
Total Fund Equity	<u>\$ 304,307</u>	<u>\$ 497,633</u>	<u>\$ 506,522</u>
	<hr/>	<hr/>	<hr/>
Total Liabilities and Fund Balance	<u>\$ 536,649</u>	<u>\$ 723,160</u>	<u>\$ 810,348</u>

(1) Unaudited results, subject to change.

Source: Audited and Unaudited Financial Statements for the Village.  
Summary itself has not been audited.

**Village of Atlantic Beach**  
**Statement of Revenues, Expenditures and Changes in Fund Balance**  
**General Fund**  
**Fiscal Year Ended May 31:**

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022<sup>(1)</sup></u>
<b>Revenues:</b>						
Real Property Taxes	\$ 2,030,174	\$ 2,070,180	\$ 2,193,385	\$ 2,243,260	\$ 2,376,311	\$ 2,606,177
Mortgage and Other Taxes	57,666	59,129	60,764	65,433	105,325	104,908
Utility Fees	123,068	140,420	162,399	147,939	158,485	161,200
Transportation and Parking	168,452	242,663	180,591	129,681	257,460	196,029
Community Development	117,401	129,055	122,647	119,549	147,352	149,672
Interest	872	1,254	1,509	1,077	109	140
Licenses and Permits	255,080	261,159	277,493	240,771	231,728	306,664
Fines and Forfeitures	153,343	152,004	184,152	123,363	129,095	127,557
Miscellaneous	57,724	144,159	39,063	25,296	17,419	7,676
Federal Aid	30,000	32,656	-	-	134,759	97,538
State Aid	9,779	132,476	9,773	9,779	209,779	9,779
<b>Total Revenues</b>	<b>\$ 3,003,559</b>	<b>\$ 3,365,155</b>	<b>\$ 3,231,776</b>	<b>\$ 3,106,148</b>	<b>\$ 3,767,822</b>	<b>\$ 3,767,340</b>
<b>Expenditures</b>						
General Government Support:	\$ 834,325	\$ 754,079	\$ 718,239	\$ 756,398	\$ 710,611	\$ 944,355
Public Safety	144,606	115,311	116,303	121,234	102,588	113,220
Health	(1,370)	400	210	-	-	64
Transportation	292,951	596,356	650,861	262,016	958,508	879,274
Culture and Recreation	609,083	628,770	631,592	613,271	475,963	535,097
Home and Community Services	462,507	485,296	593,305	600,439	373,734	383,598
Employee Benefits	473,422	432,140	447,445	440,329	489,119	488,893
Debt Service						
Principal	255,973	282,422	417,348	415,022	380,178	369,225
Interest	45,574	147,584	105,091	94,586	83,794	74,725
<b>Total Expenditures</b>	<b>\$ 3,117,071</b>	<b>\$ 3,442,358</b>	<b>\$ 3,680,394</b>	<b>\$ 3,303,295</b>	<b>\$ 3,574,495</b>	<b>\$ 3,788,451</b>
Excess (Def) of Revenues & Other Sources Over Expenditures	(113,512)	(77,203)	(448,618)	(197,147)	193,327	(21,111)
Operating transfers in	-	-	-	-	-	30,000
Net increase (decrease) in fund balance	(113,512)	(77,203)	(448,618)	(197,147)	193,327	8,889
Fund Balance-Beginning of Year	\$ 1,140,787	\$ 1,027,275	\$ 950,072	\$ 501,454	\$ 304,307	\$ 497,634
Fund Balance-End of Year	<b>\$ 1,027,275</b>	<b>\$ 950,072</b>	<b>\$ 501,454</b>	<b>\$ 304,307</b>	<b>\$ 497,634</b>	<b>\$ 506,523</b>

(1) Unaudited results, subject to change.

Source: Audited and Unaudited Financial Statements for the Village. Summary itself has not been audited.

**APPENDIX C**

**LINK TO  
AUDITED FINANCIAL STATEMENTS  
FOR THE YEAR ENDING MAY 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/P21603898.pdf>**

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

**\* Such Financial Statements and opinion are intended to be representative only as of the date thereof. Satty, Levine & Ciacco, CPAs, P.C., Certified Public Accountants has not been requested by the Village 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  
FOR THE BONDS**

## FORM OF BOND COUNSEL'S OPINION

Village of Atlantic Beach,  
County of Nassau,  
State of New York

January 19, 2023

Re: Village of Atlantic Beach, Nassau County, New York  
\$1,000,000 Public Improvement (Serial) Bonds, 2023

Ladies and Gentlemen:

We have been requested to render our opinion as to the validity of an issue of \$1,000,000 Public Improvement (Serial) Bonds, 2023 (the "Obligations"), of the Village of Atlantic Beach, Nassau County, New York (the "Obligor"), dated January 19, 2023, initially issued in registered form in denominations such that one bond shall be issued for each maturity of bonds in such amounts as hereinafter set forth, bearing interest at the rate of \_\_\_\_\_ hundredths per centum (\_\_\_\_\_% ) per annum as to bonds maturing in each of the years 20\_\_\_\_ to 20\_\_\_\_, both inclusive, payable on January 15, 2024, July 15, 2024 and semi-annually thereafter on January 15 and July 15, and maturing in the amount of \$\_\_\_\_\_ on January 15, 2024, \$\_\_\_\_\_ on January 15, 2025, \$\_\_\_\_\_ on January 15, 2026, \$\_\_\_\_\_ on January 15, 2027 and \$\_\_\_\_\_ on January 15, 2028.

Obligations are not subject to redemption prior to maturity.

We have examined:

- (1) the Constitution and statutes of the State of New York;
- (2) the Internal Revenue Code of 1986, including particularly Sections 103 and 141 through 150 thereof, and the applicable regulations of the United States Treasury Department promulgated thereunder (collectively, the "Code");
- (3) an arbitrage certificate executed on behalf of the Obligor which includes, among other things, covenants, relating to compliance with the Code, with the owners of the Obligations that the Obligor will, among other things, (i) take all actions on its part necessary to cause interest on the Obligations not to be includable in the gross income of the owners thereof for Federal income tax purposes, including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Obligations and investment earnings thereon, making required payments to the Federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Obligations to be includable in the gross income of the owners thereof for Federal income tax purposes, including, without limitation, refraining from spending the proceeds of the Obligations and investment earnings thereon on certain specified purposes (the "Arbitrage Certificate"); and
- (4) a certificate executed on behalf of the Obligor which includes, among other things, a statement that compliance with such covenants is not prohibited by, or violative of, any provision of local or special law, regulation or resolution applicable to the Obligor.

We also have examined a certified copy of proceedings of the finance board of the Obligor and other proofs authorizing and relating to the issuance of the Obligations, including the form of the Obligations. In rendering the opinions expressed herein we have assumed (i) the accuracy and truthfulness of all public records, documents and proceedings, including factual information, expectations and statements contained therein, examined by us which have been executed or certified by public

officials acting within the scope of their official capacities, and have not verified the accuracy or truthfulness thereof, and (ii) compliance by the Obligor with the covenants contained in the Arbitrage Certificate. We also have assumed the genuineness of the signatures appearing upon such public records, documents and proceedings and the certifications thereof.

In our opinion:

- (a) The Obligations have been authorized and issued in accordance with the Constitution and statutes of the State of New York and constitute valid and legally binding general obligations of the Obligor, all the taxable real property within which is subject to the levy of ad valorem taxes to pay the Obligations and interest thereon, subject to applicable statutory limitations; provided, however, that the enforceability (but not the validity) of the Obligations: (i) may be limited by any applicable bankruptcy, insolvency or other law now existing or hereafter enacted by said State or the Federal government affecting the enforcement of creditors' rights, and (ii) may be subject to the exercise of judicial discretion in appropriate cases.
- (b) The Obligor has the power to comply with its covenants with respect to compliance with the Code as such covenants relate to the Obligations; provided, however, that the enforceability (but not the validity) of such covenants may be limited by any applicable bankruptcy, insolvency or other law now existing or hereafter enacted by said State or the Federal government affecting the enforcement of creditors' rights.
- (c) Interest on the Obligations is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 and is exempt from personal income taxes imposed by the State of New York and any political subdivision thereof (including The City of New York). Interest on the Obligations is not a specific preference item for purposes of the individual federal alternative minimum tax. We observe that, for tax years beginning after December 31, 2022, interest on the Obligations included in adjusted financial statement income of certain corporations is not excluded from the federal corporate alternative minimum tax. We express no opinion regarding other tax consequences related to the ownership or disposition of, or the amount, accrual, or receipt of interest on, the Obligations.

Certain agreements, requirements and procedures contained or referred to in the Arbitrage Certificate and other relevant documents may be changed and certain actions (including, without limitation, economic defeasance of the Obligations) may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. Accordingly, this opinion is not intended to, and may not, be relied upon in connection with any such actions, events or matters. Our engagement with respect to the Obligations has concluded with their issuance, and we disclaim any obligation to update this opinion. We have assumed, without undertaking to verify, the accuracy of the factual matters represented, warranted or certified in the documents. Furthermore, we have assumed compliance with all covenants and agreements contained in the Arbitrage Certificate, including without limitation covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest on the Obligations to be included in gross income for federal income tax purposes. We call attention to the fact that the rights and obligations under the Obligations and the Arbitrage Certificate and their enforceability may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium or other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion

in appropriate cases and to the limitations on legal remedies against municipal corporations such as the Obligor in the State of New York. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum, choice of venue, or waiver provisions contained in the foregoing documents.

The scope of our engagement in relation to the issuance of the Obligations has extended solely to the examination of the facts and law incident to rendering the opinions expressed herein. Such opinions are not intended and should not be construed to express or imply any conclusion that the amount of real property subject to taxation within the boundaries of the Obligor, together with other legally available sources of revenue, if any, will be sufficient to enable the Obligor to pay the principal of or interest on the Obligations as the same respectively become due and payable. Reference should be made to the Official Statement prepared by the Obligor in relation to the Obligations for factual information which, in the judgment of the Obligor, could materially affect the ability of the Obligor to pay such principal and interest. While we have participated in the preparation of such Official Statement, we have not verified the accuracy, completeness or fairness of the factual information contained therein and, accordingly, we express no opinion as to whether the Obligor, in connection with the sale of the Obligations, has made any untrue statement of a material fact or omitted to state a material fact necessary in order to make any statements made, in the light of the circumstances under which they were made, not misleading.

Very truly yours,

/s/ORRICK, HERRINGTON & SUTCLIFFE LLP