

# PRELIMINARY OFFICIAL STATEMENT DATED SEPTEMBER 19, 2023

## NEW MONEY

## BOND ANTICIPATION NOTES

*In the opinion of Harris Beach PLLC, Bond Counsel to the City for the Notes, under existing statutes, regulations, administrative rulings, and court decisions, and assuming continuing compliance by the City 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 City, 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 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 be designated by the City as "qualified tax-exempt obligations" pursuant to Section 265 of the Code*

### CITY OF NORTH TONAWANDA NIAGARA COUNTY, NEW YORK

**\$3,394,276**  
**BOND ANTICIPATION NOTES – 2023B**  
**(the "Notes")**

**Dated Date: October 17, 2023**

**Maturity Date: October 17, 2024**

The Notes are general obligations of the City of North Tonawanda, Niagara County, New York (the "City"), and will contain a pledge of the faith and credit of the City 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 City, 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 "TAX INFORMATION - 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 City 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 City subject to the receipt of the final approving opinions of Harris Beach PLLC, Pittsford, New York, Bond Counsel to the City, and certain other conditions. Capital Markets Advisors, LLC has served as Municipal Advisor to the City in connection with the issuance of the Notes. It is expected that delivery of the Notes will be made on or about October 17, 2023.

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

Dated: September \_\_, 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.

**CITY OFFICIALS**

**Austin J. Tylec**  
**Mayor**

**COMMON COUNCIL**

|                  |                          |
|------------------|--------------------------|
| Frank DiBernardo | Common Council President |
| Joe Loncar       | Alderman-at-Large        |
| Joe Marranca     | Alderman-at-Large        |
| Robert Schmigel  | 1st Ward Alderman        |
| Joseph Lavey Jr. | 3rd Ward Alderman        |

\*\*\*\*\*

Donna L. Braun  
City Clerk/Treasurer

Jeffrey Zellner  
City Accountant

Edward A. Zebulske III  
City Attorney

\*\*\*\*\*

**BOND COUNSEL**



**Pittsford, 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 City to give any information or to make any representations, other than those contained in this Official Statement and if given or made, such other information or representations must not be relied upon as having been authorized by the 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 City from sources which are believed to be reliable but it is not guaranteed as to accuracy or completeness. The information and expressions of opinion herein are subject to change without notice and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City since the date hereon.

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# CITY OF NORTH TONAWANDA NIAGARA COUNTY, NEW YORK

relating to

**\$3,394,276**

## **BOND ANTICIPATION NOTES – 2023B**

This Official Statement, which includes the cover page and appendices hereto, presents certain information relating to the City of North Tonawanda, in the County of Erie, in the State of New York (the ‘City’, ‘County’ and ‘State,’ respectively) in connection with the sale of \$3,394,276 Bond Anticipation Notes – 2023B (the ‘Notes’).

The factors affecting the City’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 City’s tax base, revenues, and expenditures. This Official Statement should be read in its entirety.

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 City management’s beliefs as well as assumptions made by, and information currently available to, the City’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 City’s overall economic situation and outlook (and all of the specific City-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 and will mature as reflected on the cover page hereof. Interest will be calculated on a 30-day month and 360-day year basis, payable at their respective maturities. The Notes will mature on October 17, 2024 and will not be subject to optional redemption prior to maturity.

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

The Notes are issued pursuant to the Constitution and laws of the State, including the Local Finance Law and a bond resolution duly adopted by the Common Council of the City on April 25, 2023, authorizing the issuance of serial bonds for the projects listed below. The Notes will provide new money financing.

| <u>Purpose</u>  | <u>The Notes</u>          |
|---|---------------------------|
| Improvements to parks and recreational areas  | \$126,700                 |
| Construction, reconstruction to Meadow Drive Sewer Lines                            | 231,300                   |
| Installation of electric vehicle chargers, a clocktower, and landscaping            | 151,300                   |
| Construction of sidewalks, curbs, gutters, drainage and grading along Oliver Street | 226,300                   |
| Comprehensive City plan   | 112,412                   |
| Acquisition and installation of wireless enhancements at Gateway Harbor             | 52,664                    |
| Infrastructure study on Tonawanda Island  | 100,000                   |
| Reconstruction of docks at Gatwick Park   | 22,300                    |
| Construction of additions to the City Hall building                                 | 701,300                   |
| Acquisition of machinery and apparatus for DPW                                      | 1,285,400                 |
| Improvements to the Deerwood Golf Course  | 83,300                    |
| City assessment costs   | <u>301,300</u>            |
| <b>Total</b>  | <b><u>\$3,394,276</u></b> |

## ***Nature of Obligation***

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

The Notes will be general obligations of the City and will contain a pledge of the faith and credit of the City for the payment of the principal thereof and the interest thereon. For the payment of such principal of and interest on the City has the power and statutory authorization to levy ad valorem taxes on all taxable real property in the City, subject to certain applicable statutory limitations imposed by the Tax Levy Limitation Law. (See “TAX INFORMATION - Tax Levy Limitation Law” within Appendix A herein).

Under the Constitution of the State, the City 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 City to levy taxes on real estate therefor. The State Constitution requires the City 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 City 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.

## ***Optional Redemption for the Notes***

The Notes are not subject to optional redemption prior to maturity.

## ***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](http://www.dtcc.com) and [www.dtc.org](http://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 City 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 City, 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 City, 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 City, 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 City. Under such circumstances, in the event that a successor depository is not obtained, note certificates are required to be printed and delivered.

The City 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 City believes to be reliable, but the City takes no responsibility for the accuracy thereof.

*Source: The Depository Trust Company*

## **MARKET MATTERS AFFECTING FINANCINGS OF THE MUNICIPALITIES OF THE STATE**

The financial condition of the City as well as the market for the Notes could be affected by a variety of factors, some of which are beyond the City'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 City to arrange for additional borrowings and the market for and market value of outstanding debt obligations, including the Notes, could be adversely affected.

The City does not receive a significant amount of financial assistance from the State in the form of State aid. Should the City 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 City is authorized by the Local Finance Law to provide operating funds by borrowing in anticipation of the receipt of uncollected State aid.

### **CYBER SECURITY**

The City, 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 City 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 City invests in various forms of cyber security 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 City 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 City with certain covenants and the accuracy of certain representations, interest on the Notes is excluded from gross income for federal income tax purposes and is not an "item of tax preference" for 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 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 Internal Revenue Code of 1986, as amended (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 of proceeds certificate to be executed in connection with the issuance of the Notes, the City will covenant to comply with certain procedures and will make certain representations and certifications, designed to assure satisfaction of the requirements of the Code with 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 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, 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**

The legality of the authorization and issuance of the Notes will be covered by the approving legal opinion of Harris Beach PLLC, Pittsford, New York, Bond Counsel to the City. 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 City, all the taxable property within which is subject to the levy of ad valorem taxes to pay the Notes and interest thereon, subject to certain applicable statutory limitations imposed by Chapter 97 of the New York Laws of 2011, as amended (see "TAX INFORMATION - Tax Levy Limitation Law" in Appendix A hereto); provided, that the enforceability (but not the validity) of the Notes may be limited by any applicable existing or future bankruptcy, insolvency or other law (State or Federal) affecting the enforcement of creditors' rights; (ii) under existing statutes, regulations, administrative rulings and court decisions, interest on the Notes is excluded from the gross income of the owners thereof for Federal income tax purposes, is not an "item of tax preference" for purposes of the Federal alternative minimum taxes imposed on individuals; however, for 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; (iii) 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); and (iv) based upon Bond Counsel's examination of law and review of the arbitrage and use of proceeds certificate executed by the City Clerk/Treasurer of the City pursuant to Section 148 of the Code and the regulations thereunder, the facts, estimates and circumstances as set forth in said arbitrage certificate are sufficient to satisfy the criteria which are necessary under Section 148 of the Code to support the conclusion that the Notes will not be "arbitrage bonds" within the meaning



of said section, and no matters have come to Bond Counsel's attention which makes unreasonable or incorrect the representations made in said arbitrage certificate. Bond Counsel expresses no opinion regarding Federal or State income tax consequences arising with respect to the Notes.

Such legal opinions 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 City together with other legally available sources of revenue, if any, will be sufficient to enable the City 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 City, would materially affect the ability of the City 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 City, 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 City for the purposes of Securities and Exchange Commission Rule 15c2-12 (the "Rule"). At the time of the delivery of the Notes, the City 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 City 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 City; [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 City 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 City, 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 City]; (xiii) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, 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 City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the City, 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 City, any of which reflect financial difficulties.

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

The City'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 City, 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 City to comply with the Undertaking will not constitute a default with respect to the Notes.

The City 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 City did not file in a timely manner the event notice related to the May 15, 2018 downgrade of its underlying rating from "A1" to "A2" by Moody's Investors Service. The event notice was filed on June 20, 2018.

For the City's fiscal year ending December 31, 2019, 2020, and 2022 the City did not file its unaudited statements for such fiscal years as required when the audited financial statement was not available within 180 days following the end of such respective fiscal year. The audited financial statement was filed on December 9, 2020, October 19, 2021 and September 14, 2023 respectively, which was not later than 360 days after the end of such fiscal year as required. The City did not file in a timely manner the 2020 operating data. An event notice was filed on January 12, 2022.

### **RATINGS**

The City did not receive a rating on the Notes.

Moody's Investor Services, Inc. ("Moody's") has assigned an underlying rating of "A3" to the outstanding bonded indebtedness of the City.

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 the availability of a secondary market for those 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 City management's beliefs as well as assumptions made by, and information currently available to, the City'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 City files with the repositories. When used in City 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 City 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 City 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 City 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 City Accountant, Jeffrey Zellner, City of North Tonawanda, 216 Payne Avenue, North Tonawanda, New York 14120 (tel: (716) 695-8000 ext. 2117; Email: [jjzellner@northtonawanda.org](mailto:jjzellner@northtonawanda.org) or from the City'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 City and the original purchasers or holders of any of the Notes.

This Official Statement has been prepared in connection with the sale of the Notes by the City and may not be reproduced or used in whole or in part for any other purpose.

Capital Markets Advisors, LLC may place a copy of this Official Statement on its website at [www.capmark.org](http://www.capmark.org). Unless this Official Statement specifically indicates otherwise, no statement on such website is included by specific reference or constitutes a part of this Official Statement. Capital Markets Advisors, LLC has prepared such website information for convenience, but no decisions should be made in reliance upon that information. Typographical or other errors may have occurred in converting original source documents to digital format, and neither the City nor Capital Markets Advisors, LLC assumes any liability or responsibility for errors or omissions on such website. Further, Capital Markets Advisors, LLC and the City 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 City 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 City 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 City and may not be reproduced or used in whole or in part for any other purpose.

**CITY OF NORTH TONAWANDA  
NIAGARA COUNTY, NEW YORK**

By: \_\_\_\_\_  
Donna L. Braun  
City Clerk/Treasurer

DATED: September \_\_, 2023

**APPENDIX A**

## **THE CITY**

### ***General Information***

The City, with a land area of 10.5 square miles and a population of 30,496 according to the 2020 U.S. Census, is located in upstate New York in the geographical region known as Western New York. It is situated in the southwest portion of Niagara County at the juncture of the New York Barge Canal and the Niagara River. The City of Niagara Falls lies approximately five miles northwest and the City of Buffalo is five miles to the south.

Various modes of transportation to and from the area are provided by a network of State and County highways, including the New York State Thruway, Niagara Frontier Metro Bus Lines, the New York Barge Canal, Conrail and major airlines operating out of Niagara Falls International Airport and Buffalo-Niagara International Airport.

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

Sanitary sewer collection treatment and disposal facilities are maintained by the City. The cost of financing and constructing these facilities are provided by a combination of City special assessments against benefited properties, ad valorem taxes and sewer rents charged against the users served. The cost of operation is provided by charging sewer rents against the users served.

Electricity and natural gas are supplied throughout the City by National Grid Power Corporation and National Fuel Gas Distribution Corporation, respectively.

Police protection is provided by the City's Police Department, and Fire protection is provided by the City's professional Fire Department and six volunteer companies.

The City is served by the following commercial banks, which have one or more offices located within the City: M&T Bank, Key Bank, and Bank of America.

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

Effective beginning in calendar year 2002, the City Charter of the City was amended to allow for a strong mayoral form of governance, composed of an elected Mayor serving a four-year term as the elected executive and five Council persons, serving as the governing body (City Common Council). Three Council persons are each elected to represent a ward within the City for a two-year term while two Council persons are elected at large for alternating four-year terms. The positions of City Clerk/Treasurer and City Attorney are elected to four-year terms. All elected officers may succeed themselves. Effective March 1, 2009, the title and the position of City Clerk was eliminated, and replaced with the title City Clerk/Treasurer.

### ***Financial Organization***

The City Clerk/Treasurer is the chief fiscal officer of the City whose responsibility it is to receive, disburse and account for all financial transactions of the City.

## *Employees*

The City provides services through approximately 288 full-time and 124 part-time and seasonal City employees, a portion of whom are represented by various unions, some of which are represented by the following collective bargaining organizations:

**TABLE 1**  
**Employee Contracts**

| <b><u>Contract Bargaining Unit</u></b>                                | <b><u>Number of Members</u></b> | <b><u>Expiration Date</u></b> |
|---|---------------------------------|-------------------------------|
| North Tonawanda Civil Service Employees Association (CSEA)            | 82                              | 12/31/23                      |
| North Tonawanda Professional Firefighter's Association, Inc. (IAFF)   | 38                              | 12/31/27                      |
| North Tonawanda Policemen's Benevolent Association (PBA)              | 51                              | 12/31/26                      |
| American Federation of State, County and Municipal Employees (AFSCME) | 67                              | 12/31/25                      |
| Office and Professional Employees International Union (OPEIU)         | 12                              | 12/31/23                      |

### *Status and Financing of Employee Pension Benefits*

Substantially all employees of the City are members of the New York State and Local Employees' Retirement System ("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.) These Retirement Systems are cost-sharing multiple public employee retirement systems. The obligation 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. The Retirement System Law generally provides that all participating employers in each retirement system 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. Except as noted below, all members hired on or after July 27, 1976 must contribute 3% of their gross annual salary toward the costs of retirement programs. The 3% contribution is waived when the employee completes ten (10) years of service.

A pension reform bill, Chapter 49 of the Laws of 2003, was enacted to change the cycle of ERS billing to match budget cycles of the City. Under the previous method, the City was unsure of how much it paid to the system until after the City's budget was implemented. Under the new method the contribution for a given fiscal year will be based on the value of the pension fund in prior years.

On July 20, 2004, the New York State Legislature passed a bill amending the General Municipal Law, Local Finance Law and the Retirement and Social Security Law. On July 30, 2004, the Governor signed the new retirement system legislation into Law as Chapter 260 of the Laws of 2004. The bill moved the annual payment date for contributions from December 15th to February 1st, effective December 15, 2004 and permits municipalities to establish a reserve for future anticipated contributions.

The New York State Retirement System has advised the City 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 discounted amount. The City has elected to make such payments in December of each year.

According to OSC, for the State's Fiscal Year 2023-24, the estimated average employer contribution rate for ERS will be increased from 11.6% to 13.1% of payroll. The estimated average employer contribution rate for PFRS will be increased from 27% to 27.8% of payroll.

On March 16, 2012, the Governor signed into law the new Tier VI pension program, effective for new ERS, TRS 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

The following schedule reflects the City's contribution to each of the Systems for the last four audited fiscal years and the prior and current budgeted years.

| <b><u>Fiscal Year-<br/>Ending December 31</u></b> | <b><u>ERS<br/>Contribution</u></b> | <b><u>PFRS<br/>Contribution</u></b> |
|---|------------------------------------|-------------------------------------|
| 2023 <i>Budgeted</i>                              | \$1,373,469                        | \$3,029,485                         |
| 2022  | 1,516,578                          | 2,842,555                           |
| 2021  | 1,628,192                          | 2,753,751                           |
| 2020  | 1,489,394                          | 2,414,040                           |
| 2019  | 1,465,034                          | 2,252,791                           |
| 2018  | 1,475,559                          | 2,201,631                           |

***Other Post-Employment Benefits***

In June 2015, GASB released GASB Statement No. 75 (“GASB 75”), which was required to be implemented in the City’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 other post-employment benefits (“OPEB”) that they provide; such liability can no longer be a footnote as was allowed under GASB 45.

Under the provisions of GASB Statement No. 75, a full valuation is only required to be performed biannually. During the year ended December 31, 2022 the City did not obtain an interim report and presented the prior year information for its OPEB obligation. Upon obtaining the full valuation report for the year ended December 31, 2022, the beginning balance of the City’s OPEB obligation had been decreased by \$46,568,186.

Further, as of December 31, 2022 the City reported \$3,334,810 in unavailable revenue for property taxes as a deferred inflow of resources on its Statement of Net Position. Consistent with the accrual basis of accounting, the City determined it appropriate to recognize this amount as an adjustment to beginning fund balance.

|  | <b><u>Total OPEB<br/>Liability</u></b> |
|--|--|
| Net OPEB obligation-beginning of year 12/31/21 | <u>\$101,876,060</u>                   |
| Changes for the year:                          |  |
| Service Cost                                   | 2,513,543                              |
| Interest                                       | 2,247,312                              |
| Expected and actual experience                 | (23,370,812)                           |
| Changes of assumptions                         | (23,967,177)                           |
| Benefit payments                               | <u>(3,991,052)</u>                     |
| Net changes                                    | <u>(46,568,186)</u>                    |
| Net OPEB obligation-end of year 12/31/22       | <u>\$55,307,874</u>                    |



## FINANCIAL FACTORS

### *Budgetary Procedure*

The City Accountant is the Budget Officer. On or about August 15<sup>th</sup> of each year, department heads of the City present their respective budget requests to the City Accountant who compiles a tentative budget. During July, department heads review their requests with the Mayor and the City Accountant and on or before October 1 the Mayor submits to the Common Council a proposed budget for the ensuing fiscal year. The Council may amend the budget by adding or deleting programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income. A public hearing on the preliminary budget is held by the Common Council. Following the hearing the Council may make additional changes, alterations, and revisions to the preliminary budget. The Council by resolution shall adopt the budget on or before November 15<sup>th</sup>. The Mayor has an opportunity to veto the entire budget or one or more specific appropriations or budget items. The Council shall meet no later than December 31<sup>st</sup> to consider overriding the Mayor's veto. If during the fiscal year the City Clerk/Treasurer certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Common Council may make supplemental appropriations for the year up to the amount of such excess.

### *Independent Audit*

The City retains an independent certified public accounting firm for a continuous independent audit of all financial transactions of the City. The financial affairs of the City are also subject to annual audits by the State Comptroller. Certain financial information of the City is set forth in Appendix B to the Official Statement.

The City complies with the Uniform System of Accounts as prescribed for cities in New York State by the State Comptroller. This System differs from generally accepted accounting principles as prescribed by the American Institute of Certified Public Accountants' Industry Audit Guide, "Audits of State and Local Governmental Units", and codified in Government Accounting, Auditing and Financial Reporting (GAAFR), published by the Governmental Accounting Standards Board (GASB).

### *Revenues*

The City derives a major portion of its general fund revenues from a tax on real property (see "Statement of Revenues, Expenditures and Changes in Fund Balance" in Appendix B, herein). Real property taxes accounted for 43.7% of total general fund revenues for the fiscal year ended December 31, 2022, while non-property taxes accounted for 27.9% and State aid accounted for 12.5%.

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

**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               | \$35,464,251          | \$16,297,883               | 46.0%                                  |
| 2019               | 36,800,647            | 16,868,639                 | 45.8%                                  |
| 2020               | 36,114,501            | 16,792,892                 | 46.5%                                  |
| 2021               | 38,837,346            | 17,439,118                 | 44.9%                                  |
| 2022               | 40,860,110            | 17,867,284                 | 43.7%                                  |

Source: Audited Financial Statements

**Non-Property Taxes.** Section 1210 of the New York Tax law authorizes the County to levy a sales and compensatory use tax of up to 4% in addition to the 4% tax levied by the State. Such sales tax collections

in New York are administered by the State Tax Commissioner and the proceeds are paid to the County quarterly. The City also collects franchise taxes which are deposited to the fund.

The following table sets forth general fund non-property tax revenues received during the last five audited fiscal years.

**TABLE 3**  
**Non-Property Taxes**  
(General Fund)

| <b><u>Fiscal Year</u></b> | <b><u>Total Revenues</u></b> | <b><u>Non-Property Taxes</u></b> | <b><u>Non-Property Taxes to Revenues</u></b> |
|---------------------------|------------------------------|----------------------------------|--|
| 2018                      | \$35,464,251                 | \$9,440,181                      | 26.6%  |
| 2019                      | 36,800,647                   | 9,628,161                        | 26.2%  |
| 2020                      | 36,114,501                   | 9,438,915                        | 26.1%  |
| 2021                      | 38,837,346                   | 10,631,779                       | 27.4%  |
| 2022                      | 40,860,110                   | 11,418,269                       | 27.9%  |

Source: Audited Financial Statements

***State Aid***

The City receives financial assistance from the State. In the fiscal year December 31, 2021, 13.4% of the revenues of the City were received through the form of State aid. If the State should experience difficulty in borrowing funds in anticipation of the receipt of State taxes in order to pay State aid to municipalities and school districts in the State, including the City, in this year or future years, the City may be affected by a delay in the receipt of State aid until sufficient State taxes have been received by the State to make State aid payments. Additionally, if the State should not adopt its budget in a timely manner, municipalities and school districts in the State, including the City, may be affected by a delay in the payment of State aid.

The State is not constitutionally obligated to maintain or continue State aid to the City. No assurance can be given that present aid levels will be maintained in the future. In view of the State's continuing budget problems, future State aid reductions are likely. State budgetary restrictions which eliminate or substantially reduce State aid could have an adverse effect upon the City, requiring either a counterbalancing increase in revenues from other sources to the extent available, or a curtailment of expenditures. (See also "MARKET FACTORS AFFECTING FINANCINGS OF THE STATE AND MUNICIPALITIES IN THE STATE").

The following table sets forth total general fund revenues and State aid during the last five audited fiscal years.

**TABLE 4**  
**State Aid**  
(General Fund)

| <b><u>Fiscal Year</u></b> | <b><u>Total Revenues</u></b> | <b><u>State Aid</u></b> | <b><u>State Aid to Revenues</u></b> |
|---------------------------|------------------------------|-------------------------|-------------------------------------|
| 2018                      | \$35,464,251                 | \$5,009,008             | 14.1%                               |
| 2019                      | 36,800,647                   | 5,118,503               | 13.9%                               |
| 2020                      | 36,114,501                   | 4,964,673               | 13.7%                               |
| 2021                      | 38,837,346                   | 5,194,364               | 13.4%                               |
| 2022                      | 40,860,110                   | 5,102,888               | 12.5%                               |

Source: Audited Financial Statements

### ***Other Information***

The statutory authority for the power to spend money for the object or purpose, or to accomplish the object or purpose for which the Notes are to be issued is the City Charter and the Local Finance Law. The procedure for the validation of the Notes provided in Title 6 of Article 2 of the Local Finance Law, has been complied with. No principal or interest upon any obligation of the City is past due. The fiscal year of the City is the calendar year.

### ***Investment Policy***

Pursuant to State law, including Sections 10 and 11 of the General Municipal Law (the "GML"), the City 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 City 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 of New York; (4) with the approval of the New York State Comptroller, in tax anticipation notes or revenue anticipation notes issued by any municipality, school district, or district corporation, other than those notes issued by the City; (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 City pursuant to law, in obligations of the City.

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 City, 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 Common Council 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 City 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, 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 City as “No Designation”.

For a complete list of municipal fiscal stress scores, visit: <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 City are subject to periodic compliance reviews by the Office of the New York State Comptroller (“OSC”) to ascertain whether the City has complied with the requirements of various State and federal statutes.

The most recent audit conducted by OSC was released on August 07, 2020. The purpose of the audit was to assess whether the City’s Mayor and City Council adopted realistic budgets that were structurally balanced, routinely monitored financial operations and took appropriate actions to maintain the City’s fiscal stability for the period January 1, 2017 through April 27, 2020. The complete report can be obtained from OSC’s website: <https://www.osc.state.ny.us/files/local-government/audits/pdf/north-tonawanda-2020-90.pdf>

***Building Permits***

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

| <u>Fiscal Year End December</u>                           | <u>2019</u>  | <u>2020</u>  | <u>2021</u>  | <u>2022</u>  | <u>2023</u>  |
|---|--------------|--------------|--------------|--------------|--------------|
| <u>31:</u>  |              |              |              |              |              |
| <b>One &amp; Two Family Residential</b>                   |              |              |              |              |              |
| Number of Permits   | 9            | 8            | 8            | 8            | 10           |
| Estimated Value   | \$1,778,000  | \$1,600,000  | \$2,215,000  | \$2,367,684  | \$2,462,392  |
| <b>New Retail/Commercial Industrial/Other Residential</b> |              |              |              |              |              |
| Number of Permits   | 12           | 16           | 4            | 4            | 8            |
| Estimated Value   | \$8,987,177  | \$4,610,062  | \$2,051,800  | \$2,193,235  | \$2,280,964  |
| <b>Others</b>   |              |              |              |              |              |
| Number of Permits   | 1,756        | 1,550        | 1,869        | 1,781        | 1,852        |
| Estimated Value   | \$15,933,269 | \$14,500,000 | \$22,395,328 | \$23,939,081 | \$24,896,644 |
| <b>Yearly Total</b>                                       |              |              |              |              |              |
| Number of Permits   | 1,777        | 1,574        | 1,881        | 1,792        | 1,864        |
| Estimated Value   | \$26,698,446 | \$20,500,000 | \$26,662,128 | \$28,503,125 | \$29,643,250 |

## TAX INFORMATION

### *Valuations and Tax Data*

**TABLE 6**  
**Assessed and Full Valuations**  
(Fiscal year Ending December 31)

| <b>Tax Roll Year</b>  | <b><u>2019</u></b> | <b><u>2020</u></b> | <b><u>2021</u></b> | <b><u>2022</u></b> | <b><u>2023</u></b> |
|-----------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| <b>Town Tax Year</b>  | <b><u>2020</u></b> | <b><u>2021</u></b> | <b><u>2022</u></b> | <b><u>2023</u></b> | <b><u>2024</u></b> |
| Assessed Valuation    | \$1,253,971,480    | \$1,260,750,080    | \$1,268,173,580    | \$1,257,876,076    | \$1,271,066,321    |
| NYS Equalization Rate | 75.00%             | 69.00%             | 65.00%             | 55.00%             | 52.00%             |
| Full Valuation        | \$1,671,961,973    | \$1,827,174,029    | \$1,951,036,277    | \$2,287,047,411    | \$2,444,358,310    |
| Tax Rate Per \$1,000  | \$13.88            | \$14.78            | \$14.54            | \$14.54            | \$15.14            |

**TABLE 7**  
**Tax Collection Record**

| Fiscal Year Ending      | <b><u>2019</u></b>  | <b><u>2020</u></b>  | <b><u>2021</u></b>  | <b><u>2022</u></b>  | <b><u>2023<sup>(2)</sup></u></b> |
|-------------------------|---------------------|---------------------|---------------------|---------------------|----------------------------------|
| December 31:            |                     |                     |                     |                     |                                  |
| Real Property           |                     |                     |                     |                     |                                  |
| Tax Levy                | \$16,831,811        | \$17,232,278        | \$17,793,392        | \$18,285,689        | \$19,199,972                     |
| Unpaid Water            | 316,141             | 306,271             | 337,694             | 347,037             | 279,616                          |
| Unpaid Sewer            | 428,988             | 420,775             | 469,921             | 482,922             | 404,374                          |
| Special Assessment      | <u>3,102</u>        | <u>0</u>            | <u>0</u>            | <u>0</u>            | <u>0</u>                         |
| Total:                  | <u>\$17,647,302</u> | <u>\$17,962,325</u> | <u>\$18,601,007</u> | <u>\$19,115,648</u> | <u>\$19,883,962</u>              |
| Uncollected End of Year | \$412,834           | \$401,996           | \$398,463           | \$409,487           | \$460,000                        |
| Percent (%) Collected   | 95.38%              | 97.00%              | 97.76%              | 98.97%              | 97.69%                           |

- (1) The City holds tax sales annually. See "Tax Collection Procedure" below.  
 (2) 2023 numbers are preliminary as of June 22, 2023 and subject to change.  
 See "TAX LEVY LIMITATION LAW" herein.

### ***Tax Collection Procedure***

Taxes are levied on April 1st and are payable during the month of April without penalty. Late payments carry a penalty of 2% during May, 4% during June, 6% during July and an additional 1% for each month thereafter up to a maximum of 11%.

The City collects its own taxes through the City Clerk/Treasurer and is responsible for the collection of its delinquent taxes. The City holds its annual tax sale in December and any taxes not sold are bought by the City as tax liens.

**Ten Largest Taxpayers - Assessment Roll for 2023**

**TABLE 8  
Ten Largest Taxpayers**

| <u>Owner</u>   | <u>Type</u> | <u>Assessment</u>   | <u>% Valuation</u> |
|----------------|-------------|---------------------|--------------------|
| Nationa GRID   | Utility     | \$20,371,571        | 1.60%              |
| Natioinal Fuel | Utility     | 10,533,882          | 0.83%              |
| IT MID CITY    | Plaza       | 11,210,600          | 0.88%              |
| WALMART        | Retail      | 9,339,700           | 0.73%              |
| NT SR. HOUSING | Marina      | 4,979,000           | 0.39%              |
| CSX            | Apartments  | 3,770,557           | 0.30%              |
| FORTISTAR      | Retail      | 3,600,000           | 0.28%              |
| B.GIBBONS      | Railroad    | 3,313,000           | 0.26%              |
| SMITH BOYS     | Apartments  | 3,081,500           | 0.24%              |
| BUDWEY         | Retail      | <u>2,811,400</u>    | <u>0.22%</u>       |
| Total:         |             | <u>\$73,011,210</u> | <u>5.74%</u>       |

The ten largest taxpayers listed above represent 5.74% of the City's 2023 assessed valuation of \$1,271,066,321.

Source: City Officials

**Constitutional Tax Margin**

Computation of Constitutional Tax Margin for the calendar tax years 2019, 2020, 2021, 2022, and 2023 preliminary numbers as determined on December 31, 2019, 2020, 2021, and 2022, respectively, are as follows.

**TABLE 9  
Constitutional Tax Margin**

|  | <u>2019</u>         | <u>2020</u>         | <u>2021</u>         | <u>2022</u>         | <u>2023<sup>(1)</sup></u> |
|--|---------------------|---------------------|---------------------|---------------------|---------------------------|
| Five-Year Average Full Valuation   | \$1,407,059,961     | \$1,474,521,878     | \$1,570,667,152     | \$1,679,208,573     | \$1,844,911,130           |
| Tax Limit – 2% of Five-Year Average                                      | 28,141,199          | 29,490,438          | 31,413,343          | 33,584,171          | 36,898,223                |
| Add: Exclusions from Tax Limit   | <u>2,090,331</u>    | <u>1,701,753</u>    | <u>1,581,494</u>    | <u>1,770,868</u>    | <u>1,375,368</u>          |
| Maximum Taxing Power   | 30,231,530          | 31,191,191          | 32,994,837          | 33,584,171          | 38,273,591                |
| Less: Total Tax Levy   | <u>16,868,639</u>   | <u>17,239,888</u>   | <u>17,839,696</u>   | <u>18,285,689</u>   | <u>19,382,830</u>         |
| Constitutional Tax Margin  | <u>\$13,362,891</u> | <u>\$13,952,303</u> | <u>\$15,155,141</u> | <u>\$15,298,482</u> | <u>\$18,890,761</u>       |
| Percent of Tax Limit Exhausted by<br>Amount of Tax Levy Subject to Limit | 52.51%              | 52.69%              | 51.76%              | 49.17%              | 48.80%                    |

(1) As of June 22, 2023

Source: City Officials

**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. 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.

## **CITY INDEBTEDNESS**

### ***Constitutional Requirements***

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

***Payment and Maturity.*** Except for certain short-term indebtedness contracted in anticipation of taxes or to be paid within three fiscal periods, 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; no installment may be more than fifty per centum in excess of the smallest prior installment, unless a determination is made to issue indebtedness with substantially level or declining annual debt service (defined to include principal, redemption price, sinking fund installments or contributions, and interest), in which case, debt service for any year shall not exceed the lowest amount of annual debt service in any prior year by more than the greater of five percent or ten thousand dollars. The City 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 such required annual installments on its bonds.

***Debt Limit.*** The City has the power to contract indebtedness for any City purpose so long as the principal amount thereof, subject to certain limited exceptions, shall not exceed seven per centum of the average full valuation of taxable real estate of the City and subject to certain enumerated exclusions and deductions such as water and certain sewer facilities and cash or appropriations for current debt service. The constitutional method for determining full valuation is calculated by taking the assessed valuation of taxable real estate as shown upon the latest completed assessment roll and dividing the same by the equalization rate as determined by the State Board of Equalization and Assessment. The State Legislature is required to prescribe the manner by which such ratio shall be determined. Average full valuation is determined by taking the sum of the full valuation of the last completed assessment roll and the four preceding assessment rolls and dividing such sum by five.



***Statutory Procedure***

In general, the State Legislature has authorized the power and procedure for the City to borrow and incur indebtedness by the enactment of the Local Finance Law subject, of course, to the provisions set forth above. The power to spend money, however, generally derives from another law, including specifically the City Charter and the General Municipal Law.

Pursuant to the Local Finance Law and its Charter, the City authorizes the issuance of bonds by the adoption of a bond resolution approved by at least two-thirds of the members of the Common Council, the finance board of the City. Customarily, the Common Council has delegated to the City Clerk/Treasurer, as chief fiscal officer of the City, the power to authorize and sell bonds.

The Local Finance Law also provides that where a bond resolution is published with a statutory form of notice, the validity of bonds authorized thereby, including bond anticipation notes issued in anticipation of the sale thereof, may be contested only if:

- (1) Such obligations are authorized for a purpose for which the City is not authorized to expend money, or
- (2) There has not been substantial compliance with the provisions of law which should have been complied with in the authorization of such obligations

and an action contesting such validity, is commenced within twenty days after the date of such publication, or

- (3) Such obligations are authorized in violation of the provisions of the Constitution.

It is the policy of the City to comply with this estoppel procedure. It is a procedure that is recommended by Bond Counsel to the City, but is not an absolute legal requirement.

Each bond resolution usually authorizes the construction, acquisition or installment 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.

Statutory law in New York permits bond anticipation notes to be renewed each year provided annual principal installments are made in reduction of the total amount of such notes outstanding, commencing no later than two years from the date of the first of such notes and provided that such renewals do not exceed five years beyond the original date of borrowing. (See “Payment and Maturity” under “Constitutional Requirements” herein.) In general, the Local Finance Law contains provisions providing the City with power to issue certain other short-term general obligation indebtedness including’ revenue and tax anticipation notes, budget and capital notes (see “Details of Outstanding Indebtedness” herein).

***Debt Outstanding End of Fiscal Year***

**TABLE 10**  
**Outstanding Debt**

| Fiscal Year Ending<br>December 31: | <u>2018</u>         | <u>2019</u>         | <u>2020</u>         | <u>2021</u>         | <u>2022</u>         |
|------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Bonds                              | \$14,203,000        | \$12,645,000        | \$11,997,700        | \$9,945,000         | \$8,230,000         |
| BANs                               | 0                   | 0                   | 0                   | 7,894,375           | 7,894,375           |
| TANs                               | 0                   | 0                   | 0                   | 2,300,000           | 0                   |
| Totals:                            | <u>\$14,203,000</u> | <u>\$12,645,000</u> | <u>\$11,997,700</u> | <u>\$20,139,375</u> | <u>\$16,124,375</u> |

Source: City’s audited financial statements

***Debt Statement Summary***

Statement of Indebtedness, Debt Limit and Net Debt-Contracting Margin as of September 19, 2023.

**TABLE 12**  
**Debt Contracting Margin**

| <u>Assessment Year</u>                                     | <u>Assessed Value</u> | Equalization<br><u>Rate</u> | <u>Full Value</u>    |
|--|-----------------------|-----------------------------|----------------------|
| 2019   | 1,253,971,480         | 75.00%                      | 1,671,961,973        |
| 2020   | 1,260,750,080         | 69.00%                      | 1,827,174,029        |
| 2021   | 1,268,173,580         | 65.00%                      | 1,951,036,277        |
| 2022   | 1,257,876,076         | 55.00%                      | 2,287,047,411        |
| 2023   | 1,271,066,321         | 52.00%                      | <u>2,444,358,310</u> |
| Five Year Average Full Valuation of Taxable Real Property: |                       |                             | \$2,036,315,600      |
| Debt Limit – 7% thereof:                                   |                       |                             | \$142,542,092        |
| Outstanding Bonds  |                       |                             | \$13,899,375         |
| Bond Anticipation Notes                                    |                       |                             | 1,075,000            |
| Tax Anticipation Notes                                     |                       |                             | <u>0</u>             |
| Gross Direct Indebtedness                                  |                       |                             | <u>\$17,034,375</u>  |
| Exclusions:  |                       |                             |                      |
| Appropriations for Non-Exempt Debt <sup>(1)</sup>          |                       |                             | 220,00               |
| Tax Anticipation Notes                                     |                       |                             | <u>0</u>             |
| Total Exclusions   |                       |                             | \$220,000            |
| Total Net Indebtedness Subject to Debt Limit               |                       |                             | <u>\$17,012,375</u>  |
| Net Debt-Contracting Margin                                |                       |                             | <u>\$125,529,717</u> |
| Percent of Debt Contracting Power Exhausted:               |                       |                             | <u>11.93%</u>        |

(1) Budgeted appropriations are automatically excluded pursuant to provisions of the New York State Constitution and Section 136 of the Local Finance Law.

Source: City Officials

***Remedies Upon Default***

Under current law, provision is made for contract creditors (including the Noteholders) of the City 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 City'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, in the opinion of Bond Counsel, 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 bondholders, 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 City indebtedness is past due. The City has never defaulted in the payment of the principal of and interest on any indebtedness.

***Overlapping Indebtedness***

In addition to the City, the following political subdivisions have the power to issue bonds and to levy taxes or cause taxes to be levied on taxable real property in the City. Estimated bonds and bond anticipation notes are listed as of the close of the last fiscal year of the respective municipalities, adjusted to include subsequent bond issues.

**TABLE 13**  
**Overlapping Indebtedness**

| <b><u>Unit</u></b>              | <b><u>Net</u></b><br><b><u>Indebtedness</u></b> | <b><u>As of</u></b> | <b><u>Approximate</u></b><br><b><u>Applicable</u></b> | <b><u>Allocable Net</u></b><br><b><u>Indebtedness</u></b> |
|---------------------------------|---|---------------------|---|---|
| County of Niagara               | \$22,942,987                                    | 06/21/2023          | 13.62%  | \$3,124,835   |
| North Tonawanda CSD             | 30,485,000                                      | 12/12/2022          | 100.0%  | <u>30,485,000</u> <sup>(1)</sup>                          |
| Total Net Overlapping Debt      |   |                     |   | \$33,609,835  |
| Total Net Direct Debt           |   |                     |   | <u>\$17,012,375</u>                                       |
| Net Direct and Overlapping Debt |   |                     |   | <u>\$50,622,210</u>                                       |

(1) The North Tonawanda City School District has received and expects to continue to receive State Aid on a portion of existing indebtedness contracted for school building purposes pursuant to Section 121.20 of the Local Finance Law, but, under the Local Finance Law, as a small city school district, it is not permitted to deduct such anticipated State building aid from its outstanding indebtedness. However, as a matter of information, State aid for building purposes is currently estimated by North Tonawanda City School District officials at 81.6%.

***Debt Ratios***

The following table sets forth certain ratios relating to the City's indebtedness.

**TABLE 14**  
**Debt Ratios**

|                                 | <b><u>Amount of</u></b><br><b><u>Indebtedness</u></b> | <b><u>Per</u></b><br><b><u>Capita</u></b> <sup>(a)</sup> | <b><u>% Of Full</u></b><br><b><u>Valuation</u></b> <sup>(b)</sup> |
|---------------------------------|---|--|---|
| Net Direct Indebtedness         | \$14,754,375  | \$558  | 0.70%   |
| Net Direct and Overlapping Debt | \$48,364,210  | \$1,660  | 2.07%   |

(a) The City's 2020 US Census estimated population is 30,496.

(b) The City's full valuation of taxable real estate for 2023 is \$2,444,358,310. (See "Assessed and Full Valuations" herein).

***Bond Anticipation Notes***

Following the issuance of the Notes, the City will have \$1,075,000 and \$3,394,276 of bond anticipation notes maturing May 17, 2024 and October 17, 2024, respectively.

***Tax Anticipation Notes***

The City currently does not have any Tax Anticipation Notes.

***Authorized but Unissued Indebtedness***

This City has \$1,300,000 of authorized and unissued indebtedness relating the various purpose bond resolution adopted March 1, 2022. Following the issuance of the Notes, the City will have an additional \$2,475,000 authorized and unissued relating to a bond resolution issued on April 18, 2023. On July 5, 2023, the City additionally authorized \$24,855,000 to finance improvements to its Wastewater Treatment Plant. The City expects to borrow against this authorization in the near future.

***Debt Service Schedule***

**TABLE 15**  
**Debt Service Schedule**  
(As of September 19, 2023)

| <b>Fiscal Year</b>   |                         |                        |                            |
|----------------------|-------------------------|------------------------|----------------------------|
| <b>Ending</b>        |                         |                        | <b>Total</b>               |
| <b><u>12/31:</u></b> | <b><u>Principal</u></b> | <b><u>Interest</u></b> | <b><u>Debt Service</u></b> |
| 2023                 | \$220,000               | \$110,516              | \$330,516                  |
| 2024                 | 1,324,375               | 593,092                | 1,917,467                  |
| 2025                 | 1,215,000               | 416,245                | 1,631,245                  |
| 2026                 | 1,195,000               | 374,932                | 1,569,932                  |
| 2027                 | 1,130,000               | 334,216                | 1,464,216                  |
| 2028                 | 1,075,000               | 297,697                | 1,372,697                  |
| 2029                 | 960,000                 | 263,669                | 1,223,669                  |
| 2030                 | 940,000                 | 230,819                | 1,170,819                  |
| 2031                 | 830,000                 | 202,156                | 1,032,156                  |
| 2032                 | 800,000                 | 175,019                | 975,019                    |
| 2033                 | 705,000                 | 149,422                | 854,422                    |
| 2034                 | 550,000                 | 127,588                | 677,588                    |
| 2035                 | 480,000                 | 108,094                | 588,094                    |
| 2036                 | 425,000                 | 90,331                 | 515,331                    |
| 2037                 | 370,000                 | 74,600                 | 444,600                    |
| 2038                 | 165,000                 | 63,900                 | 228,900                    |
| 2039                 | 170,000                 | 57,200                 | 227,200                    |
| 2040                 | 170,000                 | 50,400                 | 220,400                    |
| 2041                 | 170,000                 | 43,600                 | 213,600                    |
| 2042                 | 170,000                 | 36,800                 | 206,800                    |
| 2043                 | 140,000                 | 30,600                 | 170,600                    |
| 2044                 | 140,000                 | 25,000                 | 165,000                    |
| 2045                 | 140,000                 | 19,400                 | 159,400                    |
| 2046                 | 145,000                 | 13,700                 | 158,700                    |
| 2047                 | 145,000                 | 7,900                  | 152,900                    |
| 2048                 | <u>125,000</u>          | <u>2,500</u>           | <u>127,500</u>             |
|                      | \$13,899,375            | \$3,899,396            | \$17,798,771               |

**ECONOMIC AND DEMOGRAPHIC DATA**

The majority of the residents are engaged in industry, commerce and professions in the City as well as the Buffalo, Lockport and Niagara Falls metropolitan areas. Some of the major employers located within the City by type of business and the approximate number of employees are as follows:

**Major Employers**

**TABLE 16**  
**Major Employers**

| <u>Name of Employer</u>      | <u>Type of Business</u> | <u>Approx. Number of Employees</u> |
|------------------------------|-------------------------|------------------------------------|
| North Tonawanda City Schools | Education               | 825                                |
| DeGraff Memorial Hospital    | Health Care             | 500                                |
| City of North Tonawanda      | Government              | 273                                |
| Tops Supermarkets            | Retail                  | 230                                |
| Smurfit - Stone              | Manufacturing           | 152                                |
| Buffalo Pumps                | Manufacturing           | 120                                |
| Swaglock                     | Manufacturing           | 100                                |
| Niagara Cutter, Inc.         | Manufacturing           | 100                                |
| Confer Plastics              | Manufacturing           | 100                                |
| Walmart                      | Retail                  | 100                                |

Source: North Tonawanda Chamber of Commerce

**Unemployment Rate Statistics**

The following tables provide information concerning employment and unemployment in the City, County and the State.

**TABLE 17**  
**Civilian Labor Force**  
(Thousands)

|        | <u>2018</u> | <u>2019</u> | <u>2020</u> | <u>2021</u> | <u>2022</u> |
|--------|-------------|-------------|-------------|-------------|-------------|
| City   | 15.7        | 15.7        | 15.4        | 14.9        | 15.3        |
| County | 101.2       | 100.8       | 99.2        | 96.2        | 98.1        |
| State  | 9,842.3     | 9,880.2     | 9,575.0     | 9,441.5     | 9,592.0     |

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

**TABLE 18**  
**Yearly Average Unemployment Rates**

| <u>Year</u> | <u>City</u> | <u>County</u> | <u>State</u> |
|-------------|-------------|---------------|--------------|
| 2018        | 4.4%        | 5.2%          | 4.1%         |
| 2019        | 4.0%        | 4.8%          | 3.8%         |
| 2020        | 9.2%        | 10.1%         | 9.9%         |
| 2021        | 4.9%        | 5.7%          | 6.9%         |
| 2022        | 3.3%        | 3.8%          | 4.3%         |

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

**TABLE 19**  
**Monthly Unemployment Rates**

| <u>Month</u> | <u>City</u> | <u>County</u> | <u>State</u> |
|--------------|-------------|---------------|--------------|
| June 2022    | 3.4%        | 3.5%          | 4.1%         |
| July         | 3.6%        | 3.9%          | 4.3%         |
| August       | 3.8%        | 4.1%          | 4.2%         |
| September    | 3.1%        | 3.2%          | 3.6%         |
| October      | 2.8%        | 3.0%          | 3.7%         |
| November     | 2.9%        | 3.4%          | 3.8%         |
| December     | 3.2%        | 3.7%          | 3.8%         |
| January 2023 | 4.0%        | 4.9%          | 4.6%         |
| February     | 3.6%        | 4.5%          | 4.5%         |
| March        | 3.1%        | 4.0%          | 4.0%         |
| April        | 2.5%        | 3.0%          | 3.7%         |
| May          | 2.8%        | 3.2%          | 3.8%         |

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

***Population Trends***

**TABLE 20**  
**Population Trends**

|             | <u>City</u> | <u>County</u> | <u>State</u> |
|-------------|-------------|---------------|--------------|
| <b>1980</b> | 35,760      | 227,101       | 17,557,288   |
| <b>1990</b> | 34,989      | 220,756       | 17,990,445   |
| <b>2000</b> | 33,262      | 219,846       | 18,976,457   |
| <b>2010</b> | 31,568      | 216,469       | 19,378,102   |
| <b>2020</b> | 30,496      | 212,666       | 20,201,249   |

*Source: U.S. Census*

**LITIGATION**

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

**End of Appendix A**

**APPENDIX B**

**SUMMARY OF FINANCIAL  
STATEMENTS**

**CITY OF NORTH TONAWANDA, NY**  
**Balance Sheet**  
**General Fund**

| Year Ending December 31:   | <u>2021</u>                    | <u>2022</u>                    |
|--|--------------------------------|--------------------------------|
| <b><u>Assets</u></b>   |                                |                                |
| Cash and Investments   | \$7,535,004                    | \$8,940,457                    |
| Receivables:   |                                |                                |
| Taxes  | 4,407,797                      | 5,027,838                      |
| Accounts   | 303,074                        | 381,158                        |
| State & Federal Aid  | 1,093,767                      | 1,040,612                      |
| Due from Other Funds   | 1,022,029                      | 1,022,028                      |
| Due From Other Governments                                       | 0                              | 0                              |
| Prepaid Expenses   | 0                              | 0                              |
| <b>Total Assets</b>  | <b><u>\$14,361,671</u></b>     | <b><u>\$16,412,093</u></b>     |
| <br><b><u>Liabilities Deferred Inflows and Fund Balances</u></b> |                                |                                |
| <b><u>Liabilities</u></b>  |                                |                                |
| Accounts Payable   | \$712,209                      | \$779,016                      |
| Accrued Liabilities  | 675,811                        | 751,488                        |
| Due to Other Funds   | 522,932                        | 522,932                        |
| Due to Other Governments   | 4,007,105                      | 3,725,373                      |
| Unearned revenue   | 1,458,130                      | 1,739,816                      |
| Total Liabilities  | <u>\$7,376,187</u>             | <u>\$7,518,625</u>             |
| <br><b><u>Deferred Inflows of Resources:</u></b>                 |                                |                                |
| Unavailable Revenue - Property Taxes                             | <u>\$3,334,810</u>             | <u>\$3,807,900</u>             |
| Total Deferred Inflows of Resources                              | <u>\$3,334,810</u>             | <u>\$3,807,900</u>             |
| <br><b><u>Fund Balance</u></b>                                   |                                |                                |
| Reserved   |                                |                                |
| Non-Spendable  | 1,022,029                      | 1,022,028                      |
| Restricted Fund Balance  | 2,340,153                      | 2,351,260                      |
| Assigned Fund Balance  | 0                              | 0                              |
| Unassigned Fund Balance  | 288,492                        | 1,712,280                      |
| Total Fund Balances  | <u>\$3,650,674</u>             | <u>\$5,085,568</u>             |
| <br><b>Total Liabilities, Deferred Inflows and Fund Equity</b>   | <br><b><u>\$14,361,671</u></b> | <br><b><u>\$16,412,093</u></b> |

*Source: Audited Financial Statements of the City  
Summary not audited*



**CITY OF NORTH TONAWANDA, NY**  
**Statement of Revenues, Expenditures and Changes in Fund Balance**  
**General Fund**

| Year Ending December 31:   | <u>2018</u>               | <u>2019</u>               | <u>2020</u>               | <u>2021</u>               | <u>2022</u>               |
|--|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| <b><u>Revenues</u></b>   |                           |                           |                           |                           |                           |
| Real Property Taxes  | \$16,297,884              | \$16,868,639              | \$16,792,892              | \$17,439,118              | \$17,867,284              |
| Real Property Tax Items  | 1,344,681                 | 1,998,295                 | 1,623,926                 | 1,722,302                 | 1,712,972                 |
| Non Property Tax Items   | 9,440,181                 | 9,628,161                 | 9,438,915                 | 10,631,779                | 11,418,269                |
| Departmental Income  | 1,447,238                 | 1,188,880                 | 1,329,845                 | 1,615,181                 | 1,660,210                 |
| Intergovernmental Charges  | 49,031                    | 53,891                    | 114,908                   | 75,643                    | 47,142                    |
| Use of Money & Property  | 257,948                   | 325,417                   | 151,886                   | 93,534                    | 89,734                    |
| Licenses and Permits   | 514,658                   | 573,031                   | 427,480                   | 563,676                   | 560,012                   |
| Fines and Forfeitures  | 413,128                   | 408,503                   | 168,322                   | 474,954                   | 755,331                   |
| Sale of Property and Comp for Loss   | 629,373                   | 595,311                   | 1,034,805                 | 767,931                   | 372,534                   |
| Miscellaneous  | 53,473                    | 36,450                    | 66,849                    | 137,994                   | 29,324                    |
| State Sources  | 5,009,008                 | 5,118,503                 | 4,964,673                 | 5,194,364                 | 5,102,888                 |
| Federal Sources  | 7,648                     | 5,566                     | 0                         | 120,870                   | 1,244,410                 |
| <b>Total Revenues</b>  | <u>\$35,464,251</u>       | <u>\$36,800,647</u>       | <u>\$36,114,501</u>       | <u>\$38,837,346</u>       | <u>\$40,860,110</u>       |
| <b><u>Expenditures</u></b>   |                           |                           |                           |                           |                           |
| General Government Support   | 3,889,013                 | 3,022,633                 | 3,492,852                 | 3,941,046                 | 3,857,252                 |
| Public Safety  | 10,690,826                | 11,121,308                | 11,213,510                | 12,002,944                | 11,842,866                |
| Transportation   | 4,544,820                 | 4,932,526                 | 4,510,765                 | 4,841,114                 | 5,678,871                 |
| Economic Assistance and Opportunity  | 68,865                    | 71,748                    | 54,963                    | 68,794                    | 90,457                    |
| Culture and Recreation   | 2,045,640                 | 1,960,194                 | 1,843,012                 | 2,216,332                 | 2,008,126                 |
| Home and Community Services  | 1,520,804                 | 1,717,752                 | 1,755,281                 | 1,773,724                 | 1,810,529                 |
| Employee Benefits  | 11,518,436                | 11,814,073                | 12,110,079                | 12,350,287                | 11,903,167                |
| Debt Service   | 1,789,289                 | 1,980,549                 | 1,603,204                 | 1,726,428                 | 1,359,623                 |
| <b>Total Expenditures</b>  | <u>\$36,067,693</u>       | <u>\$36,620,783</u>       | <u>\$36,583,666</u>       | <u>\$38,920,669</u>       | <u>\$38,550,891</u>       |
| Excess of Revenues over Expenditures   | <u>(603,442)</u>          | <u>179,864</u>            | <u>(469,165)</u>          | <u>(83,323)</u>           | <u>2,309,219</u>          |
| <b><u>Other Sources and (Uses)</u></b>   |                           |                           |                           |                           |                           |
| Operating Transfers In   | 297,190                   | 940,828                   | 0                         | 117                       | 0                         |
| Operating Transfers Out  | (41,618)                  | (1,967,655)               | (727,047)                 | (928,485)                 | (874,325)                 |
| <b>Total Other Sources and (Uses)</b>  | <u>255,572</u>            | <u>(1,026,827)</u>        | <u>(727,047)</u>          | <u>(928,368)</u>          | <u>(874,325)</u>          |
| Excess of Revenues and Other Sources<br>Over (Under) Expenditures and Other Uses | <u>(347,870)</u>          | <u>(846,963)</u>          | <u>(1,196,212)</u>        | <u>(1,011,691)</u>        | <u>1,434,894</u>          |
| <b><u>Fund Balance</u></b>   |                           |                           |                           |                           |                           |
| Fund Balance - Beginning of Year   | <u>7,053,410</u>          | <u>6,705,540</u>          | <u>5,858,577</u>          | <u>4,662,365</u>          | <u>3,650,674</u>          |
| <b>Fund Balance - End of Year</b>  | <u><b>\$6,705,540</b></u> | <u><b>\$5,858,577</b></u> | <u><b>\$4,662,365</b></u> | <u><b>\$3,650,674</b></u> | <u><b>\$5,085,568</b></u> |

*Source: Audited Financial Statements of the City  
Summary not audited*

**CITY OF NORTH TONAWANDA, NY**  
**Combining Balance Sheet**  
**Special Revenue Funds**

| Year Ending December 31:                     | <u>2021</u>               | <u>2022</u>                |
|--|---------------------------|----------------------------|
| <b><u>Assets</u></b>                         |                           |                            |
| Cash and Investments                         | \$5,321,218               | \$4,949,355                |
| Receivables:                                 |                           | 637,173                    |
| Leases                                       | -                         | 3,913,474                  |
| Accounts                                     | 1,187,750                 | 1,241,365                  |
| Due from Other funds                         | 967,319                   | <u>1,167,319</u>           |
| <b>Total Assets</b>                          | <b><u>\$7,476,287</u></b> | <b><u>\$11,908,686</u></b> |
| <b><u>Liabilities and Fund Equity</u></b>    |                           |                            |
| <b><u>Liabilities</u></b>                    |                           |                            |
| Accounts Payable                             | 214,173                   | 239,010                    |
| Accrued Liabilities                          | 50,992                    | 21,825                     |
| Due to Other Funds                           | 1,607,945                 | 1,807,945                  |
| Due to Other Governments                     | 204,648                   | <u>312,911</u>             |
| Total Liabilities                            | <u>2,077,758</u>          | <u>2,381,691</u>           |
| <b><u>Deferred Inflows of Resources:</u></b> | <u>0</u>                  | <u>3,512,413</u>           |
| <b><u>Fund Equity</u></b>                    |                           |                            |
| Fund Balance:                                |                           |                            |
| Non Spendable                                | 0                         | 0                          |
| Restricted                                   | 3,562,185                 | 3,890,624                  |
| Assigned                                     | 2,143,321                 | 2,213,277                  |
| Unassigned                                   | <u>-306,977</u>           | <u>(89,319)</u>            |
| Total Fund Equity                            | <u>5,398,529</u>          | <u>6,014,582</u>           |
| <b>Total Liabilities and Fund Equity</b>     | <b><u>\$7,476,287</u></b> | <b><u>\$11,908,686</u></b> |

*Source: Audited Financial Statements of the City  
Summary not audited*

**CITY OF NORTH TONAWANDA, NY**  
**Combining Statement of Revenues, Expenditures and Changes in Fund Balance**  
**Special Revenue Funds**

| Year Ending December 31:   | <u>2021</u>               | <u>2022</u>               |
|--|---------------------------|---------------------------|
| <b><u>Revenues</u></b>   |                           |                           |
| Departmental Income  | \$6,560,556               | \$6,456,073               |
| Use of Money and Property  | 175,268                   | 217,419                   |
| Sale of Property and Comp. For Loss  | 6,783                     | 330                       |
| Miscellaneous  | 75,748                    | 200,767                   |
| State Aid  | 0                         | 750,000                   |
| Federal Aid  | 2,655,231                 | 3,343,790                 |
| Total Revenues   | <u>9,473,586</u>          | <u>10,968,379</u>         |
| <b><u>Expenditures</u></b>   |                           |                           |
| General Government Support   | 6,000                     | 20,000                    |
| Economic Assistance and Opportunity  | 2,615,892                 | 3,343,790                 |
| Home and Community Support   | 5,316,329                 | 6,180,308                 |
| Employee Benefits  | 1,049,832                 | 1,272,207                 |
| Debt Service - Principal   | 603,125                   | 677,909                   |
| Debt Service - Interest  | 116,881                   | 109,527                   |
| Total Expenditures   | <u>9,708,059</u>          | <u>11,603,741</u>         |
| Excess (Def) of Revenues Over Expenditures                                     | (234,473)                 | (635,362)                 |
| <b><u>Other Sources and Uses:</u></b>  |                           |                           |
| Transfer from Other Funds  | 928,485                   | 874,325                   |
| Transfer to Other Funds  | (117)                     | 0                         |
| Total Other Sources and (Uses)   | <u>928,368</u>            | <u>874,325</u>            |
| Excess (Def) of Revenues and Other Sources<br>over Expenditures and Other Uses | 693,895                   | 238,963                   |
| Fund Balance - Beginning of Year   | <u>4,704,634</u>          | <u>5,775,619</u>          |
| <b><u>Fund Balance - End of Year</u></b>                                       | <b><u>\$5,398,529</u></b> | <b><u>\$6,014,582</u></b> |

*Source: Audited Financial Statements of the City  
Summary not audited*

**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/P11696840-P11289520-P11735884.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. Amato, Fox & Company, PC has not been requested by the City  
to further review and/or update such Financial Statements or opinion in connection  
with the preparation and dissemination of this Official Statement.**