



## **TOWN OF FALMOUTH ORDER NO 23-2019**

**Order authorizing up to \$500,000 of the Town's Bonds to finance one-half of the additional cost to renovate and expand the Falmouth Memorial Library, to be matched by funds to be provided by the Falmouth Memorial Library Association through a capital campaign and other fundraising efforts**

**WHEREAS**, the Falmouth Memorial Library Association (the "Library Association") previously developed plan to renovate and expand the Falmouth Memorial Library (as defined below, the "Library Project") with estimated project costs of approximately \$5,620,000; and

**WHEREAS**, the voters of the Town previously approved the Town's assistance of the financing of the Library Project by authorizing issuance of the Town's general obligation bonds in an amount not to exceed \$2,810,000 (the "Prior Bonds") to pay an amount not to exceed one-half of the costs of the Library Project, with all additional funds to be provided by the Library Association through a capital campaign and other fundraising efforts; and

**WHEREAS**, the estimated cost of the Library Project has increased by \$1,000,000 to approximately \$6,620,000; and

**WHEREAS**, the Library Association has now requested that the Town provide additional assistance with the financing of the Library Project by issuing its additional general obligation bonds in an amount not to exceed \$500,000, which amount together with the prior bonds authorized, shall be used to pay an amount not to exceed one-half of the costs of the Library Project, with all additional funds to be provided by the Library Association through a capital campaign and other fundraising efforts (the "Library Funds"); and

**WHEREAS**, the Town Council recognizes that issuance of such additional bonds would serve a valid public purpose by promoting and expanding the important public services provided by the Falmouth Memorial Library to the residents of the Town of Falmouth, and the Town Council further recognizes that without the Town's contribution to the Library Project, said Library Project will likely not proceed at all or will not proceed in a timely manner to the detriment of the patrons of the Library and the residents of the Town of Falmouth;

**WHEREAS**, the Town Council has further determined that no bonds authorized herein shall be issued until the Town Manager determines that sufficient Library Funds have been collected or obtained by the Library Association such that such Library Funds, together with the proceeds of the Prior Bonds and the bonds authorized herein are adequate to complete the Library Project in a

manner generally similar to the design, as such Library Project may be modified with the approval of the Town Council;

**NOW THEREFOR, BE IT HEREBY ORDERED THAT:**

**Pursuant to 30-A M.R.S.A. §5772, the Charter of the Town of Falmouth and all other authority thereto enabling and subject to approval of the voters of the Town of Falmouth at a referendum election to be held pursuant to Section 903 of the Town Charter, the Town Council hereby authorizes issuance of the Town's general obligation bonds in an amount not to exceed \$500,000 (the "Bonds"), the proceeds of which, including premium, if any, and investment earnings thereon, may be used and are hereby appropriated to finance a portion of the costs of an 18,000 s.f. (approx.) addition to and the renovation, furnishing and equipping of the Falmouth Memorial Library (the "Library Project");**

**BE IT FURTHER ORDERED**

1. That the Treasurer of the Town be and hereby is authorized to prepare, issue, and sell such Bonds in the name of and on behalf of the Town, in the aggregate amount of up to \$500,000, at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Treasurer be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes in anticipation of said Bonds ("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities and all other details of each issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the Town Charter and this Order;

3. That the Treasurer be and hereby is authorized to provide that any of the Bonds and BANs be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;

4. That each Bond or BAN issued hereunder shall be signed by the Treasurer, countersigned by the Chair of the Town Council, sealed with the seal of the Town, attested by its Clerk, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

5. That the Treasurer is authorized to negotiate, execute, and deliver, in the name of and on behalf of the Town such contracts, agreements, and other documents, including leases, instruments and certificates as may be necessary or appropriate as determined and approved by the Treasurer in connection with the financing of the Library Project, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Treasurer such approval to be conclusively evidenced by his execution thereof;

6. That the Treasurer be and hereby is authorized to select the underwriter for the Bonds and BANs and the Treasurer be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

7. That the Treasurer be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds and BANs, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer, with the advice of the bond counsel for the Town, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the Town in connection with offering the Bonds or BANs for sale be and hereby is approved;

8. That the Treasurer be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds and BANs and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

9. That the Bonds and BANs shall be transferable only on the registration books of the Town kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the Town and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

10. That the Treasurer be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Treasurer be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

11. That the Treasurer and the Chair of the Town Council from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of the Bonds and BANs, all such Bonds or BANs to bear the original signature of the Treasurer and the Chair of the Town Council, and in case any officer of the Town whose signature appears on any Bond or BAN shall cease to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

12. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the Treasurer be and hereby is authorized and directed to covenant and certify on behalf of the Town that no part of the proceeds of the issue and sale of the Bonds or BANs shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended;

13. That the Treasurer be and hereby is authorized and empowered to take all such action as may be necessary to designate the Bonds or BANs as qualified tax-exempt obligations for purposes of Section 265(b) of the Code; it being the Town Council's intention that the Treasurer, with advice of bond counsel, make the required Section 265(b) election with respect to such Bonds and BANs to the extent the election may be available and advisable as determined by the Treasurer.

14. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the Town, for the benefit of the holders of such Bonds or BANs, that the Town will file any required reports and take any other action that may be necessary to insure that interest on the Bonds and BANs will remain exempt from federal income taxation, and that the Town will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

15. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of such Bonds or BANs, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

16. That any or all of the Bonds or BANs may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the Town Council of the Town of Falmouth;

17. That the term "cost" or "costs" as used herein and applied to the Projects, or any portion thereof, includes, but is not limited to (1) the cost to design, acquire, construct, renovate, improve, furnish and equip the Project, or any portion thereof; (2) the cost of land, easements and other real property interests, landscaping and site preparation, including demolition and environmental remediation work on any existing building or structure and on the property where the Project is located, utility extensions and site improvements, and all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Project; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Project; (4) issuance costs, including premiums for insurance, capitalized interest and other fees and expenses relating to the financing transaction;

18. That the Treasurer, the Chair of the Town Council and Clerk and other proper officials of the Town be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs;

19. That if any of the officers or officials of the Town who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds or BANs so signed and sealed shall have been actually authenticated or delivered by the Town, such Bonds or BANs nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or BANs had not ceased to be such officer or official; and also any such Bonds or BANs may be signed and sealed on behalf of the Town by those persons who, at the actual date of the execution of such Bonds or BANs, shall be the proper officers and officials of the

Town, although at the nominal date of such Bonds or BANs any such person shall not have been such officer or official;

20. That if the Treasurer, the Chair of the Town Council or Clerk are for any reason unavailable to approve and execute the Bonds or BANs or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or BANs, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

21. That the Bonds or BANs authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes;

22. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any BANs issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or BANs is extinguished.

23. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Treasurer be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Treasurer be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Treasurer, countersigned by the Chair of the Town Council, sealed with the seal of the Town, attested by its Clerk, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

24. That it is the intent of the Town Council that this Order shall constitute the Town's declaration of official intent within the meaning of Treasury Regulation §1.150-2.

**Attest:** \_\_\_\_\_

**Ellen Planer**  
**Town Clerk**