

ORDINANCE NO. 821

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF STREET IMPROVEMENT DISTRICT BOND ANTICIPATION NOTES, SERIES 2023, OF THE VILLAGE OF HEMINGFORD, NEBRASKA, IN ONE OR MORE SERIES AND IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED THREE MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$3,750,000), TO PROVIDE INTERIM FINANCING FOR THE COSTS OF CONSTRUCTING AND IMPROVING STREETS AND OTHER IMPROVEMENTS IN STREET IMPROVEMENT DISTRICT NO. 2023-01 OF THE VILLAGE; AUTHORIZING CERTAIN OFFICIALS TO DETERMINE THE FINAL AGGREGATE PRINCIPAL AMOUNT, MATURITIES, RATES, REDEMPTION PROVISIONS, TERMS AND OTHER DETAILS OF SUCH NOTES; PRESCRIBING THE FORM AND DETAILS OF THE NOTES; COVENANTING TO ISSUE GENERAL OBLIGATION PAVING BONDS TO PAY THE NOTES AT MATURITY OR EARLIER REDEMPTION OR TO PAY THE NOTES FROM OTHER AVAILABLE FUNDS, INCLUDING REFUNDING NOTES; DESIGNATING THE NOTES AS QUALIFIED TAX EXEMPT OBLIGATIONS; ADOPTING CERTAIN POST-ISSUANCE TAX COMPLIANCE AND DISCLOSURE PROCEDURES WITH RESPECT TO THE NOTES; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

BE IT ORDAINED BY THE CHAIRPERSON AND BOARD OF TRUSTEES OF THE VILLAGE OF HEMINGFORD, NEBRASKA AS FOLLOWS:

FINDINGS AND DETERMINATIONS

The Chairperson and Board of Trustees (the “**Board**”) of the Village of Hemingford, Nebraska (the “**Village**”) hereby make the following findings and determinations:

1. The Village is a village and political subdivision duly organized and existing under the laws of the State, including, but not limited to, Chapter 17, Reissue Revised Statutes of Nebraska, as amended.
2. Pursuant to Sections 17-508 to 17-524 inclusive, Reissue Revised Statutes of Nebraska, as amended, (the “**Act**”), the Village is authorized to grade and/or regrade, recurb and regutter or construct curb and gutter as may be required, pave, repave, construct storm drainage improvements, pedestrian walkways, and such other appurtenances as may be incidental thereto and to issue its bonds or warrants to finance the costs of constructing such improvements.
3. Pursuant to an ordinance adopted by the Board on October 17, 2023 (the “**Street Ordinance**”), the Village created Street Improvement District No. 2023-01 (the “**District**”) and authorized storm sewer, paving and curb and gutter improvements to the following streets (as more fully described in the Street Ordinance, the “**Improvements**”):

Cheyenne Ave from Fremont St to Sheridan St including the intersection at Sheridan St;

Cheyenne Ave from Kearney St to Miles St including intersection at Ord St;

Kearney St from Sidney Ave to Cheyenne Ave including intersection at Sidney Ave and Ogallala Ave;

Custer St from Donald Ave to Cheyenne Ave including intersections at Sidney Ave, Ogallala Ave, and Cheyenne Ave;

Ogallala Ave from Fremont St to Kearney St including intersections at Kearney St, Custer St, and Sheridan St; and

Sheridan St from ½ block west of Ogallala Ave to Cheyenne Ave including intersection at Ogallala Ave and Cheyenne Ave.

4. It is necessary for the Village to have funds available to meet its payment obligations under the terms of the contracts for the costs of the Improvements and to meet the initial portion of its obligations to provide interim financing for the Improvements. To meet such obligations it is necessary and advisable that the Village issue its bond anticipation notes pursuant to Section 10-137, Reissue Revised Statutes of Nebraska, as amended, in lieu of issuing warrants pursuant to Section 17-516, Reissue Revised Statutes of Nebraska, as amended, pending permanent financing in the form of general obligation bonds issued pursuant to the Act.

5. All conditions, acts and things required to exist or to be done precedent to the issuance of the Notes to pay a portion of the costs of the Improvements do exist and have been done as required by law, including the Act.

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms used in this Ordinance have the following meanings:

“**Act**” means Sections 10-137 and 17-508 to 17-524 inclusive, Reissue Revised Statutes of Nebraska, as amended.

“**Authorized Denomination**” means \$5,000 and any whole multiple thereof, unless otherwise determined by an Authorized Officer.

“**Authorized Officer**” means the Chairperson, the Village Treasurer or the Village Clerk, including anyone authorized to act on behalf of any such officer.

“**Board**” has the meaning set forth in the Findings and Determinations hereto.

“**Bond Counsel**” means Kutak Rock LLP, or other attorney or firm of attorneys with a nationally recognized standing in the field of municipal bond financing selected by the Village.

“**Business Day**” means a day other than a Saturday, Sunday or holiday on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its banking operations.

“**Cede & Co.**” means Cede & Co., as nominee of The Depository Trust Company, New York, New York.

“Chairperson” means the Chairperson of the Village.

“Clerk” means the clerk of the Village.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the Treasury Department proposed or promulgated thereunder.

“Construction Fund” means the fund by that name referred to in **Section 501**.

“Debt Service Fund” means the fund by that name referred to in **Section 501**.

“Defaulted Interest” means interest on the Note which is payable but not paid on any Interest Payment Date.

“Defeasance Obligations” means any of the following obligations:

(a) Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(i) the obligations are (A) not subject to redemption prior to maturity or (B) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(ii) the obligations are secured by cash or Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(iii) such cash and the principal of and interest on such Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(iv) such cash and Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(v) such cash and Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(vi) the obligations are rated at least “Aa” by Moody’s Investors Service, Inc. or “AA” by Standard & Poor’s Ratings Group.

“Designated Office” means the corporate trust administration office maintained by the Paying Agent at which the Paying Agent discharges its obligations under this Ordinance and which may be changed by the Paying Agent upon written notice to the Village and to each Registered Owner.

“District” has the meaning set forth in the Findings and Determinations above.

“Government Obligations” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States, including evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the United States (including the interest component of obligations of the Ordinance Funding Corporation), or securities which represent an undivided interest in such obligations, which obligations are rated at least “Aa” by Moody’s Investors Service, Inc. or “AA” by Standard & Poor’s Ratings Group and such obligations are held in a custodial account for the benefit of the Village.

“Improvements” has the meaning set forth in the Findings and Determinations above.

“Interest Payment Date” means the interest payments dates as determined by an Authorized Officer in a certificate pursuant to Section 210 hereof.

“Lender” has the meaning set forth in **Section 209** hereof.

“Maturity” when used with respect to any Note means the date on which the principal of such Note becomes due and payable as therein and herein provided, whether at the stated maturity thereof or call for redemption or otherwise.

“Notes” means the Street Improvement District Bond Anticipation Notes, Series 2023, or such other designation as shall be determined by an Authorized Officer of the Village, issued in an aggregate principal amount not to exceed the principal amount as set forth in Section 201 hereof, authorized and issued by the Village pursuant to this Ordinance,

“Note Register” means the books for the registration, transfer and exchange of the Note kept at the office of the Paying Agent.

“Ordinance” means this Ordinance passed by the Board authorizing the issuance of the Notes, as amended from time to time.

“Outstanding” means, when used with reference to the Notes, as of any particular date of determination, the Note theretofore authenticated and delivered hereunder.

“Paying Agent” means Village Treasurer, or such other paying agent and registrar as selected by an Authorized Officer of the Village in a certificate pursuant to Section 210 hereof, and such other paying agent as selected in accordance with Article II hereof, and any successors or assigns.

“Permitted Investments” means any of the investments permitted by the constitution and statutes of the State for funds of the Village.

“Person” means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

“Placement Agent” has the meaning set forth in **Section 209** hereof.

“Private Purchaser” has the meaning set forth in **Section 209** hereof.

“Purchaser” means the Underwriter, the Private Purchaser or the Lender, as specified by an Authorized Officer in accordance with the provisions of **Section 209** hereof.

“Record Date” for the interest payable on any Interest Payment Date means the fifteenth day preceding such Interest Payment Date, whether or not a business day.

“Redemption Date” when used with respect to any Note to be redeemed means the date fixed for the redemption of such Note pursuant to the terms of this Ordinance.

“Redemption Price” when used with respect to any Note to be redeemed means the price at which such Note is to be redeemed pursuant to the terms of this Ordinance.

“Registered Owner” when used with respect to any Note means the Person in whose name such Note is registered on the Note Register.

“Replacement Note” means a Note issued to an Owner in accordance with Section 207 hereof.

“Securities Depository” means, initially, The Depository Trust Company, New York, New York, and its successors and assigns.

“Special Record Date” means the date fixed by the Paying Agent pursuant to Section 204 hereof for the payment of Defaulted Interest.

“State” means the State of Nebraska.

“Tax Certificate” means the Federal Tax Certificate executed and delivered by the Village in connection with the issuance of the Notes, as the same may be amended or supplemented in accordance with the provisions thereof.

“Underwriter” has the meaning set forth in **Section 209** hereof.

“United States” means the United States of America.

“Village” means the Village of Hemingford, Nebraska, a village and political subdivision of the State.

ARTICLE II

AUTHORIZATION OF NOTES

Section 201. Authorization of Notes. The Village is hereby authorized and directed to issue one or more series of the Notes in an aggregate principal amount of not to exceed \$3,750,000 to pay the costs of the Improvements, interest accruing on the Notes and the costs of issuing the Notes.

Section 202. Description of Notes. The Notes shall consist of fully registered notes, each series numbered from R-1 upward in order of issuance, with such other designations as may be appropriate, in Authorized Denominations, unless determined otherwise by an Authorized Officer. The Notes shall be subject to registration, transfer and exchange as provided in Section 205 hereof. All of the Notes shall be dated the date of delivery thereof, shall become due and payable in the amounts on the dates, subject to prior redemption and payment as provided in Article III hereof and as determined by an Authorized Officer, and shall bear interest at the rates determined by the Authorized Officer in accordance with the provisions of Section 210 hereof. Unless otherwise determined by an Authorized Officer, the Bonds shall bear interest

computed on the basis of a 360-day year of twelve 30-day months from the date thereof or from the most recent Interest Payment Date to which interest has been paid.

Each of the Notes, as originally issued or issued upon transfer, exchange or substitution, shall be in substantially the form set forth in **Exhibit A** attached hereto.

Section 203. Designation of Paying Agent. The Village will at all times maintain a Paying Agent meeting the qualifications herein described for the performance of the duties hereunder. The Village reserves the right, and does hereby authorize any Authorized Officer, to appoint a successor Paying Agent by (a) filing with the Paying Agent then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent and appointing a successor, and (b) causing notice of the appointment of the successor Paying Agent to be given by first-class mail to each Registered Owner. No resignation or removal of the Paying Agent shall become effective until a successor has been appointed and has accepted the duties of Paying Agent.

Unless the Paying Agent is the Village Treasurer, every Paying Agent appointed hereunder shall at all times be a commercial banking association or corporation or trust company organized and doing business under the laws of the United States or of a state of the United States, authorized under such laws to exercise trust powers and subject to supervision or examination by federal or state regulatory authority.

The Village hereby designates the Paying Agent as its paying agent for the payment of the principal or Redemption Price of and interest on the Notes and registrar with respect to the registration, transfer and exchange of the Notes. If the Paying Agent is other than the Village Treasurer, the Paying Agent shall serve in such capacities under the terms of an agreement entitled "Registrar and Paying Agent Agreement" between the Village and the Paying Agent (the "**Registrar Agreement**") in the such form as any Authorized Officer shall deem appropriate and necessary. Any Authorized Officer may execute the Registrar Agreement.

Section 204. Method and Place of Payment of Notes. The principal or Redemption Price of and interest on the Notes shall be payable in legal currency of the United States. The principal or Redemption Price of each Note shall be paid at Maturity by check or draft to the Person in whose name such Note is registered on the Note Register at the Maturity thereof, upon presentation and surrender of such Note at the trust office so designated by the Paying Agent. The interest payable on each Note on any Interest Payment Date shall be paid to the Registered Owner of such Note as shown on the Note Register at the close of business on the Record Date for such interest by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the Note Register.

Notwithstanding the foregoing provisions of this Section 204, any Defaulted Interest with respect to any Note shall cease to be payable to the Registered Owner of such Note on the relevant Record Date and shall be payable to the Registered Owner in whose name such Note is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as specified in this paragraph. The Village shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Note and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the Village of such Special Record Date and, in the name and at the expense of the Village, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, by first-

class mail, postage prepaid, to each Registered Owner of a Note entitled to such notice at the address of such Registered Owner as it appears on the Note Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of the payment of the principal or Redemption Price of and interest on all Notes and at least annually shall forward a copy or summary of such records to the Village.

Section 205. Registration, Transfer and Exchange of Notes. The Village covenants that, as long as any of the Notes remain Outstanding, it will cause the Note Register to be kept at the office of the Paying Agent. The Notes when issued shall be registered in the name of the Registered Owner thereof on the Note Register. At reasonable times and under reasonable regulations established by the Paying Agent, the Note Register may be inspected and copied by the Registered Owners of 10% or more in aggregate principal amount of the Notes then Outstanding or any designated representative of such Registered Owners whose authority is evidenced to the satisfaction of the Paying Agent.

Notes may be transferred and exchanged only on the Note Register as provided in this **Section 205**. Upon surrender of any Note at the trust office so designated by the Paying Agent, the Paying Agent shall transfer or exchange such Note for a new Note or Notes in any authorized denomination of the same stated maturity and in the same aggregate principal amount as the Note that was presented for transfer or exchange. Notes presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Paying Agent, duly executed by the Registered Owner thereof or by the Registered Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Notes is exercised, the Paying Agent shall authenticate and deliver Notes in accordance with the provisions of this Ordinance. The Village shall pay the fees and expenses of the Paying Agent for the registration, transfer and exchange of Notes provided for by this Ordinance and the cost of printing a reasonable supply of registered note blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Paying Agent, are the responsibility of the Registered Owners of the Notes. In the event any Registered Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Registered Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Code, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Registered Owner hereunder or under the Notes.

The Village and the Paying Agent shall not be required (a) to register the transfer or exchange of any Note that has been called for redemption after notice of such redemption has been mailed by the Paying Agent pursuant to Section 303 hereof and during the period of 15 days next preceding the date of mailing of such notice of redemption, or (b) to register the transfer or exchange of any Note during a period beginning at the opening of business on the day after receiving written notice from the Village of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to Section 204 hereof.

The Village and the Paying Agent may deem and treat the Person in whose name any Note is registered on the Note Register as the absolute owner of such Note, whether such Note is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Note and for all other purposes. All payments so made to any such Registered Owner or upon the Registered Owner's order shall be valid and effective to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid, and neither the Village nor the Paying Agent shall be affected by any notice to the contrary.

Section 206. Execution, Registration, Authentication and Delivery of Notes. Each of the Notes, including any Notes issued in exchange or as substitutions for the Notes initially delivered, shall be signed by the manual or facsimile signature of the Chairperson and attested by the manual or facsimile signature of the Clerk. In case any officer whose signature appears on any Note ceases to be such officer before the delivery of such Note, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Note may be signed by such persons who at the actual time of the execution of such Note are the proper officers to sign such Note although at the date of such Note such persons may not have been such officers.

The Chairperson and the Clerk are hereby authorized and directed to prepare and execute the Notes in the manner herein specified, and, when duly executed and registered, to deliver the Notes to the Paying Agent for authentication.

The Notes shall have endorsed thereon a certificate of authentication substantially in the form set forth in **Exhibit A** attached hereto, which shall be manually executed by the Paying Agent. No Note shall be entitled to any security or benefit under this Ordinance or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Paying Agent. Such executed certificate of authentication upon any Note shall be conclusive evidence that such Note has been duly authenticated and delivered under this Ordinance. Upon authentication, the Paying Agent shall deliver the Notes to the Purchaser upon payment of the purchase price of the Notes plus accrued interest thereon to the date of its delivery.

Section 207. Mutilated, Destroyed, Lost and Stolen Notes. If (a) any mutilated Note is surrendered to the Paying Agent or the Paying Agent receives evidence to its satisfaction of the destruction, loss or theft of any Note, and (b) there is delivered to the Paying Agent such security or indemnity as may be required by the Paying Agent, then, in the absence of notice to the Paying Agent that such Note has been acquired by a bona fide purchaser, the Village shall execute and, upon the Village's request, the Paying Agent shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Note, a new Note of the same stated maturity and of like tenor and principal amount. Upon the issuance of any new Note under this **Section 207**, the Village may require the payment by the Registered Owner of an amount sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith. Every new Note issued pursuant to this **Section 207** shall constitute a replacement of the prior obligation of the Village, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Notes. If any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Village, in its discretion, may pay such Note instead of issuing a new Note.

Section 208. Cancellation and Destruction of Notes Upon Payment. All Notes that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Notes so cancelled and destroyed and shall file an executed counterpart of such certificate with the Village.

Section 209. Sale of Notes. In accordance with and subject to the provisions of **Section 210**, the Authorized Officers, or each individually, are hereby authorized to sell the Notes pursuant to one or more of the following methods:

- (a) The Village is authorized to sell the Notes to D.A. Davidson & Co., as original purchaser of the Notes (the "**Underwriter**"), in accordance with **Section 210** of this Ordinance. Delivery of the Notes shall be made to the Underwriter as soon as practicable after the adoption of

this Ordinance, upon payment therefor in accordance with the terms of sale. The Village is authorized to enter into a Note Purchase Agreement (the **"Purchase Agreement"**) between the Village and the Underwriter in form and substance acceptable to the Authorized Officers, or each individually. Such Authorized Officer is authorized to execute the Purchase Agreement, in form and substance acceptable to such Authorized Officer, for and on behalf of the Village, such officer's signature thereon being conclusive evidence of such official's and the Village's approval thereof. The Underwriter shall have the right to direct the registration of the Notes and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. Such Underwriter and its agents, representatives and counsel (including bond counsel) are hereby authorized to take such actions on behalf of the Village as are necessary to effectuate the closing of the issuance and sale of the Notes, including, without limitation, authorizing the release of the Notes by the Depository at closing.

(b) The Village is further authorized to place the Notes with a private purchaser (the **"Private Purchaser"**) with the assistance of D.A. Davidson & Co., as placement agent of the Notes (the **"Placement Agent"**) in accordance with Section 210 of this Ordinance. The Private Purchaser shall have the right to direct the registration of the Notes and the denominations thereof within each maturity, subject to the restrictions of this Ordinance. The Placement Agent and its agents, representatives and counsel (including bond counsel) are hereby authorized to take such actions on behalf of the Village as are necessary to effectuate the closing of the issuance and placement of the Notes.

(c) The Village is further authorized to (i) issue the Notes directly to a bank or other institutional lender (the **"Lender"**) to evidence or secure a loan from such Lender to the Village or (ii) enter into a loan agreement with a Lender in lieu of issuing the Notes, in accordance with Section 210 of this Ordinance and subject to the other restrictions of this Ordinance. Such Lender may be identified with the assistance of the Placement Agent. The Lender shall have the right to direct the registration of the Notes and the denominations thereof within each maturity, and shall have the right to sell participation interests in the Notes to other banks and institutional lenders, all subject to the restrictions of this Ordinance. The Placement Agent and its agents, representatives and counsel (including bond counsel) are hereby authorized to take such actions on behalf of the Village as are necessary to effectuate the closing of the issuance of the Notes.

Section 210. Note Parameters and Terms. The Authorized Officers, or each individually, are authorized and directed, in the exercise of such officer's independent judgment and absolute discretion, to hereafter, from time to time, specify, set, designate, determine, establish and appoint with respect to each series of Notes herein authorized, as the case may be, and in each case in accordance with and subject to the provisions of this Ordinance: (i) the dated date and the delivery date, (ii) the aggregate principal amount to be issued, not exceeding the aggregate principal amount set forth in Section 201 hereof, (iii) the dates and years in which each principal maturity shall occur and the principal amount to mature or to be paid in each of such years, (iv) the date of final maturity, which shall not be later than December 15, 2027, (v) the date or dates upon which the Notes shall be sold, which shall not be later than one year from the date of this Ordinance, (vi) the rate or rates of interest to be carried by each maturity, such that the true interest cost shall not exceed 6.00%, (vii) the method by which such rate or rates of interest shall be calculated, (viii) the Interest Payment Dates, (ix) the redemption dates and prices and all terms relating thereto (as more fully set forth in Article III hereof), including the amount and maturity date of any Notes issued as "term notes" and the amount of each sinking fund installment therefor, and all terms relating thereto, if any, (x) the form, content, terms and provisions of any bond purchase agreement entered into by the Village with an Underwriter or any loan agreement between the Village and the Lender, as set forth in Section 209 hereof, (xi) the fee of the Purchaser, which shall not be more than 1.25% of the aggregate principal amount of the Notes, (xii) the purchase price, which shall not be less than 96.00% of the aggregate principal amount of

each series (inclusive of the Purchaser's discount and any original issue discount, if any), (xiii) the identity of the Purchaser and structure of the Note financing as contemplated in **Section 209** hereof, (xiv) the form and contents of any preliminary and final official statement or other offering materials of the Village utilized in connection with any offering or sale of the Notes to the public or of any term sheet or request for lenders in connection with any loan, (xv) the identity of the Paying Agent (if other than the Village Treasurer), (xvi) the form, content, terms, and provisions of any closing and other documentation executed and delivered by the Village in connection with the authorization, issuance, sale and delivery of each series and (xvii) all of the other terms relating to each series not otherwise determined or fixed by the provisions of this Ordinance.

Section 211. Book-Entry Notes; Securities Depository.

(a) Unless otherwise directed by the Purchaser, the Notes shall initially be registered to Cede & Co., as nominee for the Securities Depository, and no Beneficial Owner will receive any certificate representing its respective interest(s) in the Notes, except if the Paying Agent issues Replacement Notes as provided in Section 211(b) hereof. It is anticipated that during the term of the Notes, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of the principal or Redemption Price of and interest on the Notes to the Participants until and unless the Paying Agent authenticates and delivers Replacement Notes to the Beneficial Owners as described in Section 211(b).

(b) If (i) the Village determines (A) that the Securities Depository is unable to properly discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (C) that the continuation of a book-entry system to the exclusion of any Notes being issued to any Registered Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Notes, or (ii) the Paying Agent receives written notice from Participants having interests in not less than 50% in aggregate principal amount of the Notes Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Notes being issued to any Registered Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Notes, then the Paying Agent shall notify the Registered Owners of such determination or such notice and of the availability of certificates to Registered Owners requesting the same, and the Paying Agent shall register in the name of and authenticate and deliver Replacement Notes to the Beneficial Owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption, provided that in the case of a determination under this Section 211(b)(i)(A) or (B), the Village, with the consent of the Paying Agent, may select a successor securities depository in accordance with Section 211(c) hereof to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Note. Upon the issuance of Replacement Notes, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Paying Agent, to the extent applicable with respect to such Replacement Notes. If the Securities Depository resigns and the Village, the Paying Agent or Registered Owners are unable to locate a qualified successor of the Securities Depository in accordance with Section 211(c), then the Paying Agent shall authenticate and cause delivery of Replacement Notes to Registered Owners as provided herein. The Paying Agent may rely on information from the Securities Depository and its Participants as to the names of the Beneficial Owners of the Notes. The cost of printing Replacement Notes shall be paid for by the Village.

(c) If the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities

Exchange Act of 1934, as amended, the Village may appoint a successor Securities Depository, provided the Paying Agent receives written evidence satisfactory to the Paying Agent with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Paying Agent upon its receipt of a Note or Notes for cancellation shall cause the delivery of Notes to the successor Securities Depository in appropriate denominations and form as provided herein.

Section 212. Offering Documents. The use and public distribution of any official statement, offering circular, term sheet, request for lender or any other offering document (including any preliminary thereof, the “**Offering Document**”) by the Underwriter or the Placement Agent in connection with the reoffering of the Notes is hereby authorized. Any Authorized Officer is authorized to approve the final Offering Document as so supplemented, amended and completed, and the use and public distribution of the final Offering Document by the Underwriter or the Placement Agent in connection with the reoffering of the Notes is hereby authorized. Any Authorized Officer is hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the date of payment for and delivery of the Notes.

The Village agrees to provide to the Underwriter or the Placement Agent within seven Business Days of the date of the sale of Notes sufficient copies of the final Offering Document to enable the Underwriter or the Placement Agent to comply with the requirements of Rule 15c2-12(b)(4) of the Securities and Exchange Commission and with the requirements of Rule G-32 of the Municipal Securities Rulemaking Board, if applicable.

ARTICLE III

REDEMPTION OF NOTES

Section 301. Redemption Provisions.

(a) At the option of the Village, Notes or portions thereof may be called for redemption and payment prior to their stated maturity on any date on or after the date determined by an Authorized Officer in a certificate pursuant to Section 210 hereof, as a whole or in part, in such principal amounts and from such maturity or maturities as the Village, in its sole and absolute discretion, shall determine, at a redemption price equal to the principal amount thereof, together with interest accrued thereon to the date fixed for redemption, with no premium.

(b) The Authorized Officers, or each individually, may designate in a certificate certain Notes as "Term Notes", portions of which are to be redeemed on such dates of the years (each such date being herein referred to as a "**Sinking Fund Payment Date**") and in the amounts (hereinafter referred to as a "**Mandatory Sinking Fund Payment**") set forth in such certificate. The Registrar shall select and call for redemption, in accordance with this subsection (d), from the Term Notes the amounts specified by the Authorized Officer in the certificate, and the Term Notes selected by the Paying Agent shall become due and payable on such date. If Term Notes are redeemed at the option of the Village pursuant to Section 301(a), the Term Notes so optionally redeemed may, at the option of the Village, be applied as a credit against any subsequent Mandatory Sinking Fund Payment with respect to Term Notes otherwise to be redeemed thereby, such credit to be equal to the principal amount of such Term Notes redeemed pursuant to Section 301(a), provided that the Village shall have delivered to the Paying Agent not less than 45 days prior to such Sinking Fund Payment Date a Village certificate stating its election to apply such Term Notes as such a credit. In such case, the Paying Agent shall reduce the amount of Term Notes to be redeemed on the Sinking Fund Payment Date specified in such Village certificate by the principal amount of Term Notes so redeemed pursuant to Section 301(a). Any credit given to Mandatory Sinking Fund Payments pursuant to Section 301(a) shall not affect any subsequent Mandatory Sinking Fund Payments, which shall remain payable as otherwise provided in this subsection (c), unless and until another credit is given in accordance with the provisions hereof.

Section 302. Selection of Notes to Be Redeemed.

(a) The Paying Agent shall call Notes for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Paying Agent at least 45 days prior to the Redemption Date (or such shorter period as may be acceptable to the Paying Agent) of written instructions of the Village specifying the principal amount, stated maturities, Redemption Date and Redemption Prices of the Notes to be called for redemption. The Paying Agent may in its discretion waive such notice period so long as the notice requirements set forth in **Section 303** are met. The foregoing provisions of this paragraph shall not apply to the mandatory redemption of Notes hereunder, and Notes shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the Village and whether or not the Paying Agent shall hold in the Debt Service Fund moneys available and sufficient to effect the required redemption.

(b) Notes shall be redeemed only in the principal amount of \$5,000 or any whole multiple thereof. When less than all of the Outstanding Notes are to be redeemed, such Notes shall be redeemed in such principal amounts and from such maturity or maturities as the Village, in its sole and absolute discretion shall determine, and Notes of less than a full stated maturity shall be selected by the Paying Agent in \$5,000 denominations by lot in such equitable manner as the Paying Agent may determine.

(c) In the case of a partial redemption of Notes by lot when Notes of denominations greater than \$5,000 are then Outstanding, then for all purposes in connection with such redemption, each \$5,000 of face value shall be treated as though it were a separate Note of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Note are selected for redemption, then upon notice of intention to redeem such \$5,000 unit or units, the Registered Owner of such Note or the Registered Owner's duly authorized agent shall present and surrender such Note to the Paying Agent (i) for payment of the Redemption Price and interest to the Redemption Date of such \$5,000 unit or units of face value called for redemption, and (ii) for exchange, without charge to the Registered Owner thereof, for a new Note or Notes of the aggregate principal amount of the unredeemed portion of the principal amount of such Note. If the Registered Owner of any such Note fails to present such Note to the Paying Agent for payment and exchange as provided, such Note shall, nevertheless, become due and payable on the Redemption Date to the extent of the \$5,000 unit or units of face value called for redemption (and to that extent only).

Section 303. Notice and Effect of Call for Redemption. Unless waived by any Registered Owner of Notes to be redeemed, official notice of any redemption shall be given by the Paying Agent on behalf of the Village by mailing a copy of an official redemption notice by first class mail at least 30 days (or such shorter period as may be acceptable to the then-Registered Owner of the Notes) prior to the Redemption Date to the Purchaser of the Notes and each Registered Owner of the Note or Notes to be redeemed at the address shown on the Note Register.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Notes are to be redeemed, the identification (and, in the case of partial redemption of any Notes, the respective principal amounts) of the Notes to be redeemed;
- (d) a statement that on the Redemption Date the Redemption Price will become due and payable upon each such Note or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and
- (e) the place where such Notes are to be surrendered for payment of the Redemption Price, which shall be the principal corporate trust office of the Paying Agent.

The failure of any Registered Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Prior to any Redemption Date, the Village shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Notes or portions of Notes that are to be redeemed on that date. If, on the Redemption Date, the Village has not deposited with the Paying Agent sufficient funds to pay the Redemption Price of the Notes called for redemption on such date, the redemption shall be cancelled and the Notes shall continue to be payable as if such Notes had not been called for redemption.

Official notice of redemption having been given as provided, and moneys having been deposited with the Paying Agent prior to the Redemption Date, the Notes or portions of Notes to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date such Notes or portion of Notes shall cease to bear interest. Upon surrender of

such Notes for redemption in accordance with such notice, the Redemption Price of such Notes shall be paid by the Paying Agent. Upon surrender for any partial redemption of any Note, there shall be prepared for the Registered Owner a new Note or Notes of the same stated maturity in the amount of the unpaid principal as provided herein. All Notes that have been surrendered for redemption shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

The Paying Agent is also directed to comply with any mandatory or voluntary standards then in effect for processing redemptions of municipal securities established by the Securities and Exchange Commission. Failure to comply with such standards shall not affect or invalidate the redemption of any Note.

ARTICLE IV

SECURITY FOR AND PAYMENT OF NOTES

The principal of and interest on the Notes are payable from the proceeds of the issuance and sale of the general obligation bonds or other bonds of the Village, the issuance and sale of refunding bond anticipation notes of the Village, any special assessments levied against the property located in the District, if any, or from other funds of the Village lawfully available for such purposes. The Village covenants and agrees that it will take all steps required to complete the Improvements in such a manner to allow it to issue and sell its general obligation paving bonds or other bond anticipation notes. The Village further covenants and agrees to issue and sell its general obligation bonds or other bond anticipation notes in a sufficient amount and at such times necessary to provide the Village with funds to pay the principal of and interest on the Notes at or prior to the maturity thereof, to the extent such amounts have not been paid from other available funds of the Village.

The provisions of this Ordinance shall constitute a contract between the Village and the registered owners of the Notes, and any registered owners of any Note may either in law or equity or suit, action, mandamus or other proceedings enforce or compel performance of this Ordinance.

ARTICLE V

ESTABLISHMENT OF FUNDS; DEPOSIT AND APPLICATION OF MONEY

Section 501. Establishment of Funds. There have been or shall be established in the treasury of the Village and shall be held and administered by the Treasurer of the Village the following separate funds:

- (a) Construction Fund; and
- (b) Debt Service Fund.

Section 502. Deposit of Note Proceeds. The net proceeds received from the sale of the Notes shall be deposited simultaneously with the delivery of the Note as follows:

- (a) All accrued interest received from the sale of the Notes shall be deposited in the Debt Service Fund and applied in accordance with Section 504 hereof.
- (b) The remaining balance of the proceeds derived from the sale of the Notes shall be deposited in the Construction Fund and shall be applied in accordance with Section 503 hereof.

Section 503. Application of Money in the Construction Fund. Money in the Construction Fund shall be used by the Village solely for the purpose of (a) paying the costs of the Improvements in accordance with the plans and specifications therefor prepared by the Village's engineers approved by the Board and on file in the office of the Clerk, including any alterations in or amendments to such plans and specifications deemed advisable by the Village's engineers and approved by the Board, (b) paying the interest on the Notes during construction of the Improvements and (c) paying the costs and expenses of issuing the Notes. The Treasurer shall make a withdrawal from the Construction Fund to pay the costs of the Improvements only upon receipt of a certificate executed by the Village's engineers stating that such payment is being made for a purpose within the scope of this Ordinance and that the amount of such payment represents only the contract price of the property, equipment, labor, materials or service being paid for or, if such payment is not being made pursuant to an express contract, that such payment is not in excess of the reasonable value thereof. Nothing hereinbefore contained shall prevent the payment out of the Construction Fund of all costs and expenses described in (b) or (c) above without a certificate from the Village's engineers. Upon completion of the Improvements, any surplus remaining in the Construction Fund shall be transferred to and deposited in the Debt Service Fund.

Section 504. Application of Money in the Debt Service Fund. All amounts paid and credited to the Debt Service Fund shall be expended and used by the Village for the sole purpose of paying the principal or Redemption Price of and interest on the Notes as and when the same become due and the usual and customary fees and expenses of the Paying Agent. The Treasurer or other Authorized Officer is authorized and directed to withdraw from the Debt Service Fund sums sufficient to pay both principal or Redemption Price of and interest on the Notes and the fees and expenses of the Paying Agent as and when the same become due, and to forward such sums to the Paying Agent in a manner which ensures that the Paying Agent will receive immediately available funds in such amounts on or before the Business Day immediately preceding the dates when such principal, interest and fees of the Paying Agent will become due. If, through the lapse of time or otherwise, the Registered Owner of any Note is no longer entitled to enforce payment of such Note or the interest thereon, the Paying Agent shall return such funds to the Village. All money deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Ordinance and shall be held in trust by the Paying Agent for the benefit of the Registered Owners of the Notes entitled to payment from such money. Any money or investments remaining in the Debt Service Fund after the retirement of the indebtedness for which the Notes were issued and all other indebtedness of the Village shall be transferred and paid into the General Fund of the Village.

Section 505. Deposits and Investment of Money. Money in each of the funds created by and referred to in this Ordinance shall be deposited in a bank or banks or other legally permitted financial institutions that are members of the Federal Deposit Insurance Corporation. All such deposits shall be continuously and adequately secured by the financial institutions holding such deposits as provided by the laws of the State. All money held in the funds created by this Ordinance shall be kept separate and apart from all other funds of the Village so that there shall be no commingling of such funds with any other funds of the Village.

Money held in any fund referred to in this Ordinance may be invested by the Treasurer at the direction of the Board, in accordance with this Ordinance and the Tax Certificate, in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than the date when the money invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any fund shall accrue to and become a part of such fund.

Section 506. Payments Due on Saturdays, Sundays and Holidays. If any payment on any Note is due on a date which is not a Business Day, then such payment need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such payment date, and no interest shall accrue for the period after such payment date.

Section 507. Nonpresentment of the Notes. If any Note is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Note have been made available to the Paying Agent all liability of the Village to the Registered Owner thereof for the payment of such Note shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Registered Owner of such Note, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Ordinance or on, or with respect to, such Note. If any Note is not presented for payment within four years following the date when such Note becomes due at Maturity, the Paying Agent shall repay to the Village the funds theretofore held by it for payment of such Note, and such Note shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Village, and the Registered Owner thereof shall be entitled to look only to the Village for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the Village shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

ARTICLE VI

REMEDIES

Section 601. Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the Village and the Registered Owners of the Notes, and the Registered Owner or Owners of not less than 10% in principal amount of the Notes at the time Outstanding shall have the right for the equal benefit and protection of all Registered Owners of Notes similarly situated:

- (a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Registered Owner or Owners against the Village and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of this Ordinance or by the constitution and laws of the State;
- (b) by suit, action or other proceedings in equity or at law to require the Village, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Registered Owners of the Notes.

Section 602. Limitation on Rights of Owners. The covenants and agreements of the Village contained herein and in the Notes shall be for the equal benefit, protection and security of the legal owners of any or all of the Notes. All of the Notes shall be of equal rank and without preference or priority of one Note over any other Note in the application of the funds herein pledged to the payment of the principal of and the interest on the Notes, or otherwise, except as to rate of interest, or date of Maturity or right of prior redemption as provided in this Ordinance. No one or more Owners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Registered Owners of such Outstanding Notes.

Section 603. Remedies Cumulative. No remedy conferred herein upon the Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred

herein. No waiver of any default or breach of duty or contract by the Registered Owner of any Note shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies consequent thereon. No delay or omission of any Registered Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Registered Owners of the Notes by this Ordinance may be enforced and exercised from time to time and as often as may be deemed expedient. If any suit, action or proceedings taken by any Registered Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or has been determined adversely to such Registered Owner, then, and in every such case, the Village and the Registered Owners of the Notes shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

ARTICLE VII

DEFEASANCE

When any or all of the Notes or scheduled interest payments thereon have been paid and discharged, then the requirements contained in this Ordinance and the pledge of the security described herein and all other rights granted hereby shall terminate with respect to the Notes or scheduled interest payments thereon so paid and discharged. Notes or scheduled interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Ordinance if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State and having full trust powers, at or prior to the stated maturity or Redemption Date of such Notes or the interest payments thereon, in trust for and irrevocably appropriated thereto, money and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of such Notes and/or interest accrued to the stated maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments; provided, however, that if any such Notes are to be redeemed prior to their stated maturity, (a) the Village has elected to redeem such Notes, and (b) either notice of such redemption has been given, or the Village has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Paying Agent to give such notice of redemption in compliance with **Section 302(a)** of this Ordinance. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the Village, for the purpose of paying and discharging any of the Notes, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Registered Owners of the Notes, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All money and Defeasance Obligations deposited with the Paying Agent or other bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Ordinance.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 801. Tax Covenants.

(a) The Village covenants and agrees that (i) it will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from federal gross income of the interest on the Notes, and (ii) it will not use or permit the use of any proceeds of Notes or any other funds of the Village, nor take or permit any other action, or fail to take any action, which would adversely affect the exclusion from federal gross income of the interest on the Notes. The Village will also adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with other applicable future law, in order to ensure that the interest on the Notes will remain excluded from federal gross income, to the extent any such actions can be taken by the Village.

(b) The Village covenants and agrees that (i) it will use the proceeds of the Notes as soon as practicable and with all reasonable dispatch for the purposes for which the Notes are issued, and (ii) it will not invest or directly or indirectly use or permit the use of any proceeds of the Notes or any other funds of the Village in any manner, or take or omit to take any action, that would cause the Notes to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.

(c) The Village covenants and agrees that it will pay or provide for the payment from time to time of all arbitrage rebate to the United States pursuant to Section 148(f) of the Code and the Tax Certificate. This covenant shall survive payment in full or defeasance of the Notes. The Tax Certificate may be amended or replaced if, in the opinion of Bond Counsel, such amendment or replacement will not adversely affect the exclusion from federal gross income of the interest on the Notes.

(d) The Village covenants and agrees that it will not use any portion of the proceeds of the Notes, including any investment income earned on such proceeds, directly or indirectly, (i) in a manner that would cause any Note to be a “private activity bond” within the meaning of Section 141(a) of the Code, or (ii) to make or finance a loan to any Person.

(e) The Village makes the following representations in connection with the exception for small governmental units from the arbitrage rebate requirements under Section 148(f)(4)(D) of the Code:

- (i) the Village is a governmental unit under Nebraska law with general taxing powers;
- (ii) the Notes are not private activity bonds as defined in Section 141 of the Code;
- (iii) ninety-five percent or more of the net proceeds of the Notes are to be used for local governmental activities of the Village;
- (iv) the aggregate face amount of all tax-exempt bonds (other than private activity bonds and certain refunding bonds) issued by the Village (and all subordinate entities thereof) during the calendar year in which any Notes are to be issued is not reasonably expected to exceed \$5,000,000; and
- (v) the Village (including all subordinate entities thereof) will not issue in excess of \$5,000,000 of tax-exempt bonds (including the Notes but excluding private activity bonds and certain refunding bonds) during the calendar year in which any Notes are to be issued without first

obtaining an opinion of Bond Counsel that the exclusion of the interest on the Notes from federal gross income will not be adversely affected thereby.

(f) The Village hereby designates the Notes as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Code. In addition, the Village hereby represents that:

(i) the aggregate face amount of all tax-exempt obligations (other than private activity bonds which are not “qualified 501(c)(3) bonds” and certain refunding bonds) which will be issued by the Village (and all subordinate entities thereof) during the calendar year in which any Notes are to be issued is not reasonably expected to exceed \$10,000,000; and

(ii) the Village (including all subordinate entities thereof) will not issue an aggregate principal amount of obligations designated by the Village to be “qualified tax-exempt obligations” during the calendar year in which any Notes are to be issued in excess of \$10,000,000, without first obtaining an opinion of Bond Counsel that the designation of the Notes as “qualified tax-exempt obligations” will not be adversely affected.

Any Authorized Officer is hereby authorized to take such other action as may be necessary to make effective the designation in this **Section 801(f)**.

(g) The Village hereby adopts the Post-Issuance Tax Compliance Procedures attached to this Ordinance as **Exhibit B** to ensure that all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of the Notes which are intended to be tax-exempt are met. The Village reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions as it may determine. The Village also reserves the right to change these policies and procedures from time to time, without notice.

(h) The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the Notes pursuant to **Article VII** of this Ordinance or any other provision of this Ordinance, until the final Maturity of the Notes.

Section 802. Continuing Disclosure.

(a) If applicable, the Village (i) authorizes and directs an Authorized Officer to execute and deliver, on the date of issue of any series of Notes subject to Rule 15c2-12, an undertaking (the “**Undertaking**”) pursuant to Rule 15c2-12 in such form as shall be satisfactory to Bond Counsel and the Purchaser, and (ii) covenants and agrees that it will comply with and carry out all of the provisions of any such Undertaking. Such Authorized Officer is further authorized to retain a dissemination agent to assist with the compliance of the Undertaking. Notwithstanding any other provision of this Ordinance, failure of the Village to comply with any such Undertaking shall not be considered an event of default hereunder; however, any Participating Underwriter (as such term is defined in the Undertaking) or any Beneficial Owner or any Registered Owner of a Note may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the Village to comply with its obligations under this **Section 802**.

(b) The Village hereby adopts the Disclosure Policies and Procedures attached to this Ordinance as **Exhibit C** to ensure that the Village satisfies the requirements of Rule 15c2-12 and the Undertaking. The Village reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions as it may determine. The Village also reserves the right to change such policies and procedures from time to time, without notice.

Section 803. Amendments. The rights and duties of the Village and the Registered Owners, and the terms and provisions of the Notes or of this Ordinance, may be amended or modified at any time in any respect by an ordinance of the Village with the written consent of the Registered Owners of not less than a majority in aggregate principal amount of the Notes then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Registered Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the Clerk.

Without the written consent of the Registered Owners of all of the Notes at the time Outstanding, no modification or alteration of this Ordinance shall:

- (a) extend the maturity of any payment of principal or interest due upon any Note;
- (b) effect a reduction in the amount which the Village is required to pay as principal of or interest on any Note;
- (c) permit preference or priority of any Note over any other bond; or
- (d) reduce the percentage in principal amount of Notes required for the written consent to any modification or alteration of the provisions of this Ordinance.

Any provision of the Notes or of this Ordinance may, however, be amended or modified by ordinance duly adopted by the governing body of the Village at any time in any legal respect with the written consent of the Registered Owners of all of the Notes at the time Outstanding.

Without notice to or the consent of any Registered Owners, the Village may amend or supplement this Ordinance for the purpose of curing any formal defect, omission, inconsistency or ambiguity therein or in connection with any other change therein which is not materially adverse to the interests of the Registered Owners.

Every amendment or modification of the provisions of the Notes or of this Ordinance, to which the written consent of the Registered Owners is given, as above provided, shall be expressed in an ordinance adopted by the Chairperson and Board amending or supplementing the provisions of this Ordinance and shall be deemed to be a part of this Ordinance. A certified copy of every such amendatory or supplemental ordinance, if any, and a certified copy of this Ordinance shall always be kept on file in the office of the Secretary, shall be made available for inspection by the Registered Owner of any Note or a prospective purchaser or owner of any Note authorized by this Ordinance, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental ordinance of this Ordinance will be sent by the Clerk to any such Registered Owner or prospective purchaser.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of such amendatory or supplemental ordinance of the Village, duly certified, as well as proof of any required consent to such modification by the Registered Owners of the Notes then Outstanding. It shall not be necessary to note on any of the Outstanding Notes any reference to such amendment or modification.

The Village shall furnish to the Paying Agent a copy of any amendment to the Notes or this Ordinance which affects the duties or obligations of the Paying Agent under this Ordinance.

Section 804. Notices, Consents and Other Instruments by Registered Owners. Any notice, consent, request, direction, approval or other instrument to be signed and executed by any Registered Owner may be in any number of concurrent writings of similar tenor and may be signed or executed by such

Registered Owner in person or by an agent with written authorization. Proof of the execution of any such instrument or writing appointing any such agent and of the ownership of Notes, if made in the following manner, shall be sufficient for any of the purposes of this Ordinance, and shall be conclusive in favor of the Village and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Notes, the amount or amounts, numbers and other identification of Notes, and the date of holding the same shall be proved by the Note Register.

In determining whether the Registered Owners of the requisite aggregate principal amount of Notes Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Ordinance, Notes owned by the Village shall be disregarded and deemed not to be Outstanding under this Ordinance, except that, in determining whether the Registered Owners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes which the Registered Owners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Notes so owned which have been pledged in good faith shall not be disregarded as provided if the pledgee establishes to the satisfaction of the Registered Owners the pledgee's right so to act with respect to such Notes and that the pledgee is not the Village.

Section 805. General and Specific Authorizations; Ratification of Prior Actions. Without in any way limiting the power, authority or discretion elsewhere herein granted or delegated, the Board hereby (a) authorizes and directs the Authorized Officers and all other officers, officials, employees and agents of the Village to carry out or cause to be carried out, and to perform such obligations of the Village and such other actions as they, or any of them, in consultation with Bond Counsel, the Purchaser and its counsel shall consider necessary, advisable, desirable or appropriate in connection with this Ordinance, including without limitation the execution and delivery of all related documents, instruments, certifications and opinions, and (b) delegates, authorizes and directs the Authorized Officers the right, power and authority to exercise such officers' independent judgment and absolute discretion in (i) determining and finalizing all terms and provisions to be carried by the Notes not specifically set forth in this Ordinance and (ii) the taking of all actions and the making of all arrangements necessary, proper, appropriate, advisable or desirable in order to effectuate the issuance, sale and delivery of the Notes. The execution and delivery by any Authorized Officer or by any such other officers, officials, employees or agents of the Village of any such documents, instruments, certifications and opinions, or the doing by them of any act in connection with any of the matters which are the subject of this Ordinance, shall constitute conclusive evidence of both the Village's and their approval of the terms, provisions and contents thereof and of all changes, modifications, amendments, revisions and alterations made therein and shall conclusively establish their absolute, unconditional and irrevocable authority with respect thereto from the Village and the authorization, approval and ratification by the Village of the documents, instruments, certifications and opinions so executed and the actions so taken.

All actions heretofore taken by any Authorized Officer and all other officers, officials, employees and agents of the Village, including without limitation the expenditure of funds and the selection, appointment and employment of Bond Counsel and financial advisors and agents, in connection with issuance and sale of the Notes, together with all other actions taken in connection with any of the matters which are the subject hereof, be and the same is hereby in all respects authorized, adopted, specified, accepted, ratified, approved and confirmed.

Section 806. Benefits of Ordinance Limited to the Village and the Owners. With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this Ordinance or the Notes is intended or should be construed to confer upon or give to any person other than the Village and the Owners of the Notes any legal or equitable right, remedy or claim under or by reason of or in respect to this Ordinance or any covenant, condition, stipulation, promise, agreement or provision herein contained. This Ordinance and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the Village and the Owner from time to time of the Notes as herein and therein provided.

Section 807. No Personal Liability. No officer or employee of the Village shall be individually or personally liable for the payment of the principal of or interest on any Note. Nothing herein contained shall, however, relieve any such officer or employee from the performance of any duty provided or required by law.

Section 808. Severability. If any section or other part of this Ordinance, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance.

Section 809. Governing Law. This Ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 810. Effective Date. This Ordinance shall take effect and be in full force from and after its passage and publication in pamphlet form as provided by law.

EXECUTED AND DATED October 17, 2023.

VILLAGE OF HEMINGFORD, NEBRASKA

ATTEST:

By: Baib Straub
Village Clerk

By: Rachel K. Adams
Chairperson