

## **RESOLUTION NO. 1 2023**

Dated: Kinderhook, New York, July 12, 2023

### **AMENDED BOND RESOLUTION OF THE VILLAGE OF KINDERHOOK, NEW YORK (THE "VILLAGE"), DATED JULY 12, 2023, AUTHORIZING IMPROVEMENTS TO THE WATER SYSTEM IN THE VILLAGE; ESTIMATING THE AGGREGATE COST THEREOF TO BE \$1,954,500.00; APPROPRIATING SAID AMOUNT THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,954,500.00 BONDS OF THE VILLAGE TO FINANCE SAID COST**

Resolution by Trustee James Mark Browne    Seconded by Trustee Dorene Weir

**WHEREAS**, the Village of Kinderhook (the "Village") owns and operates a municipal water system within the boundaries of the Village which serves approximately 1,100 residents including various businesses and numerous residences; and

**WHEREAS**, the Village has determined that it is necessary to replace approximately 2,700 lineal feet of water main pipes, water service lines and related water system improvements on Williams Street and Albany Avenue within the Village and to replace the Village's water meters (collectively, the "Project");

**WHEREAS**, T&B Engineering and Landscape Architecture, PC, a reputed engineering firm retained by the Village (the "Engineer") prepared an Albany Avenue and Williams Street Watermain Engineering Report (the "Engineer's Report"), dated November 2021, which cited a HVEA Engineers Estimate, and advised the Village Board of Trustees that the cost of the Project would be approximately One Million Six Hundred Dollars (\$1,600,000.00); and

**WHEREAS**, the Village adopted a bond resolution on November 17, 2021, authorizing the issuance of bonds in an amount up to One Million Six Hundred Thousand Dollars (\$1,600,000.00) to finance the cost of the Project as determined by the Engineer; and

**WHEREAS**, the Village submitted an application to the New York State Environmental Facilities Corporation ("EFC") for a grant to pay a portion of the cost of the Project; and

**WHEREAS**, the Engineer subsequently amended the Engineer's Report by virtue of addendum letters dated June 17, 2022, September 6, 2022 and, most recently, July 7, 2023, pursuant to which the Engineer modified the estimated cost of the Project to reflect inflationary increases in the cost of labor and materials for the Project, as well as the first phase of changing the Village's water meters over to an AMI water meter system;

**WHEREAS**, the Village desires to amend its November 17, 2021 bond resolution to authorize the issuance of bonds in an amount up to One Million Nine Hundred Fifty-Four Thousand Five Hundred Dollars (\$1,954,500.00) to finance the revised cost of the Project as determined by the Engineer; and

**WHEREAS**, the Village plans to revise and resubmit its application to EFC for a grant to pay a portion of the cost of the Project;

**NOW, THEREFORE, IT IS HEREBY RESOLVED**, by the Board of Trustees of the Village of Kinderhook, New York, (by a favorable vote of not less than two-thirds of all of its members), as follows:

**SECTION 1**

Pursuant to Sections 31.00 and 32.00 of the Local Finance Law, constituting Chapter 33-A of the Consolidated Laws of the State of New York (the “Law”), the Village hereby authorizes financing of the Project. The maximum aggregate cost of the above Project, based upon the Engineer’s Report, dated November 2021, as most recently amended July 7, 2023, is hereby estimated to be \$1,954,500.00, which shall initially be paid from the issuance of \$1,954,500.00 bonds to finance such costs.

**SECTION 2**

It is determined that the period of probable usefulness of the aforesaid Project is forty (40) years pursuant to Section 11.00(a)(1) of the Law;

**SECTION 3**

The plan of financing includes the issuance of \$1,954,500.00 serial bonds or a statutory installment bond, the potential reimbursement of up to sixty percent (60%) of said amount through a grant from EFC, payment by Village users of water charges (the “Charges”) and, to the extent of any shortfall from the Charges, the levy of a tax upon all of the real property in the Village to pay the principal of an interest on said bonds as the same shall become due and owing.

**SECTION 4**

The temporary use of available funds of the Village, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized to be expended pursuant to Section 165.10 of the Local Finance Law for the Project described in Section 1 of this resolution. If such temporary funds are used for any expenditure authorized in this resolution, the Village intends to reimburse such funds with the proceeds of the tax-exempt borrowing authorized and identified pursuant to Section 1 above.

## **SECTION 5**

The proposed average maturity date of the bonds authorized pursuant to this resolution is expected to exceed five (5) years.

## **SECTION 6**

The bonds issued to finance the cost of the Project described in Section 1 above shall mature no later than the date of the expiration of the period of probable usefulness for each such object or purpose.

## **SECTION 7**

The Village hereby covenants and agrees with the holders from time to time of the Village issued pursuant to this resolution, and any bond anticipation notes of the Village issued in anticipation of the sale of said bonds, that the Village will duly and faithfully observe and comply with all provisions of the United States Internal Revenue Code of 1986, as amended (the "Code"), and any proposed or final regulations of the Internal Revenue Service issued pursuant thereto (the "Regulations") unless, in the opinion of Bond Counsel to the Village, such compliance is not required by the Code and Regulations to maintain the exemption of interest on said obligations from Federal income taxation.

## **SECTION 8**

Pursuant to the regulations of the New York State Department of Environmental Conservation, the Village has identified the Project as a "Type 2" action under the State Environmental Quality Review Act ("SEQRA"), and no further "action" as the same is referred to in Article 9 of SEQRA and SEQRA regulations, needs to be taken prior to issuance of the Bonds. Additionally, the Project the Environmental Protection Agency has assigned "Categorical Exclusion Status" under the National Environmental Policy Act to the Project requiring no further action thereunder.

## **SECTION 9**

Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the Village, payable as to both principal and interest by a general tax upon all the real property within the Village without legal or constitutional limitation as to rate or amount. The faith and credit of the Village are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any bond anticipation notes issued in anticipation of said bonds and provision shall be made annually in the budget of the Village by appropriation for (a) the amortization and redemption of the bonds and notes to mature in such year, and (b) the payment of interest to be due and payable in such year.

## **SECTION 10**

Subject to the provisions of this amended bond resolution and the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of serial bonds and bond anticipation notes, or the renewals of said obligations and of Section 50.00 and Section 60.00 of the Law, the powers and duties of the Board of Trustees relative to authorizing bonds and bond anticipation notes and prescribing the terms, form and content as to sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Treasurer of the Village, the chief fiscal officer of the Village. Pursuant to the provisions of paragraph a of Section 56.00 of the Local Finance Law, the power to determine whether to issue bonds and bond anticipation notes having substantially level or declining annual debt service, as provided in paragraph d of Section 21.00 of the Local Finance Law, is hereby delegated to the Treasurer of the Village, as the chief fiscal officer of said Village. In addition to the delegation of powers described above, the powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Village Treasurer, who shall advertise such bonds for sale, conduct the sale and award the bonds in such manner as she shall deem best for the interests of the Village; provided, however, that in the exercise of these delegated powers, she shall comply fully with the provisions of the Local Finance Law and any other order or rule of the State Comptroller applicable to the sale of municipal bonds.

## **SECTION 11**

All costs and expenses in connection with the acquisition and development of the objects and purposes set forth in Section 1 above, and the financing thereof by the sale of bonds, including but not limited to, the fees and expenses of bond counsel, financial advisors, counsel for the Village and other professionals, shall be paid to the extent permitted by law from the proceeds of the sale of such bonds.

## **SECTION 12**

The validity of the bonds authorized by this amended bond resolution and of any notes issued in anticipation of said bonds may be contested only if:

- (a) Such obligations are authorized for any object or purpose for which the Village is not authorized to expend money; or
- (b) The provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or
- (c) Such obligations are authorized in violation of the provisions of the constitution.

## **SECTION 13**

This resolution or a summary thereof shall be published in the designated official newspapers

of the Village for such purpose, together with a notice of the Clerk of the Board of Trustees in substantially the form provided in Section 81.00 of the Law.

**SECTION 14**

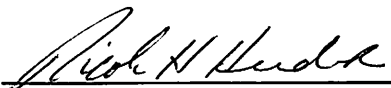
This Resolution shall constitute the declaration of the Village's "official intent" to reimburse expenditures related to the additional costs of the Project authorized by Section 1 with proceeds of the bonds and notes, as required by the United States Treasury Regulation Section 1.150-2.

**SECTION 15**

This resolution shall be subject to a permissive referendum in accordance with Section 36 of the Law and Article 9 of New York State Village Law.

**SECTION 16**

This resolution shall take effect immediately.

  
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Nicole H. Heeder, Clerk