

ATTACHMENT 3

Ordinance 817

AN ORDINANCE OF THE CHAIRPERSON AND BOARD OF TRUSTEES OF THE VILLAGE OF WATERLOO, NEBRASKA AUTHORIZING AND APPROVING THE LEASE-PURCHASE OF CERTAIN EQUIPMENT FOR USE BY THE VILLAGE; AUTHORIZING THE EXECUTION AND DELIVERY BY THE VILLAGE OF DOCUMENTS RELATING TO SUCH LEASE-PURCHASE FINANCING; APPROVING THE ISSUANCE OF CERTIFICATES OF PARTICIPATION IN THE LEASE RENTAL PAYMENTS TO BE MADE BY THE VILLAGE, SUBJECT TO THE PARAMETERS SET FORTH HEREIN; AUTHORIZING THE BOARD CHAIRPERSON AND THE VILLAGE CLERK TO DETERMINE THE FINAL AGGREGATE PRINCIPAL AMOUNT, MATURITIES, RATES, TERMS AND OTHER DETAILS OF SUCH CERTIFICATES; APPROVING THE DELIVERY AND USE OF AN OFFERING CIRCULAR IN CONNECTION WITH THE OFFER AND SALE OF SUCH CERTIFICATES; DESIGNATING THE CERTIFICATES AS QUALIFIED TAX-EXEMPT OBLIGATIONS; ADOPTING CERTAIN POST-ISSUANCE TAX COMPLIANCE PROCEDURES WITH RESPECT TO THE CERTIFICATES; AUTHORIZING CERTAIN ACTIONS DOCUMENTS; PRESCRIBING OTHER MATTERS RELATING THERETO

BE IT ORDAINED BY THE CHAIRPERSON AND BOARD OF TRUSTEES THE VILLAGE OF WATERLOO, NEBRASKA:

Section 1. The Chairperson and Board of Trustees (the “**Board**”) of the Village of Waterloo, Nebraska (the “**Village**”), hereby make the following findings and determinations:

(a) The Village is a village under Chapter 17, Reissue Revised Statutes of Nebraska, as amended, and a body politic and corporate.

(b) It is necessary, desirable, advisable and in the best interests of the Village that the Village lease or lease-purchase certain monument signs and radio read meters for the Village (collectively, the “**Equipment**”), as described on Exhibit A hereto.

(c) Pursuant to Section 19-2421, Reissue Revised Statutes of Nebraska, as amended (the “**Act**”), the Village is authorized to enter into contracts of one or more years for the lease or the lease-purchase of real or personal property for any purpose for which the Village is authorized by law to purchase property or construct improvements.

(d) To finance such Equipment, it is necessary, desirable, advisable and in the best interest of the Village to either (i) enter into a lease-purchase agreement and related documents with a bank or other financial institution selected as set forth herein, pursuant to which such institution will acquire the Equipment and lease said Equipment to the Village in exchange for lease-purchase payments to be made by the Village, all in accordance with the Act, or (ii) enter into a lease-purchase agreement and related documents with a bank or other financial institution selected as set forth herein, pursuant to which such institution will issue certificates of participation (the “**Certificates**”) representing proportionate interests in lease-purchase payments to be made by the Village pursuant to a lease or lease-purchase agreement and will acquire the Equipment using the proceeds from the sale of the Certificates to pay all costs relating thereto. Such lease or

lease-purchase agreement is referred to herein as a "**Lease Agreement**". Payments made by the Village to a bank or other financial institution pursuant to such Lease Agreement are referred to herein as "**Lease Payments**". Such bank or other financial institution is referred to as a "**Lessor**".

(e) It is necessary that the Village adopt policies and procedures to satisfy all applicable requirements of federal income tax law in order to preserve, post-issuance, the tax-exempt status of the Certificates.

(f) All conditions, acts, and things required by law to exist or to be done precedent to the Village undertaking the financing described herein pursuant to the Act do exist and have been done as required by law.

Section 2. All previous action of the Village in connection with the lease or lease-purchase of the Equipment and the issuance and sale of any Certificates is hereby approved, ratified and authorized.

Section 3. Each of the Chairperson, the Village Clerk and the Village Treasurer and any other officer of the Board or the Village (each, including any person authorized to sign on his or her behalf, an "**Authorized Officer**") is hereby authorized, empowered and directed to execute and deliver the Lease Agreement, a Declaration of Trust or such other trust agreement pursuant to which Certificates may be issued, a Certificate Purchase Agreement or other purchase contract pursuant to which Certificates may be purchased, a Registrar and Payment Agent Agreement pursuant to which payments of principal and interest on any Certificates may be made, a Federal Tax Certificate or such other tax agreement pursuant to which the Village will make certain representations and covenants related to the exclusion of the interest portions of the Lease Payments from gross income for purposes of federal income taxation, and all other necessary documents in connection with undertaking the lease or lease-purchase financing as permitted by the Act (the "**Financing Documents**"), for and on behalf of the Village, including any necessary counterparts, in form and substance acceptable to such Authorized Officer, but subject to the terms, parameters and conditions set forth herein. The Authorized Officers, or any individually, are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of such documents as executed.

Section 4. The Board hereby authorizes and directs any Authorized Officer to determine (a) the principal amount of the Lease Agreement, which shall not exceed \$565,000, (b) the amounts and the dates of the principal and the interest installments to be due under the Lease Agreement, (c) the term of the Lease Agreement, which shall not extend beyond June 15, 2037, (d) the final Equipment list, if other than as set forth Exhibit A hereto, (e) the rate or rates of interest to be carried by each principal installment such that the true interest cost of the Lease Agreement shall not exceed 5.50%, (f) the prepayment provisions, if any, (g) the final terms and provisions of the Financing Documents, (h) the terms and provisions of any Certificates, (i) the identity of the Lessor, (h) the identity of the registrar and paying agent with respect to any Certificates (if applicable) and (k) such other terms and provisions relating to the Lease Agreement and any Certificates as necessary to facilitate the successful financing of the Equipment; provided that none of the Financing Documents, including any Certificates, may have such terms and conditions that conflict with or exceed the parameters set forth in this Ordinance. Such determinations and approvals shall be set forth in the Lease Agreement.

Section 5. The form and content of the Certificates, if applicable, shall set forth in the Lease Agreement, a Declaration of Trust or similar trust agreement, and the Lessor be and is hereby authorized, empowered and directed to execute and deliver such Certificates, if issued, to the underwriter described herein.

Section 6. Payment by the Village of the Lease Payments due from time to time to the Lessor pursuant to the Lease Agreement is hereby authorized and directed. The Village shall budget, appropriate and set aside a portion of its general fund revenues derived from property taxes, subject to statutory limitations, and other legally available moneys sufficient to make the Lease Payments coming due during each fiscal year that the Lease Agreement is outstanding.

Section 7. The Lessor and any participant in the Lease Agreement shall be a financial institution authorized to exercise trust powers within the State of Nebraska (the "State") or a commercial leasing entity authorized to transact business in the State. As necessary, the Lessor shall accept the assignment from the Village of all Equipment-related contracts, purchase orders and other related contracts and shall further agree to assume the obligations to make payments to the vendors, contractors, materialmen and equipment suppliers under such contracts and related subcontracts and purchase orders relating to the Equipment, provided that the Village shall retain the authority to supervise the acquisition and installation of the Equipment to the extent that such functions are to be performed by the "Owner" under any such contracts.

Section 8. Ameritas Investment Company, LLC ("Ameritas"), whether acting in the capacity of a placement agent in connection with a private placement of the Lease Agreement or whether acting in the capacity of an underwriter in connection with a public offering of the Certificates, shall receive a fee or discount equal to 1.50% of the principal amount of the Lease Agreement.

Section 9. The use and distribution of any official statement, offering circular, term sheet, request for lenders or any other offering document (including any preliminary thereof, the "Offering Document") by Ameritas in connection with the reoffering or placement of the Certificates is hereby authorized. Any Authorized Officer is authorized to approve the final Offering Document as so supplemented, amended and completed, and the use and distribution of the final Offering Document by Ameritas in connection with the reoffering or placement of the Certificates is hereby authorized. Any Authorized Officer is hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the date of payment for and delivery of the Certificates.

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

Section 10. The Authorized Officers, or any individually, are authorized to execute and deliver for and on behalf of the Village any and all additional certificates, documents, opinions or other papers and perform all other acts, including, without limitation, the execution, delivery and filing of any financing statements or any other documents to create and maintain a security interest in the Equipment and revenues pledged under the Lease Agreement as may be required by the

documents set forth above or as they may deem necessary or appropriate in order to implement and carry out the intent and purpose of this Ordinance.

Section 11. The Board designates the Lease Agreement and any related Certificates as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”). In addition, the Board represents that:

(a) the aggregate face amount of all tax-exempt obligations (other than private activity bonds that are not “qualified 501(c)(3) bonds” and certain refunding bonds) which will be issued by the Village and all subordinate entities thereof during the 2022 calendar year is not reasonably expected to exceed \$10,000,000; and

(b) the Village and all subordinate entities thereof will not issue an aggregate principal amount of tax-exempt obligations (other than private activity bonds that are not “qualified 501(c)(3) bonds” and certain refunding bonds) during the 2022 calendar year, including the Lease Agreement and any related Certificates, in excess of \$10,000,000, without first obtaining an opinion of nationally recognized counsel in the area of municipal finance that the designation of the Lease Agreement and any related Certificate as “qualified tax-exempt obligations” will not be adversely affected by such issuance. The Authorized Officers, or any individually, are authorized to take such other action as may be necessary to make effective the designation in this Section 11.

Section 12. The Village (a) shall comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, and all related Regulations, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest portion of the Lease Payments and (b) will not use or permit the use of any proceeds of the Lease Agreement and any related Certificates or any other funds of the Village nor take or permit any other action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest portion of the Lease Payments.

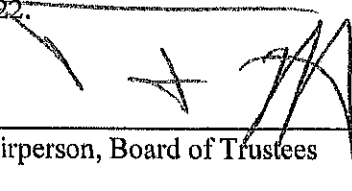
The Board adopts the Post-Issuance Tax Compliance Procedures attached to this Ordinance as Exhibit B to ensure that all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of the Lease Agreement and any Certificates are met. The Board reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions as it may determine. The Board also reserves the right to change such policies and procedures from time to time, without notice, provided that no such change shall adversely affect the exclusion from gross income of the interest portion of the Lease Payments.

Section 13. The provisions of this Ordinance are hereby declared to be separable and, if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions.

Section 14. All ordinances, resolutions, orders and other instruments, or parts thereof, in conflict with this Ordinance are hereby repealed only to the extent of such conflict.

Section 15. This Ordinance shall be in force and take effect from and after its passage as provided by law.

PASSED AND APPROVED June 14, 2022.



Chairperson, Board of Trustees

Attest:



Village Clerk

(Signature Page to Ordinance)

EXHIBIT A

THE EQUIPMENT

Installation of monument entrance signs and implementation of radio read meters.

EXHIBIT B

POST-ISSUANCE TAX COMPLIANCE PROCEDURES

General

In connection with the execution and delivery of one or more Lease Agreements (the "**Lease Agreement**"), and the issuance of any Certificates of Participation (the "**Certificates**") by the Village of Waterloo, Nebraska (the "**Village**"), the Village will execute a tax compliance certificate (the "**Tax Certificate**") that describes the requirements and provisions of the Internal Revenue Code of 1986, as amended (the "**Code**") that must be followed in order to maintain the tax-exempt status of the interest portion of the Lease Agreement or the Certificates, if applicable. In addition, the Tax Certificate will contain the reasonable expectations of the Village at the time of execution and delivery of the Lease Agreement, or at the time of the issuance of any Certificates, if applicable, with respect to the use of the gross proceeds of such Lease Agreement or the Certificates, if applicable, and the assets to be financed or refinanced with the proceeds thereof. These Procedures supplement and support the covenants and representations made by the Village in the Tax Certificate related to specific issues of tax-exempt obligations. In order to comply with the covenants and representations set forth in the Lease Agreement and in the Tax Certificate, the Village tracks and monitors the actual use of the proceeds of the Lease Agreement or Certificates, if applicable, the investment and expenditure of the proceeds and the assets financed or refinanced with the proceeds of such Lease Agreement or Certificates, if applicable, over the life of the Lease Agreement or Certificates, if applicable.

Designation of Responsible Person

The Village Treasurer shall maintain an inventory of the assets financed which contains the pertinent data to satisfy the Village's monitoring responsibilities. Any transfer, sale or other disposition of Lease Agreement-financed or Certificate-financed assets must be reviewed and approved by the Clerk.

Post-Issuance Compliance Requirements

External Advisors/Documentation

The Village shall consult with special tax counsel and other legal counsel and advisors, as needed, throughout the Lease execution process, or Certificate issuance process, to identify requirements and to establish procedures necessary or appropriate so that the Lease Agreement and Certificates, will continue to qualify for tax-exempt status. Those requirements and procedures shall be documented in the Tax Certificate and/or other documents finalized at or before the execution of the Lease Agreement or issuance of the Certificates. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Lease Agreement and Certificates.

The Village also shall consult with special tax counsel and other legal counsel and advisors, as needed, following execution of the Lease Agreement or issuance of the Certificates to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with future contracts with respect to the use of Lease Agreement- or Certificate-financed or refinanced assets.

The Village shall train and employ or otherwise engage expert advisors (a "**Rebate Analyst**") to assist in the calculation of arbitrage rebate payable in respect of the investment of Certificate proceeds,

unless the Tax Certificate documents provide that arbitrage rebate will not be applicable to the Lease Agreement or Certificates.

Unless otherwise provided by the ordinance or other authorizing documents relating to the Lease Agreement and Certificates, unexpended proceeds shall be held in a segregated account by a trustee, and the investment of proceeds shall be managed by the Village. The Village shall prepare (or cause the trustee to prepare) regular, periodic statements regarding the investments and transactions involving proceeds.

Arbitrage Rebate and Yield

Unless the Tax Certificate documents provide that arbitrage rebate will not be applicable to the Lease Agreement and the Certificates, the Village shall be responsible for:

- engaging the services of a Rebate Analyst and, prior to each rebate calculation date, causing the trustee or other account holder to deliver periodic statements concerning the investment of proceeds to the Rebate Analyst;
- providing to the Rebate Analyst additional documents and information reasonably requested by the Rebate Analyst;
- monitoring efforts of the Rebate Analyst;
- assuring payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the execution date of the Lease Agreement or issue date of the Certificates, and no later than 60 days after the last installment is paid on the Lease-Purchase Agreement, or the Certificates are redeemed;
- during the construction period of each capital project financed in whole or in part by the Lease Agreement and Certificates, monitoring the investment and expenditure of proceeds and consulting with the Rebate Analyst to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months or 24 months, as applicable, following the execution date of the Lease Agreement or issue date of the Certificates; and
- retaining copies of all arbitrage reports and account statements as described below under “Record Keeping Requirements”.

The Village, in the Tax Certificate and/or other documents finalized at or before the execution of the Lease Agreement or issuance of the Certificates has agreed to undertake the tasks listed above (unless the Tax Certificate documents provide that arbitrage rebate will not be applicable to the Lease Agreement and Certificates, if applicable).

Use of Proceeds and Lease Agreement- or Certificate-Financed or Refinanced Assets:

The Village shall be responsible for:

- monitoring the use of proceeds and the use of Lease Agreement- or Certificate-financed or refinanced assets (*e.g.*, facilities, furnishings or equipment) throughout the term of the Lease Agreement and Certificates to ensure compliance with covenants and restrictions set forth in the Tax Certificate;

- maintaining records identifying the assets or portion of assets that are financed or refinanced with proceeds of the Lease Agreement and Certificates, including a final allocation of such proceeds as described below under “Record Keeping Requirements”;
- consulting with special tax counsel and other legal counsel and advisers in the review of any contracts or arrangements involving use of Lease- Agreement or Certificate-financed or refinanced assets to ensure compliance with all covenants and restrictions set forth in the Tax Certificate;
- maintaining records for any contracts or arrangements involving the use of Lease Agreement- or Certificate-financed or refinanced assets as described below under “Record Keeping Requirements”;
- conferring at least annually with personnel responsible for Lease Agreement- or Certificate-financed or refinanced assets to identify and discuss any existing or planned use of Lease Agreement- or Certificate-financed or refinanced assets, to ensure that those uses are consistent with all covenants and restrictions set forth in the Tax Certificate; and
- to the extent that the Village discovers that any applicable tax restrictions regarding use of proceeds and Lease Agreement- or Certificate-financed or refinanced assets will or may be violated, consulting promptly with special tax counsel and other legal counsel and advisers to determine a course of action to remediate the nonqualified Lease Agreement and all nonqualified Certificates, if such counsel advises that a remedial action is necessary.

The Village, in the Tax Certificate and/or other documents finalized at or before the execution of the Lease Agreement and issuance of the Certificates, has agreed to undertake the tasks listed above.

All relevant records and contracts shall be maintained as described below.

Record Keeping Requirements

The Village shall be responsible for maintaining the following documents for the term of the Lease Agreement and Certificates (including refunding obligations, if any) plus at least three years:

- a copy of the closing transcript(s) and other relevant documentation delivered to the Village at or in connection with closing of the Lease Agreement and Certificates, including any elections made by the Village in connection therewith;
- a copy of all material documents relating to capital expenditures financed or refinanced by Lease Agreement and Certificate proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, draw requests for Lease Agreement and Certificate proceeds and evidence as to the amount and date for each draw-down of Lease Agreement and Certificate proceeds, as well as documents relating to costs paid or reimbursed with Lease Agreement and Certificate proceeds and records identifying the assets or portion of assets that are financed or refinanced with Lease Agreement and Certificate proceeds, including a final allocation of Lease Agreement and Certificate proceeds;
- a copy of all contracts and arrangements involving the use of Lease Agreement- and Certificate-financed or refinanced assets;
- copies of all trustee statements and reports, including arbitrage reports, prepared with respect to the Lease Agreement and Certificates; and

- a copy of all records of investments, investment agreements, arbitrage reports and underlying documents, including trustee statements, in connection with any investment agreements, and copies of all bidding documents, if any.