

PRELIMINARY OFFICIAL STATEMENT DATED JULY 31, 2023

NEW & RENEWAL ISSUE

BOND ANTICIPATION NOTES

In the opinion of Harris Beach PLLC, Bond Counsel to the Town, under existing statutes, regulations, administrative rulings, and court decisions, and assuming continuing compliance by the Town with its covenants relating to certain requirements contained in the Internal Revenue Code of 1986, as amended (the "Code"), and the accuracy of certain representations made by the Town, interest on the Notes is excluded from gross income of the owners thereof for Federal income tax purposes and is not an "item of tax preference" for purposes of the Federal alternative minimum tax imposed on individuals. However, for the tax years beginning after December 31, 2022, interest on the Notes held by certain corporations that are subject to the Federal corporate alternative minimum tax is included in the computation of "adjusted financial statement income" for purposes of the Federal alternative minimum tax imposed on such corporations. Bond Counsel is also of the opinion that under existing statutes interest on the Notes is exempt from personal income taxes imposed by the State of New York or any political subdivision thereof (including the City of New York). No opinion is expressed regarding other Federal or State tax consequences arising with respect to the Notes. See "TAX MATTERS" herein.

The Notes will not be designated by the Town as "qualified tax-exempt obligations" pursuant to Section 265 of the Code

TOWN OF TONAWANDA ERIE COUNTY, NEW YORK

\$53,787,680

BOND ANTICIPATION NOTES FOR VARIOUS PURPOSES – 2023 (the "Notes")

Date of Issue: August 24, 2023

Maturity Date: August 23, 2024

The Notes are general obligations of the Town of Tonawanda, Erie County, New York (the "Town"), and will contain a pledge of the faith and credit of the Town for the payment of the principal thereof and interest thereon and, unless paid from other sources, the Notes are payable from ad valorem taxes which may be levied upon all the taxable real property within the Town, subject to certain applicable statutory limitations imposed by Chapter 97 of the New York Laws of 2011, as amended (the "Tax Levy Limitation Law"). See "REAL PROPERTY TAXES - "Tax Levy Limitation Law," in Appendix A hereto.

The Notes will not be subject to optional redemption prior to maturity.

At the option of the purchaser(s), the Notes will be issued in registered form (i) registered in the name of the successful bidder(s) or (ii) registered book-entry form registered to Cede & Co., as the partnership nominee of The Depository Trust Company ("DTC")

If the Notes are issued in registered form registered in the name of the successful bidder(s), a single note certificate will be issued for those Notes bearing the same rate of interest in the aggregate principal amount awarded to such purchaser at such interest rate. Principal of and interest on such Notes will be payable in Federal Funds by the Town at such bank(s) or trust company(ies) located and authorized to do business in the State of New York as selected by the successful bidder(s).

If the Notes are issued in registered book-entry form, such notes ("DTC Notes") will be delivered to DTC, which will act as Securities Depository for the DTC Notes. Beneficial owners will not receive certificates representing their interest in the DTC Notes. Individual purchases may be made in book-entry form only, in denominations of \$5,000 or integral multiples thereof, except for one necessary odd denomination. A single note certificate will be issued for those DTC Notes bearing the same rate of interest and CUSIP number in the aggregate principal amount awarded to such purchaser(s) at such interest rate. Principal of and interest on said DTC Notes will be paid in Federal Funds by the Paying Agent to Cede & Co., as nominee for DTC, which will in turn remit such principal and interest to its participants for subsequent distribution to the beneficial owners of the DTC Notes as described herein. See "Book-Entry-Only System" herein.)

Interest will be calculated on a 30-day month and 360-day year basis, payable at maturity.

The Notes are offered when, as and if issued by the Town subject to the receipt of the final approving opinions of Harris Beach PLLC, Buffalo, New York, Bond Counsel to the Town, and certain other conditions. Capital Markets Advisors, LLC has served as Municipal Advisor to the Town in connection with the issuance of the Notes. It is expected that delivery of the Notes will be made on or about August 24, 2023.

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

Dated: July __, 2023

This Preliminary Official Statement and the information contained in it are subject to completion and amendment in a final Official Statement. This Preliminary Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, and there may not be any sale of the Notes offered by this Preliminary Official Statement, in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to the registration or qualification under the securities laws of that jurisdiction.

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

**Joseph H. Emminger
Supervisor**

TOWN BOARD

Jill O'Malley Council Member
Shannon Patch Council Member
Gina Santa Maria Council Member
Carl Szarek Council Member

Marguerite Greco Town Clerk
Deborah M. Schwarz Town Comptroller
Michael Kooshoian. Town Attorney

AUDITORS

**Drescher & Malecki LLP
Cheektowaga, New York**

BOND COUNSEL



Buffalo, New York

MUNICIPAL ADVISOR



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

No dealer, broker, salesman or other person has been authorized by the Town to give any information or to make any representations other than those contained in this Official Statement and, if given or made, such information or representations must not be relied upon as having been authorized by the foregoing. 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 Notes 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 Town from sources which are believed to be reliable, but it is not to be 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 Town, since the date hereof.

TABLE OF CONTENTS

THE NOTES3	TAX MATTERS7
Description3	LEGAL MATTERS8
Authorization of the Notes.....4	DISCLOSURE UNDERTAKING8
Purpose of the Notes.....4	Prior Disclosure History9
Nature of the Obligations.....4	RATINGS.....9
Book-Entry-Only System5	MISCELLANEOUS10
MARKET FACTORS AFFECTING	MUNICIPAL ADVISOR10
FINANCINGS OF THE STATE AND	ADDITIONAL INFORMATION.....10
MUNICIPALITIES OF THE STATE6	
CYBERSECURITY.....6	

APPENDIX A

THE TOWNA-1	Ten Largest Assessed Values for the 2023
General InformationA-1	Tax Roll..... A-10
The Government.....A-2	Tax Levy Limitation Law..... A-10
Town ServicesA-2	TOWN INDEBTEDNESS..... A-12
EmployeesA-3	Constitutional Requirements A-12
Status and Financing of Employee	Statutory Procedure A-12
Pension Benefits.....A-3	Constitutional Debt Limit..... A-13
Other Post-Employment Benefits.....A-4	Statement of Debt Contracting Power..... A-14
FINANCIAL FACTORS.....A-5	Remedies Upon Default A-14
Independent AuditA-5	Trend of Outstanding Indebtedness..... A-15
Fund Structure and AccountsA-5	Direct and Overlapping Indebtedness A-15
RevenuesA-5	Short Term Indebtedness.....A-15
Budget ProcessA-6	Other IndebtednessA-16
Investment Policy.....A-7	Long-Term Capital Financing Plans A-16
The State Comptroller’s Fiscal Stress	Authorized but Unissued Indebtedness A-16
Monitoring System.....A-7	Debt Ratios..... A-16
New York State Comptroller’s Audit.....A-8	Debt Service Schedule..... A-17
Building Permits.....A-8	ECONOMIC AND DEMOGRAPHIC DATA A-17
REAL PROPERTY TAXESA-8	Population A-17
Real Property Tax Collection ProceduresA-8	Employment and Unemployment..... A-18
	LITIGATION A-18

APPENDIX B – SUMMARY OF FINANCIAL STATEMENTS AND BUDGETS

APPENDIX C –ANNUAL UPDATE DOCUMENT FOR FISCAL YEAR ENDED DECEMBER 31, 2022

OFFICIAL STATEMENT

TOWN OF TONAWANDA ERIE COUNTY, NEW YORK

Relating to

\$53,787,680

BOND ANTICIPATION NOTES FOR VARIOUS PURPOSES – 2023

This Official Statement (the “Official Statement”), which includes the cover page and appendices hereto, presents certain information relating to the Town of Tonawanda, Erie County, in the State of New York (the “Town,” “County” and “State” respectively), in connection with the sale of \$53,787,680 Bond Anticipation Notes for Various Purposes – 2023 (the “Notes”).

The factors affecting the Town’s financial condition are described throughout this Official Statement and many of these factors, including economic and demographic factors, are complex and may influence the Town’s tax base, revenues, and expenditures. This Official Statement should be read in its entirety.

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

Statements in this Official Statement, and the documents included by specific reference, that are not historical facts are forward-looking statements, which are based on the Town management’s beliefs as well as assumptions made by, and information currently available to, the Town’s management and staff. **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 Town’s overall economic situation and outlook (and all of the specific Town-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. (See “COVID-19” herein.)**

THE NOTES

Description

The Notes will be dated their date of delivery and bear interest from that date until August 23, 2024, the maturity date, at the annual rate or rates as specified by the purchaser(s) of the Notes. The Notes will not be subject to redemption prior to maturity. Interest will be calculated on a 30-day month and a 360-day year basis, payable at maturity.

At the option of the purchaser(s), the Notes will be issued in registered form (i) registered in the name of the successful bidder(s) or (ii) book-entry form registered to Cede & Co., as the partnership nominee for DTC.

If the Notes are issued in registered form registered in the name of the successful bidder(s), a single note certificate will be issued for those Notes bearing the same rate of interest in the aggregate principal amount awarded to such purchaser at such interest rate. Principal of and interest on such Notes will be payable in Federal Funds by the Town at such bank(s) or trust company(ies) located and authorized to do business in the State as selected by the successful bidders.

If the Notes are issued in registered book-entry form, such notes (“DTC Notes”) will be delivered to DTC, which will act as securities depository for the DTC Notes. Beneficial owners will not receive certificates representing their interest in the DTC Notes. Individual purchases may be made in denominations of \$5,000 or integral multiples thereof, except for one necessary odd denomination. A single note certificate will be issued for those DTC Notes

bearing the same rate of interest and CUSIP number in the aggregate principal amount awarded to such purchaser(s) at such interest rate. Principal of and interest on said DTC Notes will be paid in Federal Funds by the Town to Cede & Co., as nominee for DTC, which will in turn remit such principal and interest to its participants for subsequent distribution to the beneficial owners of the DTC Notes as described herein. Transfer of principal and interest payments to beneficial owners by participants of DTC will be the responsibility of such participants and other nominees of beneficial owners. The Town will not be responsible or liable for payments by DTC to its participants or by DTC participants to beneficial owners or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants. See "Book-Entry-Only System" herein.

The Town will act as Paying Agent for the Notes. The Town's contact information is as follows: Hon. Joseph H. Emminger, Supervisor and Paying Agent, 2919 Delaware Avenue, Kenmore, New York 14217, Phone: (716) 877-8804, Email: jemminger@tonawanda.ny.us

Authorization of the Notes

The Notes are issued pursuant to the Constitution and Laws of the State, including the Local Finance Law and various bond resolutions duly adopted by the Town Board.

Purpose of the Notes

The proceeds received from the sale of the Notes, together with \$2,882,905 current funds, will be applied to (i) redeem the Town's outstanding bond anticipation notes maturing on August 25, 2023 in the principal amount of \$41,742,905, and (ii) provide \$14,927,680 new money financing to finance various capital improvements of the Town pursuant to the bond resolutions adopted by the Town Board as detailed below:

<u>Purpose:</u>	<u>Resolution Date</u>	<u>Amount Authorized</u>	<u>Outstanding Notes</u>	<u>Paydown</u>	<u>New Money</u>	<u>The Notes</u>
I&I Demonstration Project Construction	01/07/2013	\$4,000,000	1,575,000	\$225,000	-0-	1,350,000
Highway Road Paving	03/25/2019	4,000,000	3,450,000	285,000	-0-	3,165,000
Bio Clarifier and Bar Screen Rehabilitation	11/20/2019; 02/25/2019;	5,159,800	4,305,382	255,382	-0-	4,050,000
Golf Dome Renovation	08/19/2019	3,000,000	2,545,000	190,000	-0-	2,355,000
Street Lighting Project	09/14/2020 04/22/2019;	19,535,000	17,447,653	902,653	-0-	16,545,000
Police Renovations	07/13/2020	3,200,000	2,520,000	160,000	-0-	2,360,000
Town wide Sidewalk Replacement	5/3/2021	3,000,000	2,820,000	310,000	-0-	2,510,000
Town wide Roof Replacement	5/3/2021	7,031,442	6,679,870	474,870	-0-	6,205,000
Police Radio Conversion	11/22/2021	600,000	400,000	80,000	-0-	320,000
Town wide Milling and Paving	06/06/2022	\$5,500,000	-0-	-0-	5,427,680	5,427,680
Recreation Enhancement Project	08/08/2022	9,500,000	-0-	-0-	5,000,000	5,000,000
Roof Water District	03/13/2023	3,300,000	-0-	-0-	2,000,000	2,000,000
Brighton Spray Park	08/08/2022	<u>4,000,000</u>	<u>-0-</u>	<u>-0-</u>	<u>2,500,000</u>	<u>2,500,000</u>
		<u>\$71,826,242</u>	<u>\$41,742,905</u>	<u>\$2,882,905</u>	<u>\$14,927,680</u>	<u>\$53,787,680</u>

Nature of the Obligations

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

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

Under the Constitution of the State, the Town is required to pledge its faith and credit for the payment of the principal of and interest on the Notes, and the State is specifically precluded from restricting the power of the Town to levy taxes on real estate therefor. The State Constitution requires the Town to provide by appropriation for the payment of interest on all obligations which will become due during the fiscal year. In addition, the State Constitution requires the Town to provide in each year by appropriation for the payment of all installments of principal of the Notes which will become due and payable in such year.

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

Book-Entry-Only System

The following applies to those Notes issued in book entry form. The Depository Trust Company (“DTC”) will act as securities depository for the Notes. The Notes will be issued as fully-registered notes 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 note certificate will be issued for each book-entry Note bearing the same rate of interest and CUSIP number, and will be deposited with DTC.

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

Purchases of the Notes under the DTC system must be made by or through Direct Participants, which will receive a credit for the Notes 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 Notes 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 Notes, except in the event that use of the book-entry system for the Notes is discontinued.

To facilitate subsequent transfers, all the Notes 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 Notes 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 Notes; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Notes are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

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

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

Principal and interest payments on the Notes 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 Town, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC or the Town, subject to any statutory or regulatory requirements as may be in effect from time to time.

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

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

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

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

Source: The Depository Trust Company

MARKET FACTORS AFFECTING FINANCINGS OF THE STATE AND MUNICIPALITIES OF THE STATE

The financial condition of the Town as well as the market for the Notes could be affected by a variety of factors, some of which are beyond the Town's control. There can be no assurance that adverse events in the State, including, for example, the seeking by a municipality of remedies pursuant to the Federal Bankruptcy Act or otherwise, will not occur which might affect the market price of and the market for the Notes. If a significant default or other financial crisis should occur in the affairs of the State or at 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 Town to arrange for additional borrowings and the market for and market value of outstanding debt obligations, including the Notes, could be adversely affected.

The Town does not receive a significant amount of financial assistance from the State in the form of State aid. Should the Town fail to receive State aid expected from the State in the amounts and at the times expected, occasioned by a delay in the payment of such monies and not by a cut in State aid, the Town is authorized by the Local Finance Law to provide operating funds by borrowing in anticipation of the receipt of uncollected State aid.

CYBERSECURITY

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

TAX MATTERS

In the opinion of Bond Counsel, based on existing statutes, regulations, administrative rulings and court decisions and assuming compliance by the Town with certain covenants and the accuracy of certain representations, interest on the Notes is excluded from gross income for federal income tax purposes. Bond counsel is of the further opinion that interest on the Notes is not an "item of tax preference" for purposes of the Federal alternative minimum tax on individuals; however, for tax years beginning after December 31, 2022, the Internal Revenue Code of 1986, as amended (the "Code"), imposes a federal corporate alternative minimum tax equal to 15 percent of the "adjusted financial statement income" of corporations (other than S corporations, regulated investment companies and real estate investment trusts) having an average annual "adjusted financial statement income" for the 3-taxable-year period ending with the tax year that exceeds \$1,000,000,000. Interest on tax-exempt obligations such as the Notes is included in the computation of a corporation's "adjusted financial statement income".

The Code imposes various limitations, conditions and other requirements which must be met at and subsequent to the date of issue of the Notes in order that interest on the Notes will be and remain excluded from gross income for federal income tax purposes. Included among these requirements are restrictions on the investment and use of proceeds of the Notes and in certain circumstances, payment of amounts in respect of such proceeds to the United States. Failure to comply with the requirement of the Code may cause interest on the Notes to be includable in gross income for purposes of federal income tax, possibly from the date of issuance of the Notes. In the Arbitrage and Use Proceeds Certificate of the Town executed in connection with the issuance of the Notes, the Town has covenanted to comply with certain procedures, and it has made certain representations and certifications, designed to assure satisfaction of the requirements of the Code in respect to the Notes. The opinion of Bond Counsel assumes compliance with such covenants and the accuracy, in all material respects, of such representations and certificates.

Prospective purchasers of the Notes should be aware that ownership of the Notes, and the accrual or receipt of interest thereon, may have collateral federal income tax consequences for certain taxpayers, including financial institutions, property and casualty insurance companies, S corporations, certain foreign corporations, individual recipients of Social Security or Railroad benefits and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry such obligations. Prospective purchasers should consult their tax advisors as to any possible collateral consequences of their ownership of the Notes and their accrual or receipt of interest thereon. Bond Counsel expresses no opinion regarding any such collateral federal income tax consequences.

The Notes **will not** be designated as "qualified tax-exempt obligations" within the meaning of, and pursuant to Section 265(b)(3) of the Code.

In the opinion of Bond Counsel, under existing statutes, interest on the Notes is exempt from personal income taxes imposed by the State or any political subdivision thereof, including The City of New York.

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 and delivery of the Notes may affect the tax status of interest on the Notes.

No assurance can be given that any future legislation or governmental actions, including amendments to the Code or State income tax laws, regulations, administrative rulings, or court decisions, will not, directly or indirectly, cause interest on the Notes to be subject to federal, State or local income taxation, or otherwise prevent Bondholders and Noteholders from realizing the full current benefit of the tax status of such interest. Further, no assurance can be

given that the introduction or enactment of any such future legislation, or any judicial decision or action of the Internal Revenue Service or any State taxing authority, including, but not limited to, the promulgation of a regulation or ruling, or the selection of the Notes for audit examination or the course or result of an audit examination of the Notes or of obligations which present similar tax issues, will not affect the market price, value or marketability of the Notes. Prospective purchasers of the Notes should consult their own tax advisors regarding the foregoing matters.

All summaries and explanations of the law herein do not purport to be complete and reference is made to such laws for full and complete statements of their provisions.

ALL PROSPECTIVE PURCHASERS OF THE NOTES SHOULD CONSULT WITH THEIR TAX ADVISORS IN ORDER TO UNDERSTAND THE IMPLICATIONS OF THE CODE AS TO THE TAX CONSEQUENCES OF PURCHASING OR HOLDING THE NOTES.

LEGAL MATTERS

Legal matters incident to the authorization, issuance and sale of the Notes will be subject to the final approving opinion of Harris Beach PLLC, Buffalo, New York. Such legal opinion will state that in the opinion of Bond Counsel (i) the Notes 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 Town, all the taxable real property within which is subject to the levy of ad valorem taxes to pay the Notes and interest thereon, subject to the applicable statutory limits imposed by Chapter 97 of the New York Laws of 2011, as amended (See "REAL PROPERTY TAXES - Tax Levy Limitation Law" in Appendix A herein); provided, however, that the enforceability (but not the validity) of such Notes may be limited by any applicable existing or future bankruptcy, insolvency or other law (State or Federal) affecting the enforcement of creditors' rights.

Such legal opinion will also state that (i) in rendering the opinions expressed therein, Bond Counsel has assumed the accuracy and truthfulness of all public records, documents and proceedings examined by Bond Counsel which have been executed or certified by public officials acting within the scope of their official capacities, and has not verified the accuracy or truthfulness thereof, and Bond Counsel also has assumed the accuracy of the signatures appearing upon such public records, documents and proceedings and such certifications; (ii) the scope of Bond Counsel's engagement in relation to the issuance of the Notes, as applicable, has extended solely to the examination of the facts and law incident to rendering the opinions expressed therein; (iii) the opinions expressed therein 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 Town together with other legally available sources of revenue, if any, will be sufficient to enable the Town to pay the principal of and interest on the Notes as the same become due and payable; (iv) reference should be made to the Official Statement for factual information which, in the judgment of the Town, would materially affect the ability of the Town to pay such principal and interest; and (v) while Bond Counsel has participated in the preparation of the Official Statement, Bond Counsel has not verified the accuracy, completeness or fairness of the factual information contained therein and, accordingly, no opinion is expressed by Bond Counsel as to whether the Town, in connection with the sale of such Notes, 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.

DISCLOSURE UNDERTAKING

This Preliminary Official Statement is in a form "deemed final" by the Town for the purposes of Securities and Exchange Commission Rule 15c2-12 (the "Rule"). At the time of the delivery of the Notes, the Town will provide an executed copy of its "Undertaking to Provide Notices of Events" (the "Undertaking"). Said Undertaking will constitute a written agreement or contract of the Town for the benefit of holders of and owners of beneficial interests in the Notes, to provide, or cause to be provided, to the Electronic Municipal Market Access ("EMMA") System implemented by the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934, or any successor thereto, timely notice, not in excess of ten (10) business days after the occurrence of the event, of the occurrence of any of the following events with respect to the Notes:

(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 Notes, or other material events affecting the tax status of the Notes; (vii) modifications to rights of Noteholders, if material; (viii) Note calls, if material, and tender offers; (ix) defeasances; (x) release, substitution, or sale of property securing repayment of the Notes, if material; (xi) rating changes; (xii) bankruptcy, insolvency, receivership or similar event of the Town; [note to clause (xii): For the purposes of the event identified in clause (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 Town 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 Town, 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 Town]; (xiii) the consummation of a merger, consolidation, or acquisition involving the Town or the sale of all or substantially all of the assets of the Town, 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 of the Town, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Town, any of which affect security 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 Town, any of which reflect financial difficulties.

The Town 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 Notes; but the Town does not undertake to commit to provide any such notice of the occurrence of any event except those events listed above.

The Town's Undertaking shall remain in full force and effect until such time as the principal of, redemption premiums, if any, and interest on the Notes shall have been paid in full. The sole and exclusive remedy for breach or default under the Undertaking is an action to compel specific performance of the undertakings of the Town, and no person or entity, including a holder of the Notes, shall be entitled to recover monetary damages thereunder under any circumstances. Any failure by the Town to comply with the Undertaking will not constitute a default with respect to the Notes.

The Town reserves the right to amend or modify the Undertaking under certain circumstances set forth therein; provided that, any such amendment or modification will be done in a manner consistent with Rule 15c2-12 as then in effect.

Prior Disclosure History

The Town filed late certain audited financial statements for the fiscal years ending December 31, 2017 on February 12, 2019. An event notice was also filed on February 12, 2019.

Other than the as set forth above, the Town is in compliance in all material respects with all previous undertakings made pursuant to Rule 15c2-12 for the past five years.

RATINGS

Moody's Investors Service, Inc. ("Moody's") has assigned a rating of "Aa2" to the uninsured outstanding bonded indebtedness of the Town and a "MIG 1" rating on the Notes.

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

MISCELLANEOUS

So far as any statements made in this Official Statement involve matters of opinions or estimates, whether or not so expressly stated, they are set forth as such and not as representations of fact, and no representation is made that any of the opinions or estimates will be realized. Neither this Official Statement nor any statement which may have been made orally or in writing is to be construed as a contract with the holders of the Notes.

Statements in this official statement, and the documents included by specific reference, that are not historical facts are forward-looking statements, which are based on the Town management's beliefs as well as assumptions made by, and information currently available to, the Town's 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 Town files with the repositories. When used in Town documents or oral presentation, the words "anticipate", "estimate", "expect", "objective", "projection", "forecast", "goal", or similar words are intended to identify forward-looking statements.

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.

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

MUNICIPAL ADVISOR

Capital Markets Advisors, LLC has acted as Municipal Advisor to the Town in connection with the sale of the Notes. 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 Town 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 Notes.

ADDITIONAL INFORMATION

Additional information may be obtained from the Town's Comptroller, Deborah Schwarz, at the Municipal Building, Room 16, 2919 Delaware Ave., Kenmore, NY 14217, phone: 716-877-8810, email address: dschwarz@tonawanda.ny.us or from the Town's Municipal Advisor, Capital Markets Advisors, LLC, (716) 662-3910.

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

Capital Markets Advisors, LLC may place a copy of this Official Statement on its website at www.capmark.org. Unless this Official Statement specifically indicates otherwise, no statement on such website is included by specific

reference or constitutes a part of this Official Statement. Capital Markets Advisors, LLC has prepared such website information for convenience, but no decisions should be made in reliance upon that information. Typographical or other errors may have occurred in converting original source documents to digital format, and neither the Town nor Capital Markets Advisors, LLC assumes any liability or responsibility for errors or omissions on such website. Further, Capital Markets Advisors, LLC and the Town disclaim any duty or obligation either to update or to maintain that information or any responsibility or liability for any damages caused by viruses in the electronic files on the website. Capital Markets Advisors, LLC and the Town also assume no liability or responsibility for any errors or omissions or for any updates to dated website information.

Harris Beach PLLC expresses no opinion as to the accuracy or completeness of any documents prepared by or on behalf of the Town for use in connection with the offer or sale of the Notes, including this Official Statement. This Official Statement has been prepared only in connection with the sale of the Notes by the Town and may not be reproduced or used in whole or in part for any other purpose.

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

By: _____
Joseph H. Emminger
Town Supervisor

DATED: July __, 2023

APPENDIX A

THE TOWN

General Information

The Town, which comprises an area of approximately 20 square miles, and has a current estimated population of 73,484 according to the July 1, 2011 US Census estimate, is located in the northern portion of Erie County and is adjacent to the northern boundary of the City of Buffalo. The incorporated Village of Kenmore (the “Village”) is located wholly within the Town.

Transportation is provided to and from the Town by the Niagara Frontier Transportation Authority, the Youngmann Expressway, the NYS Thruway and its Niagara Extension, the Niagara River, the Erie Barge Canal, and several motor freight lines and railroads. Major airlines operate from the Buffalo-Niagara International Airport, a 20-minute drive from the Town.

The following banks have one or more offices within the Town: Bank of America, KeyBank and M&T Bank.

Recent Economic Developments. The Huntley Power Plant, a coal-burning electrical generation plant located in the Town which opened in 1957, is owned and operated by NRG Energy. In 2008, the Erie County Industrial Development Agency and NRG Energy Inc. came to a twenty-year payment-in-lieu-of-taxes agreement with the Town, the Kenmore-Tonawanda UFSD, and the County (the “PILOT agreement”).

On August 25, 2015, NRG Energy submitted a plan to the State Public Service Commission to permanently retire, effective March 1, 2016, Huntley Units 67 and 68. The units are both located in the Town and are interconnected to the National Grid system in the New York Independent System Operator’s Zone A.

In February 2016, NRG Energy paid, in full, its annual PILOT payment to the Town for the 2016 fiscal year. On March 1, 2016, NRG Energy officially retired the Huntley Power Plant. The Town submitted an application to NYS as part of their Electric Generation Facility Cessation Mitigation Program. The Town has been awarded funds through this program to help bridge the gap in revenue due to the closing of the Huntley Power Plant.

In 2010, General Motors’ Town of Tonawanda engine plant added 415 jobs and retained 300 others as a result of winning a new V-8 engine line. Production of the “Generation V” engine - representing a \$400 million investment by GM – began in 2012. It brought the total job count to near 1,200. This was the second major investment by GM in the plant announced in 2010.

In February 2010, the automaker chose the River Road site for a \$425 million investment tied to a next-generation Ecotec engine, began production in 2012 and retained 470 jobs. The new V-8 is made of aluminum, rather than iron, with improved fuel efficiency and is suited to meet tougher emissions standards. The \$400 million investment included facility renovation, installation of highly flexible machining and assembly equipment and special tooling.

In 2016, GM invested nearly \$296 million in the Tonawanda Powertrain facility in upstate New York for a new engine line. Production of the engine started in the spring of 2019. The investment created 67 new jobs while retaining 857.

The Empire State Development Corp., the state’s economic development arm, is providing a \$6 million grant from its Upstate Blueprint Fund. The grant will reimburse a portion of eligible outlays for machinery and equipment acquisition, and renovation expenses. The Erie County Industrial Development Agency (“IDA”) approved \$1.68 million in sales tax breaks for the project totaling nearly \$815 million luring an additional line of V-6 and V-8 engines to the sprawling River Road complex. The IDA also agreed to extend a payment-in-lieu-of-taxes agreement with GM that will allow the automaker to pay about half of the normal taxes on the building housing the new V-6 and V-8 engine line through 2032. The sales tax breaks also include incentives for a \$425 million investment in the Tonawanda plant to produce its new-generation, four-cylinder Ecotec engine. GM estimated the new line would create 470 jobs and production began in 2012.

The Government

The Town was established in 1836 by the State Legislature. Located wholly within the Town is the Village of Kenmore which has its own independent form of government. The taxable real property in the Village is subject to taxation by the Town for certain purposes. In addition, there are two independently governed school districts, Kenmore-Town of Tonawanda UFSD and Sweet Home CSD, located in whole or in part within the Town which rely upon their own taxing powers granted by the State to raise revenues for school district purposes. The school districts use the Town's assessment roll as their basis for taxation of property within the Town.

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

The Supervisor is elected for a term of four years. The Supervisor acts as the Chief Executive Officer and the Chief Financial Officer of the Town. On January 1, 2008, the number of Council members on the Town Board was reduced from six to four, with all five members of the Town Board, including the Supervisor, limited to three terms of office. The terms of office are staggered such that the Supervisor and one Council member are elected to four-year terms and two years later, three Council members are elected to four-year terms. The Town Clerk is elected to a four-year term.

The Town Board appoints the Town Engineer, Assessor, the Comptroller and the Town Attorney.

Town Services

Electricity and natural gas are supplied throughout the Town by National Grid and National Fuel Gas Distribution Corporation, respectively. Telephone services are provided by Verizon.

The Town maintains its own water supply and distribution system. The cost of operation is charged entirely against the users served.

Sanitary sewer services are provided primarily throughout the Town by a special assessment sewer district. The Town and the taxable real properties located within the district are responsible for the financing, construction and maintenance of the facilities located within it.

Police protection is provided by the Town Police Department. Fire Protection is provided by Town Fire and Fire Protection districts and local volunteer units to provide such service.

Employees

The Town provides services through 480 full-time employees, many of whom are represented by the bargaining units listed below. Town employees are represented by several labor organizations, which include:

<u>Bargaining Unit</u>	<u># of Members</u>	<u>Contract Expiration</u>
Hourly Employees' Association of the Town of Tonawanda	195	12/31/2024
Town of Tonawanda Salaried Workers Association	144	12/31/2026
Town of Tonawanda Police Club, Inc.	91	12/31/2025

Status and Financing of Employee Pension Benefits

Substantially all employees of the Town are members of the New York State and Local Employees' Retirement System (the "ERS") or the New York State and Local Police and Fire Retirement System ("PFRS"). (Both systems are referred to together hereinafter as the "Retirement Systems" where appropriate.)

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

Pension reform enacted by New York State changed the billing cycle for employer contributions to the Retirement Systems to match budget cycles of the Town. Under the previous method, the Town was not provided with the required payment until after its budget was implemented. Under the reforms implemented, the employer contribution for a given fiscal year will be based on the value of the pension fund on the prior April 1, instead of the following April 1. As a result, the Town is notified of and can include the actual cost of the employer contribution in its budget. Chapter 49 also required a minimum payment of 4.5% of payroll each year, including years in which investment performance of the fund would make a lower employer contribution possible. The pension payment date for all local governments was also changed from December 15 to February 1.

The New York State Retirement System has advised the Town that municipalities can elect to make employer contribution payments in the December or the following February, as required. If such payments are made in the December prior to the scheduled payment date in February, such payments may be made at a discount amount. The Town prepaid its employer contributions each December in 2004 through 2009, inclusive. The Town did not prepay its employer contributions in December 2010. The Town prepaid its employer contributions from December 2011 through 2022. The Town intends to prepay its contributions again this year in December 2023.

On December 10, 2009, then Governor Paterson signed into law a new Tier V. The law is effective for new ERS employees hired after January 1, 2010. New ERS employees will now contribute 3% of their salaries. There is no provision for these contributions to cease after a certain period of service.

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

State Comptroller Thomas DiNapoli announced that the estimated average contribution rate for participating employers in the ERS for the fiscal year 2022-23 will be 11.6 percent of payroll to 14.6 percent of payroll. The estimated average contribution rate for participating employers in the PFRS will be 27 percent of payroll.

The following schedule reflects the Town's contribution to each of the Systems for the last 3 audited fiscal years and the 2023 budgeted fiscal year.

<u>Fiscal Year</u> <u>Ending December 31</u>	<u>State Fiscal Year</u> <u>Ending March 31</u>	<u>ERS</u> <u>Contribution</u>	<u>PFRS</u> <u>Contribution</u>
2023 <i>Budgeted</i>	2024	\$4,061,000	\$3,270,000
2022	2023	3,349,321	3,121,933
2021	2022	3,653,763	2,904,348
2020	2021	3,416,783	2,643,212

Source: Audited Financial Statements and Town Officials

Other Post-Employment Benefits

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

During the year ended December 31, 2022, the Town implemented GASB statements No. 75.

	<u>Total OPEB</u> <u>Liability</u>
Balance At Dec. 31, 2021, as restated	<u>\$436,743,629</u>
Changes for the year:	
Service Cost	11,770,969
Interest	6,403,980
Expected and actual experience	(98,366,189)
Changes of assumptions	(100,000,806)
Benefit payments	<u>(7,151,710)</u>
Net changes	<u>(187,343,756)</u>
Balance at Dec. 31, 2022	<u>\$249,399,873</u>

Source: 2022 Audited Financial Statements

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

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

FINANCIAL FACTORS

Independent Audit

The annual financial statements of the Town are audited by Drescher & Malecki, LLP, independent certified public accountants. The Town is also subject to periodic audit by the State Comptroller's Office. Appendix B to this Official Statement presents a summary of the results of operations for the last five fiscal years ended and a budget summary for the current year.

Fund Structure and Accounts

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

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

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

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

The General Fund is the principal fund of the Town and includes all operations not required to be recorded in other funds. Special Revenue Funds account for the proceeds of specific revenue sources that are legally restricted to expenditures for specific purposes. These funds include Town Outside Village, Highway and Special Districts. Special Districts have been established for sanitary sewer, refuse, lighting, water, drainage, and fire protection.

Revenues

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

Real Property Tax. The following table sets forth total general fund revenues and real property tax revenues during the last five audited fiscal years and budgeted for the current fiscal year.

TABLE 2
Property Taxes
(General Fund)

<u>Fiscal Year</u>	<u>Total Revenues</u>	<u>Real Property Taxes</u>	<u>Real Property Taxes to Revenues</u>
2018	27,046,284	14,418,258	53.3%
2019	26,827,682	14,081,076	52.5%
2020	25,356,323	14,680,134	57.9%
2021	29,186,319	14,867,596	50.9%
2022	30,283,305	15,870,562	52.4%
2023 <i>Budgeted</i>	28,418,418	16,553,963	58.3%

Town's audited financial statement, and the 2023 Budgets.

The following table sets forth general fund real property tax items received during the last five fiscal years and budgeted for the current fiscal year.

TABLE 3
Real Property Tax Items
(General Fund)

<u>Fiscal Year</u>	<u>Total Revenues</u>	<u>Real Property Tax Items</u>	<u>Real Property Tax Items to Revenues</u>
2018	27,046,284	508,413	1.9%
2019	26,827,682	502,564	1.9%
2020	25,356,323	462,551	1.8%
2021	29,186,319	467,969	1.6%
2022	30,283,305	474,645	1.6%
2023 <i>Budgeted</i>	28,418,418	405,000	1.4%

Town's audited financial statement, and the 2023 Budgets.

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

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

TABLE 4
State Aid
(General Fund)

<u>Fiscal Year</u>	<u>Total Revenues</u>	<u>State Aid</u>	<u>State Aid to Revenues</u>
2018	27,046,284	2,057,354	7.6%
2019	26,827,682	2,138,913	8.0%
2020	25,356,323	1,876,705	7.4%
2021	29,186,319	2,779,613	9.5%
2022	30,283,305	2,818,932	9.3%
2023 <i>Budgeted</i>	28,418,418	1,495,990	5.3%

Town's audited financial statement, and the 2023 Budget.

Budget Process

The Supervisor also serves as the Budget Officer of the Town and is responsible for the initial formulation of the budget to be presented to the Town Clerk by September 30th of each year. By October 5th, the Town Clerk must present the tentative budget to the Town Board, which then prepares the preliminary budget prior to the mandatory public hearing required to be held no later than the first Thursday after the general election of each year. Five days prior to such public hearing, notice of such public hearing must be published. Final adoption of the preliminary budget must be accomplished on or before November 20th. The budget is not subject to referendum.

The Supervisor distributes budget estimate forms to all department heads early in July of each year and then conducts such financial analysis and review as is necessary to substantiate the budget requests. Upon completion of this review and after September 30th, when the report must be filed with the Town Clerk, the

entire Town Board reviews the tentative budget with each department head. This review continues as the Board prepares its preliminary budget for the public hearing.

The preliminary budget is presented on a departmental basis by object of expense indicating the proposed budget, year-to-date expenses of the current budget, the departmental request and the Supervisor's recommendation.

The Town Board may, during the course of the year, make changes in the appropriation and other modifications of the budget as it deems necessary in accordance with the Town Law.

Investment Policy

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

The Town may also temporarily invest moneys in: (1) obligations of the United States of America; (2) obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America; (3) obligations of the State; (4) with the approval of the New York State Comptroller, in tax anticipation notes or revenue anticipation notes issued by any municipality, school district, or district corporation, other than those notes issued by the Town; (5) certificates of participation issued by political subdivisions of the State pursuant to Section 109-b(10) of the GML; (6) obligations of a New York public benefit corporation which are made lawful investments for municipalities pursuant to the enabling statute of such public benefit corporation; or (7) in the case of moneys held in certain reserve funds established by the Town pursuant to law, in obligations of the Town.

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

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

The State Comptroller's Fiscal Stress Monitoring System

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

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

Rather, it means that the entity’s financial information, when objectively scored according to the FSMS criteria, did not generate sufficient points to place them in one of the three established stress categories.

The most current applicable report of the State Comptroller designates the Town as “No Designation” (see <https://www.osc.state.ny.us/files/local-government/fiscal-monitoring/2021/pdf/2021-munis-summary.pdf>).

New York State Comptroller’s Audit

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

The OSC conducted an audit of the Town’s Parks and Recreation Department on November 22, 2017. The purpose of the audit was to review the Recreation Department’s cash receipts for the period January 1, 2016 through April 18, 2017. The Town received the audit results and reviewed those results and implemented any changes as recommended.

The full report can be found at: <https://www.osc.state.ny.us/files/local-government/audits/pdf/lgsa-audit-town-2017-tonawanda.pdf>

No other audits have been conducted in the last five years.

Building Permits

The following table sets forth information regarding building permits issued by the Town:

TABLE 5
Building Permits

Fiscal Year Ended					
<u>December 31:</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Residential					
Number of Permits	1,249	907	995	2592	1342
Estimated Value	\$15,522,936	\$10,821,484	\$14,471,534	\$12,066,440	\$3,585,571
Commercial					
Number of Permits	293	163	212	301	208
Estimated Value	\$39,503,835	\$30,092,813	\$32,489,765	\$46,406,965	\$13,940,967
Yearly Total					
Number of Permits	1,542	1070	1207	2893	1550
Estimated Value	\$55,026,771	\$40,914,297	\$46,961,299	\$58,473,405	\$17,526,538

Source: Town Officials

REAL PROPERTY TAXES

Real Property Tax Collection Procedures

Taxes are due in a single payment on January 1, payable without penalty to and including February 15. Penalties thereafter are imposed at an annual rate determined by the New York State Commissioner of Taxation and Finance. After June 30, the tax roll is returned to the County and taxes plus penalties are payable to the County. The Town retains the total amount of Town, Highway, Special District and delinquent water and sewer charge levies from the total collections and returns the balance plus the uncollected items to the County, which assumes responsibility and holds annual tax sales.

As far as the Town is concerned, there are no uncollected taxes. Payment in full of all Town items is guaranteed by the County.

<u>Tax Roll</u>	<u>Collection Period</u>	<u>Due Date without Penalty</u>
Town of Tonawanda / Erie County	January 15 th – June 30 th	February 15 th
Village of Kenmore	June 1 st – November 1 st	July 1 st
Ken-Ton UFSD and Sweet Home CSD	September 15 th – September 30 th	October 17 th

Source: Town Clerk

The Town derives a portion of its annual revenue through a direct real property tax. The following table presents the total tax levy and collection performance as of June 30th for each of the last five fiscal years and the current fiscal year.

TABLE 6
Tax Levy and Collection Record

<u>Fiscal Year</u> <u>December 31</u>	<u>Total Tax</u> <u>Levy</u> ⁽¹⁾	<u>Collected at Date of Return</u>		<u>Percentage</u>
		<u>Amount</u>	<u>Uncollected</u> <u>Amount</u> ⁽²⁾	
2017	\$76,483,146	\$69,049,417	\$3,698,833	4.84%
2018	\$77,796,705	\$74,107,150	\$3,461,180	4.45%
2019	\$79,304,072	\$75,609,711	\$3,524,566	4.45%
2020	\$81,687,147	\$78,230,842	\$3,387,178	4.15%
2021	\$80,783,007	\$77,506,940	\$3,256,990	4.03%
2022	\$81,382,948	\$78,290,368	\$3,091,988	3.80%
2023	\$84,373,481	\$81,365,657	\$2,925,239	3.47%

(1) Includes Erie County real property taxes which are billed with Town levies.

(2) The County makes the Town whole on uncollected taxes.

Source: Town Clerk

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

TABLE 7
Assessed and Full Valuation

<u>Roll Year</u> <u>Tax Year</u>	<u>2018</u> <u>2019</u>	<u>2019</u> <u>2020</u>	<u>2020</u> <u>2021</u>	<u>2021</u> <u>2022</u>	<u>2022</u> <u>2023</u>
Assessed Valuation	\$1,769,675,210	\$1,782,063,706	\$1,786,944,559	\$1,789,119,712	\$1,792,551,041
State Equalization Rate	35.00%	33.00%	33.00%	29.00%	24.00%
Full Valuation	\$5,056,214,886	\$5,400,193,048	\$5,414,983,512	\$6,169,378,317	\$7,468,962,671
Tax Levy for Town Purposes Including Special Assessment and Fire Districts	\$47,767,696	\$48,634,721	\$48,775,980	\$49,762,093	\$51,562,526
Tax Rate per \$1,000					
Homestead	\$17.29	\$17.37	\$17.56	\$17.69	\$17.96
Non-homestead	\$31.81	\$32.99	\$33.76	\$34.24	\$37.38

Source: Town Assessor

Ten Largest Assessed Values for the 2023 Tax Roll

The following table presents the full value of the taxable assessments of ten of the Town’s largest taxpayers for the 2021 Assessment Roll used for 2023 tax levy and collection of taxes in 2022-23:

TABLE 8
Assessed Valuations

<u>Taxpayer</u>	<u>Nature of Business</u>	<u>Assessed Valuation</u>	<u>% of Town Taxable Valuation</u> ⁽¹⁾
Niagara Mohawk Power Corp.	Utility	\$44,673,798	2.50%
National Fuel Gas Distribution	Utility	11,357,386	0.63%
Raintree SPE Apartments LLC	Apartments	6,830,200	0.38%
CSX Transportation	Manufacturer	4,864,014	0.27%
Unifrax I LLC	Manufacturer	4,558,600	0.25%
Huntley Power LLC	Utility	4,290,000	0.24%
Paradise Apartments LLC	Apartments	4,249,800	0.24%
Goodyear Dunlop Tires North America	Commercial	4,080,000	0.23%
Clover Communities Fries LLC	Apartments	3,718,000	0.21%
Clover Com Crestmount LLC	Apartments	<u>3,656,000</u>	<u>0.20%</u>
		<u>\$92,277,798</u>	<u>5.15%</u>

(1) Represents 5.15% of the Town’s 2023 Assessed Valuation of \$1,792,551,041.

Source: Town Assessor.

Tax Levy Limitation Law

On June 24, 2011, Chapter 97 of the Laws of 2011 which created Section 3-c of the General Municipal Law 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, and the counties comprising New York). 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. On April 12, 2019, the enacted State budget legislation made the Tax Levy Limitation Law 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).

Article 8 Section 2 of the State Constitution requires every issuer of general obligation notes and bonds in the State to pledge its faith and credit for the payment of the principal thereof and the interest thereon. This 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 that is what courts have held they mean."

Article 8 Section 12 of the State Constitution specifically provides as follows:

"It shall be the duty of the legislature, subject to the provisions of this constitution, to restrict the power of taxation, assessment, borrowing money, contracting indebtedness, and loaning the credit of counties, cities, towns and villages, so as to prevent abuses in taxation and assessments and in contracting of indebtedness by them. Nothing in this article shall be construed to prevent the legislature from further restricting the powers herein specified of any county, city, town, village or school district to contract indebtedness or to levy taxes on real estate. The legislature shall not, however, restrict the power to levy taxes on real estate for the payment of interest on or principal of indebtedness theretofore contracted."

On the relationship of the Article 8 Section 2 requirement to pledge the faith and credit and the Article 8 Section 12 protection of the levy of real property taxes to pay debt service on bonds subject to the general obligation pledge, the Court of Appeals in the *Flushing National Bank* case stated:

"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 of 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* 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 municipalities.

Therefore, 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.

It is possible that the Tax Levy Limitation Law will be subject to judicial review to resolve the constitutional issues raised by its adoption. Although courts in New York have historically been protective of the rights of holders of general obligation debt of political subdivisions, the outcome of any such legal challenge cannot be predicted.

TOWN INDEBTEDNESS

Constitutional Requirements

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

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

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

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

General. The Town is further subject to constitutional limitation by the general constitutionally imposed duty on the State Legislature to restrict the power of taxation and contracting indebtedness to prevent abuses in the exercise of such powers; 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 Town 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 authorized the power and procedure for the Town to borrow and incur indebtedness subject, of course, to the constitutional provisions set forth above. The power to spend money, however, generally derives from other law, including the Town Law and the General Municipal Law.

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

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 New York, permits notes to be renewed each year provided that principal is amortized and provided that such renewals do not (with certain exceptions) extend five years beyond the original date of borrowing. However, notes issued in anticipation of the sale of serial bonds for assessable improvements are not subject to such five year limit and may be renewed subject to annual reductions of principal for the entire period of probable usefulness of the purpose for which such notes were originally issued. (See "Payment and Maturity" under "Constitutional Requirements").

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

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

The Local Finance Law provides a 20 day statute of limitations after publication of a bond resolution which, in effect, estops thereafter legal challenges to the validity of obligations authorized by such bond resolution except for alleged constitutional violations. Such publication is not a requirement, but is recommended by bond counsel to the Town. The Town has complied with this estoppel procedure in connection with the Notes.

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

There is no constitutional limitation on the amount that may be raised by the Town by tax on real estate in any fiscal year to pay principal and interest on all indebtedness.

Constitutional Debt Limit

The following table sets forth the constitutional debt limit of the Town, as of July 31, 2023.

TABLE 9
Constitutional Debt Limit

<u>Roll Year</u>	<u>Tax Year</u>	<u>Assessed Valuation</u>	<u>Equalization Rate</u>	<u>Full Valuation</u>
2018	2019	1,769,675,210	35.00%	\$5,056,214,886
2019	2020	1,782,063,706	33.00%	5,400,193,048
2020	2021	1,786,944,559	33.00%	5,414,983,512
2021	2022	1,789,119,712	29.00%	6,169,378,317
2022	2023	1,792,551,041	24.00%	<u>7,468,962,671</u>
Total Five-Year Full Valuation				\$29,509,732,434
Average Five-Year Full Valuation				\$5,901,946,487
Debt Limit - 7% of Average Full Valuation				\$413,136,254

Source: Town Assessor's Office.

Statement of Debt Contracting Power

TABLE 10
Statutory Debt Limit and Net Indebtedness

	As of <u>July 31, 2023</u>
Debt Contracting Limitation	\$413,136,254
Gross Direct Indebtedness	
Serial Bonds	\$49,994,000
Bond Anticipation Notes	<u>41,742,905</u>
Total Gross Direct Indebtedness	\$91,736,905
Exclusions and Deductions	
Water BANs	\$0
Water Bonds	<u>6,096,800</u>
Total Exclusions and Deductions	\$6,096,800
Total Net Indebtedness	<u>\$85,640,105</u>
Contracting Margin-Net Debt	<u>\$327,496,149</u>
Percentage of Debt-Contracting Margin Exhausted	<u>20.73%</u>

Source: Town Officials

Remedies Upon Default

Under current law, provision is made for contract creditors (including the holders of the bonds and notes) of the Town to enforce payments upon such contracts, if necessary, through court action, although the present statute limits interest on the amount adjudged due to creditors to nine per centum per annum from the date due to the date of payment. As a general rule, property and funds of a municipal corporation serving the public welfare and interest have not been judicially subjected to execution or attachment to satisfy a judgment, although judicial mandates have been issued to officials to appropriate and pay judgments out of current funds or the proceeds of a tax levy.

Remedies for enforcement of payment are not expressly included in the Town's contract with holders of its bonds and notes, although any permanent repeal by statute or constitutional amendment of a bondholder's remedial right to judicial enforcement of the contract should be held unconstitutional.

The State has consented that any municipality in the State may file a petition with any United States district court or court of bankruptcy under any provision of the laws of the United States, now or hereafter in effect for the composition or adjustment of municipal indebtedness. 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, generally to the effect and with the purpose of affording municipal corporations, under certain circumstances, with easier access to judicially approved adjustment of debts including judicial control over identifiable and unidentifiable creditors.

In recent times, certain events and legislation affecting remedies on default have resulted in litigation. While courts of final jurisdiction have upheld and sustained the rights of holders of the Bonds and Notes, such courts might hold that future events, including financial crises as they may occur in the State and in municipalities of the State, require the exercise by the State of its emergency and police powers to assure the continuation of essential public services.

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

Trend of Outstanding Indebtedness

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

TABLE 11
Outstanding Indebtedness

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
Serial Bonds	\$48,592,000	\$60,890,000	\$57,540,000	\$54,420,000	\$51,242,000
BANs	19,312,705	11,209,896	12,568,400	43,852,490	41,742,905
EFC Notes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Outstanding Debt	<u>\$67,904,705</u>	<u>\$72,099,896</u>	<u>\$70,108,400</u>	<u>\$98,272,490</u>	<u>\$92,986,927</u>

Source: Audited Financial Statements.

Direct and Overlapping Indebtedness

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

TABLE 12
Statement of Direct and Overlapping Indebtedness

Direct Debt:

Gross Direct Debt	\$91,736,905
Exclusions and Deductions	<u>6,096,800</u>
Net Direct Debt	<u>\$85,640,105</u>

Overlapping Debt:

<u>Issuer</u>	<u>As of:</u>	<u>Net Debt Outstanding</u>	<u>Town Share</u>	<u>Amount Applicable To Town</u>
County of Erie	06/30/2022	\$293,705,000	7.29%	\$21,411,095
Sweet Home CSD	12/29/2022	24,706,177	15.22%	3,760,280
Kenmore Tonawanda UFSD	12/23/2022	92,990,604	100.00%	92,990,604
Kenmore Village	04/25/2023	18,500,000	100.00%	18,500,000
Fire Districts ⁽¹⁾	12/31/2021	2,282,935	100.00%	<u>2,282,935</u>
Net Overlapping Debt				\$138,944,914
Net Direct Debt				<u>\$85,640,105</u>
Total Net Direct and Overlapping Debt				<u>\$224,585,019</u>

(1) Includes Brighton, Ellwood, Kenilworth, River Road, and Sheridan Park Fire Districts

Source: State Comptroller's Special Report.

Short Term Indebtedness

Following the issuance of the Notes, the Town will have \$53,787,680 bond anticipation notes outstanding which will mature on August 23, 2024.

The Town has not needed to issue revenue or tax anticipation notes for operating purposes in recent years and does not anticipate the need to borrow for such purpose in the current or next fiscal years, although no assurance can be given that the need will not arise.

Other Indebtedness

During the various prior years, the Town entered into long-term, lease agreements as the lessee for the acquisition and use of various office space and equipment. The outstanding balance as of December 31, 2022 was \$1,429,919.

Environmental Facilities Corporation State Revolving Loan Fund Program. On June 24, 2010, the Town entered into a \$30,000,000 short-term loan through the New York State Environmental Facilities Corporation (“EFC”) to fund a portion of the four-phase Town’s Parker/Fries Sanitary Sewer Interceptor Project. Between 2014 and 2015 the Town released \$7,036,270 of phase III funds, deposited \$3,914,765 to a construction fund, incurred \$82,490 of delivery date expenses, and converted the phase III liability of \$11,033,525 to serial bonds. Funds related to Phase IV of the Parker Fries Interceptor Project were converted to bonds totaling \$8,762,867 in February 2017.

Long-Term Capital Financing Plans

As part of its budgetary process, the Town annually prepares a Capital Improvement Plan which sets forth the anticipated needs of the Town for the next six fiscal years. The capital needs can be classified as streets, sewers, vehicles, buildings, water facilities and storm water drainage facilities. The needs for capital funding of projects are anticipated to continue and to be in amounts substantially the same as have generally prevailed in the past.

The Town is currently in the process of authorizing the financing of the reconstruction of a new recreation center and various park improvements in connection therewith at a cost not to exceed \$22,000,000. The project will be funded by a combination of the Town’s American Rescue Plan Act (ARPA) funds and its serial bonds. The financing is expected to begin within the next year.

Authorized but Unissued Indebtedness

The Town has \$16,259,371 in authorized but unissued indebtedness.

Debt Ratios

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

TABLE 13
Debt Ratios

	<u>Amount</u>	<u>Debt Per Capita</u> ⁽¹⁾	<u>Debt to Full Value</u> ⁽²⁾
Net Direct Debt	\$85,640,105	\$1,261	1.15%
Net Direct & Overlapping Debt	\$224,585,019	\$3,173	3.01%

(1) The population of the Town is 72,636 according to the 2020 Census estimates.

(2) The Town's full value of taxable real property for 2023 is \$7,468,962,671.

Debt Service Schedule

The following table sets forth all principal and interest payments required on the Town's outstanding bonded indebtedness as of July 31, 2023.

TABLE 14
Outstanding Bond Principal and Interest Maturity

Fiscal Year ending December 31:	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2023	\$2,035,000	\$795,944	\$2,830,994
2024	3,351,000	1,488,759	4,839,759
2025	3,431,000	1,368,921	4,799,921
2026	2,844,000	1,243,218	4,087,218
2027	2,619,000	1,139,504	3,758,504
2028	2,497,000	1,045,730	3,542,730
2029	2,418,000	964,328	3,382,328
2030	2,441,000	898,623	3,339,623
2031	2,351,000	830,905	3,181,905
2032	2,389,000	765,541	3,154,541
2033	2,409,000	699,181	3,108,181
2034	2,322,000	629,650	2,951,650
2035	2,292,000	561,171	2,853,171
2036	2,050,000	491,959	2,541,959
2037	1,930,000	426,988	2,356,988
2038	1,953,000	364,504	2,317,504
2039	1,973,000	301,214	2,274,214
2040	1,976,000	236,643	2,212,643
2041	2,006,000	171,457	2,177,457
2042	2,024,000	102,176	2,126,176
2043	769,000	46,510	815,510
2044	777,000	28,056	805,056
2045	786,000	9,387	795,387
2046	<u>351,000</u>	<u>0</u>	<u>351,000</u>
Total:	<u>\$49,994,000</u>	<u>\$14,610,369</u>	<u>\$64,604,419</u>

Source: Town Officials

ECONOMIC AND DEMOGRAPHIC DATA

Population

The following table presents population trends for the Town, County, and State.

TABLE 15
Population Trend

	<u>2010</u>	<u>2020</u>	<u>Percentage Change (2010-2020)</u>
Town	73,567	72,636	(1.28%)
County	919,040	954,236	3.69%
State	19,378,102	20,201,249	4.07%

Source: US Census Bureau

Employment and Unemployment

Large employers that are situated within the Town include: General Motors Powertrain; Kenmore-Town of Tonawanda UFSO; Praxair; Goodyear Dunlop; Kenmore Mercy Hospital; Town of Tonawanda; and 3-M Tonawanda.

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

TABLE 16
Labor Force
(Thousands)

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
County	441.6	440.8	439.3	435.6	443.9
State	9,511.1	9,507.1	9,289.2	9,441.5	9,592.0

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

TABLE 17
Yearly Average Unemployment Rates

<u>Year</u>	<u>County</u>	<u>State</u>
2018	4.4%	4.1%
2019	4.1%	3.8%
2020	9.5%	9.9%
2021	5.5%	6.9%
2022	3.2%	4.3%

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

TABLE 18
Monthly Unemployment Rates

<u>Month</u>	<u>County</u>	<u>State</u>
June	3.5%	4.1%
July	3.8%	4.3%
August	3.9%	4.2%
September	3.2%	3.6%
October	3.0%	3.7%
November	3.2%	3.8%
December	3.3%	3.8%
January 2023	4.2%	4.6%
February	3.9%	3.9%
March	3.5%	4.0%
April	2.7%	3.7%
May	3.1%	3.8%

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

LITIGATION

In common with other municipalities, the Town from time to time receives notices of claim and is party to litigation. The Town is a defendant in a case that is currently ongoing. The Plaintiff was an employee of the Town and the allegations arise out of alleged offensive conduct by the co-defendant, who was a co-employee and supervisor of the Plaintiff. The co-defendant is also alleged to have sexually harassed and assaulted two other employees, both of whom filed lawsuits against the Town. A Summons and Complaint was filed in the Matter on April 23, 2023, in Erie County Supreme Court seeking an unspecified amount of damages. An Answer was filed on behalf of the Town setting forth various affirmative defenses relating to the employee/employee relationship between the parties, that the alleged actions by the co-defendant were

outside the scope of employment, that alleged incidents of sexual assault occurred off Town property and the Town is not responsible for alleged conduct that occurred off Town property, and that the provisions of the Adult Survivors' Act are unconstitutional. The Town has a \$750,000 self-insured retention relative to this type of matter. These matters are currently in the discovery phase of litigation. It is the opinion of the attorney for the Town, unless otherwise set forth herein and apart from matters provided for by applicable insurance coverage, there are no further claims or actions pending which, if determined against the Town, would have a material adverse effect on the Town's financial condition.

APPENDIX B

Financial Statement and Budget Summaries

**Town of Tonawanda, New York
Comparative Balance Sheet
(General Fund and Special Revenue Funds)
At December 31**

	<u>General Fund</u>		<u>Special Revenue Fund</u>	
	<u>2021</u>	<u>2022</u>	<u>2021</u>	<u>2022</u>
<u>ASSETS</u>				
Cash and Investments	\$11,466,836	\$8,980,737	\$33,695,289	\$32,086,112
Restricted Cash	1,257,726	1,736,235	7,367,938	6,784,489
Investments	0	3,440,981		1,695,595
Accounts Receivables	205,934	207,594	6,489,877	6,769,374
Intergovernmental Receivables	394,531	72,937	6,355,372	6,010,184
Lease Receivables	0	671,011		1,760,533
Due from Other Funds	18,989,374	840,387	785,254	4,737,067
Inventories	0	0	822,346	745,191
Rehabilitation Loans Receivable	0	0	8,322,823	8,333,638
Prepaid Items	372,549	374,082	1,183,670	1,165,593
Total Assets	<u>\$32,686,950</u>	<u>\$16,323,964</u>	<u>\$65,022,569</u>	<u>\$70,087,776</u>
Liabilities:				
Accounts Payable	\$451,844	\$592,779	2,022,561	2,270,514
Retainage Payable	0	0	0	18,968
Accrued Liabilities	778,735	685,859	1,089,180	1,221,990
Intergovernmental payables	299,879	256,693	149,090	251,195
Due to Other Funds	637	0	0	38,998
Unearned Revenue	18,571,155	252,396	302,918	297,041
Total Liabilities	<u>20,102,250</u>	<u>1,787,727</u>	<u>3,563,749</u>	<u>4,098,706</u>
Deferred Inflows of Resources				
Leases	0	555,952	0	1,526,900
Special assessments	0	0	952,300	981,497
Total Deferred Inflows of Resources	<u>0</u>	<u>555,952</u>	<u>952,300</u>	<u>2,508,397</u>
Fund Balance:				
Nonspendable	372,549	374,082	2,006,016	1,910,784
Restricted	1,042,895	1,483,839	14,152,880	13,610,363
Committed	0	0	4,425,213	4,425,213
Assigned	4,172,252	3,844,076	39,922,411	43,534,313
Unassigned	6,997,004	8,278,288	0	0
Total Fund Balance	<u>12,584,700</u>	<u>13,980,285</u>	<u>60,506,520</u>	<u>63,480,673</u>
Total Liabilities, seferred Inflows of resources and & Fund Balances	<u>\$32,686,950</u>	<u>\$16,323,964</u>	<u>\$65,022,569</u>	<u>\$70,087,776</u>

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

* Includes General - Town Outside Village, Highway, Special Grants, Sewer District and Water District Funds

Town of Tonawanda, New York

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

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
Revenues:					
Real Property Taxes	\$14,418,258	\$14,081,076	\$14,680,134	\$14,867,596	\$15,870,562
Other Property Tax Items	508,413	502,564	462,551	467,969	474,645
Departmental Income	4,376,226	4,158,621	2,991,953	4,019,752	5,163,038
Intergovernmental charges	1,025	690	2,500	2,600	7,419
Use of Money and Property	319,910	600,926	431,616	357,914	486,612
Licenses and Permits	156,976	153,868	120,619	127,871	150,025
Fines and Forfeitures	1,467,693	1,464,121	854,094	913,399	1,167,290
Sale of Property & Compensation for Loss	1,232	700	13,478	112,288	14,000
Miscellaneous	22,336	184,004	467,092	584,265	106,439
Interfund Revenue	3,716,861	3,555,548	3,325,117	3,133,447	3,898,145
State Aid	2,057,354	2,138,913	1,876,705	2,779,613	2,818,932
Federal aid			130,464	1,819,605	126,198
Total Revenues	<u>27,046,284</u>	<u>26,841,031</u>	<u>25,356,323</u>	<u>29,186,319</u>	<u>30,283,305</u>
Expenditures:					
General Government Support	4,690,386	4,477,567	4,556,213	4,844,668	6,135,329
Public Safety	997,737	916,424	986,292	1,063,113	1,046,822
Health	1,271,125	1,290,688	1,349,647	1,451,704	1,654,887
Transportation	929,647	920,167	1,035,424	543,635	509,567
Economic Opportunity and Development	63,624	384,942	813,343	835,327	196,460
Culture and Recreation	8,946,892	8,732,595	6,153,943	8,102,282	9,904,669
Home and Community Service	903,796	948,936	821,703	2,704,649	958,441
Employee Benefits	7,342,534	6,954,741	7,277,395	7,535,572	7,370,111
Debt Service	352,359	199,485	246,859	479,572	413,519
Total Expenditures	<u>25,498,100</u>	<u>24,825,545</u>	<u>23,240,819</u>	<u>27,560,522</u>	<u>28,189,805</u>
Excess of Revenues Over (Under)					
Expenditures	<u>1,548,184</u>	<u>2,015,486</u>	<u>2,115,504</u>	<u>1,625,797</u>	<u>2,093,500</u>
Other Financing Sources (Uses):					
Operating Transfers In	0	0	60,180	262,440	565,126
Operating Transfers Out	(1,193,330)	(1,108,456)	(1,438,322)	(1,639,349)	(1,884,936)
	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>621,895</u>
Total Other Financing Sources (Uses)	<u>(1,193,330)</u>	<u>(1,108,456)</u>	<u>(1,378,142)</u>	<u>(1,376,909)</u>	<u>(697,915)</u>
Net Change in Fund Balance	354,854	907,030	737,362	248,888	1,395,585
Fund Balance at January 1	<u>10,336,566</u>	<u>10,691,420</u>	<u>11,598,450</u>	<u>12,335,812</u>	<u>12,584,700</u>
Fund Balance at December 31	<u>\$10,691,420</u>	<u>\$11,598,450</u>	<u>\$12,335,812</u>	<u>\$12,584,700</u>	<u>\$13,980,285</u>

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

Town of Tonawanda, New York

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

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
Revenues:					
Real Property Taxes	\$21,180,194	\$22,251,065	\$22,444,078	\$22,728,816	\$22,188,188
Other Property Taxes Items	437,248	429,802	354,153	341,710	365,361
Non-property Tax Items	9,430,858	9,743,534	9,488,143	10,622,503	10,858,690
Departmental Income	22,936,723	21,978,952	22,370,316	24,197,047	23,599,299
Intergovernmental Charges	2,535,398	2,065,146	2,433,489	2,645,340	2,463,314
Use of Money and Property	520,511	761,692	474,696	385,222	680,670
Licenses and Permits	582,167	827,167	670,984	707,784	910,825
Fines and Forfeitures	8,132	52,225	51,040	18,926	29,593
Sale of Property and Compensation	243,609	98,252	122,472	136,529	91,184
Miscellaneous	53,452	38,372	45,447	29,791	29,621
Interfund Revenues	952,713	209,000	335,416	211,000	210,000
State Aid	3,088,250	1,915,702	1,540,329	2,450,379	2,056,138
Federal Aid	1,643,407	1,458,499	2,355,082	3,011,312	3,290,484
Total Revenues	<u>63,612,662</u>	<u>61,829,408</u>	<u>62,685,645</u>	<u>67,486,359</u>	<u>66,773,367</u>
Expenditures:					
General Government Support	1,414,680	1,366,015	1,307,593	1,246,273	1,567,434
Public Safety	13,804,921	13,658,546	13,253,888	14,481,501	14,744,726
Health	8,976	8,978	9,931	12,831	12,603
Transportation	5,167,912	5,164,214	4,180,028	5,055,956	5,164,775
Home and Community Service	16,492,959	15,860,922	15,852,158	17,677,411	20,544,974
Employee Benefits	15,349,972	15,004,962	15,011,795	15,183,260	14,945,636
Debt Service	3,315,505	3,455,746	4,299,105	3,365,313	4,208,144
Total Expenditures	<u>55,554,925</u>	<u>54,519,383</u>	<u>53,914,498</u>	<u>57,022,545</u>	<u>61,188,292</u>
Excess of Revenues Over (Under)					
Expenditures	<u>8,057,737</u>	<u>7,310,025</u>	<u>8,771,147</u>	<u>10,463,814</u>	<u>5,585,075</u>
Other Financing Sources (Uses):					
Operating Transfers In	2,589,787	310,000	1,345,074	1,189,889	744,968
Operating Transfers Out	(6,434,935)	(5,221,509)	(3,860,014)	(6,543,408)	(3,355,890)
Total Other Financing Sources (Uses)	<u>(3,845,148)</u>	<u>(4,911,509)</u>	<u>(2,514,940)</u>	<u>(5,353,519)</u>	<u>(2,610,922)</u>
Net Change in Fund Balance	4,212,589	2,398,516	6,256,207	5,110,295	2,974,153
Fund Balance at January 1	<u>42,528,913</u>	<u>46,741,502</u>	<u>49,140,018</u>	<u>55,396,225</u>	<u>60,506,520</u>
Fund Balance at December 31	<u>\$46,741,502</u>	<u>\$49,140,018</u>	<u>\$55,396,225</u>	<u>\$60,506,520</u>	<u>\$63,480,673</u>

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

Town of Tonawanda, New York

2023 Budget Summary

	<u>Appropriation</u>	<u>Estimated Revenues</u>	<u>Appropriated Fund Balance</u>	<u>Amount Raised By Taxes</u>
General Fund:				
Townwide Share	\$32,018,418	\$11,864,455	\$3,600,000	\$16,553,963
Part-Town-Outside Village	28,593,569	11,188,622	3,600,000	13,804,947
Highway Fund	9,069,158	1,887,978	400,000	6,781,180
Lighting Districts	1,891,430	1,000	300,000	1,590,430
Water Acquisition & Storage District	12,104,749	11,504,749	600,000	0
Fire Protection Fund	879,901	0	0	879,901
Sewer Consolidated Districts	17,374,275	13,674,000	1,200,000	2,500,275
Drainage Consolidated Districts	710,717	100	0	710,617
Refuse & Garbage Consolidated Districts	8,992,437	14,600	300,000	8,677,837
Total Operating Budget	<u>\$111,634,654</u>	<u>\$50,135,504</u>	<u>\$10,000,000</u>	<u>\$51,499,150</u>
Special Assessments:				
Outside Village - Cleanup	63,376	0	0	63,376
Highway Fund - Paving	0	0	0	0
Sewer Consolidated District	\$0	\$0	\$0	\$0
Total:	<u><u>\$111,698,030</u></u>	<u><u>\$50,135,504</u></u>	<u><u>\$10,000,000</u></u>	<u><u>\$51,562,526</u></u>

Source: Budget summary extracted from 2023 Adopted Budget.

APPENDIX C

**INDEPENDENT AUDITORS' REPORT
FOR THE FISCAL YEAR ENDED
DECEMBER 31, 2022**

**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/P11682926-P11295032-P11725276.pdf>

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

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