

RESOLUTION NO. 17-2022

RESOLUTION AUTHORIZING THE ISSUANCE AND
SALE OF NOT TO EXCEED \$4,530,000
NOTE ANTICIPATION NOTES, SERIES 2022D

WHEREAS, it is necessary that funds be raised by the Village of Germantown, Washington County, Wisconsin (the "Village") for the purpose of paying department of public works site acquisition and preparation costs (the "Project") and there are insufficient funds on hand to pay said costs;

WHEREAS, the Village hereby finds and determines that the Project is within the Village's power to undertake and serves a "public purpose" as that term is defined in Section 67.04(1)(b) of the Wisconsin Statutes;

WHEREAS, villages are authorized by the provisions of Section 67.12(12) of the Wisconsin Statutes to borrow money and to issue general obligation promissory notes for such public purposes;

WHEREAS, for the purpose of paying the cost of the Project, the Village will, hereunder, declare its intent to authorize and issue its general obligation promissory notes (the "Notes");

WHEREAS, it is the finding of the governing body of the Village, that it is necessary, desirable and in the best interest of the Village to provide interim financing for the Project through the issuance and sale of note anticipation notes pursuant to Section 67.12(1)(b) of the Wisconsin Statutes, in anticipation of the issuance and sale of the Notes;

WHEREAS, the Village Clerk/Treasurer (in consultation with the Village's financial advisor) shall cause an Official Notice of Sale to be distributed, offering the aforesaid note anticipation notes for public sale.

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village that:

Section 1. Covenant to Issue General Obligation Promissory Notes. The Village hereby declares its intention and covenants to issue the Notes pursuant to the provisions of Chapter 67 of the Wisconsin Statutes, in an amount sufficient to retire any outstanding notes anticipation notes issued for the purpose of providing interim financing for the costs of the Project.

Section 2. Authorization of the NANs; Parameters. For the purpose of paying the cost of the Project, there shall be borrowed from a purchaser (the "Purchaser") selected through a competitive sale with the assistance and counsel of the Village's financial advisor, Ehlers and Associates, Inc., pursuant to Chapter 67 of the Wisconsin Statutes, the principal sum of not to exceed FOUR MILLION FIVE HUNDRED THIRTY THOUSAND DOLLARS (\$4,530,000), provided that: (i) the price paid by the Purchaser for the note anticipation notes shall not be less than 99.50% nor more than 106.00% of the par amount of the note anticipation notes, (ii) the true

interest rate to be paid on the note anticipation notes shall not exceed 3.50%; and (iii) the note anticipation notes shall comply in all other respects with the terms provided herein.

Section 3. Sale of the Note Anticipation Notes; Delegation of Authority with Respect to Final Approval. Subject to such Final Approval (defined below), to evidence such indebtedness, the Village President and Village Clerk are hereby authorized, empowered and directed to make, execute, issue and sell to the Purchaser for, on behalf of and in the name of the Village, Note Anticipation Notes aggregating the principal amount of not to exceed FOUR MILLION FIVE HUNDRED THIRTY THOUSAND DOLLARS (\$4,530,000) (the “NANs”). The issuance and sale of the NANs to the Purchaser is subject to final approval by the Village Administrator or Village Clerk/Treasurer. Such final approval shall be evidenced by the execution of an approving certificate (the approval of such issuance and sale, and the execution of said certificate shall comprise and are referred to collectively herein as the “Final Approval”). The Village Board hereby delegates the authority to provide such Final Approval to the Village Administrator or the Village Clerk/Treasurer. Said officers may act for the Village Board to provide such Final Approval with respect to the NANs.

Section 4. Terms of the NANs. The NANs shall be designated “Note Anticipation Notes, Series 2022D”; shall be dated the date of their issuance; shall be in the denomination of \$5,000 or any integral multiple thereof; shall bear interest semi-annually and mature on May 1, 2024 as set forth in the Schedule attached hereto as Exhibit A, provided, however, that the principal maturity set forth on said Schedule may be increased or decreased by an amount up to \$100,000 with the final maturity schedule being attached to and incorporated into the Final Approval. The maturity schedule for the NANs may include term bonds. All term bonds shall be subject to mandatory sinking fund redemption at a price of par plus accrued interest to the date of redemption and must conform to the maturity schedule requirements set forth above. If the final maturity schedule for the NANs includes term bonds, the Village President and Village Clerk are hereby authorized to enter into a fiscal agency agreement pursuant to Section 67.10(2) of the Wisconsin Statutes with a fiscal agent (the “Fiscal Agent”) or a redemption agreement with a redemption agent, either of which will be identified in the Final Approval.

Section 5. Designation of Purchaser as Agent. The Village hereby designates the Purchaser as its agent for purposes of distributing the Final Official Statement relating to the NANs to any participating underwriter in compliance with Rule 15c2-12 of the Securities and Exchange Commission.

Section 6. Redemption Provisions. The redemption provisions relating to the NANs shall be set forth in the Final Approval.

Section 7. Form of the NANs. The NANs shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit B and incorporated herein by this reference.

Section 8. Security. The NANs shall in no event be a general obligation of the Village and do not constitute an indebtedness of the Village nor a charge against its general credit or taxing power. The NANs shall be payable only from (a) any proceeds of the NANs or other Village funds set aside for payment of interest on the NANs as it becomes due and (b) proceeds

to be derived from the issuance and sale of the Notes, which proceeds are hereby declared to constitute a Special Trust Fund to be held by the Village and expended solely for the payment of the principal of and interest on the NANs. The Village hereby agrees that, in the event such monies are not sufficient to pay the principal of and interest on the NANs when due, if necessary, the Village will pay such deficiency out of its tax levy or other available funds of the Village; provided, however, that such payment shall be subject to annual budgetary appropriations therefor; and provided further, that neither this resolution nor any such payment shall be construed as constituting an obligation of the Village to make any such appropriation or any further payment.

Section 9. Covenants of the Village. The Village hereby covenants with the holders of the NANs that:

- (a) It shall issue the Notes as soon as practicable;
- (b) It shall segregate the proceeds derived from the sale of the Notes into the special trust fund created by Section 8 hereof and shall permit the special trust fund to be used for no purpose other than the payment of the principal of and interest on the NANs until paid; and
- (c) It will maintain a debt limit capacity such that the combined outstanding principal amount of general obligation bonds and notes of the Village and at least \$4,530,000 (the amount for which the Village has covenanted to issue the Notes) shall at no time exceed the constitutional debt limit of the Village.

Section 10. Debt Service Fund Account. There is hereby established in the Village treasury a fund account separate and distinct from every other Village fund or account designated "Debt Service Fund Account for Village of Germantown Note Anticipation Notes, Series 2022D." There shall be deposited in said fund (i) all accrued interest paid on the NANs at the time the NANs are delivered to the Purchaser; (ii) any proceeds of the NANs representing capitalized interest on the NANs; (iii) proceeds of the Notes to the extent necessary to pay principal of or interest on the NANs; (iv) such other sums, including tax monies, as may be necessary at any time to pay principal of and interest on the NANs when due and which are appropriated by the Village Board for that purpose; and (v) surplus monies, if any, in the Borrowed Money Fund created by Section 11 hereof. Said fund shall be used for the sole purpose of paying the principal of and interest on the NANs and shall be maintained for such purpose until such indebtedness is fully paid or otherwise extinguished.

Section 11. Segregated Borrowed Money Fund. The proceeds of the NANs (the "NAN Proceeds") (other than any premium and accrued interest which must be paid at the time of the delivery of the NANs into the Debt Service Fund Account created above) shall be deposited into an account separate and distinct from all other funds and be disbursed solely for the purposes for which borrowed or for the payment for the principal of and the interest on the NANs.

Section 12. Arbitrage Covenant. The Village shall not take any action with respect to the NAN Proceeds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken on the date of the delivery of and payment for the

NANs (the “Closing”), would cause the NANs to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”) and any income tax regulations promulgated thereunder (the “Regulations”).

The NAN Proceeds may be temporarily invested in legal investments until needed, provided however, that the Village hereby covenants and agrees that so long as the NANs remain outstanding, moneys on deposit in any fund or account created or maintained in connection with the NANs, whether such moneys were derived from the NAN Proceeds or from any other source, will not be used or invested in a manner which would cause the NANs to be “arbitrage bonds” within the meaning of the Code or Regulations.

The Village Clerk, or other officer of the Village charged with responsibility for issuing the NANs, shall provide an appropriate certificate of the Village, for inclusion in the transcript of proceedings, setting forth the reasonable expectations of the Village regarding the amount and use of the NAN Proceeds and the facts and estimates on which such expectations are based, all as of the Closing.

Section 13. Additional Tax Covenants; Exemption from Rebate. The Village hereby further covenants and agrees that it will take all necessary steps and perform all obligations required by the Code and Regulations (whether prior to or subsequent to the issuance of the NANs) to assure that the NANs are obligations described in Section 103(a) of the Code, the interest on which is excluded from gross income for federal income tax purposes, throughout their term. The Village Clerk or other officer of the Village charged with the responsibility of issuing the NANs, shall provide an appropriate certificate of the Village as of the Closing, for inclusion in the transcript of proceedings, certifying that it can and covenanting that it will comply with the provisions of the Code and Regulations.

Further, it is the intent of the Village to take all reasonable and lawful actions to comply with any new tax laws enacted so that the NANs will continue to be obligations described in Section 103(a) of the Code, the interest on which is excluded from gross income for federal income tax purposes.

The Village anticipates that the NANs will qualify for the eighteen month expenditure exemption from the rebate requirements of the Code. The Village Clerk or other officer of the Village charged with the responsibility of issuing the NANs, shall provide an appropriate certificate of the Village as of the Closing, for inclusion in the transcript of proceedings, with respect to said exemption from the rebate requirements, and the Village Clerk or other officer is hereby authorized to make any election on behalf of the Village in order to comply with the rebate requirements of the Code. If, for any reason, the Village did not qualify for any exemption from the rebate requirements of the Code, the Village covenants that it would take all necessary steps to comply with such requirements.

Section 14. Persons Treated as Owners; Transfer of NANs. The Village Clerk or the Fiscal Agent shall keep books for the registration and for the transfer of the NANs. The person in whose name any NAN shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any NAN shall be made

only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such NAN to the extent of the sum or sums so paid.

Any NAN may be transferred by the registered owner thereof by surrender of the NAN at the office of the Village Clerk or the Fiscal Agent, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the Village Clerk or the Fiscal Agent shall execute and deliver in the name of the transferee or transferees a new NAN of a like aggregate principal amount and the Village Clerk or the Fiscal Agent shall record the name of each transferee in the registration book. No registration shall be made to bearer. The Village Clerk or the Fiscal Agent shall cancel any Note surrendered for transfer.

The Village shall cooperate in any such transfer, and the Village President and Village Clerk are authorized to execute any new NAN necessary to effect any such transfer.

The 15th day of each calendar month next preceding each interest payment date shall be the record date for the NANs. Payment of interest on the NANs on any interest payment date shall be made to the registered owners of the NANs as they appear on the registration book of the Village maintained by the Village Clerk or the Fiscal Agent at the close of business on the corresponding record date.

Section 15. Utilization of The Depository Trust Company Book-Entry-Only-System. In order to make the NANs eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the Village has heretofore agreed to the applicable provisions set forth in the DTC Blanket Issuer Letter of Representation and an official of the Village has executed such Letter of Representation and delivered it to the DTC on behalf of the Village.

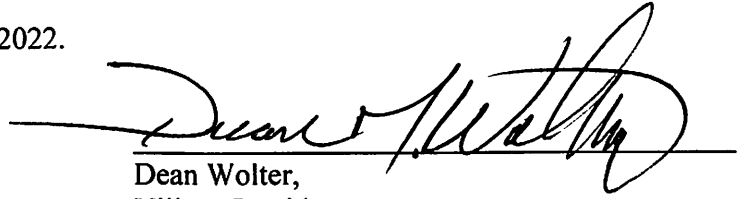
Section 16. Execution of the NANs. The NANs shall be issued in typewritten form executed on behalf of the Village by the manual or facsimile signatures of the Village President and Village Clerk (except that one of the foregoing signatures shall be manual), sealed with its official or corporate seal, if any, and delivered to the Purchaser upon payment to the Village of the purchase price thereof, plus accrued interest to the date of delivery. In the event that either of the officers whose signatures appear on the NANs shall cease to be such officers before the delivery of the NANs, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until such delivery. The aforesaid officers are hereby authorized to do all acts and execute and deliver all documents as may be necessary and convenient to effectuate the Closing.

Section 17. Payment of the NANs. The principal of and interest on the NANs shall be paid by the Treasurer or the Fiscal Agent in lawful money of the United States.

Section 18. Continuing Disclosure. The Village hereby covenants and agrees that it will comply with and carry out all of the provisions of its Continuing Disclosure Certificate, which the Village will execute and deliver on the Closing Date. Any NAN holder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Village to comply with its obligations under this Section.

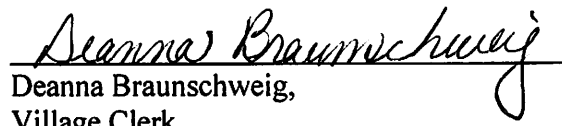
Section 19. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the Village or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

Adopted this 4th day of April, 2022.



Dean Wolter,
Village President

ATTEST:



Deanna Braunschweig,
Village Clerk

