

**PRELIMINARY OFFICIAL STATEMENT DATED MARCH 23, 2023**

**NEW ISSUE**

**BOND ANTICIPATION NOTES**

*In the opinion of Hodgson Russ LLP, of Albany, New York, Bond Counsel, under existing statutes, regulations, rulings, and court decisions, and assuming continuing compliance with certain tax certifications described herein, interest on the Notes is excluded from gross income of the holders thereof for federal income tax purposes and is not an item of tax preference for the purpose of the individual alternative minimum tax imposed by the Internal Revenue Code (the "Code"). We observe that for tax years beginning after December 31, 2022, interest on the Notes will be included in the adjusted financial statement income of certain corporations that are subject to the alternative minimum tax under Section 55 of the Code. Such opinion will also state that interest on the Notes is exempt from personal income taxes imposed by New York State or any political subdivision thereof (including The City of New York). However, such opinion will note that the Town, by failing to comply with certain restrictions contained in the Code, may cause interest on the Notes to become subject to federal income taxation from the date of issuance of the Notes. Prospective purchasers should consult their tax advisers as to any possible collateral consequences from their ownership of, or receipt of interest on, or disposition of, the Notes. Bond Counsel expresses no opinion regarding any such collateral federal income tax consequences. The Notes will NOT be designated as "qualified tax-exempt obligations" pursuant to Section 265(b)(3) of the Code. Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, either the Notes. See "TAX EXEMPTION" herein.*

**TOWN OF COLONIE  
ALBANY COUNTY, NEW YORK**

**\$16,443,250**

**BOND ANTICIPATION NOTES – 2023 SERIES B  
(the "Notes")**

Dated Date: April 19, 2023

Maturity Date: March 8, 2024

*Prior Redemption:* The Notes will not be subject to redemption prior to their maturity.

*Form and Denomination:* At the option of the purchaser, the Notes may be either registered to the purchaser or registered in the name of Cede & Co., as nominee for the Depository Trust Company, New York, New York ("DTC") as book-entry notes.

For those Notes registered to the purchaser, a single note certificate shall be delivered to the purchaser, and each such note certificate shall bear a single rate of interest and shall be in a denomination equal to the aggregate principal amount awarded to such purchaser at such interest rate.

*Security and Sources of Payment:* The Notes are general obligations of the Town and will contain a pledge of the faith and credit of the Town for the payment of the principal thereof and interest thereon and, unless paid from other sources, the Notes are payable from ad valorem taxes which may be levied upon all the taxable real property within the Town without limitation as to rate or amount.

Proposals for the Notes will be received at 11:00 A.M. (Prevailing Time) on April 5, 2023 at the office of Munistat Services, Inc., 12 Roosevelt Avenue, Port Jefferson Station, New York 11776.

*The Notes are offered when, as and if issued and received by the purchasers and subject to the receipt of the legal opinion as to the validity of the Notes of Hodgson Russ LLP, Bond Counsel, Albany, New York. It is anticipated that the Notes will be available for delivery in New York, New York or at such other place as may be agreed with the purchasers on or about April 19, 2023.*

THE TOWN DEEMS THIS OFFICIAL STATEMENT TO BE FINAL FOR PURPOSES OF SECURITIES AND EXCHANGE COMMISSION RULE 15C2-12 (THE "RULE"), EXCEPT FOR CERTAIN INFORMATION THAT HAS BEEN OMITTED HEREFROM IN ACCORDANCE WITH THE RULE AND THAT WILL BE SUPPLIED WHEN THIS OFFICIAL STATEMENT IS UPDATED FOLLOWING THE SALE OF THE OBLIGATIONS HEREIN DESCRIBED. THIS OFFICIAL STATEMENT WILL BE SO UPDATED UPON REQUEST OF THE SUCCESSFUL BIDDER(S), AS MORE FULLY DESCRIBED IN THE NOTICES OF SALE WITH RESPECT TO THE OBLIGATIONS HEREIN DESCRIBED. IN ADDITION, THE TOWN WILL COVENANT IN UNDERTAKINGS TO PROVIDE CONTINUING DISCLOSURE AND AN UNDERTAKING TO PROVIDE NOTICES OF EVENTS AS REQUIRED BY THE RULE SEE "APPENDIX C: FORM UNDERTAKINGS TO PROVIDE CONTINUING DISCLOSURE" AND "APPENDIX D: FORM UNDERTAKING TO PROVIDE NOTICES OF EVENTS" HEREIN).

**TOWN OF COLONIE  
ALBANY COUNTY, NEW YORK**

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**TOWN BOARD**

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Rick J. Field, Sr.  
Danielle Futia  
Alvin Gamble

Jeff Madden  
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-----  
Julie L. Gansle, Town Clerk  
E. Guy Roemer, Esq., Town Attorney  
P. Christopher Kelsey, CPA, Acting Comptroller

\* \* \*

**BOND COUNSEL**

Hodgson Russ LLP  
Albany, New York

\* \* \*

**MUNICIPAL ADVISOR**



Municipal Finance Advisory Service

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

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**OFFICIAL STATEMENT**  
**TOWN OF COLONIE**  
**ALBANY COUNTY, NEW YORK**

**\$16,443,250 BOND ANTICIPATION NOTES – 2023 SERIES B**

This Official Statement including the cover page and appendices, presents certain information relating to the Town of Colonie, in the County of Albany, in the State of New York (the “Town,” “County” and “State,” respectively) in connection with the sale of \$16,443,250 Bond Anticipation Notes – 2023 Series B (the “Notes”).

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

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

**THE NOTES**

**General**

The Notes will be dated April 19, 2023 and will mature, without right of redemption prior to maturity, on March 8, 2024, with interest payable at maturity.

At the option of the purchaser(s), the Notes may be either registered to the purchaser(s) or registered in the name of Cede & Co., as partnership nominee for The Depository Trust Company, New York, New York (“DTC”) as book-entry notes. The Town Clerk will be the fiscal and paying agent for the Notes while the Notes are in registered form.

Note certificates shall be delivered to the purchaser(s) of any Notes registered in the name of the purchaser(s) and each such note certificate shall bear a single rate of interest and shall be in a denomination equal to the aggregate amount awarded to such purchaser at such interest rate. Principal of and interest on such Notes will be payable in lawful money of the United States of America (Federal Funds) at such bank or trust company located and authorized to do business in the State of New York as may be selected by the successful bidder.

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

The Town will act as Paying Agent for the Notes. Paying agent fees, if any, will be paid by the purchaser(s). The Town’s contact information is as follows: Christopher Kelsey, Acting Comptroller, Town of Colonie, Town Hall, Route 9, Newtonville, NY 12128, Phone (518) 783-2708, Fax (518) 783-2877 and email: kelseyc@colonie.org.

**Prior Redemption**

The Notes are not subject to redemption prior to maturity.

## Authorization and Purpose for the Notes

The Notes are being issued pursuant to the Constitution and statutes of the State of New York including, among others, the Town Law and the Local Finance Law. The Notes are being issued for the following purposes:

<u>Date of Authorization</u>	<u>Purpose</u>	<u>Amount Authorized</u>	<u>Amount to Issue</u>
01/19/2023	Improvements to the Latham Water District	\$5,511,000	\$5,511,000
01/19/2023	Acquisition of Various Town Highway Equipment	405,000	405,000
01/19/2023	Replacement of Public Operations Center Fleet Maintenance Garage Roof	300,000	300,000
01/19/2023	Improvements to Various Town Facilities	763,500	763,500
01/19/2023	Acquisition of Various Town Equipment for Emergency Equipment	606,750	606,750
01/19/2023	Improvements to the Pure Waters District	2,623,000	2,623,000
01/19/2023	Improvements to Town Building HVAC Systems	437,000	437,000
01/19/2023	Improvements to Various Town Facilities and Acquisition of Equipment	914,000	797,000
01/19/2023	Construction and Installation of Improvements to Various Storm Sewer Systems	2,500,000	2,500,000
01/19/2023	Various Highway and Street Reconstruction and Paving	2,500,000	2,500,000
<b>TOTALS</b>		<u>\$16,560,250</u>	<u>\$16,443,250</u>

### Continuing Disclosure - Notes

In accordance with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the “Rule”), unless the Notes are purchased for the purchaser’s own account, as principal for investment and not for resale, the Town will enter into an Undertaking to Provide Notices of Events at closing, the form of which is attached hereto as “APPENDIX D.”

A purchaser buying for its own account shall deliver a municipal securities disclosure certificate that documents its intent to purchase the Notes as principal for investment and not for resale (in a form satisfactory to Bond Counsel) establishing that an exemption from the Rule applies.

### BOOK-ENTRY-ONLY SYSTEM

DTC will act as securities depository for those Notes issued as book-entry-only notes. The Notes will be issued as fully-registered securities, in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered note certificate will be issued for each maturity of one fully registered note certificate for all of the Notes of or issue being the same rate of interest and CUSIP number and deposited with DTC.

DTC 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 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 (the “Commission”). More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

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

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

Beneficial Owners of the Notes may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Notes, such as redemptions, tenders, defaults, and proposed amendments to the Note documents. For example, Beneficial Owners of the Notes may wish to ascertain that the nominee holding the Notes for their benefit has agreed to obtain and transmit notices to the Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

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

Principal and interest payments on the Notes will be made to Cede & Co. or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Town on the payable date, in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such participant and not of DTC (nor its nominee) or the Town, 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 Town, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

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

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

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Source: The Depository Trust Company, New York, New York.

The information contained in the above section concerning DTC and DTC's book-entry system has been obtained from sample offering document language supplied by DTC, but the Town takes no responsibility for the accuracy thereof. In addition, the Town will not have any responsibility or obligation to participants, to indirect participants or to any beneficial owner with respect to: (i) the accuracy of any records maintained by DTC, and participant or any indirect participant; (ii) the payments by DTC or any participant or any indirect participant of any amount with respect to the principal of, or premium, if any, or interest on the notes or (iii) any notice which is permitted or required to be given to Noteowners.

THE TOWN WILL NOT HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO PARTICIPANTS, TO INDIRECT PARTICIPANTS OR ANY BENEFICIAL OWNER WITH RESPECT TO (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY PARTICIPANTS, OR ANY INDIRECT PARTICIPANT; (II) THE PAYMENT BY DTC OR ANY PARTICIPANT OR INDIRECT PARTICIPANT OR ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OF OR INTEREST ON THE NOTES; (III) ANY NOTICE WHICH IS PERMITTED OR REQUIRED TO BE GIVEN TO HOLDERS; (IV) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE NOTES; OR (V) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS HOLDER.

THE TOWN CANNOT AND DOES NOT GIVE ANY ASSURANCES THAT DTC WILL DISTRIBUTE TO DIRECT PARTICIPANTS OR THAT DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS WILL DISTRIBUTE TO THE BENEFICIAL OWNERS OF THE NOTES (I) PAYMENTS OF THE PRINCIPAL OF OR INTEREST ON THE NOTES; (II) CONFIRMATION OF THEIR OWNERSHIP INTEREST IN THE NOTES; OR (III) REDEMPTION OR OTHER NOTICES SENT TO DTC OR CEDE & CO. AS NOMINEE, AS REGISTERED OWNER OF THE NOTES, OR THAT THEY WILL DO SO ON A TIMELY BASIS, OR THAT DTC, DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS WILL SO SERVE AND ACT IN THE MANNER DESCRIBED IN THE OFFICIAL STATEMENT.

### **Security and Source of Payment**

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

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

Under the Constitution of the State, the Town is required to pledge its faith and credit for the payment of the principal of and interest on the Notes, and the State is specifically precluded from restricting the power of the Town to levy taxes on real estate for the payment of interest on or principal of indebtedness theretofore contracted. However, the Tax Levy Limit Law imposes a statutory limitation on the Town'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 "Legal Matters and the Tax Levy Limit Law" and "Tax Levy Limit Law," herein.

### **Remedies Upon Default**

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

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

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

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



There is in the Constitution of the State, Article VIII, Section 2, the following provisions relating to the annual appropriation of monies for the payment of due principal of and interest on indebtedness of every county, city, town, village and school district in the State: "If at any time the respective appropriating authorities shall fail to make such appropriating, 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."

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

### **Certificated Notes**

DTC may discontinue providing its services with respect to the Notes at any time by giving notice to the Town and discharging its responsibilities with respect thereto under applicable law, or the Town may terminate its participation in the system of book-entry-only transfers through DTC at any time. In the event that such book-entry-only system is discontinued, and a replacement book-entry securities depository is not appointed, the following provisions will apply: the Notes will be issued in registered form in denominations of \$5,000, or integral multiples thereof, except for one necessary odd denomination for the Notes. Principal of and interest on the Notes when due will be payable at the principal corporate trust office of a bank or trust company to be named by the Town as the fiscal agent; certificated Notes may be transferred or exchanged at no cost to the owner of such notes at any time prior to maturity at the corporate trust office of the fiscal agent for notes of the same or any other authorized denomination or denominations in the same aggregate principal amount upon the terms set forth in the certificate of the Town Supervisor authorizing the sale of the Notes and fixing the details thereof and in accordance with the Local Finance Law.

### **THE TOWN**

#### **Description**

The Town, with a land area of over 57 square miles, is located in northeastern Albany County, immediately north of the City of Albany and about halfway between the Cities of Schenectady and Troy. Its northern and eastern boundaries are the Mohawk and Hudson Rivers respectively. The Town, which includes two incorporated villages, Colonie and Menands, and such unincorporated communities as Latham, Loudonville, Maplewood and Newtonville and West Albany, is primarily residential, with some industrial and commercial valuations.

Commercial facilities include several shopping centers. The Colonie Center is a covered mall shopping center featuring major outlets of R.H. Macy, Inc., Whole Foods, Nordstrom Rack, Barnes & Noble Booksellers, Inc. and LL Bean, as well as specialty shops, restaurants, and parking. The Latham Farms Shopping Center, which includes Dicks Sporting Goods, Field & Stream, Sam's Club and Home Depot stores, is situated between Routes 9 and 7, adjacent to the Northway. The Northway Mall complex is also located within the Town and includes Target, Lowe's, and BJ's Wholesale Club. The long dormant Latham Circle Mall has been redeveloped and includes Lowe's, a Walmart supercenter, Burlington Coat Factory, and Bob's Furniture Store, and several restaurants. A sizeable portion of recent development in the Town has been devoted to single family residences, townhomes, and to the construction of hotels and multi-story office buildings. The Town is the site of the Albany International Airport, which provides passenger service on most major routes throughout the United States; passenger stations of Amtrak are located nearby in Rensselaer and Schenectady.

In addition to the retail redevelopment, there has been movement in the redevelopment of two dormant and blighted spots with the Town. The former Tobin's First Prize property in the West Albany area of the Town and Starlight Theatre property in the Latham area of Town have proposed projects working through the Town's planning process.

The Town provides sanitary sewer and water distribution facilities to its residents. Police protection and emergency medical service are provided by the Town. Fire protection is provided by Fire Districts and Fire Protection Districts located in the Town. The Town is the site of a base station of one of the mutual aid systems in New York State coordinating the operations of volunteers in thirteen fire departments. The Highway Department is charged with maintenance of the paved roads in the Town and is responsible for maintaining more than 310 center-line miles of highway within the Town.

In addition to the "essential services," the Town also owns and operates a variety of recreations facilities. These facilities include a 36-hole golf course, two 125+ acre parks, thirteen pocket parks, three sports complexes, swimming pools, a splash pad, a boat launch, 5.5 miles of bicycle paths, two dog parks, and the William K. Sanford Town Library.

The Town is situated in the center of the tri-city area (Albany-Troy-Schenectady) with access to such employment opportunities as the State of New York offices in Albany, the General Electric Company in Schenectady, industrial operations in Troy and the United States Arsenal in Watervliet.

Highway facilities include the New York State Thruway, with two interchanges leading directly into the Town, Interstate Route 87 (the Northway), Interstate Route 90, New York Routes 5 and 7, and U.S. Route 9. Transportation for freight by rail and water is provided by the Delaware & Hudson, ConRail and Amtrak railroads, the Hudson and Mohawk Rivers and the Barge Canal. Air passenger and freight service is available at the Albany International Airport, located in the Town.

### **Governmental Organization**

The Town was established in 1895 pursuant to enactment of the New York State Legislature. The Town is located in the County of Albany, New York, which County is divided for local government purposes into ten towns and the cities of Albany, Cohoes and Watervliet. In turn, some of such Towns contain incorporated villages established for purposes of providing certain municipal services and facilities to their residents. The Town is a political subdivision of the State having its own elected legislative body, the Town Board, pursuant to Constitutional provision and, except for certain contractual arrangements for cooperative provisions of some services or facilities, the Town does not rely in any manner upon the County for purposes of providing local government needs.

The legislative body of the Town is its Town Board of seven members elected at large. The presiding officer, the Town Supervisor, is elected for a two-year term, and the six Council members are elected for staggered four-year terms.

The Supervisor is the Chief Executive and Fiscal Officer of the Town. Other elected Town officials are the Town Clerk and the Receiver of Taxes, who are elected at large to two year and four-year terms, respectively. The three Town Justices are elected to staggered four-year terms. The Town Board appoints the Town Comptroller, Commissioner of Public Works and the Town Attorney for coterminous terms with the Town Supervisor. The Town Assessor and Personnel Officer are appointed by the Town Board for six year terms.

The Town provides the bulk of municipal services furnished to its residents including water and sewer facilities and builds and maintains the Town highways. Police protection is provided by the Town and the County, and fire protection is provided through separate entities; the various fire districts and voluntary fire organizations in the Town. Planning and zoning and the financing of Town courts are provided by the Town. Regulation of building construction and licensing of trades and occupations along with the usual municipal services of recreational facilities and street lighting are all Town functions. Social services and health services, to the extent provided on a public basis, are essentially County responsibilities; however, the Town does maintain a Senior Resources Department to coordinate services to the senior community. The Town also owns a municipal solid waste facility on the borders of the Mohawk River and City of Cohoes. The Town contracted a private company to operate and maintain this facility for a minimum of twenty-five years.

### **Employees**

The Town provides services through approximately 639 full-time and part-time employees. Some of such employees are represented by units of organized labor, as set forth below:

<u>Employee Organization</u>	<u>Term of Contract</u>	<u>Est. No. of Employees</u>
Civil Service Employees' Association	12/31/2025	145
Policemen's Benevolent Association	12/31/2024	107
Public Safety Dispatchers' Association	12/31/2025	26
Emergency Medical Services	12/31/2025	78
Administrative Unit (UPSEU)	12/31/2025	257
Professional Employees Alliance	12/31/2025	16
Police Supervisors Association	12/31/2024	10

## DEMOGRAPHIC AND STATISTICAL INFORMATION

The following tables present certain comparative demographic and statistical information regarding the Town, the County, the State and the United States.

### Population

<u>Year</u>	<u>Town of Colonie</u>	<u>Albany County</u>	<u>State of New York</u>
1990	76,494	292,594	17,990,455
2000	79,258	294,565	18,976,457
2010	81,518	298,284	19,378,102
2020	82,648	306,165	19,514,849

Source: U.S. Bureau of the Census

### Building Permits Issued

<u>Year</u>	<u>Commercial &amp; Industrial</u>	<u>Residential</u>	<u>Residential Alterations Additions</u>	<u>Other</u>	<u>Total</u>	<u>Est. Cost of Construction</u>
2018	434	546	244	299	982	\$179,080,963
2019	481	558	239	230	1,039	136,413,612
2020	434	225	245	306	1,210	117,775,434
2021	480	325	190	36	1,381	139,021,131
2022	422	135	243	383	1,183	91,597,060

### Income Data

	Per Capita Money Income			
	<u>1990</u>	<u>2000</u>	<u>2010</u>	<u>2021</u>
Town of Colonie	\$17,983	\$25,231	\$34,281	\$49,367
County of Albany	16,363	23,345	30,863	41,711
State of New York	16,501	23,389	30,791	43,078

  

	Median Household Income			
	<u>1990</u>	<u>2000</u>	<u>2010</u>	<u>2021</u>
Town of Colonie	\$39,394	\$51,817	\$68,134	\$87,203
County of Albany	33,358	42,935	56,090	75,232
State of New York	32,965	43,393	55,603	74,314

Source: U.S. Dept. of Commerce, Bureau of the Census

### Unemployment Rate Statistics

<u>Annual Averages:</u>	<u>Town of Colonie (%)</u>	<u>Albany County (%)</u>	<u>New York State (%)</u>
2017	3.8	4.2	4.6
2018	3.3	3.7	4.1
2019	3.1	3.5	3.8
2020	6.1	6.9	9.9
2021	3.7	4.4	6.9
2022	2.6	2.9	4.4

Source: New York State Department of Labor

### Selected Listing of Largest Employers

<u>Name</u>	<u>Type</u>	<u>Estimated Number Of Employees</u>
CHD Meridian Healthcare Inc.	Medical Mgmt	2,050
Empire Blue Cross & Blue Shield	Health Care	1,637
U.S Postal Service	Postal Service	1,350
South Colonie Central Schools	Public School	1,037
North Colonie Central Schools	Public School	855
Community Care Physicians PC	Health Care	798
Town of Colonie	Local Government	787
Albany Molecular Research Inc.	Pharmaceuticals	714
United Parcel Service	Private Parcel Deliveries'	665
Intermagnetics General Corp.	Manufacturing	560

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## INDEBTEDNESS OF THE TOWN

### Computation of Debt Limit and Calculation of Total Net Indebtedness (As of March 23, 2023)

Fiscal Year Ending <u>December 31:</u>	Assessed <u>Valuation</u>	State Equalization <u>Rate (%)</u>	Full <u>Valuation</u>
2018	\$6,018,594,980	64.25	\$ 9,367,463,004
2019	6,092,872,091	62.50	9,748,595,346
2020	6,152,288,182	61.00	10,085,718,331
2021	6,198,384,218	59.00	10,505,735,963
2022	6,231,112,826	55.75	<u>11,176,883,993</u>
Total Five Year Full Valuation			\$50,884,396,637
Average Five Year Full Valuation			10,176,879,327
Debt Limit - 7% of Average Full Valuation			712,381,553
Inclusions:			
Outstanding Bonds:			
General Purposes			71,769,004
Water Debt			35,417,678
Excluded Sewer Debt			4,958,940
Sub-Total			<u>112,145,622</u>
Bond Anticipation Notes			
General Purposes			7,493,200
Sub-Total			<u>7,493,200</u>
Total Inclusions			<u>119,638,822</u>
Exclusions:			
Water Debt			35,417,678
Excluded Sewer Debt			4,958,940
Appropriations for Bonds			2,580,029
Appropriations for Notes			0
Total Exclusions			<u>42,956,647</u>
Total Net Indebtedness			<u>76,682,175</u>
Net Debt Contracting Margin			<u><u>\$635,699,378</u></u>
Percent of Debt Limit Exhausted			10.76%

**Details of Short-Term Indebtedness Outstanding**  
(As of March 23, 2023)

The Town presently has outstanding the following short-term obligations:

<u>Date Due</u>	<u>Type</u>	<u>Purpose</u>	<u>Amount</u>
03-08-24	BANs	Various Purposes	\$7,493,200

**Other Short-Term Indebtedness**

The Town has found it necessary to also borrow from time to time to meet its operating cash requirements. Deficits in various of its operating funds together with the timing of the receipt of certain sales tax revenues have created periodic cash flow imbalances for many years. The most recent revenue anticipation note, in the amount of \$3.5 million, was issued in September, 2020 and matured in February, 2021. (See also "Financial Status of Town").

The Town did not issue revenue anticipation notes in 2021 or in 2022. The Town does not intend to issue revenue anticipation notes in 2023.

**Authorized but Unissued Items**

As of the date of this Official Statement, the Town has authorized but unissued debt in the amount of \$20,309,250 for various purposes. The issuance of the Notes will provide original financing for \$16,443,250 of the authorized but unissued amount.

**Anticipated Future Borrowings**

The Town has no formal capital program. Improvements are authorized to be funded from time to time as the Town Board deems necessary.

**Debt Service Requirements - Outstanding Bonds**

<u>Fiscal Year Ended</u> <u>December 31:</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2023	\$ 9,866,166	\$ 2,722,072	\$ 12,588,238
2024	11,526,801	4,020,222	15,547,023
2025	11,255,000	3,020,480	14,275,480
2026	10,785,000	2,620,109	13,405,109
2027	9,715,000	2,284,857	11,999,857
2028	8,915,001	1,985,680	10,900,681
2029	8,450,000	1,698,951	10,148,951
2030	7,505,000	1,435,947	8,940,947
2031	6,540,000	1,216,453	7,756,453
2032	6,575,001	1,016,755	7,591,756
2033	5,850,000	831,556	6,681,556
2034	4,135,000	682,651	4,817,651
2035	3,875,000	558,854	4,433,854
2036	2,835,000	452,019	3,287,019
2037	2,305,000	368,513	2,673,513
2038	2,285,000	293,807	2,578,807
2039	1,855,000	223,495	2,078,495
2040	1,870,000	156,984	2,026,984
2041	1,870,000	89,842	1,959,842
2042	1,395,000	27,900	1,422,900
Totals	<u>\$119,407,969</u>	<u>\$25,707,147</u>	<u>\$145,115,116</u>

## Calculation of Estimated Overlapping and Underlying Indebtedness

<u>Overlapping Units</u>	<u>Date of Report</u>	<u>Percentage Applicable (%)</u>	<u>Applicable Total Indebtedness</u>	<u>Applicable Net Indebtedness</u>
Albany County	05/17/22	33.62	\$ 94,847,063	\$ 86,867,356
Village of Colonie	05/31/22	100.00	0	0
Village of Menands	05/31/22	100.00	3,025,000	3,025,000
Watervliet City SD	11/30/22	15.10	4,828,225	3,477,530
South Colonie CSD	12/27/22	93.97	24,502,109	15,436,329
North Colonie CSD	12/25/22	100.00	96,440,000	47,255,600
Menands UFSD	12/16/22	100.00	6,280,000	3,454,000
Maplewood Common SD	06/15/22	100.00	0	0
Niskayuna CSD	12/21/22	6.74	2,984,748	925,272
Rotterdam-Mohonasen CSD	12/27/22	5.43	2,544,822	2,544,822
Fire Districts (Est.)	12/31/21	Var.	4,325,000	4,325,000
Totals			<u>\$239,776,967</u>	<u>\$167,310,909</u>

Sources: Annual Reports of the respective units for the most recently completed fiscal year on file with the Office of the State Comptroller or more recently published Statements.

### Debt Ratios

The following table sets forth certain ratios relating to the Town's indebtedness as of the date of this Statement.

	<u>Amount</u>	<u>Per Capita<sup>a</sup></u>	<u>Percentage Of Full Value (%)<sup>b</sup></u>
Total Direct Debt	\$119,638,822	\$1,448	1.070
Net Direct Debt	76,682,175	928	0.686
Total Direct & Applicable Total Overlapping Debt	359,415,789	4,349	3.216
Net Direct & Applicable Net Overlapping Debt	243,993,084	2,952	2.183

- a. The current population of the Town is 82,648 (U.S. Census - 2021).  
b. The Town's full value of taxable real property for 2021-22 is \$11,176,883,993.

## FINANCES OF THE TOWN

### Financial Statements and Accounting Procedures

The Town maintains its financial records in accordance with the Uniform System of Accounts for Towns prescribed by the State Comptroller. The financial records of the Town are audited by independent accountants. The last such audit made available for public inspection covers the fiscal year ended December 31, 2021. In addition, the financial affairs of the Town are subject to periodic compliance review by the Office of the State Comptroller to ascertain whether the Town has complied with the requirements of various State and Federal statutes. The Audited Financial Statements for the Fiscal Year Ending December 31, 2021 can be found in Appendix B.

The Statements of Revenues, Expenditures and Changes in Fund Equity presented in Appendix A of this Statement are based on the Audited Financial Statements of the Town for the fiscal years of the Town through and including 2021.

### *Fund Structure and Accounts*

The Town 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.

The Town presently maintains the following governmental funds: General Funds (Town-Wide and Town Outside Village), Highway Fund, Capital Projects Fund and Non Major Funds (Library, Special Grant and the Drainage, refuse, water, fire protection Districts). Fiduciary funds include the custodial fund. Proprietary funds consists of the Environmental Services Department, Latham Water Department and Pure Water Department.

### *Basis of Accounting*

The Town'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 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 principal and interest on general long-term debt, claims and judgments and compensated absences, which are recognized as expenditures to the extent they have matured. General capital asset acquisitions are reported as expenditures in governmental funds. Proceeds of general long-term debt and acquisitions under capital leases are reported as other financing sources.

The Town's government-wide, proprietary, and fiduciary fund financial statements are accounted for on the accrual basis of accounting. Under the accrual basis, revenues are recorded when earned and expenses are recorded at the time liabilities are incurred, regardless of when the related cash flows take place. Nonexchange transactions, in which the Town gives (or receives) value without directly receiving (or giving) equal value in exchange, include property taxes, sales tax, grants, entitlements, and donations. On an accrual basis, revenue from property taxes is recognized in the fiscal year for which the taxes are levied. Revenue from other taxes are recorded when available. Revenue from grants, entitlements, and donations is recognized in the fiscal year in which all eligibility requirements have been satisfied.

### **Investment Policy**

Pursuant to the statutes of the State of New York, the Town is permitted to temporarily invest moneys which are not required for immediate expenditures, with the exception of moneys the investment of which is otherwise provided for by law, in the following investments: (1) special time deposit accounts in, or certificates of deposit issued by a bank or trust company located and authorized to do business in the State, provided however, that such time deposit account or certificate of deposit is payable within such time as the proceeds shall be needed to meet the expenditures for which such moneys were obtained and provided further that such time deposit account or certificate of deposit, in excess of the amount insured under the Federal Deposit Insurance Act, be secured by either a pledge of eligible securities, an eligible surety bond or an eligible letter of credit, as those terms are defined in the law; (2) obligations of the United States of America; (3) 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; (4) obligations of the State of New York; (5) with the approval of the New York State Comptroller in tax anticipation notes or revenue anticipation notes issued by any municipalities, school district, or district corporation, other than those notes issued by the Town; (6) certificates of participation issued by political subdivisions of the State, as those terms are defined in the law; (7) obligations of a New York public corporation which are made lawful investments for the Town pursuant to the enabling laws of such public corporation; or (8) in the case of moneys held in certain reserve funds established by the Town pursuant to law, in obligations of the Town. Any investments made by the Town pursuant to law are required to be payable or redeemable at the option of the Town 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, shall be payable or redeemable in any event, at the option of the owner, within two years of the date of purchase. These statutes also require that the Town's investments, unless registered or inscribed in the name of the Town, must be purchased through, delivered to and held in custody of a bank or trust company in the State. All such investments held in the custody of a bank or trust company must be held pursuant to a written custodial agreement as that term is defined in the law. The Town is not presently investing in repurchase agreements.

Collateral is required for demand deposit, money market accounts and certificates of deposit not covered by Federal deposit insurance. Obligations that may be pledged as collateral are obligations of the United States and its agencies and obligations of New York State and its municipalities and school districts.



## Financial Operations

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

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

Town finances are operated primarily through the General and Highway Funds. All real property taxes and most of the other Town revenues are credited to these funds. Current operating expenditures are paid from these funds subject to available appropriations. The Town also has water and sewer districts, which are accounted for within separate funds. The primary sources of income for these districts comes from special assessments levied against district properties at the same time real estate taxes are levied. Capital projects and selected equipment purchases are accounted for in special capital projects funds. The Town observes a calendar year (January 1 through December 31) for operating and reporting purposes.

## Revenues

The Town receives most of its revenues from real property taxes, sales tax and user fees. A summary of such revenues for the five most recently completed fiscal years may be found in Appendix A.

### *Real Property Taxes*

See "Real Property Tax Information", herein.

### *State Aid*

Based on the audited financials of the Town, the Town received approximately 7.65% of its total General Fund operating revenue from State aid in 2021. There is no assurance, however, that State appropriations for aid to municipalities will continue, either pursuant to existing formulas or in any form whatsoever. The State is not constitutionally obligated to maintain or continue such aid and has the ability to reduce funding to municipalities and school districts in order to balance its own budget.

If the State should not adopt its budget in a timely manner, municipalities and school districts in the State, including the Town, may be affected by a delay in the payment of State aid. Additionally, 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 Town, in this year or future years, the Town 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.

The State is not constitutionally obligated to maintain or continue State aid to the Town. No assurance can be given that present State aid levels will be maintained in the future. Due to the outbreak of COVID-19, the State declared a state of emergency and the Governor took steps designed to mitigate the spread and impacts of COVID-19, including closing schools and non-essential businesses for an extended period. The outbreak of COVID-19 and the dramatic steps taken by the State to address it are expected to continue to negatively impact the State's economy and financial condition. The full impact of COVID-19 upon the State is not expected to be known for some time; however, it is anticipated that the State will experience budgetary restrictions which will require certain gap-closing actions or infusions of Federal aid. Such actions may include, but are not limited to: reductions in State agency operations and/or the delay, elimination or substantial reduction in payments to municipalities, school districts or other recipients of State aid in the State. If this were to occur, reductions in the payment of State aid could adversely affect the financial condition of municipalities and school districts in the State, requiring either a counterbalancing increase in revenues from other sources to the extent available, or a curtailment of expenditures. (See also "Impacts of COVID-19" herein.)

The State's 2020-2021 Adopted Budget authorized the State's Budget Director to make periodic adjustments to nearly all State spending, including State Aid, in the event that actual State revenues came in below 99% percent of estimates or if actual disbursements exceeded 101% of estimates. Specifically, the legislation provided that the State Budget Director will determine whether the State's 2020-2021 budget is balanced during three "measurement periods": April 1 to April 30, May 1 to June 30, and July 1 to December 31. According to the legislation, if "a General Fund imbalance has occurred during any Measurement Period," the State's Budget Director will be empowered to "adjust or reduce any general fund and/or state special revenue fund appropriation ... and related cash disbursement by any amount needed to maintain a balanced budget," and "such adjustments or reductions shall be done uniformly across the board to the extent practicably or by specific appropriations as needed." The legislation further provided that prior to making any adjustments or reductions, the State's Budget Director must notify the Legislature in writing and the Legislature has 10 days following receipt of such notice to prepare and approve its own plan. If the Legislature failed to approve its own plan, the Budget Director's reductions take effect automatically.

On April 25, 2020 the New York State Division of the Budget (the "DOB") announced that the State fiscal year 2021 Enacted State Budget Financial Plan (the "Financial Plan"), projected a \$13.3 billion shortfall as a direct consequence of the COVID-19 pandemic. On August 13, 2020, the DOB issued its first quarterly update to the Financial Plan (the "Updated Financial Plan") which noted that the DOB began withholding 20% of most local aid payments in June due to the absence of Federal action. Depending on the size and timing of any new Federal aid, all or a portion of such withheld funds may become permanent reductions. The Updated Financial Plan includes \$8.2 billion in recurring local aid reductions and that, in the absence of unrestricted Federal aid, the DOB will continue to withhold a range of payments through the second quarter of the State's 2021 fiscal year. On October 30, 2020, the DOB issued its midyear update to the Financial Plan (the "Midyear Update") which projected a \$14.9 billion General Fund revenue decline and a 15.3% All Funds tax receipts decline from the State 2020-21 Budget forecast released in February, creating a total loss of nearly \$63 billion through FY 2024 as a direct consequence of the COVID-19 pandemic. In the absence of Federal funding to offset this revenue loss, the Midyear Update shows the State reduced spending through September by \$4.3 billion compared to FY 2020 spending over the same period by freezing hiring, new contracts and pay raises, and temporarily holding back 20% of most payments, including payments to municipalities and school districts.

The State's revenue picture improved in the final quarter of fiscal year 2021, with tax collections exceeding expectations. On March 1, 2021 the Executive and Legislature reached consensus that cumulative tax receipts over fiscal year 2021 and fiscal year 2022 would be at least \$2.5 billion higher than estimated in the Executive Budget Financial Plan. Collections through the end of fiscal year 2021 were even more favorable, providing the basis for the substantial upward revision to tax receipts. The State finished fiscal year 2021 in a stronger overall position in comparison to the Executive Budget Financial Plan. Results reflected both strong tax receipts and disbursements that fell substantially below budgeted levels.

On March 11, 2021 the Federal American Rescue Plan Act (ARPA) was enacted. The ARPA is a \$1.9 trillion economic stimulus bill intended to contain the COVID-19 pandemic and accelerate the nation's economic recovery. The ARPA provides the State with \$12.6 billion in general aid ("recovery aid"), as well as \$17.2 billion in categorical aid for schools, universities, childcare, housing and other purposes. (See "*Impact of COVID-19*", herein). The enacted 2021-22 State budget provides for an increase in All Funds spending of 9.7% over 2020-21, relying on a combination of the new federal funding and revenue-raising initiatives to avoid cuts and support additional investments. According to the State, the budget deploys the first \$5.5 billion of the \$12.6 billion provided for under ARPA.

The State receives a substantial amount of federal aid for health care, education, transportation and other governmental purposes, as well as federal funding to respond to, and recover from, severe weather events and other disasters. Many of the policies that drive this federal aid may be subject to change under the federal administration and the current Congress. Current federal aid projections, and the assumptions on which they rely, are subject to revision in the future as a result of changes in federal policy, the general condition of the global and national economies and other circumstances, including the diversion of federal resources to address the current COVID-19 pandemic.

Should the Town fail to receive State aid expected from the State in the amounts and at the times expected, occasioned by a delay in the payment of such monies, the Town is authorized by the Local Finance Law to provide operating funds by borrowing in anticipation of the receipt of uncollected State aid.

The following table sets forth the percentage of the Town’s General Fund revenue comprised of State Aid for each of the fiscal years 2016 through 2021 and as budgeted for 2022 and 2023.

<u>Fiscal Year Ended December 31:</u>	<u>General Fund Total Revenue</u>	<u>State Aid</u>	<u>State Aid To Revenues (%)</u>
2017	45,687,456	2,908,577	6.37
2018	48,253,586	2,819,332	5.84
2019	50,311,453	3,054,466	6.07
2020	48,528,320	2,730,555	5.63
2021	56,344,305	3,935,516	6.98
2022 (Budgeted)	57,360,787	2,980,400	5.20
2023 (Budgeted)	60,362,226	3,100,800	5.14

Source: Audited financial statements (2017-2021), and the Adopted Budget for 2022 and 2023.

### **Expenditures**

Based on the audited Annual Financial Reports of the Town, the major categories of expenditure for the Town are General Government Support, Public Safety, Home and Community Service, Transportation, Culture and Recreation, Employee Benefits and Debt Service. A summary of such expenditures for the five most recently completed fiscal years may be found in Appendix A.

### **FINANCIAL STATUS OF TOWN**

Over the last fifteen years, the Town has overcome a 2007 combined deficit fund balance of \$19.7 million and Moody’s Investor Services bond rating that had declined Baa1 with a negative outlook. This deficit was modestly reduced through cost cutting, revenue management, and stringent adherence to the annual budget. Management also began looking at underutilized assets that could be sold, and underperforming assets that could be optimized. In 2011, the Town entered into a service concession arrangement (arrangement) for the operation and maintenance of its solid waste facility. This arrangement provided approximately \$35 million in cash receipts and resources to fully cover the solid waste facilities closure and post-closure care costs, which are described in Note 1(I). These steps substantially reduced the net deficit within the environmental services and the general town-wide funds.

These actions in 2011 allowed the Town to begin building fund level surpluses. Progress toward financial recovery was halted by the economic downturn caused by the COVID-19 Pandemic (Pandemic) which caused mass shut down of the nation. However, in 2021 the Capital District’s economy rebounded once the Pandemic closures were lifted, eradicating the deficits generated during 2020. The Federal government signed the American Rescue Plan Act (ARPA) in March of 2021. ARPA established the State and Local Fiscal Recovery Funds (SLFR) which has provided the Town with grant funds of \$9.4 million. A key allowable use of the SLFRS is for revenue loss replacement, which the Town will utilize to supplement governmental operations and improvement projects over the next several years.

It has been the Town’s goal to reach the New York State Comptroller’s recommended fund balance levels of 5% of annual operating expenditures. As of December 31, 2021, the Town has attained, or exceeded, this goal in all of the governmental funds. As a result, in February 2023 the Town adopted a Fund Balance Policy in a effort to ensure compliance with the best practices prescribed by the New York State Comptroller.

The Town’s financial health is negatively impacted by generally accepted accounting standards required recognition of several long-term liabilities. The Town is required to recognize its obligation for other postemployment benefits (OPEB), which totals approximately \$136.7 million as of December 31, 2021. While these standards require the recognition of this liability on the entity-wide and enterprise funds financial statements as of the statement of net position date it will be paid out over the lifetime of the Town’s approximately 850 active and retired employees. Similarly, the Town is required to recognize the compensated absences liability for all active employees as a liability as of the balance sheet date. Again, this \$5.8 million liability will not be paid out in the near term but as the Town’s active employees retire or leave Town service.

The Town is also required to recognize its estimated portion of the New York State and Local Employees’ Retirement System’s (ERS), the New York State and Local Police Fire Retirement System’s (PFRS) and Town of Colonie Volunteer Firefighter Length of Service Award Program pension liabilities, which total approximately \$91,000, \$6.3 million, and \$5.8 million respectively, as of December 31, 2021. These pension liabilities will not be paid out in the near term, but over the term of the employees’ and volunteers’ service to the Town.

Additionally, these OPEB and pension standards required the deferral of certain resources as deferred inflows, net of deferred outflows, of resources of about \$8.2 million as of December 31, 2021.

If the impact of these reporting requirements were excluded from the government-wide financial statements, the Town would have an unrestricted government-wide surplus of approximately \$50.2 million as of December 31, 2021, rather than a deficit of approximately \$96.3 million.

### **Other financial highlights for 2021**

- At the end of the fiscal year, The General Fund reported a fund balance of approximately \$3.5 million, a significant increase from \$147,000 at December 31, 2020. This rebound resulted from the economic recovery post Pandemic restrictions during 2020. Approximately \$420,000 of this fund balance is restricted by third parties for public safety purposes, \$354,000 committed or assigned for various purposes and there is an unrestricted fund balance of \$2.8 million, increased from the deficit (\$803,000) at December 31, 2020. This does not include any significant use of the ARPA SLFR grant.
- All of the governmental operating funds (those other than capital projects) continue to report positive fund balances. All have attained, or have exceeded, the New York State Comptroller's recommended unrestricted fund balance levels of 5% of annual operating expenditures.
- The Environmental Services Department Fund is showing a fund deficit as of December 31, 2021 of \$12.8 million, which will be eliminated in future periods through the landfill operator's assumption of certain liabilities. The Pure Waters Department is also reporting a deficit net position, of \$1.7 million as of December 31, 2021. Similar to the entity-wide statements, this is directly related to the recognition of \$7.3 million in OPEB liability, compensated absences, and net pension liabilities, net of deferred inflows and outflows of resources.
- For governmental funds, the principal sources of the Town's operating revenue are real property taxes of \$30.1 million (35.4%), sales and use taxes of \$29.7 million (34.9%), state and federal aid of \$9.0 million (10.6%), and charges for services of \$9.2 million (10.8%). Sales tax reversed the declines from 2019 to 2020 during 2021 and increased by \$5.3 million. Charges for services continued to decline during 2021 with a decrease of \$200,000, primarily in the areas of charges to developers, building inspections and library fees, offset by increases in Community Development's Section 8 program and emergency medical services and recreation fees. Interest and use of property declined by \$122,000 due to lower interest rates available due to the economic impacts from the Pandemic, but was offset by an increase of \$366,000 in building permits. State aid increased about \$846,000 because of rebounds in mortgage tax and consolidated local street and highway improvement program, which increased by \$1.6 million from 2020. Additionally, the mix of one time grants within the capital projects funds resulted in a \$606,000 decline in state aid. Federal aid increased \$57,000 from 2020 because of \$400,000 decrease in capital grants, but was offset by approximately \$161,000 of ARPA SLFR grant, and \$282,000 increase in community development funding.
- The business-type activities (Pure Waters, Latham Water, and the Environmental Services Department) derived 50.1% (\$12.76 million) of their operating revenue from charges for services, and 49.7% (\$12.65 million) through ad valorem tax assessments, which represent a 1.5% decrease and 3.3% increase, respectively, over 2020. These increases are the result of adopted rate increases for 2021, offset by declines in water consumption. The Environmental Services Department also recognized nonoperating revenue of approximately \$5.1 million in 2021, as compared to \$14.3 million in 2020, as a result of prescribed contractual payments received in 2020, versus recognizing a difference in contributed capital assets of \$4,174,000 between 2021 and 2020. Additionally, in 2020 the discount rate on the long-term management contract receivable declined by 0.8%, to 1.2%, resulting in an increase in revenue of \$1.0 million.
- The largest expense in the Town continues to be salaries and benefits. In 2021, salaries were \$40.0 million, an increase of \$1,374,191 (3.6%) from 2020 and benefits, before other postemployment benefit (OPEB) and net pension/LOSAP liability related items, \$26.1 million, an increase of \$106,000, which was effectively level with 2020 at \$26 million. The salaries increase was the result of a 2% negotiated salary increase with all of the Town's 8 collective bargaining units, and the return of overtime and seasonal staffing to pre-Pandemic levels. Benefits overall remained stable because of increases health insurance, required contributions to the New York State Retirement Systems and social security payments were offset by declines in workers' compensation, compensated absences, and LOSAP benefit claims. Salaries and benefits combined account for 55.6% and 59.2% of expenses, exclusive of the change in OPEB and the net pension liability related items, at December 31, 2021 and 2020, respectively.

- Debt service costs make up approximately \$13.7 million of the 2021 Town-wide budget, or about 13.5% of total expenditures. This is up about \$590,000 from \$13.1 million, and 13.0% of total expenditures, at December 31, 2020. The Town works diligently to balance the debt service budget with the needs of its aging infrastructure and operating facilities. Of this debt service costs approximately \$8.0 million is supported by the proprietary funds and \$6.1 is supported by the governmental funds.
- Approximately 87.7% of the Town's outstanding debt is related to addressing the needs of its aging road, water and sewer infrastructure. The remaining 13% is related to necessary improvements to the Town's public safety, emergency medical, recreation, library and other cultural services.

The following is a summary of operations beginning in 2016 and ending in 2021:

### **Results of Operations – 2016**

In the 2016 Audited Financial Statement the Town's General Fund revenues, including all other sources, exceeded expenditures by \$123,470, resulting in an increase in the General Fund surplus from \$1,309,090 as of December 31, 2015 to \$1,432,560 as of December 31, 2016. The Audited Financial Statements also reported results of operations for the following funds: in the Highway Fund, revenue and other sources exceeded expenditures by \$354,107, increasing the Highway Fund surplus of \$1,269,262 as of December 31, 2015 and producing a surplus of \$1,623,369 as of December 31, 2016; the Enterprise Fund decreased its net position by \$727,682 to \$8,054,474 as of December 31, 2016.

### **Results of Operations – 2017**

In the 2017 Audited Financial Statement the Town's General Fund revenues, including all other sources, exceeded expenditures by \$148,653, resulting in an increase in the General Fund surplus from \$1,432,560 as of December 31, 2016 to \$1,581,213 as of December 31, 2017. The Audited Financial Statements also reported results of operations for the following funds: in the Highway Fund, revenue and other sources exceeded expenditures by \$165,761, increasing the Highway Fund surplus of \$1,623,369 as of December 31, 2016 and producing a surplus of \$1,789,130 as of December 31, 2017; the Enterprise Fund decreased its net position by \$2,708,486 to \$5,345,988 as of December 31, 2017.

### **Results of Operations – 2018**

In the 2018 Audited Financial Statement the Town's General Fund revenues, including all other sources, exceeded expenditures by \$201,151, resulting in an increase in the General Fund surplus from \$1,581,213 as of December 31, 2017 to \$1,782,364 as of December 31, 2018. The Audited Financial Statements also reported results of operations for the following funds: in the Highway Fund, revenue and other sources exceeded expenditures by \$73,751, increasing the Highway Fund surplus of \$1,789,130 as of December 31, 2017 and producing a surplus of \$1,863,081 as of December 31, 2018.

### **Results of Operations – 2019**

In the 2019 Audited Financial Statement the Town's General Fund revenues, including all other sources, exceeded expenditures by \$139,190, resulting in an increase in the General Fund surplus from \$1,782,364 as of December 31, 2018 to \$1,921,554 as of December 31, 2019. The Audited Financial Statements also reported results of operations for the following funds: in the Highway Fund, revenue and other sources exceeded expenditures by \$6,030, increasing the Highway Fund surplus of \$1,863,081 as of December 31, 2018 and producing a surplus of \$1,869,111 as of December 31, 2019.

### **Results of Operations – 2020**

In the 2020 Audited Financial Statement the Town's General Fund expenditures, including all other sources, exceeded revenues by \$1,774,788, resulting in a decrease in the General Fund surplus from \$1,921,554 as of December 31, 2019 to \$146,766 as of December 31, 2020. The Audited Financial Statements also reported results of operations for the following funds: in the Highway Fund, expenditures and other sources exceeded revenues by \$56,205, decreasing the Highway Fund surplus of \$1,869,111 as of December 31, 2019 to \$1,812,906 as of December 31, 2020.

### **Results of Operations – 2021**

In the 2021 Audited Financial Statement the Town's General Fund expenditures, including all other sources, exceeded expenses by \$3,404,225, resulting in an increase in the General Fund surplus from \$146,766 as of December 31, 2020 to \$3,550,991 as of December 31, 2021. The Audited Financial Statements also reported results of operations for the following funds: in the Highway Fund, revenues and other sources exceeded expenses by \$29,949, increasing the Highway Fund surplus of \$1,812,706 as of December 31, 2020 to \$1,842,855 as of December 31, 2021.

## **Town Landfill Operating Agreement**

In September 2011, the Town entered into a Solid Waste Facility Operating Agreement (the “Operating Agreement”) with Capital Region Landfills, Inc. (the “Operator”) to provide for the operation of the Town’s Landfill/Solid Waste Facility. The Town entered into the Operating Agreement in order to privatize the operations of the Landfill/Solid Waste Facility and to address the Town’s financial position.

Under the Operating Agreement, the Town received an upfront payment of \$23 million. The Town applied this upfront payment to pay debt service on certain bonds and eliminate the cumulative deficit in the Town-Wide Governmental Funds.

The Town does not and has not provided garbage collection to its residents. The residents have always had private haulers for collection. Capital Region Landfills, Inc. has agreed to limit any increase in garbage collection fees to 2%/year for any Town resident that uses it as their hauler.

The Operating Agreement provides for approximately \$85 million of payments to the Town, with the potential to generate more than \$100 million over the 25-year term of the Agreement. Specifically, the Town will receive guaranteed annual payments of \$2.3 million for the first 5 years of the Operating Agreement and \$1.1 million annually for the remainder of the Agreement with options to renegotiate for increased payments at various milestones. Under the terms of the Operating Agreement, the Town could also realize in the future a single lump sum payment ranging between \$2 million and \$10.8 million and royalty payments thereafter of \$6.00 per ton in the event the operations at the Landfill/Solid Waste Facility are expanded over the current volume limits on the current footprint. In addition, the Town will receive revenue generated by the waste-to-energy operation at the Landfill/Solid Waste Facility. These revenues, conservatively estimated to equal \$17.5 million over a 25-year term, were previously used to support operations at the Landfill/Solid Waste Facility. That revenue will now be available to fund general operations of the Town.

With respect to operations of the Landfill/Solid Waste Facility, the Operator is responsible for the payment of all Landfill/Solid Waste Facility capital improvements and has assumed more than \$20 million in future Landfill/Solid Waste Facility closure and post-closure costs mandated by New York State. The Operator is also required to maintain the Landfill/Solid Waste Facility for a 30-year term following the closure of the Landfill/Solid Waste Facility. The scheduled closure date is currently 2021 of the Landfill/Solid Waste Facility, assuming full capacity annually and no expansion.

### **Pension Systems**

The Town of Colonie participates in the New York State and Local Employees’ Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS) which are collectively referred to as New York State and Local Retirement System (the System). These are cost-sharing multi-employer defined benefit retirement systems. The net position of the System is held in the New York State Common Retirement Fund (the Fund), which was established to hold all net assets and record changes in fiduciary net position allocated to the System. The Comptroller of the State of New York serves as the trustee of the Fund and is the administrative head of the System. System benefits are established under the provisions of the New York State Retirement and Social Security Law (NYSRSSL). Once a public employer elects to participate in the System, the election is irrevocable.

The New York State Constitution provides that pension membership is a contractual relationship, and plan benefits cannot be diminished or impaired. Benefits can be changed for future members only by enactment of a State statute.

The Town also participates in the Public Employees’ Group Life Insurance Plan (GLIP), which provides death benefits in the form of life insurance. The System provides retirement benefits as well as death and disability benefits.

#### *Tiers 1 and 2*

**Eligibility:** Tier 1 members, with the exception of those retiring under special retirement plans, must be at least age 55 to be eligible to collect a retirement benefit. There is no minimum service requirement for Tier 1 members. Tier 2 members, with the exception of those retiring under special retirement plans, must have five years of service and be at least age 55 to be eligible to collect a retirement benefit. The age at which full benefits may be collected for Tier 1 is 55, and the full benefit age for Tier 2 is 62.

**Benefit Calculation:** Generally, the benefit is 1.67% of final average salary for each year of service if the member retires with less than 20 years. If the member retires with 20 or more years of service, the benefit is 2% of final average salary for each year of service. Tier 2 members with five or more years of service can retire as early as age 55 with reduced benefits. Tier 2 members age 55 or older with 30 or more years of service can retire with no reduction in benefits. As a result of Article 19 of the NYSRSSL, Tier 1 and Tier 2 members who worked continuously from April 1, 1999 through October 1, 2000 received an additional month of service credit for each year of credited service they have at retirement, up to a maximum of 24 additional months.

Final average salary is the average of the wages earned in the three highest consecutive years. For Tier 1 members who joined on or after June 17, 1971, each year of final average salary is limited to no more than 20% of the previous year. For Tier 2 members, each year of final average salary is limited to no more than 20% of the average of the previous two years.

#### *Tiers 3, 4, and 5*

Eligibility: Tiers 3 and 4 members, with the exception of those retiring under special retirement plans, must have five years of service and be at least age 55 to be eligible to collect a retirement benefit. Tier 5 members, with the exception of those retiring under special retirement plans, must have ten years of service and be at least age 55 to be eligible to collect a retirement benefit. The full benefit age for Tiers 3, 4, and 5 is 62.

Benefit Calculation: Generally, the benefit is 1.67% of final average salary for each year of service if the member retires with less than 20 years. If a member retires with between 20 and 30 years of service, the benefit is 2% of final average salary for each year of service. If a member retires with more than 30 years of service, an additional benefit of 1.5% of final average salary is applied for each year of service over 30 years. Tiers 3 and 4 members with five or more years of service and Tier 5 members with ten or more years of service can retire as early as age 55 with reduced benefits. Tiers 3 and 4 members age 55 or older with 30 or more years of service can retire with no reduction in benefits.

Final average salary is the average of the wages earned in the three highest consecutive years. For Tiers 3, 4, and 5 members, each year of final average salary is limited to no more than 10% of the average of the previous two years.

#### *Tier 6*

Eligibility: Tier 6 members, with the exception of those retiring under special retirement plans, must have ten years of service and be at least age 55 to be eligible to collect a retirement benefit. The full benefit age for Tier 6 is 63 for ERS members and 62 for PFRS members.

Benefit Calculation: Generally, the benefit is 1.67% of final average salary for each year of service if the member retires with less than 20 years. If a member retires with 20 years of service, the benefit is 1.75% of final average salary for each year of service. If a member retires with more than 20 years of service, an additional benefit of 2% of final average salary is applied for each year of service over 20 years. Tier 6 members with ten or more years of service can retire as early as age 55 with reduced benefits.

Final average salary is the average of the wages earned in the five highest consecutive years. For Tier 6 members, each year of final average salary is limited to no more than 10% of the average of the previous four years.

#### *Special Plans*

The 25-Year Plans allow retirement after 25 years of service with a benefit of one-half of final average salary, and the 20-Year Plans allow retirement after 20 years of service with a benefit of one-half of final average salary. These plans are available to certain PFRS members, sheriffs, and correction officers.

#### *Ordinary Disability Benefits*

Generally, ordinary disability benefits, usually one-third of salary, are provided to eligible members after ten years of service; in some cases, they are provided after five years of service.

#### *Accidental Disability Benefits*

For all eligible Tier 1 and Tier 2 ERS and PFRS members, the accidental disability benefit is a pension of 75% of final average salary, with an offset for any Workers' Compensation benefits received. The benefit for eligible Tiers 3, 4, 5, and 6 members is the ordinary disability benefit with the years-of-service eligibility requirement dropped.

#### *Ordinary Death Benefits*

Death benefits are payable upon the death, before retirement, of a member who meets eligibility requirements as set forth by law. The first \$50,000 of an ordinary death benefit is paid in the form of group term life insurance. The benefit is generally three times the member's annual salary. For most members, there is also a reduced post-retirement ordinary death benefit available.

*Post-Retirement Benefit Increases*

A cost-of-living-adjustment is provided annually to: (i) all pensioners who have attained age 62 and have been retired for five years; (ii) all pensioners who have attained age 55 and have been retired for ten years; (iii) all disability pensioners, regardless of age, who have been retired for five years; (iv) ERS recipients of an accidental death benefit, regardless of age, who have been receiving such benefit for five years and (v) the spouse of a deceased retiree receiving a lifetime benefit under an option elected by the retiree at retirement. An eligible spouse is entitled to one-half the cost-of-living adjustment amount that would have been paid to the retiree when the retiree would have met the eligibility criteria. This cost-of-living adjustment is a percentage of the annual retirement benefit of the eligible member as computed on a base benefit amount not to exceed \$18,000 of the annual retirement benefit. The cost-of-living percentage shall be 50% of the annual Consumer Price Index as published by the U.S. Bureau of Labor, but cannot be less than 1% or exceed 3%.

The System is noncontributory except for employees who joined the New York State and Local Employees' Retirement System after July 27, 1976, who contribute 3% of their salary for the first ten years of membership, and employees who joined on or after January 1, 2010 (ERS) or January 9, 2010 (PFRS) who generally contribute 3% of their salary for their entire length of service. For Tier 6 members, the contribution rate varies from 3% to 6% depending on salary. Generally, Tiers 5 and 6 members are required to contribute for all years of service.

Under the authority of the NYSRSSL, the Comptroller annually certifies the rates expressed in computing the employer's contributions based on salaries paid during the System's fiscal year ending March 31. Each year, the Comptroller renders a billing to participating employers requesting payment of amounts due in advance for the plan year April 1 to March 31. The NYSRSSL allows participating employers to pay their annual contributions on either December 15 of the current year, or February 1 of the following year. The Town elected to pay its contribution billed in 2022 on February 1, 2023.

The required contributions for the following fiscal years were:

	<u>ERS</u>	<u>PFRS</u>
2018	\$4,683,265	\$3,587,208
2019	4,583,580	3,671,253
2020	4,680,262	3,902,919
2021	4,958,020	4,176,250
2022	4,507,633	4,301,296
2023 (Budgeted)	4,510,000	4,302,000

Contributions made to the Systems were equal to 100% of the contributions required for each year.

Chapter 57 of the Laws of 2010 of the State of New York was enacted that allows local employers to amortize a portion of their retirement bill for 10 years in accordance with the following stipulations:

- For State fiscal year (SFY) 2010-11, the amount in excess of the graded rate of 9.5% of employees' covered pensionable salaries, with the first payment of those pension costs not due until the fiscal year succeeding that fiscal year in which the amortization was instituted.
- For subsequent SFYs, the graded rate will increase or decrease by up to 1% depending on the gap between the increase or decrease in the Systems' average rate and the previous graded rate.
- The interest rate will be set annually, and will be comparable to taxable fixed income investments of a similar duration.
- For SFYs in which the Systems' average rates are lower than the graded rates, the employer will be required to pay the graded rate. Any additional contributions made will first be used to pay off existing amortizations, and then any excess will be deposited into a reserve account and will be used to offset future increases in contribution rates.



Chapter 57 of the Laws of 2013 of the State of New York was enacted that allows local employers to amortize a portion of their retirement bill for up to 12 years in accordance with the following stipulations:

- The maximum amount an employer can amortize is the difference between the normal annual contribution (total bill, excluding payments for deficiency, group life, previous amortization, incentive costs, and prior year adjustments) and the graded contribution.
- For subsequent SFYs, the graded rate will increase or decrease by up to one-half of 1% depending on the gap between the increase or decrease in the System’s average rate and the previous graded rate.
- The interest rate will be set annually, and will be comparable to a 12-year United States Treasury Bond plus 1%.
- For SFYs in which the Systems’ average rates are lower than the graded rates, the employer will be required to pay the graded rate. Any additional contributions made will first be used to pay off existing amortizations, and then any excess will be deposited into a reserve account and will be used to offset future increases in contribution rates.

For the years ended December 31, 2010 through 2016, the Town opted to amortize the allowable portions of the annual ERS and PFRS retirement payment over a ten-year period. The principal amount amortized was \$7,149,426 for the ERS plan and \$5,571,816 for the PFRS plan. The principal and interest payments began in December 2006 and will end in February 2028, with interest ranging from 3% to 5% per annum.

The maturity schedule for this debt, as of December 31, 2022 , is as follows:

	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2023	\$1,113,065	\$ 93,674	\$1,206,739
2024	885,269	57,639	942,908
2025	546,321	28,338	574,659
2026	266,807	11,584	278,391
2027	95,652	3,637	99,289
2028	<u>42,203</u>	<u>1,199</u>	<u>43,402</u>
Totals	<u>\$2,949,317</u>	<u>\$196,071</u>	<u>\$3,145,388</u>

### **Other Post Employment Benefits**

The Town provides post-retirement healthcare benefits to various categories of former employees. These costs may be expected to rise substantially in the future. School districts and Boards of Cooperative Education Services, unlike other municipal units of government in the State, have been prohibited from reducing retiree health benefits or increasing health care contributions received or paid by retirees below the level of benefits or contributions afforded to or required from active employees. This protection from unilateral reduction of benefits had been extended annually by the New York State Legislature until recently when legislation was enacted to make permanent these health insurance benefit protections for retirees. Legislative attempts to provide similar protection to retirees of other local units of government in the State have not succeeded as of the date hereof. Nevertheless, many such retirees of all varieties of municipal units in the State do presently receive such benefits.

GASB Statement No. 75 (“GASB 75”) of the Governmental Accounting Standards Board (“GASB”), requires state and local governments to account for and report their costs associated with post-retirement healthcare benefits and other non-pension benefits (“OPEB”). GASB 75 generally requires that employers account for and report the annual cost of the OPEB and the outstanding obligations and commitments related to OPEB in essentially the same manner as they currently do for pensions. Under previous rules, these benefits have generally been administered on a pay-as-you-go basis and have not been reported as a liability on governmental financial statements. Only current payments to existing retirees were recorded as an expense.

GASB 75 requires that state and local governments adopt the actuarial methodologies to determine annual OPEB costs. Annual OPEB cost for most employers will be based on actuarially determined amounts that, if paid on an ongoing basis, generally would provide sufficient resources to pay benefits as they come due.

During the year ended December 31, 2018, the Town adopted GASB 75, which supersedes and eliminates GASB 45. Under GASB 45, based on actuarial valuation, an annual required contribution (“ARC”) will be determined for each state or local government. 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 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 75 establishes new standards for recognizing and measuring OPEB liabilities, deferred outflows of resources, deferred inflows of resources, and expense/expenditures to provide more transparent reporting and useful information about the liability and cost of benefits. Municipalities and school districts are required to account for OPEB within the financial statements rather than only noted in the footnotes as previously required by GASB 45. It is measured as of a date no earlier than the end of the employer’s prior fiscal year and no later than the employer’s current fiscal year. The discount rate is based on 20-year, tax exempt general obligation municipal bonds. There is no amortization of prior service cost.

Those that have more than 200 participants are required to have a full actuarial valuation annually. Plans with fewer than 200 participants are required to have a full valuation every two years.

For the fiscal year ended December 31, 2018, the Town implemented GASB 75. The implementation of this Statement resulted in the reporting of the entire actuarial accrued liability for other post-employment benefits. The Town’s total OPEB liability at December 31, 2021 is as follows:

Total OPEB Liability at Dec 31, 2020	<u>\$132,074,600</u>
Charges for the Year:	
Service Cost	4,812,157
Interest	3,592,747
Changes of Benefit Terms	-
Differences between expected and actual experience in measurement of OPEB liability	473,999
Changes in Assumptions or Other Inputs	(218,405)
Benefit Payments	<u>(3,949,902)</u>
Net Changes in total OPEB liability	<u>4,710,596</u>
Total OPEB Liability at Dec 31, 2021	<u><u>\$136,785,196</u></u>

Actuarial valuation will be required every 2 years for OPEB plans with more than 200 members, every 3 years, if there are less than 200 members.

At this time, New York State has not developed guidelines for the creation and use of irrevocable trusts for the funding of OPEB. The Town continued funding the expenditure on a pay-as-you-go basis.

## **REAL PROPERTY TAX INFORMATION**

### **Real Property Taxes**

The Town derives a portion of its annual revenue through a direct real property tax.

A. Tables presenting the tax levy, by purpose, collection performance and tax rates can be found in Appendix

The following table sets forth the percentage of the Town’s General Fund revenue (excluding other financing sources) comprised of real property taxes for each of the fiscal years 2017 through 2021, and the 2022 and 2023 Budgets.

Fiscal Year Ended <u>December 31:</u>	<u>Total Revenue</u>	Real Property <u>Taxes</u>	Real Property Taxes to <u>Revenues (%)</u>
2017	\$45,687,456	\$19,190,792	42.00
2018	48,253,586	19,878,902	41.20
2019	50,311,453	21,167,700	42.07
2020	48,528,320	22,036,617	45.41
2021	56,344,305	22,631,097	40.17
2022 (Budgeted)	57,360,787	23,075,843	40.23
2023 (Budgeted)	60,362,226	23,814,689	39.45

### **Tax Collection Procedure**

Taxes are due January 1, payable without penalty to and including January 31. Penalties thereafter are 1% if paid in February and 1-1/2% if paid in March. On April 1, the tax roll is returned to the County and taxes plus penalties are payable to the County. The Town retains the total amount of town highway and special district levies from the total collections and returns the balance plus the uncollected items to the County, which assumes collection responsibility and holds annual tax sales. The Town thus is assured of receiving the full amount of its real estate tax levy each year.

The Town also acts as collection agency for school district taxes, paying same to the districts as collected and returning uncollected items to the County which reimburses the districts for such uncollected taxes.

The County acts as billing and collecting agent with respect to public utility (including special franchise) and railroad properties.

### **Tax Levy Limit Law**

Prior to the enactment of Chapter 97 of the Laws of 2011 (the “Tax Levy Limit Law”) on June 24, 2011, all the taxable real property within the Town had been subject to the levy of ad valorem taxes to pay the bonds of the Town and interest thereon without limitation as to rate or amount. However, the Tax Levy Limit Law imposes a tax levy limitation upon the Town for any fiscal year commencing after May 31, 2012, continuing through May 31, 2020 as extended, without providing an exclusion for debt service on obligations issued by the Town. As a result, the power of the Town to levy real estate taxes on all the taxable real property within the Town is subject to statutory limitations, according to the formulas set forth in Tax Levy Limit Law.

The following is a brief summary of certain relevant provisions of the Tax Levy Limit Law. The summary is not complete and the full text of the Tax Levy Limit Law should be read in order to understand the details and implications thereof.

The Tax Levy Limit Law imposes a limitation on increases in the real property tax levy of the Town, subject to certain exceptions. The Tax Levy Limit Law permits the Town to increase its overall real property tax levy over the tax levy of the prior year by no more than the “Allowable Levy Growth Factor”, which is the lesser of one and two one-hundredths or the sum of one plus the Inflation Factor; provided, however that in no case shall the levy growth factor be less than one. The "Inflation Factor" is the quotient of: (i) the average of the 20 National Consumer Price Indexes determined by the United States Department of Labor for the twelve-month period ending six months prior to the start of the coming fiscal year minus the average of the National Consumer Price Indexes determined by the United States Department of Labor for the twelve-month period ending six months prior to the start of the prior fiscal year, divided by: (ii) the average of the National Consumer Price Indexes determined by the United States Department of Labor for the twelve-month period ending six months prior to the start of the prior fiscal year, with the result expressed as a decimal to four places. The Tax Levy Limit Law also provides for adjustments to be made to the Town’s tax levy based upon changes in the assessed value of the taxable real property in the Town. Additionally, the Town will be permitted to carry forward a certain portion of its unused tax levy capacity from the prior year. The Town is required to calculate its tax levy limit for the upcoming year in accordance with the provision described above and provide all relevant information to the New York State Comptroller prior to adopting its budget. The Tax Levy Limit Law sets forth certain exclusions to the real property tax levy limitation of the Town, including exclusions for tort judgments payable by the Town. The governing board of the Town may adopt a budget that exceeds the tax levy limit for the coming fiscal year, only if the governing board of the Town first enacts, by a vote of at least sixty percent of the total voting power of the Town Board, a local law to override such limit for such coming fiscal year.

The Tax Levy Limit Law does not contain an exception from the levy limitation for the payment of debt service on either outstanding general obligation bonds or notes of the Town or such indebtedness incurred after the effective date of the Tax Levy Limit Law. As such, there can be no assurances that the Tax Levy Limit Law will not come under legal challenge for violating (i) Article VIII, Section 12 of the State Constitution for not providing an exception for debt service on obligations issued prior to the enactment of the Tax Levy Limit Law, (ii) Article VIII, Section 10 of the State Constitution by effectively eliminating the exception for debt service to general real estate tax limitations, and (iii) Article VIII, Section 2 of the State Constitution by limiting the pledge of its faith and credit by a municipality or school district for the payment of debt service on obligations issued by such municipality or school district.

The 2012 through 2022 Budgets did not exceed the tax levy limitation.

**Selected Listing of Large Taxable Properties**  
2022 Assessment Roll<sup>a</sup>

<u>Name</u>	<u>Type</u>	<u>Assessed Valuation</u>
Niagara Mohawk	Utility	\$97,752,524
FMP Colonie Center LLC	Shopping Center	65,000,000
Kir Latham Farms	Shopping Center	41,750,000
Verizon New York, Inc	Utility	25,871,202
Corporate Woods Partners	Office	25,600,000
HTA-Region Health, LLC	Health Services	23,560,000
NYSUT Building Corp	Office Building	23,474,000
Hudson Preserve Operation, LLC	Apartment Complex	19,900,000
PHLA, LLC	Apartment Complex	19,748,000
CS Albany Realty, LLC	Various Properties	19,250,000
Picotte Development Co.	Office Buildings	18,500,000
Riverview Assets, LLC	Various Properties	18,300,000
Macy's East Inc.	Shopping Center	17,800,000
Village Square of Penna Inc.	Motel	16,120,000
Sand Creek Associates	Various Properties	<u>15,013,400</u>
	Total <sup>b</sup>	<u><u>\$447,639,126</u></u>

a. Assessment Roll established in 2020 for levy and collection of taxes during 2021 Fiscal Year.

b. Represents 7.22% of the taxable Assessed Valuation of the Town for 2021.

**LITIGATION**

In common with other towns, the Town may from time to time receive notices of claim and become a party to litigation. In the opinion of the Town, after consultation with its attorney, unless otherwise set forth herein and apart from matters provided for by applicable insurance coverage, there are no significant claims or actions pending.

**CYBERSECURITY**

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

On January 15, 2020, the Town experienced a ransomware cyber-attack with a demand for payment. Our Management Information System Department immediately engaged a private computer security company, NYS Office of Information Technology Services, the New York State division of Homeland Security and Emergency Services, and the Federal Bureau of Investigation to isolate and secure the systems, and perform forensics auditing on the affected network.

Confidential data was not compromised and no ransom was paid. All affected systems and data were restored and the Town is taking additional steps to deter future incidents. Our backup and restore process was tested and found to be highly successful. The Town will continue to strengthen our cyber defenses and continue to ensure our systems remain safe.

## **INVESTMENT RISKS**

There are various forms of risk associated with investing in the Notes. Although none of such risks currently exist with respect to the Town or the Notes, there can be no assurance that one or more of such events will not occur in the future. One such risk is that the Town will be unable to promptly pay interest and principal on the Notes as they become due (see "Remedies Upon Default", herein). If a Noteholder elects to sell his investment prior to its scheduled maturity date, market access or price risk may be incurred. The following is a discussion of certain events that could affect the risk of investing in the Notes. In addition, there may be other risk factors which a potential investor must consider. In order to make an informed investment decision, an investor should be thoroughly familiar with the entire Official Statement, including its appendices, as well as all areas of potential risk.

There are a number of factors which could have a detrimental effect on the ability of the Town to continue to generate revenues, particularly its property taxes. For instance, the termination of a major commercial enterprise or an unexpected increase in certiorari proceedings could result in a large reduction in the assessed valuation of taxable real property in the Town. In addition, to the extent that the Town is dependent on State aid, there can be no assurance that such aid will be continued in the future (see "Discussion of Financial Matters", herein). Unforeseen developments could also result in substantial increases in Town expenditures, thus placing considerable strain on the Town's financial condition.

Due to significant capital market declines in the recent past, the State's Retirement System portfolio has experienced negative investment performance and severe downward trends in market earnings. As a result of the foregoing, New York State Comptroller Thomas DiNapoli has announced that the employer contribution rate for the State's Retirement System in 2011 and subsequent years will be higher than the minimum contribution rate established by Chapter 49. To mitigate the expected increases in the employer contribution rate, legislation has been proposed that would permit local governments and schools districts to issue notes to fund the required increased contribution. The Town cannot predict at this time whether such legislation will be enacted into law.

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

Amendments to U.S. Internal Revenue Code could reduce or eliminate the favorable tax treatment granted to municipal debt, including the Notes and other debt issued by the Town. Any such future legislation would have an adverse effect on the market value of the Notes (See "Tax Exemption" herein).

## **TAX EXEMPTION**

Hodgson Russ LLP, of Albany, New York, Bond Counsel, will deliver an opinion that, under existing law, the interest on the Notes is excluded from gross income of the holders thereof for federal income tax purposes and is not an item of tax preference for the purpose of the individual alternative minimum tax imposed by the Internal Revenue Code (the "Code"). However, such opinion will note that the Town, by failing to comply with certain restrictions contained in the Code, may cause interest on the Notes to become subject to federal income taxation from the date of issuance of the Notes. Prospective purchasers should consult their tax advisers as to any possible collateral consequences from their ownership of, or receipt of interest on, or disposition of, the Notes. Bond Counsel expresses no opinion regarding any such collateral federal income tax consequences.

## **Tax Requirements**

In rendering the foregoing opinions, Hodgson Russ LLP will note that the exclusion of the interest on the Notes from gross income for federal income tax purposes is subject to, among other things, continuing compliance by the Town with the applicable requirements of Code sections 141, 148, and 149, and the regulations promulgated thereunder (collectively, the “Tax Requirements”). In the opinion of Hodgson Russ LLP, the separate tax certificates that will be executed and delivered by the Town in connection with the issuance of the Notes (collectively, the “Certificate”) establish the requirements and procedures, compliance with which will satisfy the Tax Requirements.

The Tax Requirements referred to above, which must be complied with in order that interest on the Notes remains excluded from gross income for federal income tax purposes, include, but are not limited to:

- The requirement that the proceeds of the Notes be used in a manner so that the Notes are not obligations which meet the definition of a “private activity note” within the meaning of Code section 141;
- The requirements contained in Code section 148 relating to arbitrage bonds; and
- The requirements that payment of principal or interest on the Notes not be directly or indirectly guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof) as provided in Code section 149(b).

In the Certificate, the Town will covenant to comply with the Tax Requirements, and to refrain from taking any action which would cause the interest on the Notes to be includable in gross income for federal income tax purposes. Any violation of the Tax Requirements may cause the interest on the Notes to be included in gross income for federal income tax purposes from the date of issuance of the Notes. Hodgson Russ LLP expresses no opinion regarding other federal tax consequences arising with respect to the Notes.

## **Bank Qualified**

The Notes will NOT be designated as “qualified tax-exempt obligations” pursuant to Code section 265.

## **Other Impacts**

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

## **Information Reporting and Backup Withholding**

In general, information reporting requirements will apply to non-corporate holders with respect to payments of principal, payments of interest, and the proceeds of the sale of a bond before maturity within the United States. Backup withholding may apply to a holder of the Notes under Code section 3406, if such holder fails to provide the information required on Internal Revenue Service (“IRS”) Form W-9, Request for Taxpayer Identification Number and Certification, or the IRS has specifically identified the holder as being subject to backup withholding because of prior underreporting. Any amounts withheld under the backup withholding rules from a payment to a beneficial owner, and which constitutes over-withholding, would be allowed as a refund or a credit against such beneficial owner’s United States federal income tax provided the required information is furnished to the IRS. Neither the information reporting requirement nor the backup withholding requirement affects the excludability of interest on the Notes from gross income for federal income tax purposes.

## **Future Legislation**

Bond Counsel has not undertaken to advise in the future whether any events occurring after the date of issuance of the Notes may affect the tax status of interest on the Notes. The Code has been continuously subject to legislative modifications, amendments, and revisions, and proposals for further changes are regularly submitted by leaders of the legislative and executive branches of the federal government.

No representation is made as to the likelihood of such proposals being enacted, or if enacted, the effective date of any such legislation, and no assurances can be given that such proposals or amendments will not materially and adversely affect the economic value of the Notes or the tax consequences of ownership of the Notes.

## **New York State Taxes**

In the opinion of Bond Counsel, interest on the Notes is exempt, under existing statutes, from New York State and New York City personal income taxes.

### **Miscellaneous**

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

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

### **ABSENCE OF LITIGATION**

Upon delivery of the Notes, the Town will furnish a certificate, dated the date of delivery of the Notes, to the effect that there is no controversy or litigation of any nature pending or threatened to restrain or enjoin the issuance, sale, execution, or delivery of the Notes, or in any way contesting or affecting the validity of the Notes or any of the proceedings taken with respect to the issuance and sale thereof or the application of moneys to the payment of the Notes. The certificate will also state that there is no controversy or litigation of any nature now pending or threatened by or against the Town wherein an adverse judgement or ruling could have a material adverse impact on the financial condition of the Town or adversely affect the power of the Town to levy, collect, and enforce the collection of taxes or other revenues for the payment of the Notes, which has not been disclosed in this Official Statement.

### **Legal Matters and the Tax Levy Limit**

Legal matters incident to the authorization, issuance and sale of the Notes will be subject to the final approving opinion of the law firm of Hodgson Russ LLP to the Town with respect to the Notes, which will be available at the time of delivery of the Notes. Such opinion will be to the effect that the Notes are valid and legally binding general obligations of the Town for which the Town has validly pledged its faith and credit and, unless paid from other sources, all the taxable real property within the Town is subject to the levy of ad valorem real estate taxes to pay the Notes and interest thereon, subject to the limitations imposed by the Tax Levy Limit Law. Prior to the enactment of the Tax Levy Limit Law, all the taxable real property within the Town had been subject to the levy of ad valorem taxes to pay the Notes and interest thereon without limitation as to rate or amount; however, the power of the Town to levy unlimited real estate taxes on all the real property in the Town may or may not be subject to the statutory limitations imposed by the Tax Levy Limit Law, depending upon the interpretation of such statute by a court of competent jurisdiction in the event of a legal challenge. See "Tax Levy Limit Law," herein. The enforceability of rights or remedies with respect to such Notes may be limited by bankruptcy, insolvency or other laws affecting creditors' rights or remedies heretofore or hereafter enacted.

### **RATINGS**

The Notes are not rated. S&P Global Ratings ("S&P") 55 Water Street, New York, NY 10041, Telephone: (877) 299-2569 and Fax: (212) 438-5153 has assigned a rating of "AA-" to the outstanding bonds of the Town. This rating reflects only the view of such rating agency and an explanation of the significance of such rating should be obtained from Moody's. Generally, a rating agency bases its ratings on the information and materials furnished to it and on investigation, studies and assumptions by the rating agency. There is no assurance that a particular rating will apply for any given period of time or that it will not be lowered or withdrawn entirely if, in the judgment of the agency originally establishing the rating, circumstances so warrant. Any downward revision or withdrawal of such rating could have an adverse effect on the market price of the Notes or the availability of a secondary market for such Notes.

## **MUNICIPAL ADVISOR**

Munistat Services, Inc. (the "Municipal Advisor"), is a Municipal Advisor, registered with the Securities and Exchange Commission and the Municipal Securities Rulemaking Board. The Municipal Advisor serves as independent municipal advisor to the Town on matters relating to debt management. The Municipal Advisor is a financial advisory and consulting organization and is not engaged in the business of underwriting, marketing, or trading municipal securities or any other negotiated instruments. The Municipal Advisor has provided advice as to the plan of financing and the structuring of the Notes and has reviewed and commented on certain legal documents, including this Official Statement. The advice on the plan of financing and the structuring of the Notes was based on materials provided by the Town and other sources of information believed to be reliable. The Municipal Advisor has not audited, authenticated, or otherwise verified the information provided by the Town or the information set forth in this Official Statement or any other information available to the Town with respect to the appropriateness, accuracy, or completeness of disclosure of such information and no guarantee, warranty, or other representation is made by the Municipal Advisor respecting the accuracy and completeness of or any other matter related to such information and this Official Statement.

## **OTHER MATTERS**

The statutory authority for the power to spend money for the objects or purposes, or to accomplish the objects or purposes, for which the Notes are to be issued is the Town Law and the Local Finance Law.

The fiscal year of the Town is January 1 to December 31. There is no bond or note principal or interest past due.

This Official Statement does not include the financial data of any other political subdivision of the State of New York having power to levy taxes within the Town, except as expressed in the "Calculation of Overlapping and Underlying Indebtedness."

## **ADDITIONAL INFORMATION**

Additional information may be obtained upon request from the office of the Acting Comptroller, Christopher Kelsey, Town of Colonie, Memorial Town Hall, 534 New London Road, Latham, NY 12110, Phone (518) 783-2708, Fax (518) 783-2877 and email: [kelsey@colonie.org](mailto:kelsey@colonie.org), or from the office of Munistat Services, Inc., 12 Roosevelt Avenue, Port Jefferson Station, New York 11776, telephone number (631) 331-8888 and website: <http://www.munistat.com>.

## **MISCELLANEOUS**

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

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

Hodgson Russ LLP, Albany, New York, Bond Counsel to the Town, expresses no opinion as to the accuracy or completeness of information in any documents prepared by or on behalf of the Town for use in connection with the offer and sale of the Notes, including but not limited to, the financial or statistical information in this Official Statement.

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



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

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

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

Any statements made in this Official Statement and indicated to involve matters of opinion or estimates are represented to be opinions or estimates in good faith. No assurance can be given, however, that the facts will materialize as so opined or estimated. Neither this Official Statement nor any statement which may have been made verbally or in writing is to be construed as a contract with the holders of the Notes.

This Official Statement has been duly executed and delivered by the Town Supervisor of the Town of Colonie.

TOWN OF COLONIE, NEW YORK

By: s/s PETER G. CRUMMEY  
Town Supervisor  
Town of Colonie, New York

Dated: April , 2023

**APPENDIX A**

**FINANCIAL INFORMATION**

**Balance Sheet**  
**General Fund**

	Fiscal Year Ending December 31:	
	2020	2021
Assets:		
Cash and Cash Equivalents	\$ 7,139,647	\$ 10,494,214
Cash, Restricted	1,066,138	772,607
Due From Other Governments	7,249,336	9,241,413
Accounts Receivable, Net	2,512,003	2,942,772
Due from other Funds	2,037,773	454,853
Other Assets	9,840	9,840
Total Assets	20,014,737	23,915,699
Liabilities:		
Accounts Payable	6,005,406	3,288,021
Accrued Liabilities	1,033,374	1,659,266
Other Liabilities	266,485	278,226
Bond Anticipation Note	0	200,000
Revenue Anticipation Note Payable	3,500,000	0
Due to Other Governments	4,928,001	5,254,677
Due to other Funds	4,053,084	5,026,227
Unearned Revenue/ Deferred Inflows of Resources	81,621	4,658,291
Total Liabilities	19,867,971	20,364,708
Fund Balances:		
Restricted Fund Balance	527,628	419,732
Committed, Assigned, and Unassigned	(380,862)	3,131,259
Unassigned		
Total Fund Equity	146,766	3,550,991
Total Liabilities and Fund Equity	\$ 20,014,737	\$ 23,915,699

Source: Audited Financial Report (2020-2021)

**STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND EQUITY  
GENERAL FUND TOWN-WIDE**

	Fiscal Year Ending December 31:				
	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
<b>Revenues:</b>					
Real Property Taxes and Tax Items	\$ 19,190,792	\$ 19,878,902	\$ 21,167,700	\$ 22,036,617	\$ 22,631,097
Sales and Use Taxes	11,692,117	12,971,016	13,806,980	12,096,555	16,834,642
Department Income	6,637,093	7,083,542	6,741,815	6,339,826	7,764,901
Intergovernmental Charges	157,482	170,267	128,738	106,876	166,624
Use of Money and Property	1,574,395	1,591,903	1,640,390	1,584,128	1,593,505
Licenses and Permits	68,514	76,825	73,886	64,888	68,942
Fines and Forfeitures	849,241	827,311	890,222	397,777	493,594
Sale of Property and Compensation for Loss					
Miscellaneous	38,913	53,980	27,883	2,433	29,285
Interfund Revenues	2,377,156	2,564,190	2,626,507	2,837,720	2,449,626
State and Federal Aid	3,101,753	3,035,650	3,207,332	3,061,500	4,312,089
<b>Total Revenues</b>	<u>45,687,456</u>	<u>48,253,586</u>	<u>50,311,453</u>	<u>48,528,320</u>	<u>56,344,305</u>
<b>Expenditures:</b>					
General Government Support	7,339,920	7,748,948	7,641,483	7,838,715	8,519,862
Public Safety	15,190,071	15,579,038	16,178,140	15,573,315	16,320,901
Health	4,129,616	4,340,150	4,503,380	4,525,279	5,078,082
Transportation	557,825	487,957	495,304	512,632	521,226
Economic Assistance & Opportunity	333	2,642	2,317	1,944	608
Culture and Recreation	3,836,854	3,815,578	3,998,633	3,271,421	3,820,593
Home and Community Services	135,317	141,131	144,021	148,162	129,075
Employee Benefits	14,790,213	15,623,324	16,817,437	17,715,405	18,251,588
Debt Service	2,293,247	2,324,360	2,463,071	2,709,121	2,322,387
Capital Outlay	128,214	254,516	20,986	90,310	37,496
<b>Total Expenditures</b>	<u>48,401,610</u>	<u>50,317,644</u>	<u>52,264,772</u>	<u>52,386,304</u>	<u>55,001,818</u>
Excess (Deficiency) of Revenues over Expenditures	<u>(2,714,154)</u>	<u>(2,064,058)</u>	<u>(1,953,319)</u>	<u>(3,857,984)</u>	<u>1,342,487</u>
<b>Other Financing Sources (Uses):</b>					
Operating Transfers In	2,800,000	2,191,004	2,000,000	2,000,000	2,000,000
Operating Transfers Out					
Sale of property and compensation for loss	62,807	74,205	92,509	75,425	61,738
Proceeds of Obligations					
Proceeds from Amortization of Retirement Costs					
<b>Total Other Financing Sources (Uses)</b>	<u>2,862,807</u>	<u>2,265,209</u>	<u>2,092,509</u>	<u>2,075,425</u>	<u>2,061,738</u>
Excess (Deficiency) of Revenues & Other Sources Over Expenditures & Other Uses	<u>148,653</u>	<u>201,151</u>	<u>139,190</u>	<u>(1,782,559)</u>	<u>3,404,225</u>
Fund Equity Beginning of Year	<u>1,432,560</u>	<u>1,581,213</u>	<u>1,782,364</u>	<u>1,921,554</u>	<u>146,766</u>
Prior period Adjustment				7,771 <sup>a</sup>	
<b>Fund Equity End of Year</b>	<u>\$ 1,581,213</u>	<u>\$ 1,782,364</u>	<u>\$ 1,921,554</u>	<u>\$ 146,766</u>	<u>\$ 3,550,991</u>

Sources: Audited Financial Reports (2017-2021)

**a. Adoption of New Accounting Standards :** GASB Statement No. 84, Fiduciary Activities(GASB 84). GASB 84 establishes criteria for identifying fiduciary activities of all state and local governments. The focus of the criteria generally is on: (1) whether a government is controlling the assets of the fiduciary activity; and (2) the beneficiaries with whom a fiduciary relationship exists. Separate criteria are included to identify fiduciary component units and postemployment benefit arrangements that are fiduciary activities. The Town implemented the provisions of this accounting standard, which resulted in the elimination of the Agency Fund, and the creation of the Custodial Fund. The Custodial Fund includes a Statement of Net Position and Statement of Revenues, Expenditures and Changes in net Position.

**STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND EQUITY  
HIGHWAY FUND**

	Fiscal Year Ending December 31:				
	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
<b>Revenues:</b>					
Sales and Use Taxes	\$ 9,585,579	\$ 10,031,738	\$ 10,394,560	\$ 9,307,011	\$ 10,597,824
Departmental Income	355,513	236,524	13,269	422,992	66,742
Intergovernmental Charges	11,363	10,306	7,587	8,563	6,559
Use of Money and Property	13,462	13,874	31,006	20,004	15,656
Licenses and Permits	3,400	1,900	5,800	4,000	3,000
Sale of Property and Compensation for Loss					
Miscellaneous	4,992	1,352		40	
State and Federal Aid	869,326	700,154	900,200	756,070	1,116,153
	<u>10,843,635</u>	<u>10,995,848</u>	<u>11,352,422</u>	<u>10,518,680</u>	<u>11,805,934</u>
<b>Total Revenues</b>					
<b>Expenditures:</b>					
General Government Support					
Transportation	6,012,801	6,403,273	6,409,367	5,482,040	6,119,817
Employee Benefits	2,395,063	2,198,570	2,315,282	2,227,517	2,440,171
Debt Service	2,304,536	2,357,352	2,647,624	2,903,045	3,322,342
Capital Outlay			7,163		
	<u>10,712,400</u>	<u>10,959,195</u>	<u>11,379,436</u>	<u>10,612,602</u>	<u>11,882,330</u>
<b>Total Expenditures</b>					
Excess (Deficiency) of					
Revenues over Expenditures	<u>131,235</u>	<u>36,653</u>	<u>(27,014)</u>	<u>(93,922)</u>	<u>(76,396)</u>
<b>Other Financing Sources (Uses):</b>					
Proceeds from Amortization of Retirement Costs					
Sale of property and compensation for loss	34,526	37,298	33,044	30,707	106,345
Operating Transfers In				7,010	
Operating Transfers Out					
	<u>34,526</u>	<u>37,298</u>	<u>33,044</u>	<u>37,717</u>	<u>106,345</u>
<b>Total Other Financing Sources (Uses)</b>					
Fund Balance Beginning of Year	<u>1,623,369</u>	<u>1,789,130</u>	<u>1,863,081</u>	<u>1,869,111</u>	<u>1,812,906</u>
Prior Period Adjustment to Fund Equity					
<b>Fund Equity End of Year</b>	<u>\$ 1,789,130</u>	<u>\$ 1,863,081</u>	<u>\$ 1,869,111</u>	<u>\$ 1,812,906</u>	<u>\$ 1,842,855</u>

Sources: Audited Financial Reports (2017-2021)

**STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND EQUITY  
NON MAJOR FUNDS\***

	Fiscal Year Ending December 31:				
	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
<b>Revenues:</b>					
Real Property Taxes	\$ 6,946,936	\$ 7,078,318	\$ 7,261,043	\$ 7,232,008	\$ 7,421,082
Departmental Income	471,862	884,118	515,874	494,924	727,380
Sales and use tax					2,273,571
Use of Money and Property	385,177	142,527	469,746	375,328	265,354
Licenses and Permits	1,058,866	1,343,994	1,581,989	1,063,409	1,426,078
Sales of Property and Compensation for Loss					
Intergovernmental Charges	2,686,048	2,362,628	2,272,772	3,002,656	30,000
Miscellaneous	51,350	79,316	58,009	477,798	467,374
State and Federal Aid	3,635,964	3,298,913	3,638,419	3,365,994	3,648,036
	<u>15,236,203</u>	<u>15,189,814</u>	<u>15,797,852</u>	<u>16,012,117</u>	<u>16,258,875</u>
<b>Expenditures:</b>					
General Government Support	263,819	216,032	213,189	217,090	209,486
Public Safety	5,279,579	5,604,083	5,467,432	5,492,354	5,669,813
Health	4,399	4,399	4,399	4,399	4,399
Transportation	798,925	797,248	807,424	780,079	827,035
Culture and Recreation	1,960,501	1,977,483	2,063,931	1,782,441	1,831,481
Home and Community Services	4,056,554	4,035,221	4,212,084	4,490,229	5,073,689
Employee Benefits	2,302,104	2,265,387	2,342,407	2,625,968	2,380,263
Debt Service	59,382	72,535	138,025	201,398	221,285
Capital Outlay			183,536		18,393
	<u>14,725,263</u>	<u>14,972,388</u>	<u>15,432,427</u>	<u>15,593,958</u>	<u>16,235,844</u>
Excess (Deficiency) of Revenues over Expenditures	<u>510,940</u>	<u>217,426</u>	<u>365,425</u>	<u>418,159</u>	<u>23,031</u>
<b>Other Financing Sources (Uses):</b>					
Proceeds from Issuance of Serial Bonds	6,424,000		4,190,005		3,078,027
Premium on Issuance of Debt	746,143		312,971		293,125
Proceeds from Amortization of Retirement Costs					
Sale of property and compensation for loss	22,274	20,232	19,879	6,978	191,531
Advanced Refunding Bonds					
Repayments to Escrow Agent Advanced Refunding Bonds	(7,170,143)		(4,502,976)		(3,371,152)
Incurrence of Pension Related Debt					
Interfund Transfers				(7,010)	
Total Other Financing Sources (Uses)	<u>22,274</u>	<u>20,232</u>	<u>19,879</u>	<u>(32)</u>	<u>191,531</u>
Net Change in Fund Balances	<u>533,214</u>	<u>237,658</u>	<u>385,304</u>	<u>418,127</u>	<u>214,562</u>
Fund Balance - Beginning of Year	<u>1,657,085</u>	<u>5,217,057</u>	<u>5,454,715</u>	<u>5,840,019</u>	<u>6,342,046</u>
Prior Period Adjustment				83,900	
Effect of adoption of GASB 73	<u>3,026,758</u>				
Fund Equity End of Year	<u>\$ 5,217,057</u>	<u>\$ 5,454,715</u>	<u>\$ 5,840,019</u>	<u>\$ 6,342,046</u>	<u>\$ 6,556,608</u>

\*Non Major Funds consist of the following funds: General Fund Part Town, Special Grant, Library, Drainage, Fire Protection and Refuse and Garbage Fund Sources: Audited Financial Reports (2017-2021)

**STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND NET ASSETS  
OF PROPRIETARY FUNDS  
ENTERPRISE FUNDS\***

	Fiscal Year Ending December 31:				
	2017	2018	2019	2020	2021
<b>Operating Revenues:</b>					
Charges for Services	\$ 12,059,470	\$ 12,651,408	\$ 12,089,930	\$ 12,959,121	\$ 12,760,820
Miscellaneous Services	51,347	25,153	54,940	67,201	61,950
Ad Valorem tax					12,646,171
Property Taxes	<u>10,992,625</u>	<u>11,244,332</u>	<u>11,826,145</u>	<u>12,239,301</u>	<u>12,646,171</u>
<b>Total Operating Revenues</b>	<u>23,103,442</u>	<u>23,920,893</u>	<u>23,971,015</u>	<u>25,265,623</u>	<u>25,468,941</u>
<b>Operating Expenditures:</b>					
Personal Services	5,437,491	5,412,328	5,555,283	5,583,209	5,787,384
Employee Benefits	4,433,230	3,654,469	3,946,674	5,550,408	3,951,900
Other Post Employment Benefits	1,287,097	464,022	149,426		
Supplies, Materials and Services	8,028,069	8,160,961	9,354,135	8,251,666	9,087,399
Insurance	312,820	316,850	298,703	313,337	412,438
Depreciation	4,106,386	5,109,576	5,659,041	7,466,575	7,627,113
Provisional for Uncollectible Receivables	573,995	4,449	5,207	6,388	
Closure and Post Closure Costs	<u>4,016</u>	<u>917,632</u>	<u>4,378,186</u>	<u>1,973,168</u>	<u>5,914,938</u>
<b>Total Operating Expenditures</b>	<u>24,183,104</u>	<u>24,040,287</u>	<u>29,346,655</u>	<u>29,144,751</u>	<u>32,781,172</u>
<b>Income (Loss) From Operations</b>	<u>(1,079,662)</u>	<u>(119,394)</u>	<u>(5,375,640)</u>	<u>(3,879,128)</u>	<u>(7,312,231)</u>
<b>Non-Operating revenues (expenses)</b>					
Use of Property	3,168,417	3,903,180	2,533,370	14,409,854	1,024,546
State Aid/Capital Grants			496,333	81,232	285,760
Contributed Asset			6,742,000	301,992	4,475,000
Gain (Loss) on the Sale of Capital Assets	2,003	10,094		(398,614)	99,160
Compensation for Losses	40,349	8,735			227,796
Refunding bond issuance costs	(133,919)				
Payment to escrow agent					(187,185)
Sale of Property					
Interest (Expense)	(1,955,492)	(1,969,672)	(2,075,124)	(1,837,930)	(1,869,886)
Interest Income	<u>49,818</u>	<u>113,127</u>	<u>190,236</u>	<u>33,376</u>	<u>19,958</u>
<b>Total Non-Operating Expense</b>	<u>1,171,176</u>	<u>2,065,464</u>	<u>7,886,815</u>	<u>12,589,910</u>	<u>4,075,149</u>
<b>Net Income Before Contributions</b>	<u>91,514</u>	<u>1,946,070</u>	<u>2,511,175</u>	<u>8,710,782</u>	<u>(3,237,082)</u>
<b>Transfer In</b>					
Consolidation of Internal Service Fund					
Transfer Out	<u>(2,800,000)</u>	<u>(2,000,000)</u>	<u>(2,000,000)</u>	<u>(2,000,000)</u>	<u>(2,000,000)</u>
<b>Changes in Net Assets</b>	<u>(2,708,486)</u>	<u>(53,930)</u>	<u>511,175</u>	<u>6,710,782</u>	<u>(5,237,082)</u>
<b>Fund Net Assets - Beginning of Year</b>	<u>8,054,474</u>	<u>5,345,988</u>	<u>(3,141,476)</u>	<u>(2,630,301)</u>	<u>4,080,481</u>
<b>Effects of GASB 75</b>		<u>(8,433,534)</u>			
<b>Fund Net Assets - Beginning of Year, as restated</b>	<u>8,054,474</u>	<u>(3,087,546)</u>	<u>(3,141,476)</u>	<u>(2,630,301)</u>	<u>4,080,481</u>
<b>Prior Period Adjustments</b>					<u>(553,299)</u>
<b>Fund Net Assets-End of Year</b>	<u>\$ 5,345,988</u>	<u>\$ (3,141,476)</u>	<u>\$ (2,630,301)</u>	<u>\$ 4,080,481</u>	<u>(1,709,900)</u>

\* Enterprise Funds consist of the following: Landfill, Pure Waters Department and Latham Water Department

Sources: Audited Financial Reports (2017-2021)

**Summary of Budget By Funds: 2023**

	Appropriations	Less: Est Revenues & Appropriated Surplus	Amount of Property Tax
	<u>                    </u>	<u>                    </u>	<u>                    </u>
General Town-Wide Fund	\$ 60,362,226	\$ 36,547,537	\$ 23,814,689
General Town-Outside-Villages	5,535,369	5,535,369	0
Highway Part-Town	13,656,855	13,656,855	0
Pure Waters	11,904,550	11,904,550	0
Latham Water District	17,389,671	15,804,781	1,584,890
Library Fund	<u>3,038,947</u>	<u>145,564</u>	<u>2,893,383</u>
 TOTAL	 <u>\$ 111,887,618</u>	 <u>\$ 83,594,656</u>	 <u>\$ 28,292,962</u>

**Summary of Budget By Funds: 2022**

	Appropriations	Less: Est Revenues & Appropriated Surplus	Amount of Property Tax
	<u>                    </u>	<u>                    </u>	<u>                    </u>
General Town-Wide Fund	\$ 57,360,787	\$ 34,284,944	\$ 23,075,843
General Town-Outside-Villages	5,315,006	5,315,006	0
Highway Part-Town	12,778,946	12,778,946	0
Pure Waters	11,492,596	11,492,596	0
Latham Water District	15,514,985	13,961,171	1,553,814
Library Fund	<u>3,038,947</u>	<u>202,297</u>	<u>2,836,650</u>
 TOTAL	 <u>\$ 105,501,267</u>	 <u>\$ 78,034,960</u>	 <u>\$ 27,466,307</u>



**TOWN OF COLONIE**

**APPENDIX B**

**FINANCIAL STATEMENTS  
FOR THE FISCAL YEAR ENDED DECEMBER 31, 2021**

**[▶ Click Here For 2021 Audit](#)**

**APPENDIX C**

**FORM OF UNDERTAKINGS TO PROVIDE NOTICES OF EVENTS**

## FORM UNDERTAKING TO PROVIDE NOTICES OF EVENTS

This undertaking to provide notice of certain designated events (the “Disclosure Undertaking”) is executed and delivered by the Town of Colonie, a municipal corporation of the State of New York (the “Issuer”) in connection with the issuance of its \$\_\_\_\_\_ **Bond Anticipation Notes - 2023 Series B** (the “Security”). The Security has a stated maturity of 18 months or less. The Issuer hereby covenants and agrees as follows:

Section 1. Obligation to Provide Notices of Events. (a) The Issuer hereby undertakes (for the benefit of Security Holders) to provide (or cause to be provided either directly or through a dissemination agent) to EMMA (or any successor thereto) in an electronic format (as prescribed by the MSRB) in a timely manner (not in excess of ten business days after the occurrence of any such event) notice of any of the following events with respect to the Security:

- (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 or determinations with respect to the tax status of the Security, or other material events affecting the tax status of the Security;
- (7) Modifications to rights of Security Holders, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Security, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the obligated person;

Note to paragraph (12): For the purposes of the event identified in paragraph (12) of this section, the event is considered to occur when any of the following occur: The appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, 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 obligated person.

(13) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, 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;

(14) Appointment of a successor or additional trustee or the change of name of a trustee, if material;

(15) Incurrence of a Financial Obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the obligated person, any of which affect Security Holders, if material; and

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the obligated person, any of which reflect financial difficulties.

(b) The Issuer may choose to disseminate other information in addition to the information required as part of this Disclosure Undertaking. Such other information may be disseminated in any manner chosen by the Issuer. 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 pursuant to this Disclosure Undertaking.

(c) The Issuer may choose to provide notice of the occurrence of certain other events, in addition to those listed in Section 1(a) above, if the Issuer determines that any such other event is material with respect to the Security; but the Issuer does not undertake to commit to provide any such notice of the occurrence of any material event except those events listed above.

## Section 2. Definitions

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

“Financial Obligation” shall mean a (A) debt obligation; (B) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (C) guarantee of (A) or (B). Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with Rule 15c2-12.

“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.

“Purchaser” shall mean the financial institution referred to in a certain Certificate of Determination that is being delivered by the Issuer in connection with the issuance of the Security.

“Rule 15c2-12” shall mean Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended through the date of this Disclosure Undertaking, including any official interpretations thereof.

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

Section 3. Remedies. If the Issuer fails to comply with any provision of this Disclosure Undertaking, then any Security Holder may enforce, for the equal benefit and protection of all Security Holders similarly situated, by mandamus or other suit or proceeding at law or in equity, this Disclosure 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 Disclosure Undertaking; provided that the sole and exclusive remedy for breach of this Disclosure 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 Disclosure Undertaking shall not constitute an event of default on the Security.

Section 4. Parties in Interest. This Disclosure Undertaking is executed to assist the Purchaser to comply with paragraph (b)(5) of Rule 15c2-12 and is delivered for the benefit of the Security Holders. No other person has any right to enforce the provisions hereof or any other rights hereunder.

Section 5. Amendments. Without the consent of any Security Holders, at any time while this Disclosure Undertaking is outstanding, the Issuer may enter into any amendments or changes to this Disclosure Undertaking for any of the following purposes:

(a) to comply with or conform to any changes to Rule 15c2-12 (whether required or optional);

(b) to add a dissemination agent for the information required to be provided as part of this Disclosure Undertaking 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 Security Holders, or to surrender any right or power herein conferred upon the Issuer;

(e) 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 Disclosure 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 5 shall adversely affect the interests of the Security Holders in any material respect. In making such determination, the Issuer shall rely upon an opinion of nationally recognized bond counsel.

Section 6. Termination. This Disclosure Undertaking shall remain in full force and effect until such time as all principal, redemption premiums, if any, and interest on the Security shall have been paid in full or the Security shall have otherwise been paid or legally defeased in accordance with their terms. Upon any such legal defeasance, the Issuer shall provide notice of such defeasance to EMMA. Such notice shall state whether the Security has been defeased to maturity or to redemption and the timing of such maturity or redemption.

Section 7. Undertaking to Constitute Written Agreement or Contract. This Disclosure Undertaking shall constitute the written agreement or contract for the benefit of Security Holders, as contemplated under Rule 15c2-12.

Section 8. Governing Law. This Disclosure 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 Disclosure Undertaking as of **April 19, 2023**.

**TOWN OF COLONIE, NEW YORK**

By: /s/ \_\_\_\_\_  
Town Supervisor