

**PRELIMINARY OFFICIAL STATEMENT DATED MAY 23, 2018**

**NEW ISSUE  
SERIAL BONDS**

**Rating: See “Rating” herein**

*In the opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the Village, under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described herein, (i) interest on the Bonds is excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Bonds is not treated as a preference item in calculating the alternative minimum tax under the Code; such interest, however, is included in the adjusted current earnings of certain corporations for purposes of calculating the alternative minimum tax for fiscal years beginning prior to January 1, 2018. In addition, in the opinion of Bond Counsel to the Village, under existing statutes, interest on the Bonds is exempt from personal income taxes of New York State and its subdivisions including The City of New York. See “Tax Matters” herein.*

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

**VILLAGE OF UPPER NYACK  
ROCKLAND COUNTY, NEW YORK**

**\$2,200,000\***

**PUBLIC IMPROVEMENT SERIAL BONDS – 2018  
(the “Bonds”)**

**Dated Date: Date of Delivery**

**Maturity Dates: June 15, 2019 to 2038**

The Bonds are general obligations of the Village of Upper Nyack, Rockland County, New York (the “Village”), and will contain a pledge of the faith and credit of the Village for the payment of the principal thereof and interest thereon and, unless paid from other sources, the Bonds are payable from ad valorem taxes which may be levied upon all the taxable real property within the Village, subject to certain statutory limitations imposed by Chapter 97 of the New York Laws of 2011, as amended (the “Tax Levy Limit Law”). (See “Tax Levy Limit Law” herein.)

The Bonds are dated their Date of Delivery and will bear interest from that date until maturity at the annual rate or rates as specified by the purchaser of the Bonds, payable semi-annually on June 15 and December 15 in each year until maturity, commencing June 15, 2019. The Bonds shall mature on the dates in the years in the principal amounts specified on the inside cover page hereof. The Bonds maturing in certain years will be subject to redemption prior to their stated maturity, as specified on the inside cover page hereof. See “Optional Redemption,” herein.

The Bonds will be issued as fully registered bonds and, at the option of the purchaser, will be either (i) issued as book-entry bonds and registered in the name of Cede & Co., as nominee of DTC or (ii) registered in the name of the purchaser. DTC will act as securities depository for any book-entry Bonds. Individual purchases of book-entry Bonds may be made in book-entry form only, in principal amounts of \$5,000 and integral multiples thereof. Purchasers will not receive certificates representing their interest in the Bonds. Payment of the principal of and interest on book-entry Bonds will be made by the Village to DTC, which will in turn remit such principal and interest to its Participants for subsequent disbursement to the Beneficial Owners of the Bonds as described herein. See “Book-Entry-Only System” herein.

The Bonds are offered when, as and if issued and received by the purchaser and subject to the receipt of the final approving opinion of Hawkins Delafield & Wood LLP, New York, New York, Bond Counsel. Capital Markets Advisors, LLC has served as Municipal Advisor to the Village in connection with the issuance of the Bonds. It is anticipated that the Bonds will be available for delivery through the offices of DTC on or about June 26, 2018.

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

Dated: June \_\_, 2018

\* Preliminary, subject to change.

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 Bonds, 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.

The Bonds mature on June 15 in the years, subject to prior redemption, as set forth below:

<u>Year</u>	<u>Amount*</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP***</u>	<u>Year</u>	<u>Amount*</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>CUSIP***</u>
2019	\$ 55,000	%	%		2029**	\$ 110,000	%	%	
2020	85,000				2030**	115,000			
2021	90,000				2031**	115,000			
2022	90,000				2032**	120,000			
2023	95,000				2033**	125,000			
2024	95,000				2034**	130,000			
2025	100,000				2035**	135,000			
2026	100,000				2036**	140,000			
2027**	105,000				2037**	145,000			
2028**	105,000				2038**	145,000			

\* The principal amounts of the Bonds are subject to adjustment following the sale of the Bonds, pursuant to the terms of the accompanying Notice of Sale to achieve substantially level or declining annual debt service.

\*\* Subject to optional redemption prior to maturity, as discussed herein. See “*Optional Redemption*” herein.

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

**VILLAGE OF UPPER NYACK  
ROCKLAND COUNTY, NEW YORK**

**MAYOR  
KAREN A. TARAPATA**

**BOARD OF TRUSTEES**

Michael Esmay .....Deputy Mayor / Trustee

Joseph P. Diamond ..... Trustee

Donna L. Nye ..... Trustee

Kennon Rothchild, III ..... Trustee

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Richard D. Fortunato ..... Village Treasurer

Carol G. Brotherhood ..... Village Clerk

Robert P Lewis Jr., Esq. .... Village Attorney

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**BOND COUNSEL**

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

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**MUNICIPAL ADVISOR**



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

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

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**OFFICIAL STATEMENT  
of the  
VILLAGE OF UPPER NYACK  
ROCKLAND COUNTY, NEW YORK**

**relating to**

**\$2,200,000\***

**PUBLIC IMPROVEMENT SERIAL BONDS – 2018  
(the “Bonds”)**

This Official Statement, which includes the cover page, inside cover page and appendices hereto, presents certain information relating to the Village of Uppder Nyack, in the County of Rockland, in the State of New York (the “Village”, “County” and “State,” respectively) in connection with the sale of \$2,200,000\* Public Improvement Serial Bonds – 2018 (the “Bonds”).

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

**THE BONDS**

***Description of the Bonds***

The Bonds are dated their Date of Delivery and will bear interest from that date until maturity or prior redemption at the annual rate or rates as specified by the purchaser, payable semi-annually on June 15 and December 15 in each year until maturity, commencing June 15, 2019. The Bonds shall mature on the dates in the years in the principal amounts specified on the inside cover page hereof. The Bonds maturing in certain years will be subject to redemption prior to their stated maturity. (See “*Optional Redemption*” herein).

The Bonds will be issued as fully registered bonds and, at the option of the purchaser, will be either (i) issued as book-entry bonds and registered in the name of Cede & Co., as nominee of DTC or (ii) registered in the name of the purchaser. DTC will act as securities depository for any book-entry Bonds. Individual purchases of book-entry Bonds may be made in book-entry form only, in principal amounts of \$5,000 and integral multiples thereof. Purchasers will not receive certificates representing their interest in the Bonds.

Payment of the principal of and interest on book-entry Bonds will be made by the Village to DTC, which will in turn remit such principal and interest to its Participants for subsequent disbursement to the Beneficial Owners of the Bonds as described herein. See “*Book-Entry-Only System*” herein. The Bonds may be transferred in the manner described on the Bonds and as referenced in certain proceedings of the Village referred to therein.

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

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

The Bonds are issued pursuant to the Constitution and Laws of the State, including, among others, the Local Finance Law and a bond resolution duly adopted by the Board of Trustees on April 19, 2018 auorizing the issuance of up to \$2,200,000 serial bonds for the acquisition of land and the existing structures thereon. The proceeds from the sale of the will be used to provide original financing pursuant to this resolution.

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\*Preliminary, subject to change.

### ***Optional Redemption***

The Bonds maturing on or before June 15, 2026, are not subject to prior redemption. The Bonds maturing on or after June 15, 2027 will be subject to redemption prior to maturity at the option of the Village on any date on or after June 15, 2026, in whole or in part, and if in part in any order of their maturity and in any amount within a maturity (selected by lot within a maturity), at the redemption price of par, plus accrued interest to the date of redemption.

The Village may select the maturities of the Bonds to be redeemed and the amount to be redeemed of each maturity selected, as the Village shall determine to be in the best interest of the Village at the time of such redemption. If less than all of the Bonds of any maturity are to be redeemed prior to maturity, the particular Bonds of such maturity to be redeemed shall be selected by the Village by lot in any customary manner of selection as determined by the Village. Notice of such call for redemption shall be given by mailing such notice to the registered owner more than sixty (60) days, nor less than thirty (30) days prior to such date. Notice of redemption having been given as aforesaid, the Bonds so called for redemption shall, on the date of redemption set forth in such call for redemption, become due and payable, together with accrued interest to such redemption date, and interest shall cease to be paid thereon after such redemption date.

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

The Bonds when duly issued and paid for will constitute a contract between the Village and the holder thereof.

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

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

## **REMEDIES UPON DEFAULT**

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

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

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

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

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

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

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

In prior years, certain events and legislation affecting a holder's remedies upon default have resulted in litigation. While courts of final jurisdiction have generally upheld and sustained the rights of bondholders and/or noteholders, such courts might hold that future events, including a financial crisis as such may occur in the State or in political subdivisions of the State, may require the exercise by the State or its political subdivisions of emergency and police powers to assure the continuation of essential public services prior to the payment of debt service.

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

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

## **MUNICIPAL BANKRUPTCY**

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

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

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

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

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

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



## ***Financial Control Boards***

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

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

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

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

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

## **BOOK-ENTRY-ONLY SYSTEM**

The Depository Trust Company (“DTC”) will act as securities depository for any Bonds issued in book-entry form. Book-entry Bonds will be issued as fully-registered bonds registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered bond certificate will be issued for each maturity of the book-entry Bonds, and will be deposited with DTC.

DTC, the world’s largest depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants

("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

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

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

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

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

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

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

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

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

Source: The Depository Trust Company

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

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

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

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

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

The Village is dependent in part upon financial assistance from the State in the form of State aid as well as grants and loans to be received ("State Aid"). The Village's receipt of State aid may be delayed as a result of the State's failure to adopt its budget timely and/or to appropriate State Aid to municipalities and school districts. Should the Village fail to receive all or a portion of the amounts of State Aid expected to be received from the State in the amounts and at the times anticipated, occasioned by a delay in the payment of such moneys or by a reduction in State Aid or its elimination, the Village is authorized pursuant to the Local Finance Law ("LFL") to provide operating funds by borrowing in anticipation of the receipt of such uncollected State Aid, however, there can be no assurance that, in such event, the Village will have market access for any such borrowing on a cost effective basis. The elimination of or any substantial reduction in State Aid would likely have a materially adverse effect upon the Village requiring either a counterbalancing increase in revenues from other sources to the extent available or a curtailment of expenditures. (See also "*State Aid*" herein.)

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

The enactment of the Tax Levy Limit Law, which imposes a tax levy limitation upon municipalities, school districts and fire districts in the State, including the Village, without providing exclusion for debt service on obligations

issued by municipalities and fire districts, may affect the market price and/or marketability for the Bonds. (See “*Tax Levy Limit Law*” herein.)

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

## **LITIGATION**

In common with other municipalities, the Village from time to time receives notices of claim and is party to litigation. In the opinion of the Village, after consultation with the Village Attorney, unless otherwise set forth herein and apart from matters provided for by applicable insurance coverage, there are no significant claims or actions pending in which the Village has not asserted a substantial and adequate defense, nor which, if determined against the Village, would have an adverse material effect on the financial condition of the Village.

## **TAX MATTERS**

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

In the opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the Village, under existing statutes and court decisions and assuming continuing compliance with certain tax certifications described herein, (i) interest on the Notes is excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Notes is not treated as a preference item in calculating the alternative minimum tax imposed under the Code; such interest, however is included in the adjusted current earnings of certain corporations for purposes of calculating the alternative minimum tax imposed for taxable years beginning prior to January 1, 2018. The Tax Certificate of the Village (the “Tax Certificate”), which will be delivered concurrently with the delivery of the Notes will contain provisions and procedures relating to compliance with applicable requirements of the Code. In rendering its opinion, Bond Counsel has relied on certain representations, certifications of fact, and statements of reasonable expectations made by the Village in connection with the Notes, and Bond Counsel has assumed compliance by the Village with certain ongoing provisions and procedures set forth in the Tax Certificate relating to compliance with applicable requirements of the Code to assure the exclusion of interest on the Notes from gross income under Section 103 of the Code.

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

Bond Counsel expresses no opinion regarding any other Federal or state tax consequences with respect to the Notes. Bond Counsel renders its opinion under existing statutes and court decisions as of the issue date, and assumes no obligation to update, revise or supplement its opinion after the issue date to reflect any action hereafter taken or not taken, or any facts or circumstances that may hereafter come to its attention, or changes in law or in interpretations thereof that may hereafter occur, or for any other reason. Bond Counsel expresses no opinion on the effect of any action hereafter taken or not taken in reliance upon an opinion of other counsel on the exclusion from gross income for Federal income tax purposes of interest on the Notes, or under state and local tax law.

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

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

the provisions and procedures set forth therein and that it will do and perform all acts and things necessary or desirable to assure the exclusion of interest on the Bonds from gross income under Section 103 of the Code.

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

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

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

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

“Original issue discount” (“OID”) is the excess of the sum of all amounts payable at the stated maturity of Bond (excluding certain “qualified stated interest” that is unconditionally payable at least annually at prescribed rates) over the issue price of that maturity. In general, the “issue price” of a maturity (a bond with the same maturity date, interest rate, and credit terms) means the first price at which at least 10 percent of such maturity was sold to the public, i.e., a purchaser who is not, directly or indirectly, a signatory to a written contract to participate in the initial sale of the Bonds. In general, the issue price for each maturity of Bonds is expected to be the initial public offering price set forth in this Official Statement. Bond Counsel further is of the opinion that, for any Bonds having OID (a “Discount Bond”), OID that has accrued and is properly allocable to the owners of the Discount Bonds under Section 1288 of the Code is excludable from gross income for Federal income tax purposes to the same extent as other interest on the Bonds.

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

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

### ***Bond Premium***

In general, if an owner acquires the Bonds for a purchase price (excluding accrued interest) or otherwise at a tax basis that reflects a premium over the sum of all amounts payable on the Bond after the acquisition date (excluding certain “qualified stated interest” that is unconditionally payable at least annually at prescribed rates), that premium constitutes “bond premium” on that Bond (a “Premium Bond”). In general, under Section 171 of the Code, an owner of a Premium Bond must amortize the bond premium over the remaining term of the Premium Bond, based on the owner’s yield over the remaining term of the Premium Bond, determined based on constant yield principles (in certain cases involving a Premium Bond callable prior to its stated maturity date, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such Premium Bond). An owner of a Premium Bond must amortize the bond premium by offsetting the qualified stated interest allocable to each interest accrual period under the owner’s regular method of accounting against the bond premium allocable to that period. In the case of a tax-exempt Premium Bond, if the bond premium allocable to an accrual period exceeds the qualified stated interest allocable to that accrual period, the excess is a nondeductible

loss. Under certain circumstances, the owner of a Premium Bond may realize a taxable gain upon disposition of the Premium Bond even though it is sold or redeemed for an amount less than or equal to the owner's original acquisition cost. Owners of any Premium Bond should consult their own tax advisors regarding the treatment of bond premium for Federal income tax purposes, including various special rules relating thereto, and state and local tax consequences, in connection with the acquisition, ownership, amortization of bond premium on, sale, exchange, or other disposition of Premium Bonds.

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

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

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

### ***Miscellaneous***

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

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

## **LEGAL MATTERS**

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

## **DISCLOSURE UNDERTAKING**

In order to assist the purchaser in complying with Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended ("Rule 15c2-12"), the Village will execute an Undertaking to Provide Continuing Disclosure, the form of which is attached hereto as Appendix E to this Preliminary Official Statement.

### ***Compliance History***

Since 2007, there have been in excess of 50 rating actions reported by Moody's Investors Service, Standard & Poor's Rating Corporation and Fitch Ratings affecting the credit ratings assigned to municipal bond insurance companies, some of which had insured bonds previously issued by the Village. Due to widespread knowledge of these rating actions, material event notices were not filed by the Village in each instance.

The Village has reviewed and modified its continuing disclosure practices to ensure that all material event notices are filed in a timely manner.

## **RATING**

The Village has applied to S&P Global Ratings (“S&P”) for a rating on the Bonds. Such application is pending at this time.

On July 17, 2013, S&P affirmed the Village’s long-term underlying credit rating of “AA+” with a stable outlook.

With respect to the S&P's rating applicable to uninsured debt, such rating reflects only the views of such organization and any desired explanation of the significance of such rating should be obtained from the rating agency furnishing the same, at the following address: Standard & Poor's Corporation, 25 Broadway, New York, New York 10004. There can be no assurance that such rating will continue for any specified period of time or that such rating will not be revised or withdrawn, if in the judgment of S&P circumstances so warrant. Any such change or withdrawal of such rating may have an adverse effect on the market price of such bonds or the availability of a secondary market for those bonds.

## **MUNICIPAL ADVISOR**

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

In preparing the Official Statement, the Municipal Advisor has relied upon governmental officials, and other sources, who have access to relevant data to provide accurate information for the Official Statement. The Municipal Advisor has not been engaged, nor has it undertaken, to independently verify the accuracy of such information. The Municipal Advisor is not a public accounting firm and has not been engaged by the Village to compile, review, examine or audit any information in the Official Statement in accordance with accounting standards. The Municipal Advisor is not a law firm and does not provide legal advice with respect to this or any debt offerings of the Village. 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 Mr. Richard D. Fortunato, Village Treasurer, (845) 358-0084, [rfortunatocpa@gmail.com](mailto:rfortunatocpa@gmail.com) or from the Village’s Municipal Advisor, Capital Markets Advisors, LLC, 11 Grace Avenue, Suite 308, Great Neck, New York, (516) 487-9818. The Village Clerk will act as Paying Agent with respect to the Bonds. The Village Treasurer noted above is the Paying Agent contact.

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

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

on the website. Capital Markets Advisors, LLC and the Village also assume no liability or responsibility for any errors or omissions or for any updates to dated website information.

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

VILLAGE OF UPPER NYACK  
ROCKLAND COUNTY, NEW YORK

By: \_\_\_\_\_  
Richard D. Fortunato  
Village Treasurer

DATED: June \_\_, 2018



**APPENDIX A**

**THE VILLAGE**

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## **THE VILLAGE**

### ***General Information***

The Village of Upper Nyack is an Incorporated Village (Incorporated in 1872) estimate within the Town of Clarkstown and the County of Rockland. It has a population of about 2,155 (2016 U.S. Census estimate). The Village is approximately 1 square mile, situated on the Hudson River about 20 miles northwest of New York City. It is bordered by the Village of Nyack to the South, the Hudson River to the East, Valley Cottage to the West and Palisades Interstate Park/Rockland Lake to the North.

The Village is distinguished by charming antique shops, picturesque park lands and cultural resources. It is primarily residential in nature consisting of single family homes and primary education is provided by the Nyack Central School District. Residents find employment in the Village or commute to New York City, Westchester County and Northern New Jersey.

Several primary State and U.S. Highways including the State Thruway, Palisades Interstate Parkway, Garden State Parkway and U.S. Routes 9W and 17 run through the County. The Metro-North Commuter Railroad division of the New York Metropolitan Transportation Authority, in cooperation with New Jersey Transit, provides rail service to Manhattan via PATH rapid transit. Air transportation is provided by the three New York Metropolitan Airports (Kennedy, LaGuardia and Newark), Westchester County Airport and Stewart International Airport in Newburgh, New York.

The Village is serviced by the Clarkstown Police Department, Nyack Joint Fire District, Orange & Rockland Utilities (gas & electric), and United Water New York.

Hospital services are provided by Bon Secours Good Samaritan Hospital, Helen Hayes Hospital and Nyack Hospital which offer residents of the County a wide range of inpatient and outpatient services.

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

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

The governing body of the Village is the Village Board of Trustees, which consists of the Mayor and four trustees. These positions are elected at large for two years terms. The Village employs 4 full-time employees (3 in the Department of Public Works and 1 in the Village Hall Office (Treasurer).

The Village also employs 6 part-time employees in the Village Hall (Clerk, Planning Board Secretary, File Clerk, Building/Fire Inspector, Village Justice and Acting Justice) All employees are nonunion.

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

The Village Treasurer functions as the chief fiscal officer as provided in Section 2.00 of the Local Finance Law; in this role, the Village Treasurer is responsible for the Village's accounting and financial reporting activities. The Mayor is the Village's budget officer and prepares the annual tentative budget for submission to the Board of Trustees. Budgetary control during the year is the responsibility of the Village Treasurer. Pursuant to Section 30.00 of the Local Finance Law, the Village Treasurer has been authorized to issue or renew certain specific types of notes. As required by law, the Village Treasurer must execute an authorizing certificate which then becomes a matter of public record.

The Board of Trustees, as a whole, serves as the finance board of the Village and is responsible for authorizing, by resolution, all material financial transactions such as operating and capital budgets and bonded debt.

Village finances are operated primarily through the General Fund. All real property taxes and most of the other Village revenues are credited to this fund. Current operating expenditures are paid from this fund subject to available appropriations. Capital projects and selected equipment purchases are accounted for in special capital projects funds. The Village observes a June 1 - May 31 fiscal year for operating and reporting purposes.

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

The Village is generally responsible for providing services as required to the citizens on a Village-wide basis. The Village maintains a road system necessitating road resurfacing and improvements and the acquisition of machinery and, from time to time, equipment. Additionally, although not a capital expense, such road system requires annual expenditures for snow removal as well as regular general operating maintenance expenses. In addition, the Village owns, operates, maintains and improves recreation, water and sewer facilities. In general, needs for capital funding for the above described projects which the Village has responsibility are anticipated to continue and to be in approximately the same amounts or less than has prevailed in the past.

### ***Employees***

As of April 15, 2018, the Village employs 7 full-time employees: 2 in the Department of Public Works and 5 in the Village Hall Office (Treasurer, Village Clerk, Deputy Village Clerk, Planning Board Secretary, Building/Fire Inspector).

### ***Employee Pension Benefits***

Substantially all employees of the Village are members of the New York State and Local Employees' Retirement System (the "Retirement System" or "ERS"). The Retirement System is a cost-sharing multiple public employer retirement system. The obligation of employers and employees to contribute and the benefits to employees are governed by the New York State Retirement System and Social Security Law (the "Retirement System Law"). The Retirement System offers 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. All benefits generally vest after five years of credited service, except for "Tier 6" employees, as discussed below, whose benefits vest after ten years of credited service. The Retirement System Law generally provides that all participating employers in the 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 System. The Retirement System is non-contributory with respect to members hired prior to July 27, 1976. All members hired on or after July 27, 1976 and before January 1, 2010 must contribute three percent of their gross annual salary towards the costs of retirement programs until they attain ten years in the Retirement System, at such time contributions become voluntary. On December 10, 2009, then Governor Paterson signed into law the creation of a new Tier 5, which is effective for new ERS employees hired on or after January 1, 2010. New ERS employees in Tier 5 will now contribute 3% of their salaries. There is no provision for these contributions to cease for Tier 5 employees after a certain period of service.

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

On May 14, 2003, the Governor signed a pension reform bill into law as Chapter 49 of the Law of 2003 ("Chapter 49"). Chapter 49 changed the billing cycle for employer contributions to the ERS retirement system to match budget cycles of the Village. Under the previous method, the Village was not provided with required payment until after the budget was implemented. Under the reforms implemented by Chapter 49, the employer contribution for a given fiscal year will be based on the value of the pension fund on the prior April 1, instead of the following April 1. As a result, the Village is notified of and can include the actual cost of the employer contribution in its budget. Chapter

49 also required a minimum payment of 4.5% of payroll each year, including years in which investment performance of the fund would make a lower employer contribution possible.

During its 2004 Session the New York State Legislature enacted further pension relief in the form of Chapter 260 of the Laws of 2004 ("Chapter 260"). Chapter 260 changed the pension payment date for all local governments from December 15 to February 1 and permits the legislative body of a municipality to establish a retirement contribution reserve fund for the purpose of financing retirement contributions in the future.

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

As part of the 2013-14 State budget a pension smoothing option was introduced that would let municipalities amortize over seven years some of the upcoming pension cost spikes precipitated by the 2008 financial crash and high pension costs in general for state employees across the state. The plan, which was approved in Gov. Andrew Cuomo's 2013-14 budget would let municipalities next year contribute 14 percent of employee costs toward pensions rather than the 16.25 percent currently required, which is up from the current 11.8 percent rate.

<u>May 31</u>	<u>ERS</u>
2013	\$ 71,040
2014	93,476
2015	87,168
2016	52,867
2017	56,200

### ***Other Post-Employment Benefits***

OPEB refers to "other post-employment benefits," meaning benefits other than pension benefits. OPEB consists primarily of health care benefits, and may include other benefits such as disability benefits and life insurance. Before GASB 45, OPEB costs were generally accounted for and managed as current expenses in the year paid and were not reported as a liability on governmental financial statements.

The Village provides post-retirement healthcare benefits to various categories of former employees. These costs may be expected to rise substantially in the future. Accounting rules now require governmental entities, such as the Village, to account for post-retirement health care benefits as its accounts for vested pension benefits. GASB Statement No. 45 ("GASB 45") described below requires such accounting.

GASB 45 requires municipalities and school districts to account for OPEB liabilities in the same manner as they already account for pension liabilities. It requires them to adopt the actuarial methodologies used for pensions, with adjustments for the different characteristics of OPEB and the fact that most municipalities and school districts have not set aside any funds against this liability. Unlike GASB Statement No. 27, which covers accounting for pensions, GASB 45 does not require municipalities or school districts to report a net OPEB obligation at the start.

Under GASB 45, based on actuarial valuation, an annual required contribution ("ARC") is determined for each municipality or school district. The ARC is the sum of (a) the normal cost for the year (the present value of future benefits being earned by current employees) plus (b) amortization of the unfunded accrued liability (benefits already earned by current and former employees but not yet provided for), using an amortization period of not more than 30 years. If a municipality or school district contributes an amount less than the ARC, a net OPEB obligation will result, which is required to be recorded as a liability on its financial statements.

GASB 45 does not require that the unfunded liability actually be amortized nor that it be advance funded, only that the municipality or school district account for its unfunded accrued liability and compliance in meeting its ARC. The Village presents its financial statements under a comprehensive statutory basis of accounting in accordance with principles prescribed by the Office of the State Comptroller ("OSC") of the State of New York.

The Village has not retained a firm to conduct the valuation.

Actuarial Valuation is required every two years for OPEB plans with more than two hundred members, or every three years if there are less than two hundred members. The Village has not retained a firm to conduct the valuation. Additional information about GASB 45 and other accounting rules applicable to municipalities and school districts may be obtained from GASB.

### ***Investment Policy and Permitted Investments***

Pursuant to State law, including Sections 10 and 11 of the General Municipal Law (the "GML"), the Village is generally permitted to deposit moneys in banks or 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 Village 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 Village, itself; (5) certificates of participation issued in connection with installment purchase agreements entered into 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 Village pursuant to law, in obligations of the Village.

All of the foregoing 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 obligations 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 Village, 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 by Section 10 of the GML.

The Board of Trustees of the Village 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 Village are made in accordance with such policy.

## **FINANCIAL FACTORS**

### ***Budgetary Procedure***

The Mayor is responsible for the preparation and submission of the tentative annual budget to the Board. The Village Board reviews the tentative budget and prepares a preliminary budget and a public hearing is held thereon. Subsequent to the public hearing, revisions (if any) are made. The budget is then adopted by the Village Board as final for the year beginning June 1. The budget is not subject to referendum. Municipal law provides that no expenditures may exceed budgeted appropriations. Any revisions to the annual budget proposed to accommodate changes in departments or other programs must be adopted by resolution of the Village Board.

### ***Independent Audits***

The annual financial statement from the 2015-16 fiscal year was audited by the firm of Korn, Rosenbaum, Phillips & Jauntig LLP, independent certified public accountants. Appendix B to this Official Statement presents a summary of the audited and unaudited financial statements for the fiscal years ended May 31, 2013 through 2017, inclusive.

## ***Fund Structures and Accounts***

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

There are three basic fund types: (1) governmental funds that are used to account for basic services and capital projects; (2) proprietary funds that account for operations of a commercial nature; and, (3) fiduciary funds that account for assets held in a trustee capacity. Account groups, which do not represent funds, are used to record fixed assets and long-term obligations that are not accounted for in a specific fund.

The Village presently maintains the following governmental funds: General Fund and the Capital Projects Fund. Fiduciary funds consist of a Trust and Agency Fund. There are no proprietary funds. Account groups are maintained for fixed assets and long-term debt.

## ***Basis of Accounting***

The Village's governmental funds are accounted for on a modified accrual basis of accounting. Under the modified accrual basis, revenues are recognized when they become susceptible to accrual - that is, when they become "measurable" and "available" to finance expenditures to the current period. Revenues which are susceptible to accrual include real property taxes, intergovernmental revenues (State and Federal aid) and operating transfers.

Expenditures are generally recognized under the modified accrual basis of accounting that is when the related fund liability is incurred. Exceptions to this general rule are (1) payments to employee retirement systems which are recorded in the General Long-Term Debt Account Group and recognized as an expenditure when due, and, (2) unmatured interest on general long-term debt which is recognized when due.

## ***2012/2013 Unaudited Results***

For the fiscal year ending May 31, 2013, based on unaudited results, General Fund revenues and other sources were approximately \$1.97 million and General Fund Expenditures and other uses were \$1.87 million, which resulted in an operating surplus of \$104,162 and a cumulative General Fund surplus of \$157,449.

## ***2013/2014 Unaudited Results***

For the fiscal year ending May 31, 2014, based on unaudited results, General Fund revenues and other sources were approximately \$2.95 million and General Fund Expenditures and other uses were \$3.61 million, which resulted in an operating deficit of \$662,336 and a cumulative General Fund surplus of \$840,083.

## ***2014/2015 Unaudited Results***

For the fiscal year ending May 31, 2015, based on unaudited results, General Fund revenues and other sources were approximately \$2.11 million and General Fund Expenditures and other uses were \$2.03 million, which resulted in an operating surplus of \$115,978 and a cumulative General Fund surplus of \$956,061.

## ***2015/2016 Audited Results***

For the fiscal year ending May 31, 2016, based on audited results, General Fund revenues and other sources were approximately \$2.46 million and General Fund Expenditures and other uses were \$1.83 million, which resulted in an operating surplus of \$662,283 and a cumulative General Fund surplus of \$1,578,344.

### ***2016/2017 Unaudited Results***

For the fiscal year ending May 31, 2017, based on unaudited results, General Fund revenues and other sources were approximately \$2.37 million and General Fund Expenditures and other uses were \$2.38 million, which resulted in an operating surplus of \$11,489 and a cumulative General Fund surplus of \$1,566,854.

### ***2017/2018 Adopted Budget***

For the fiscal year ending May 31, 2018, the Village's Adopted Budget includes General Fund revenues of \$2,327,850 and General Fund Expenditures and other uses of \$2,327,850. The Village does not presently expect a material deviation from these budgeted numbers.

### ***2018/2019 Adopted Budget***

For the fiscal year ending May 31, 2019, the Village's Adopted Budget includes General Fund revenues of \$5,233,100 and General Fund Expenditures and other uses of \$5,233,100. The Village does not presently expect a material deviation from these budgeted numbers.

### ***Real Property Taxes***

The Village derives most of its revenues from a tax on real property. The following table sets forth total General Fund revenues and real property taxes received for each of the last five fiscal years ended May 31 and the amount budgeted for the two most recent fiscal years.

#### **General Fund Revenues & Real Property Taxes**

<b><u>Fiscal Year Ended May 31</u></b>	<b><u>Total Revenues<sup>(1)</sup></u></b>	<b><u>Real Property Taxes</u></b>	<b><u>Taxes to Revenues</u></b>
2013 (Unaudited)	\$1,979,601	\$1,597,576	80.7%
2014 (Unaudited)	2,953,583	1,651,541	55.9
2015 (Unaudited)	2,114,596	1,749,465	81.6
2016	2,461,081	1,810,587	73.6
2017 (Unaudited)	2,373,955	1,819,231	76.6
2018 (Adopted Budget)	2,327,850	1,836,000	78.9
2019 (Adopted Budget)	5,233,100	2,020,000	38.6

(1) General Fund.

Source: Audited Financial Statements, Unaudited Results, 2018 and 2019 Adopted Budgets of the Village.

### ***State Aid***

The Village receives financial assistance from the State. 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 Village, in any year, the Village 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 in any year the State should not adopt its budget in a timely manner, municipalities and school districts in the State, including the Village, 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 Village. No assurance can be given that present State 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 a material adverse effect upon the Village, requiring either a counterbalancing increase in revenues from other sources to the extent available, or a curtailment of expenditures. (See also "Market and Risk Factors Affecting Financing of the State and Municipalities of the State", herein.)



The following table sets forth total General Fund revenues and State aid revenues received for each of the last five fiscal years ended May 31 and the amount budgeted for the two most recent fiscal years.

**General Fund Revenues & State Aid**

<b><u>Fiscal Year Ended May 31</u></b>	<b><u>Total Revenues<sup>(1)</sup></u></b>	<b><u>State Aid</u></b>	<b><u>State Aid to Revenues</u></b>
2013 (Unaudited)	\$1,979,601	\$52,378	2.65%
2014 (Unaudited)	2,953,583	46,144	1.56
2015 (Unaudited)	2,114,596	46,667	2.21
2016	2,461,081	223,006	9.06
2017 (Unaudited)	2,373,955	77,400	3.26
2018 (Adopted Budget)	2,327,850	75,000	3.22
2019 (Adopted Budget)	5,233,100	110,000	2.10

(1) General Fund.

Source: Audited and Unaudited Financial Statements and Adopted Budgets of the Village.

**TAX INFORMATION**

***Limitation on Real Estate Tax Levy***

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

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The following table sets forth the computation of the Village's real estate tax levying limitation and the determination of its tax margin for the fiscal year ending May 31, 2018.

**Real Property Tax Assessment and Rates**

<b><u>Fiscal Year Ending May 31</u></b>	<b><u>Assessed Valuation</u></b>	<b><u>State Equalization Ratio</u></b>	<b><u>Full Valuation</u></b>
2014	\$146,368,778	33.17%	\$441,268,550
2015	147,639,564	35.91	411,137,744
2016	150,129,703	35.39	424,215,041
2017	150,974,217	34.09	442,869,513
2018	152,793,194	35.22	<u>433,825,082</u>
		Total	<u>\$ 2,153,315,930</u>
Five-Year Average Valuation			\$430,663,186
Tax Levying Limitation: 2% of Average Five-Year Full Valuation:			\$8,613,264
Exclusions Added Thereto:			254,081
Maximum Taxing Power			\$8,867,345
Real Estate Tax Levy for 2017-2018			<u>1,836,000</u>
Constitutional Net Tax Margin			\$7,031,345
Percent of Tax Limitation Exhausted			<u>20.7%</u>

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

***Valuations and Tax Data***

The following table shows the trend during the last five years for taxable assessed valuations, state equalization ratios, full valuations, real property taxes and real property tax rates per \$1,000 assessed valuation.

	<b><u>2013-14</u></b>	<b><u>2014-15</u></b>	<b><u>2015-16</u></b>	<b><u>2016-17</u></b>	<b><u>2017-18</u></b>
Assessed Value	\$146,368,778	\$147,639,564	\$150,129,703	\$150,974,217	\$152,793,194
Equal. Ratio	33.17%	35.91%	35.39%	34.09%	35.22%
Full Value	441,268,550	411,137,744	424,215,041	442,869,513	433,825,082
Tax Levy:	1,651,541	1,749,465	1,810,587	1,819,231	1,836,000
Tax Rate: <sup>(1)</sup>	11.28	11.85	12.06	12.05	12.02

(1) Per \$1,000 assessed valuation.

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

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

On June 24, 2011, Chapter 97 of the Laws of 2011 (the “Tax Levy Limit Law”) was enacted. The Tax Levy Limit Law imposes a tax levy limitation of the Village for any fiscal each commencing after January 1, 2012 without providing an express exclusion for real property taxes levied for payment of principal of and interest on general obligations issued by the Village under the Local Finance Law. Accordingly, the power of the Village to levy real property taxes on all taxable real property within the Village without limitation as to rate or amount in furtherance of the pledge of its faith and credit as required in the New York Constitution is subject to statutory limitations pursuant to formulae set forth in the Tax Levy Limit Law.

The Tax Levy Limit Law restricts, among other things, the amount of real property taxes that may be levied by or on behalf of the Village in a particular year. Under the Legislation, the tax levy of the Village may not increase by more than the lesser of (i) two percent (2.0%) or (ii) the annual increase in the consumer price index, over the amount of the Village’s prior year’s tax levy (the “Tax Levy Increase Limit”). The exceptions for a tax levy above such amount are (i) funds needed to pay judgments arising out of tort actions that exceed five percent (5.0%) of the total tax levied by the Village in the prior fiscal year and (ii) required pension payments (but only that portion of such payments attributable to the average contribution rate exceeding two percentage points). Taxes necessary for these expenditures will not be included in the calculation of the Tax Levy Increase Limit. The Tax Levy Limit Law also provides for adjustments to be made to the Village’s Tax Levy Increase Limit based upon changes in the assessed value of the taxable real property in the Village. Additionally, the Village will be permitted to carry forward a certain portion of its unused tax levy capacity from the prior year. Inasmuch as the Tax Levy Limit Law has no exclusion for principal and interest on notes and bonds, levies required to pay principal and interest on notes and bonds will be included in the calculation of the Tax Levy Increase Limit. The Village may override the Tax Levy Increase Limit in a given fiscal year by the adoption by sixty percent (60%) of the Board of Trustees of a local law to override the Tax Levy Increase Limit for that particular fiscal year only.

Prospective investors in the Bonds are encouraged to consult with their own legal and tax advisors and review the provisions of the Tax Levy Limit Law in its entirety.

## ***Tax Collection Procedures***

Real property taxes are levied annually in June. The Village assumes enforcement responsibility for a five month period for all taxes levied in the Village. On November 1st unpaid Village taxes are then turned over to the County for enforcement. Any such taxes remaining unpaid at the year end are paid by the County.

The following table sets forth the percentage of the Village’s General Fund revenue (excluding other financing sources) comprised of real property taxes for the last five fiscal years.

### **Real Property Tax Levies and Collections**

<u>Fiscal Year Ended May 31:</u>	<u>Gross Tax Levy</u>	<u>Current Taxes Collected</u>	<u>Percentage Current Taxes Collected</u>
2014	\$1,651,541	\$1,651,541	100%
2015	1,749,465	1,749,465	100%
2016	1,810,587	1,810,587	100%
2017	1,819,231	1,819,231	100%
2018	1,836,000	1,836,000	100%

## ***Ten of the Largest Taxpayers in the Village***

The following table presents the total 2018 assessed valuations of the Village's largest property owners.

<b><u>Taxable Assessments</u></b>			
<u>Taxpayer</u>	<u>Nature of Business</u>	<u>Assessed Valuation<sup>(1)</sup></u>	<u>% of Total Assessed Valuation</u>
Chazen	Residential	\$1,084,770	0.71%
Dorritie	Residential	885,100	0.58
Helmke	Residential	850,000	0.56
Haring	Residential	822,300	0.54
Poma	Residential	776,500	0.51
Schwartz	Residential	775,600	0.51
Chaitin	Residential	749,600	0.49
Simon	Residential	731,400	0.48
Kramer, D	Residential	726,200	0.48
Malkin	Residential	<u>718,600</u>	<u>0.47</u>
		<u>\$8,120,070</u>	<u>5.31%</u>

(1) Based on the 2017-2018 assessment roll the total assessed value of the Village is estimated to be \$152,793,194.

## **VILLAGE INDEBTEDNESS**

### ***Constitutional and Statutory Requirements***

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

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

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

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

General. The Village is further subject to constitutional limitation by the general constitutionally imposed duty on the State Legislature to restrict the power of taxation, assessment, borrowing money, contracting indebtedness and loaning the credit of the Village so as to prevent abuses in the exercise of such powers; however, as has been noted under "Nature of Obligation", the State Legislature is prohibited by a specific constitutional provision from

restricting the power of the Village to levy taxes on real estate for the payment of interest on or principal of indebtedness theretofore contracted. However, the Tax Levy Limit Law imposes a statutory limitation on the Village's power to increase its annual tax levy. The amount of such increase is limited by the formulas set forth in the Tax Levy Limit Law. (See "Tax Levy Limit Law" herein).

### ***Statutory Procedures***

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

Pursuant to the Local Finance Law, the Village authorizes the incurrence of indebtedness by the adoption of a bond resolution approved by at least two-thirds of the members of the Board of Trustees, except in the event that the Village determines to subject the bond resolution to voter approval by mandatory referendum, in which case only a three-fifths vote is required.

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

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

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

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

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

### ***Debt Limit***

The Village has the power to contract indebtedness for any Village purpose so long as the aggregate outstanding principal amount thereof shall not exceed seven per centum of the average full valuation of taxable real estate of the Village and subject to certain enumerated exclusions and deductions such as water and certain sewer facilities and cash or appropriations for current debt service. The constitutional and statutory method for determining the full valuation is by dividing the assessed valuation of taxable real estate by the respective equalization rates assigned to each assessment roll. Such equalization rates are the ratios which each of such assessed valuations bear to the respective full valuation of such year, as assigned by the Office of Real Property Tax Services. The State Legislature is required to prescribe the manner by which such ratios shall be determined. Average full valuation is determined by adding the full valuations for the most recently completed assessment roll and the four immediately preceding assessments rolls and dividing the resulting sum of such addition by five.

There is no constitutional limitation on the amount that may be raised by the Village by tax on real estate in any fiscal year to pay principal and interest on all indebtedness. However, the Tax Levy Limit Law, imposes a statutory

limitation on the power of the Village to increase its annual tax levy. The amount of such increases is limited by the formulas set forth in the Tax Levy Limit Law. (See "Tax Levy Limit Law," herein).

***Constitutional Debt-Contracting Limitation***

The following table sets forth the current debt-contracting limitation of the Village as of May 31, 2018.

<b><u>Debt Contracting Limitation</u></b>			
<u>Fiscal Year</u> <u>Ended May 31</u>	<u>Assessed</u> <u>Valuation</u>	<u>State Equalization</u> <u>Ratio<sup>(1)</sup></u>	<u>Full</u> <u>Valuation</u>
2014	\$146,368,778	33.17%	\$441,268,550
2015	147,639,564	35.91	411,137,744
2016	150,129,703	35.39	424,215,041
2017	150,974,217	34.09	442,869,513
2018	152,793,194	35.22	<u>433,825,082</u>
		Total	<u>\$ 2,153,315,930</u>
Average five-year full valuation:			<u>\$430,663,186</u>
Debt contracting limitation- 7% of average full valuation:			<u>\$30,146,423</u>

(1) Equalization rates are established by the New York State Board of Real Property Services.  
Source: New York State Board of Real Property Services.

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

<b><u>Statement of Debt-Contracting Power</u></b>	
<b>(As of May 23, 2018)</b>	
Debt-Contracting Limitation:	\$30,146,423
Gross Direct Indebtedness:	
Bonds:	
General Purpose	2,495,000
Bond Anticipation Notes:	
General Purpose	<u>340,000</u>
Total Gross Direct Indebtedness	<u>\$2,835,000</u>
Less Exclusions and Deductions:	
Appropriations	
During 2017/18 Fiscal Year	<u>0</u>
Total Net Direct Indebtedness	<u>\$2,835,000</u>
Debt-Contracting Margin	\$27,311,423
Percentage of Debt-Contracting Power Exhausted	9.40%

The issuance of the Bonds will increase the Village's net indebtedness by \$2,200,000.

***Tax and Revenue Anticipation Notes***

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

***Bond Anticipation Notes***

The Village has \$340,000 bond anticipation notes maturing on June 19, 2019.

***Trend of Capital Indebtedness***

The following table sets forth the amount of direct capital indebtedness outstanding for each of the last five fiscal years ended May 31.

	<b><u>Statement of Outstanding Indebtedness</u></b> <b>(As of May 31 of each year)</b>				
	<u>2013<sup>(1)</sup></u>	<u>2014<sup>(1)</sup></u>	<u>2015<sup>(1)</sup></u>	<u>2016</u>	<u>2017<sup>(1)</sup></u>
Bonds:	\$3,150,000	\$3,070,000	\$2,895,000	\$2,715,000	\$2,495,000
Bond Anticipation Notes:	<u>1,345,000</u>	<u>0</u>	<u>0</u>	<u>514,600</u>	<u>440,000</u>
Totals:	<u>\$4,495,000</u>	<u>\$3,070,000</u>	<u>\$2,895,000</u>	<u>\$3,229,600</u>	<u>\$2,935,000</u>

(1) Unaudited

Source: Audited and Unaudited Financial Statements

***Future Capital Borrowings***

Following the issuance of the Bonds, the Village will not have remaining authorized, but unissued debt.

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***Estimated Overlapping and Underlying Debt***

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

**Statement of Direct and Estimated Overlapping Indebtedness**

Gross Direct Indebtedness	\$2,835,000
Exclusions and Deductions	<u>0</u>
Net Direct Indebtedness	<u>\$2,835,000</u>

**Overlapping Debt**

<u>Issuer</u>	<u>Net Debt Outstanding</u>	<u>As of</u>	<u>Village Share</u>	<u>Amount Applicable To Village</u>
Rockland County	\$495,912,879	04/17/18	1.02%	\$ 5,058,311
Town of Clarkstown	109,874,541	12/31/16	3.44	3,779,684
Nyack UFSD	21,025,000	06/06/17	11.84	2,489,360
Nyack Joint Fire District	3,400,000	11/12/14	20.00	<u>680,000</u>
Total Net Overlapping Debt				\$12,007,355
Total Net Direct Debt				<u>2,835,000</u>
Total Net Direct and Overlapping Debt				<u>\$14,842,355</u>

***Debt Ratios***

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

	<u>Amount</u>	<u>Debt Per Capita<sup>(1)</sup></u>	<u>Debt to Full Value<sup>(2)</sup></u>
Net Direct Debt	\$ 2,835,000	\$1,316	0.48%
Net Direct and Overlapping Debt	14,842,355	6,887	2.50

(1) The population of the Village is 2,155 according to the 2016 Census.

(2) The full valuation of real property located in the Village for the 2018 fiscal year is \$593,937,630.

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**Debt Service Schedule**

The following table shows the debt service requirements to maturity on the Village’s outstanding bonded general obligation indebtedness, exclusive of the Bonds.

**Bond Principal and Interest Maturity Table**

<b><u>Fiscal Year Ending May 31</u></b>	<b><u>Principal</u></b>	<b><u>Interest</u></b>	<b><u>Total<sup>(1)</sup></u></b>
2018 <sup>(2)</sup>	\$ 110,000	\$ 26,659	\$ 136,659
2019	165,000	84,940	249,940
2020	170,000	79,843	249,843
2021	170,000	74,668	244,668
2022	175,000	69,375	244,375
2023	175,000	63,718	238,718
2024	180,000	57,718	237,718
2025	170,000	51,618.	221,618
2026	160,000	45,593	205,593
2027	160,000	39,618	199,618
2028	165,000	33,118	198,118
2029	170,000	26,418	196,418
2030	175,000	19,518	194,518
2031	180,000	12,418	192,418
2032	85,000	7,118	92,118
2033	<u>85,000</u>	<u>3,612</u>	<u>88,612</u>
	<b>\$2,495,000</b>	<b>\$695,962</b>	<b>\$3,190,962</b>

- (1) Off slightly due to rounding.
- (2) For the entire fiscal year.

Source: Village officials.

**ECONOMIC AND DEMOGRAPHIC DATA**

**Population**

The population of the Village is approximately 2,155 according to the 2016 Census estimate. Data provided for the Town, County and State is not necessarily representative of the Village.

**Population Trend**

	<b><u>2010</u></b>	<b><u>2015</u></b>	<b><u>Percentage Change 2010/2015</u></b>
Village	2,005	2,155	7.5%
Town	83,399	86,897	4.2
County	305,461	322,642	5.6
State	19,378,102	19,697,457	1.6

Source: 2010 US Census and American Community Survey 5- year Estimates 2011-2015

***Income***

The following table presents and the median household income for the Town, County and State. Data provided for the Town, County and State is not necessarily representative of the Village.

	<b><u>Median Household Income</u></b>		
	<b><u>2010</u></b>	<b><u>2015</u></b>	<b><u>Percentage Change 2010/2015</u></b>
Town	\$99,005	\$105,364	6.4%
County	82,534	86,134	4.4
State	55,603	60,741	9.2

Source: 2010 US Census and American Community Survey 5- year Estimates 2011-2015

***Employment and Unemployment***

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

**Major Employers Located in the County**

<b><u>Name of Employer</u></b>	<b><u>Nature of Business</u></b>	<b><u>Number of Employees</u></b>
County of Rockland	Government	2,483
Jawonio	Non-Profit Organization	1,000
BOCES of Rockland County	Education	903
A&T Healthcare	Health Related Facility	750
ARC of Rockland	Non-Profit Organization	650
Camp Venture, Inc.	Non-Profit Organization	625
Town of Clarkstown	Local Government	479
Rockland Bakery	Commercial	350
Tilcon New York Inc.	Commercial	327
Friedwald Center of Rehab & Nursing	Commercial	325

Source: Village Officials.

Data provided for the Town, County and State are not necessarily representative of the Village.

**Civilian Labor Force**

	<b><u>2013</u></b>	<b><u>2014</u></b>	<b><u>2015</u></b>	<b><u>2016</u></b>	<b><u>2017</u></b>
Town	43,700	43,400	44,200	44,300	44,600
County	150,800	150,000	153,100	153,500	154,000
State	9,659,200	9,591,300	9,644,600	9,668,700	9,704,700

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

Data provided for the Town, County and State are not necessarily representative of the Village.

**Yearly Average Unemployment Rates**

<b><u>Year</u></b>	<b><u>Town</u></b>	<b><u>County</u></b>	<b><u>State</u></b>
2013	6.0%	6.3%	4.7%
2014	4.9	5.2	4.8
2015	4.4	4.5	5.3
2016	4.1	4.2	6.3
2017	4.3	4.4	7.7

**Monthly Unemployment Rates**

<b><u>Month</u></b>	<b><u>Town</u></b>	<b><u>County</u></b>	<b><u>State</u></b>
March, 2017	4.1%	4.2%	4.7%
April	3.9	4.0	4.4
May	4.1	4.1	4.4
June	4.3	4.4	4.6
July	4.5	4.7	4.9
August	4.6	4.6	4.9
September	4.5	4.5	4.6
October	4.4	4.4	4.4
November	4.5	4.4	4.4
December	4.2	4.2	4.4
January, 2018	4.5	4.7	5.1
February	4.7	5.0	5.1

Source: New York State Department of Labor, Division of Research and Statistics. Information not seasonally adjusted.

**End of Appendix A**

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**APPENDIX B**

**SUMMARY FINANCIAL STATEMENTS**

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**VILLAGE OF UPPER NYACK**  
**ROCKLAND COUNTY, NEW YORK**  
 Adopted Budgets - General Fund  
 Fiscal Year ending May 31:

	<u>2018</u>	<u>2019</u>
Revenues:		
Real Property Tax	\$ 1,836,000	\$ 2,020,000
Other Property Tax Items	38,000	44,100
Non-Property Taxes	87,500	40,000
Departmental Income	157,000	138,500
Intergovernmental Charges	9,000	-
Licenses and Permits	88,000	74,000
Miscellaneous	37,350	106,500
State Aid	75,000	110,000
Transfers In	-	500,000
Financing Sources	-	2,200,000
Appropriated Fund Balance	-	-
	<hr/>	<hr/>
Total Revenues	<u>\$ 2,327,850</u>	<u>\$ 5,233,100</u>
Expenditures:		
General Government Support	\$ 1,028,440	\$ 1,022,300
Public Safety	34,900	35,500
Health	42,000	44,000
Transportation	553,600	364,000
Economic Assistance	49,800	52,000
Home & Community Services	16,300	16,300
Employee Benefits	234,750	239,000
Miscellaneous	-	2,600,000
Debt Service	368,060	860,000
Interfund Transfers	-	-
	<hr/>	<hr/>
Total Expenditures	<u>\$ 2,327,850</u>	<u>\$ 5,233,100</u>

Source: Adopted Budgets of the Village.

**VILLAGE OF UPPER NYACK  
ROCKLAND COUNTY, NEW YORK**

Balance Sheet  
General Fund

Fiscal Year Ended May 31:

Assets and Other Debits	<u>2016</u>	<u>2017<sup>(1)</sup></u>
Assets:		
Cash and Equivalents	\$ 2,304,267	\$ 2,344,020
Taxes Receivable, net of allowances	-	
Accounts Receivable	39,918	42,982
State and Federal Aid, net of allowances	-	
Due From Other Governments	-	-
Due From LDG	-	
Other Funds	11,237	
Due From Other Funds	17,361	-
Capital Assets		
Prepaid Expenditures	-	27,967
	<hr/>	<hr/>
Total Assets	<u>\$ 2,372,783</u>	<u>\$ 2,414,969</u>
Liabilities and Fund Balance:		
Liabilities:		
Accounts Payable	\$ 188,403	\$ 226,840
Accrued Liabilities	-	
BANs	2,000	
Other Liabilities	-	2,000
Noncurrent Liabilities	-	
Due To Other Funds	604,038	619,275
Due To Retirement System	-	
Unassigned Fund Balance	-	
Due to Other Governments	-	
Unearned Revenues	-	
Deferred Revenues	-	
Notes Payable	-	
	<hr/>	<hr/>
Total Liabilities	<u>\$ 794,441</u>	<u>\$ 848,115</u>
Deferred Inflows of Resources	\$ 54,340	
Fund Equity and Other Credits:		
Reserved for:		
Nonspendable	\$ 11,237	
Investment in Capital Assets		
Restricted		
Assigned	140,000	1,566,854
Unassigned	1,427,105	
	<hr/>	<hr/>
Total Fund Equity and Other Credits	<u>\$ 1,578,342</u>	<u>\$ 1,566,854</u>
Total Liabilities and Fund Balance	<u>\$ 2,372,783</u>	<u>\$ 2,414,969</u>

(1) Unaudited.

Source: Audited Financial Statements of the Village.



**VILLAGE OF UPPER NYACK**  
**ROCKLAND COUNTY, NEW YORK**  
Statement of Revenues, Expenditures and Changes in Fund Balance  
General Fund  
Fiscal Year Ended May 31:

REVENUES	<u>2013</u>	<u>2014<sup>(1)</sup></u>	<u>2015<sup>(1)</sup></u>	<u>2016</u>	<u>2017<sup>(1)</sup></u>
Real Property Taxes	1,597,576	\$ 1,651,541	\$ 1,749,465	1,810,587	\$ 1,819,231
Other Tax Items	9,475	3,795	5,466	8,161	3,760
Non-Property Taxes	119,164	119,615	120,776	174,455	167,936
Departmental Income	43,199	38,661	42,703	\$70,854	77,324
Intergovernmental Charges	30,917	44,130	44,819	31,450	32,296
Use of Money and Property	24,536	30,442	28,938	29,068	35,249
Licenses and Permits	67,219	81,609	63,419	110,462	123,201
Fines and Forfeitures	26,954	23,366	24,499	-	-
Sale of Property and Compensation for loss	8,183	905,254	12,757	-	37,558
State Aid	52,378	46,144	46,667	223,006	77,400
Federal Aid	-	-	-	-	-
Miscellaneous	-	9,026	5,087	3,038	-
<b>Total Revenues</b>	<u>\$ 1,979,601</u>	<u>\$ 2,953,583</u>	<u>\$ 2,144,596</u>	<u>\$ 2,461,081</u>	<u>\$ 2,373,955</u>
<b>EXPENDITURES</b>					
General Government Support	\$ 311,570	\$340,807	\$ 364,511	\$ 259,275	\$ 584,038
Public Safety	34,063	37,299	48,630	48,765	36,587
Health	-	-	-	-	-
Transportation	368,154	359,688	363,252	289,258	427,168
Economic Opportunity and Development	-	10,997	-	-	-
Culture and Recreation	-	-	2,611	4,664	3,907
Home and Community Services	629,351	665,662	629,260	707,022	732,827
Employee Benefits	197,586	254,442	260,115	245,214	258,004
Provided to (from) other funds	123,734	381,962	80,389	-	-
Debt Service	210,981	1,565,092	279,850	284,600	342,913
<b>Total Expenditures</b>	<u>\$ 1,875,439</u>	<u>\$ 3,615,949</u>	<u>\$ 2,028,618</u>	<u>\$ 1,838,798</u>	<u>\$ 2,385,444</u>
<b>Excess of Revenues over (under) Expenditures</b>	<u>\$ 104,162</u>	<u>\$ (662,366)</u>	<u>\$ 115,978</u>	<u>\$ 622,283</u>	<u>\$ (11,489)</u>
<b>Other Financing Sources (Uses):</b>					
Operating Transfers In	-	-	-	-	-
Bond Anticipation Notes Issued	-	-	-	-	-
Bonds Issued	-	1,345,000	-	-	-
Operating Transfers Out	-	-	-	-	-
<b>Total Other Financing Sources (Uses)</b>	<u>\$ -</u>	<u>\$ 1,345,000</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
<b>Excess (Def) of Revenues and Other Sources Over Expenditures and Other Uses</b>	<u>104,162</u>	<u>682,634</u>	<u>115,978</u>	<u>622,283</u>	<u>(11,489)</u>
Prior Period Adjustment	-	-	-	-	-
GASB 73 Adjustment	-	-	-	-	-
<b>Fund Balance Beginning of Year</b>	<u>\$ 53,287</u>	<u>\$ 157,449</u>	<u>\$ 840,083</u>	<u>\$ 956,061</u>	<u>\$ 1,578,343</u>
<b>Fund Balance End of Year</b>	<u>\$ 157,449</u>	<u>\$ 840,083</u>	<u>\$ 956,061</u>	<u>\$ 1,578,344</u>	<u>\$ 1,566,854</u>

(1) Unaudited.

Source: Audited Financial Statements of the Village.

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**APPENDIX C**

**AUDITED FINANCIAL STATEMENTS  
FOR THE FISCAL YEAR ENDED  
MAY 31, 2016**

**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/ES1015159-ES794745-ES1196100.pdf>**

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

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

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**APPENDIX D**

**FORM OF APPROVING LEGAL OPINION OF BOND COUNSEL**

Hawkins Delafield & Wood LLP  
7 World Trade Center  
250 Greenwich Street  
New York, New York 10007

June 26, 2018

The Board of Trustees of the  
Village of Upper Nyack, in the  
County of Rockland, New York

Ladies and Gentlemen:

We have acted as Bond Counsel to the Village of Upper Nyack (the "Village"), in the County of Rockland, a municipal corporation of the State of New York, and have examined a record of proceedings relating to the authorization, sale and issuance of the Village's \$2,200,000 Public Improvement Serial Bonds-2018 (the "Bonds"), dated and delivered on the date hereof.

In such examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity with originals of all documents submitted to us as copies thereof. Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

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

2. Under existing statutes and court decisions and assuming continuing compliance with certain tax certifications described herein, (i) interest on the Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and (ii) interest on the Bonds is not treated as a preference item in calculating the alternative minimum tax under the Code; such interest, however, is included in the adjusted current earnings of certain corporations for purposes of calculating the alternative minimum tax imposed for taxable years beginning prior to January 1, 2018.

The Code establishes certain requirements which must be met subsequent to the issuance of the Bonds in order that the interest on the Bonds be and remain excluded from gross income for federal income tax purposes under Section 103 of the Code. These requirements include, but are not limited to, requirements relating to the use and expenditure of proceeds of

the Bonds, restrictions on the investment of proceeds of the Bonds prior to expenditure and the requirement that certain earnings be rebated to the federal government. Noncompliance with such requirements may cause the interest on the Bonds to become subject to federal income taxation retroactive to the date of issuance thereof, irrespective of the date on which such noncompliance occurs or is ascertained.

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

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

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

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

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

Very truly yours,

/s/ Hawkins Delafield & Wood LLP

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**APPENDIX E**

**FORM OF CONTINUING DISCLOSURE UNDERTAKING**

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## **UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE**

### **Section 1. Definitions**

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

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

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

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

“Issuer” shall mean the Village of Upper Nyack, in the County of Rockland, a municipal corporation of the State of New York.

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

“Purchaser” shall mean the financial institution referred to in the Certificate of Award, executed by the Village Treasurer as of June 14, 2018.

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

“Securities” shall mean the Issuer’s \$2,200,000 Public Improvement Serial Bonds-2018, dated June 26, 2018, maturing in various principal amounts on June 15 in each of the years 2019 through 2038, inclusive, and delivered on the date hereof.

**Section 2. Obligation to Provide Continuing Disclosure.** (a) The Issuer hereby undertakes, for the benefit of Holders of the Securities, to provide or cause to be provided either directly or through Capital Markets Advisors, LLC, 11 Grace Avenue, Suite 308, Great Neck, New York, to the EMMA System:

- (i) (A) no later than six (6) months after the end of each fiscal year, commencing with the fiscal year ending May 31, 2018, the Annual Information relating to such fiscal year, and (B) no later than six months (6) after the end of each fiscal year, commencing with the fiscal year ending May 31, 2018, the audited financial statements of the Issuer for each fiscal year, if audited financial statements are prepared by the Issuer and then available; provided, however, that if audited financial statements are not prepared or are not then available, unaudited financial statements

shall be provided and audited financial statements, if any, shall be delivered to the EMMA System within sixty (60) days after they become available, but not later than one year after the end of each fiscal year; provided further, however, that the unaudited financial statement shall be provided for any fiscal year only if the Issuer has made a determination that providing such unaudited financial statement would be compliant with federal securities laws, including Rule 10b-5 of the Securities Exchange Act of 1934 and Rule 17(a)(2) of the Securities Act of 1933; and

(ii) in a timely manner, not in excess of ten (10) business days after the occurrence of such event, notice of any of the following events with respect to the Securities:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Securities, or other material events affecting the tax status of the Securities;
- (7) modifications to rights of Securities holders, if material;
- (8) Bond calls, if material, and tender offers;
- (9) defeasances;
- (10) release, substitution, or sale of property securing repayment of the Securities, if material;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership or similar event of the Issuer;

Note to clause (12): For the purposes of the event identified in clause (12) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Issuer in a proceeding under the U.S. Bankruptcy Code or in any

other proceeding under state or federal law in which a court or government authority has assumed jurisdiction over substantially all of the assets or business of the Issuer, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer;

- (13) the consummation of a merger, consolidation, or acquisition involving the Issuer or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (14) appointment of a successor or additional trustee or the change of name of a trustee, if material.

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

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

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

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

(b) All or any portion of the Annual Information may be incorporated in the Annual Information by cross reference to any other documents which are (i) available to the

public on the EMMA System or (ii) filed with the SEC. If such a document is a final official statement, it also must be available from the EMMA System.

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

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

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

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

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

- (a) to comply with or conform to any changes in Rule 15c2-12 (whether required or optional);
- (b) to add a dissemination agent for the information required to be provided hereby and to make any necessary or desirable provisions with respect thereto;
- (c) to evidence the succession of another person to the Issuer and the assumption of any such successor of the duties of the Issuer hereunder;

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

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

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

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

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

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

IN WITNESS WHEREOF, the undersigned has duly authorized, executed and delivered this Undertaking as of **June 26, 2018**.

**VILLAGE OF UPPER NYACK**

By \_\_\_\_\_  
Village Treasurer and Chief Fiscal Officer